

Ethical Developments in the Pandemic

D.C. Bar Lawyer
Assistance
Program

LAP@dcbar.org

202.347.3131

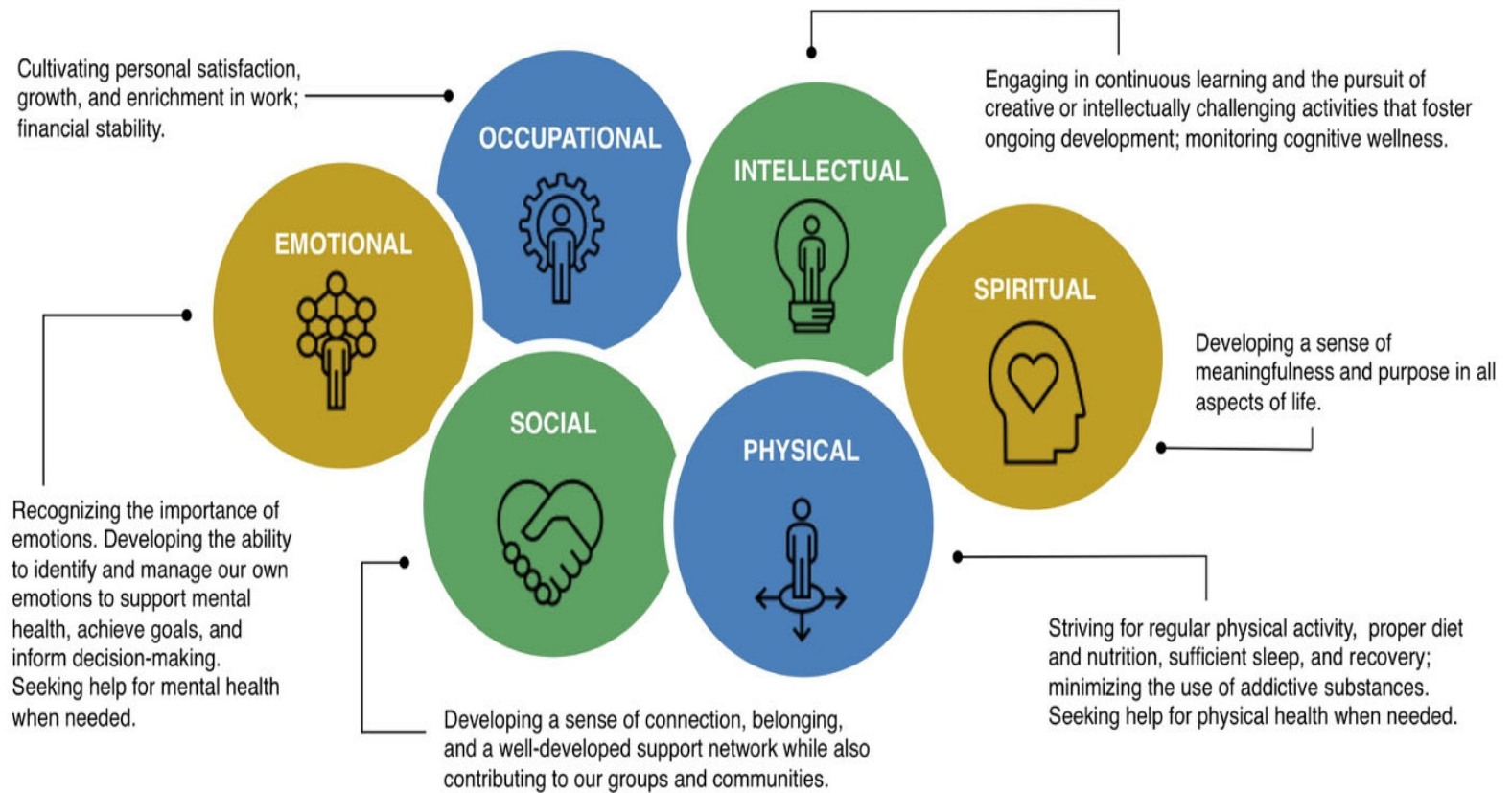
Credit to Virginia JLAP for assistance with the slides

What do we mean
when we talk about
well-being, mental
health, and addiction?

