

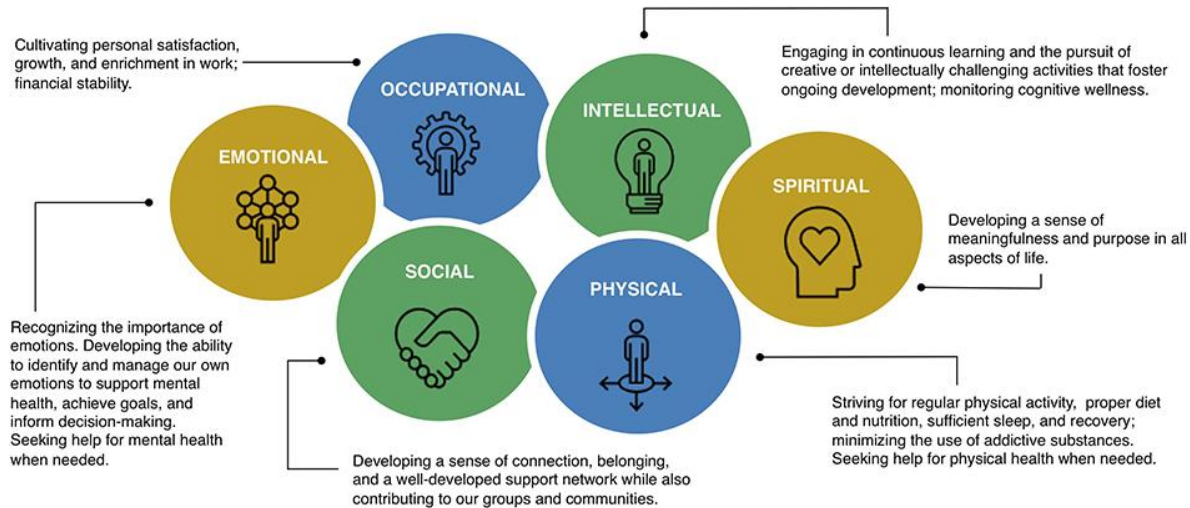
# Lawyer Well-Being: #letsgetbalanced

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## Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of their lives:



## Rules of Professional Conduct frequently affected by Lawyer Well-Being

1. Preparation is key: Rule 1.1 requires lawyers to “provide competent representation”
2. Communicate with your client: Rule 1.4 requires lawyers to explain matters to the extent reasonably necessary to permit the client to make informed decisions
3. How timely are you?: Rule 1.3 requires lawyers to act with reasonable diligence and promptness
4. We are fiduciaries: Rule 1.15 explains that lawyers are responsible for holding client’s property separate from their own property and properly using trust accounts
5. Rule 8.3 Misconduct: Lawyers have a duty to report when they know another lawyer or judge has committed a violation of the applicable rules
6. Rule 4.1 Truthfulness: A lawyer shall not make a false statement of material fact or law to a third person
7. Rule 3.3 Candor: A lawyer shall not make a false statement of fact or law to the Court

## **Sources of Stress for Attorneys**

1. Rules Based Morality – we make a difference for our clients by making their set of circumstances fit a set of rules. From that comes a tendency to see everything in terms of how we believe it should fit into the world as we see it.
2. Perfectionism – we are told from the beginning in law school that mistakes will cost us. Perfectionism is not limited to our work life. Any possible failure becomes an opportunity for intense self-scrutiny and every move we make can be defined by winning or losing
3. Pessimism – we may be the only profession that succeeds because we can anticipate the worst that might happen. Pessimist not only sees what can go wrong but is more likely to view bad things as permanent and unchangeable.
4. Vicarious Trauma – we may spend more time with the details and people who experience the direct trauma than anyone else. We don't show weakness, we don't process and we hold it inside until we burnout. Studies have shown that simply talking about what one experienced, even and especially secondarily, can reduce the effects of the trauma

## **Common Signs of Attorney Stress**

1. Physical Signs: Headaches; high blood pressure; tiredness and fatigue; aches and pains; breathlessness
2. Emotional Signs: Mood swings; lack of enthusiasm; anxiety; loss of self esteem; guilt
3. Behavioral Signs: Increased smoking/drinking/drugging; irritability; poor hygiene; change in sleeping patterns; change in eating

## **Mental Health Checklist**

- Is there a policy regarding substance use, mental health and impairment? If so, does it need updating?
- Does the policy explain lawyer's ethical obligations relating to their own or their colleagues' impairment?
- Is there a leave policy that would realistically support time off for treatment?
- Are there regular communications about the importance of well-being?
- Do health plans offered to employees include coverage for mental health and substance use disorder treatment?<sup>1</sup>

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<sup>1</sup> *Well-Being Toolkit for Lawyers and Legal Employers*. Created by Anne Brafford for Use by the American Bar Association. 2020.

## Statistics

### Institute for Well-Being in Law Survey<sup>2</sup>

1. 36% of attorneys qualify as problem drinkers
2. 28% report mild to moderate depression symptoms
3. 23% report mild to severe stress symptoms
4. 19% report anxiety symptoms
5. #8 occupation for suicide
6. 9% of attorneys struggle with prescription drug abuse
7. 1 in 5 lawyers self-reported substance abuse (75% began in law school)

## Law Firm Impairment Policy

1. Enforceable policy that would require that the impaired lawyer seek appropriate assistance, counseling, therapy or treatment as a condition of continued employment.
2. Consult with professional medical or health care provider for advice on how to deal with and manage an impaired lawyer including options for an “intervention”
3. Recommend, encourage or direct that the impaired lawyer contact local Lawyer Assistance Program for an evaluation and assessment of condition and referral to appropriate medical or mental health care professionals for treatment and therapy.
4. Make a confidential report to Lawyer Assistance Program

## Roles of Supervising Attorneys

1. Supervising attorneys face competing considerations:
  - a. Being a “good manager” vs. the limitation of not being a qualified health care professional.
  - b. Duties to clients vs. confidentiality of employees.
  - c. Wanting to accommodate vs. business and client demands on law firms.
2. Having access to Human Resources and/or external resources such the examples detailed below helps attorneys focus on being *lawyers* and managing *legal work*.

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<sup>2</sup> 2017 *Path to Well-Being Report: Practical Recommendations for Positive Change*. Bree Buchanan and James Colyle. 2017.

## Resources

1. National Alliance on Mental Illness ([www.nami.org](http://www.nami.org))
2. Make it OK (<http://makeitok.org>)
3. National Institute of Mental Health ([www.nimh.nih.gov](http://www.nimh.nih.gov))
4. American Psychological Association ([www.apa.org](http://www.apa.org))
5. National Institute on Alcoholism and Drug Dependence (<http://ncadd.org>)
6. National Institute on Drug Abuse (<http://drugabuse.gov/nidahome.html>)