Maintaining Lawyer Well-Being

Defining Lawyer Well-Being

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

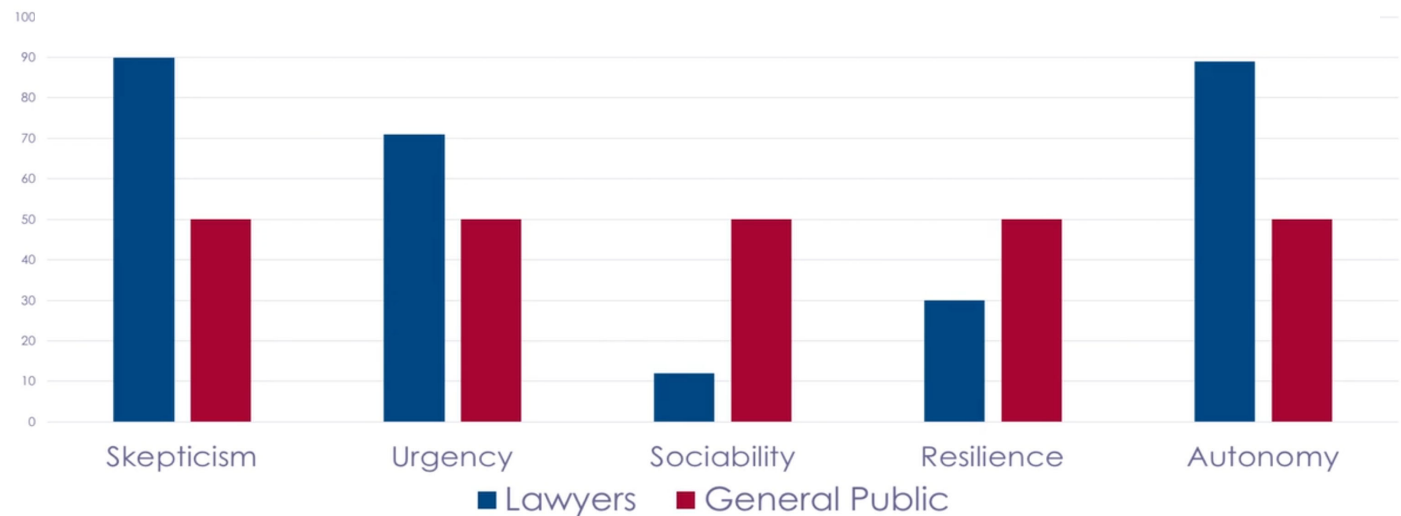


What should
attorneys be aware of
related to mental
health and addiction
risk for themselves
and colleagues.

Why Should Attorneys Care?

Individual Risks/Common Personality Traits

- Overachievers/Competitive
- Perfectionists: Organized, detail-oriented, fear of malpractice
- Compartmentalized: Focused with limited perspective
- Independent: We, alone, can think our way out of any situation
- Work-focused: Work to Live (not Live to Work)
- Risk Adverse
- Externally motivated: Directed towards external rewards (e.g., money, honors, pleasing/impressing others)



Are there attorney-specific statistics related to the toll of mental health issues and addiction?

Rates of Substance Use and Mental Health Concerns In Attorneys

Attorney Baseline

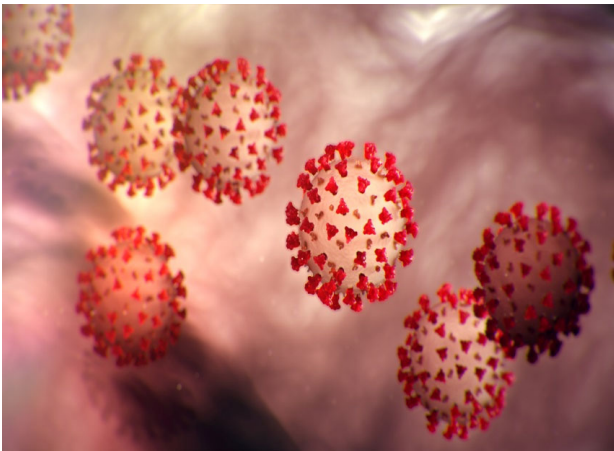
- Members of the legal profession present with mental health and substance use disorders at a higher rate than the non-lawyers
- Considerably higher rates of mental health distress
 - Problem drinking: 21-36%
 - Depression: 28%
 - Severe anxiety: 19%
- Suicide is the third leading cause of premature death among attorneys (after cancer and heart disease); 54% more likely than general population
- Lawyers in their **first ten years of practice** as well as those working in private practice **have the highest rates** of both problem drinking and depression

What impact is the current state of the world having on well-being, mental health, and addiction?

And then there was... 2020-2021



A global pandemic.
Raging wildfires.
An unprecedented
number of hurricanes.
Social Unrest.



Widespread
demonstrations and
protests.
A contentious political
landscape.



Mental Health 2021

MHA National
Survey

- 40% exhibiting symptoms of anxiety and depression
- Of those, 70% reported loneliness/isolation as a top 3 contributing factor
- Suicidal ideation highest among youth ages 11-17 , particularly LGBTQ+ and youth of color
- 20% people lost a relative or close friend to COVID. (toll of prolonged grief)

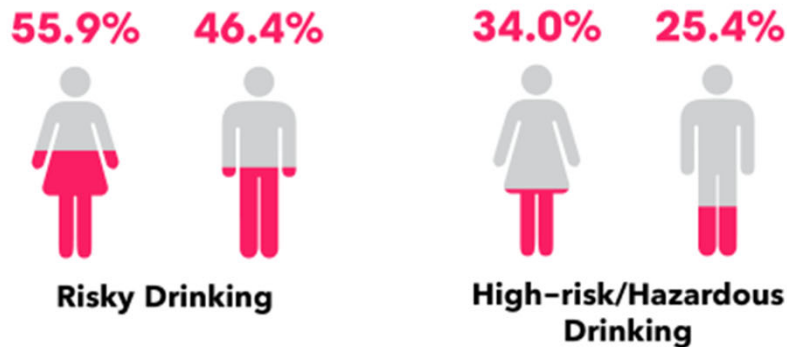
ABA Survey: Practicing Law in the Pandemic and Moving Forward

- Lawyers, especially those with young children at home, are overwhelmed with all they must do
- Significant stress around workplace resources, recognition, and job security
- Obtaining new business and providing client service has become substantially harder than a year ago
- Stress at work traced directly to race, ethnicity, and/or gender

Mental Health Gender Disparity: Women Lawyers Suffer Disproportionately

Alcohol Use:

A significantly greater proportion of women compared to men engaged in:



Mental Health:

1 in 4

women contemplating leaving legal profession due to mental health concerns.

17% of men report the same thoughts.



*Stress, drink, leave:
An examination of
gender-specific risk
factors for mental
health problems
and attrition among
licensed attorneys*

Source: Anker J, Krill PR (2021) Stress, drink, leave: An examination of gender-specific risk factors for mental health problems and attrition among licensed attorneys. PLoS ONE 16(5):e0250563.

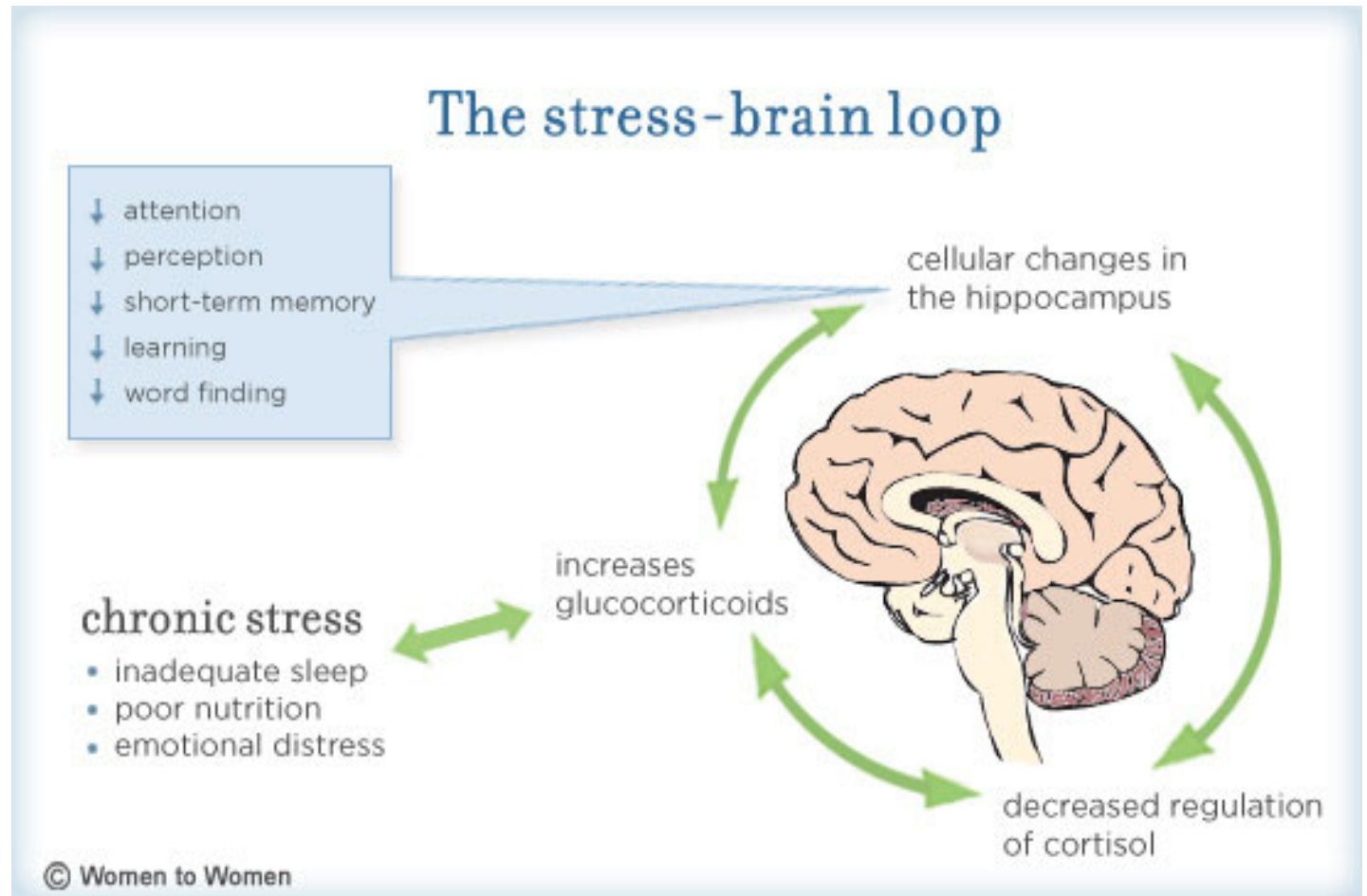
Bloomberg Law

Mental Health (moderate to severe symptoms)	Women	Men
Depression	20.4%	15.3%
Anxiety	22.5%	14.5%
Stress	66.6%	48.7%

Stress, drink, leave study

What is the relationship between competency and mental health?

Understanding Stress, Anxiety, and Fatigue



When a person feels this way, they often try harder to manage these symptoms, which can make them worse. It is a vicious cycle.

Relationship of Well-Being to Competence?

Self-governing profession

- Protect the public
- Protect the profession

Ethical responsibility

- Competence (mental, emotional, and physical)
- Impairment
- Malpractice
- Discipline

Practice Implications


- Productivity
- Reputation

**A well-balanced lawyer
is a productive, competent lawyer**

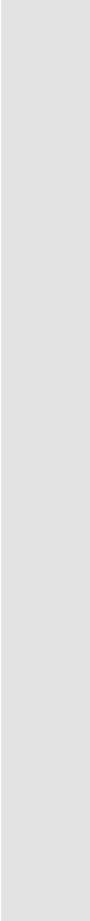
Are there Rules of
Professional
Responsibility related
to this relationship?

Well-Being, Competence, and Ethics

- [ABA Ethics Opinion-03-429](#) focuses on three areas of concern:
 - Rule 1.16
 - Rule 5.1
 - Rule 8.3
- [ABA Ethics Opinion 03-431](#)
 - Lawyer's Duty to Report Rule Violations by Another Lawyer Who May Suffer from Disability or Impairment
 - Recommends consultation with a mental healthcare professional or Lawyer Assistance Program



The toll of pandemic on the practice of law

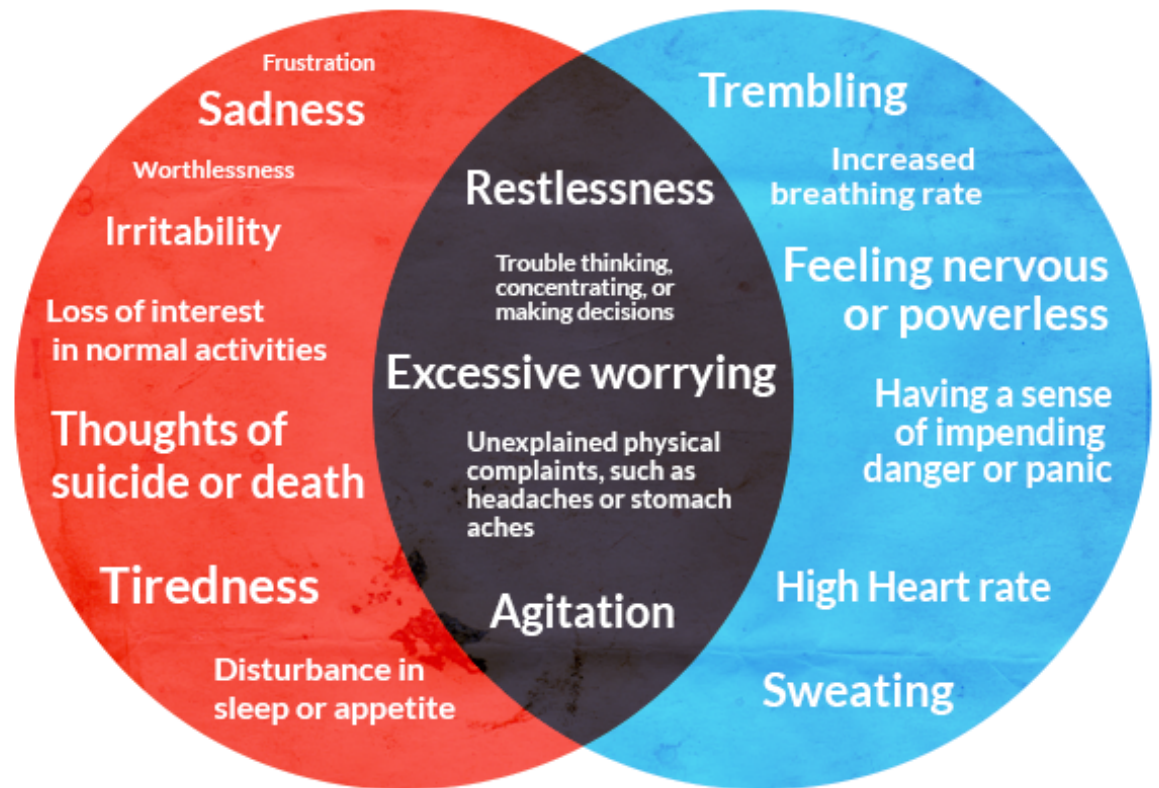
- Heavy financial/business toll taken on solo and small firms
 - Increase in ethics calls related to maintaining confidentiality with remote work
 - Challenges from clients falling ill from COVID and impacting communications
 - Increase in client complaints alleging attorneys failing to communicate
- 

How can someone identify if they or a colleague has a mental health or substance use issue?

Mental Health Signs & Symptoms

Depression

Anxiety



Know the Five Signs of Emotional Suffering



Personality Changed?



Feeling Agitated?



Feeling Withdrawn?



Poor Self-Care?



Feeling Hopeless?

#ChangeDirection

ChangeDirection.org



© 2015 Give an Hour



Irregular Expression of Feelings

Hostility from one who is usually pleasant and friendly
Indifference to situations, even highly important ones
Inability to express joy
Laughter at inappropriate times or for no apparent reason

Social Withdrawal

Sitting and doing nothing for long periods of time
Losing friends; increased interpersonal conflict
Unusual self-centeredness and self-absorption
Dropping out of previously enjoyed activities
Declining academic, work, or athletic performance

Signs and Symptoms of Impairment

Mood Disturbance

Deep sadness unrelated to recent events or circumstances
Depression lasting longer than two weeks
Loss of interest in activities once enjoyed
Expressions of hopelessness
Excessive fatigue, or an inability to fall asleep
Pessimism; perceiving the world as gray or lifeless
Thinking or talking about suicide

Thought Disturbance

Inability to concentrate
Inability to cope with minor problems
Irrational statements
Use of peculiar words or language structure
Excessive fears or suspiciousness; paranoia

Changes in Behavior

Hyperactivity, inactivity, or alternating between the two
Lack of personal hygiene
Noticeable and rapid weight loss or gain
Involvement in automobile accidents
Drug and alcohol abuse
Forgetfulness and loss of personal possessions
Moving out of home
Not sleeping for several nights in a row
Bizarre behavior (e.g. skipping, staring, strange posturing, grimacing)
Unusual sensitivity to noises, light, clothing²³

SELF ASSESSMENT

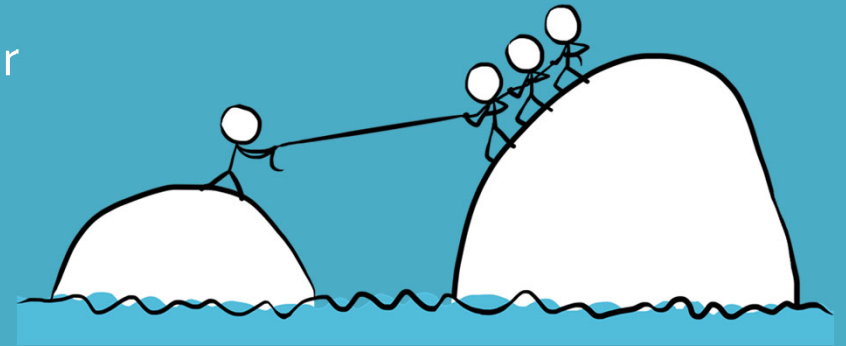
- Are you having trouble sleeping?
- Worrying so much that it is interfering in work, relationships, or other parts of life?
- Unable to relax without alcohol or drugs?
- Having problems getting your work completed?
- Noticing an increase in errors of judgment?
- Lost interest in things you use to enjoy?
- Experiencing emotional numbness?
- Having suicidal thoughts?



If you answered “yes” to any of these, call LAP and schedule a free confidential consultation with a clinician.

ASSESSMENT FOR A COLLEAGUE

- Are they isolating from friends, coworkers, activities?
- Has their performance decreased?
- Are there problems with meeting deadlines?
- Has their mood changed, become unpredictable or irritable?
- Are there complaints from clients or coworkers?
- Has their appearance deteriorated?
- Do they seem hopeless or overwhelmed?
- Are they drinking too much?



If you answered “yes” to any of these, call LAP and schedule a free confidential consultation with a clinician.

If someone is
concerned about a
colleague what are the
next steps?

What should they do if the person admits they have a problem? What should they do if the person has a problem? Are there ethical considerations?

How to help a colleague/friend

- **Don't Ignore It. Take Action.**
- Recognize the signs in a colleague of distress
- Talk – Actively Listen – Have Empathy
- Avoid Enabling
- Encourage colleague to get help. Provide resources.
- Talk of suicide should always be taken seriously!
- Have the LAP or EAP do a presentation at your workplace.

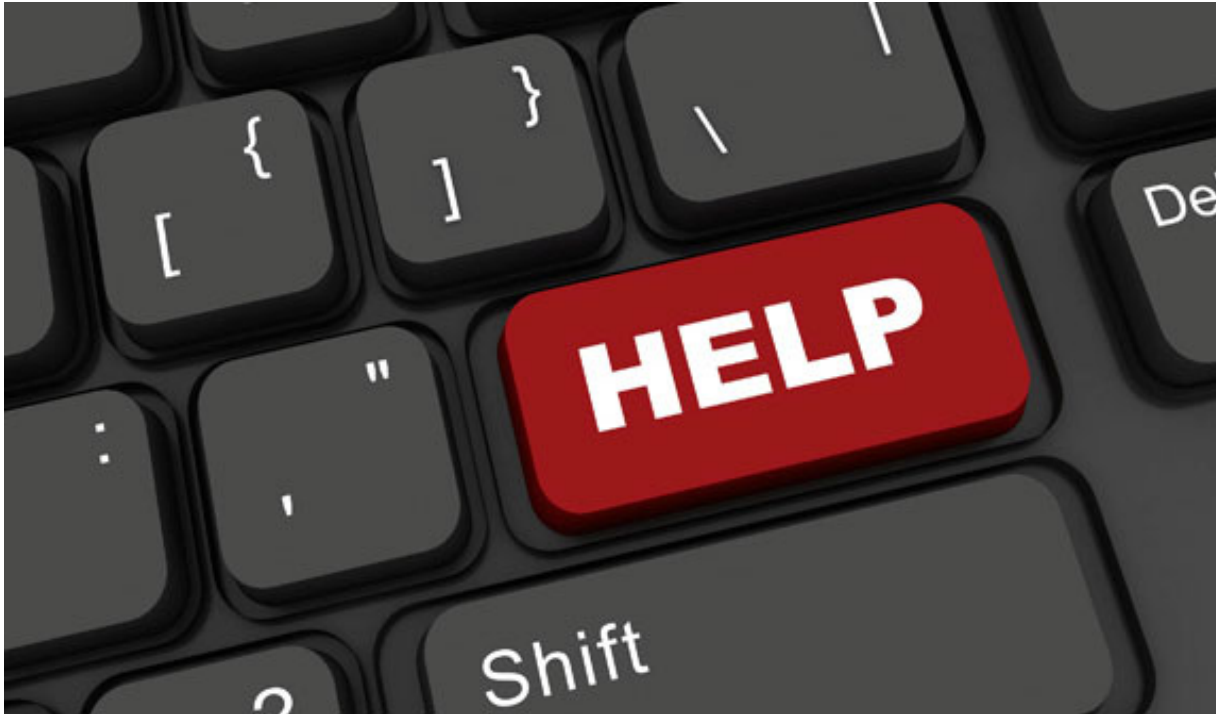
DO

- Actively listen, express concern, reassure.
- Focus on being understanding, caring and nonjudgmental, saying something like:
 - “You are not alone. I’m here for you”
 - “I may not be able to understand exactly how you feel, but I care about you and want to help”
 - “I’m concerned about you, and I want you to know there is help available to get you through this”
 - “You are important to me; we will get through this together”
- Ask open-ended questions
- Use hopeful and first-person language
- If this is a mental health emergency, call 911

DO NOT

- **Promise secrecy.** Say instead: “I care about you too much to keep this kind of secret. You need help, and I’m here to help you get it.”
- Give advice.
- Debate the value of living or argue that suicide is right or wrong
- Ask in a way that indicates you want “No” for an answer to self harm questions
 - “You’re not thinking about suicide, are you?”
 - “You haven’t been throwing up to lose weight, have you?”
- Try to handle the situation alone
- Try to single-handedly resolve the situation
- Say: “We all go through tough times like these. You’ll be fine.” “It’s all in your head. Just snap out of it.”

Please remember, a suicide threat or attempt is a medical emergency requiring professional help as soon as possible.



SEEK HELP

☐ National Suicide Prevention Lifeline

- www.suicidepreventionlifeline.org
- 1-800-273-TALK (8255)

☐ SAMHSA

- www.samhsa.gov
1-800-662-HELP (4357)

☐ Therapist directories

- Inclusive Therapists,
Psychology Today, Zencare

**FREE &
CONFIDENTIAL
SERVICES OF
THE D.C. BAR
LAWYER
ASSISTANCE
PROGRAM**

- Clinical assessment, short-term counseling, referrals to resources, and support/follow-up.
- Wellbeing support groups
- Consultations with employers, colleagues, or other concerned parties about resources and interventions.
- Volunteer/peer mentor connection
- Outreach, education and well-being guidance

Call 202-347-3131 or email LAP@dcbar.org

Resources

- **National Suicide Prevention Lifeline**

- 1.800.273.TALK (8255);
 - En Español: Nacional de Prevención del Suicidio 1-888-628-9454
 - For Deaf + Hard of Hearing 1-800-799-4889
 - Veterans Crisis Line 1-800-273-8255 Press 1
- Crisis Text-Line: www.crisistextline.org
Text “HOME” or “TALK” to 741741

- **Directory of Lawyer Assistance Programs**

- www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/

- **SAMHSA (Substance Abuse and Mental Health Services)**

- www.samhsa.gov or 1.800.662.HELP (4357)

- **In the Rooms (recovery meetings)**

- www.intherooms.com/home/getting-started-in-recovery-2/

Mental Health Resources

- **Mental health screening**
 - whatsmym3.com
- **The Mental Health Coalition**
 - <https://thementalhealthcoalition.org/>
- **Lawyer Depression Project**
 - www.lawyersdepressionproject.org
- **Therapist Directories**
 - www.inclusivetherapists.com
 - www.psychologytoday.com
- **Resources addressing racial trauma, BIPOC mental health and coping**
 - [Mental Health Effects on Racism Resources.docx](#)
 - www.mhanational.org/racial-trauma



D.C. BAR
LAWYER
ASSISTANCE
PROGRAM

202.347.3131
LAP@dcbar.org

Bibliotherapy /References

Articles:

- [Your 'Surge Capacity' Is Depleted — It's Why You Feel Awful](#)
- [D.C. Bar LAP Newsletter - Stress Response](#)
- [The Promise of Self-Compassion for Attorneys](#)
- [Opening Up Wisely](#)
- [Practicing Law in the Pandemic and Moving Forward](#)

Books:

- [Burnout: The Secret to Unlocking the Stress Cycle](#)
by Emily Nagoski PhD & Amelia Nagoski DMA
- [Emotional Inflammation: Discover Your Triggers and Reclaim Your Equilibrium During Anxious Times](#) by Lise Van Susteren, Stacey Colino
- [The Gifts of Imperfection](#) : Let Go of Who You Think You're Supposed to Be and Embrace Who You Are by Brené Brown

Podcast:

- [Spawned, Why we need to reframe how we view self-care](#)
- [NPR Life Kit, Why You Feel So Guilty When You're Not Working](#)

Bonus Content



Are there things law firms and other attorney organizations do to support the mental health and wellness of its employees?

What Can You Do As a Leader?

- Communicate frequently and openly, including team meetings and one-on-one check ins.
 - Hey, how are things going for you? Is there anything I can help you with? Can I help you with the flexibility with your day so you can spend the first couple hours helping your child with online school?”
- Encourage your employees to reach out to each other for support.
- Model (and emphasize) the importance of work-life balance.
- Promote your Employee Assistance Program (and the lawyer assistance program); ensure employees are aware how to access services; invite EAP/LAP personnel to present during a staff meeting.
- Commit to the ABA Well-Being Pledge and explore the [Well-Being Toolkit](#) for Legal Employers.
 - www.americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession/

Are there things
individuals can do to
maintain their own
well-being?

Simple Well-Being Habits for Challenging Times

- Adjusting our expectations
- Keeping one small promise to ourselves every day
- Cultivating at least one relationship that has real, honest, open conversations
- Recognizing negative emotions/self-talk and adapting personal coping skills
- Knowing when and where to reach out for help for yourself or a friend

Maintaining Healthy General Well-Being

DO

- Stick to routines as much as possible
- Obtain news information from reliable sources, in small doses
- Connect with others on social media in positive ways
- Look for ways to help your community: donate to your local food bank, donate blood, participate in local initiatives to improve community morale.
- Stick to existing wellness practices
- Add additional wellness practices
- Get fresh air and exercise
- Learn a new activity
- Continue to connect with your faith or civic groups via phone or videoconferencing

DON'T

- Get off-routine
- Watch or read too much news
- Spend too much time on social media
- Read conspiracy theories
- Cope by using food, drugs, alcohol, or problem behaviors.
- Get involved in others' negativity