

STRESS, MENTAL HEALTH AND UNHEALTHY BEHAVIOR IN A LEGAL SERVICES ENVIRONMENT

Minnesota Lawyers Concerned for Lawyers
and
ABA Commission on Lawyer Assistance Programs

There is Help and There is Hope

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I. Introduction and Overview: Stress and the Legal Profession

What is STRESS? It's a series of physiological responses and adaptations to a real or imagined threat or demand. Stress occurs when the pressures experienced by the individual are perceived by them as exceeding their capacity to deal with them, in a situation where coping is perceived as important. It can be good or bad, healthy or unhealthy.

Eustress is a term used to describe beneficial to us. It charges us up and allows us to meet challenges head on and gives us the necessary energy to do so. Distress is the chronic feeling of being overwhelmed, oppressed and behind in tasks. There is a sense that life is controlling us and we see little hope for relief, all of which can have unhealthy results. Regardless of how beneficial our stress may be, our bodies react. Our heart beats faster, our pupils dilate, our digestive and immune systems shut down and the hormones adrenaline and cortisol are released. In the short term, this helps us, but over time, the chronic presence of these changes will hurt us with results like higher blood pressure, more frequent illnesses, and coping mechanisms that are reactions not solutions.

A. Sources of Stress for Lawyers

The legal profession presents many opportunities to take on someone else's problems, and it presents unique sources of stress. There are realities in the everyday practice of a lawyer, regardless of their area of practice and regardless of whether they litigate, are engaged in transactional work or perhaps even work in a non-traditional career.

1. Rules Based Morality. The way we help people; the way we make a difference for our clients, is to make their set of circumstances fit a set of rules. We apply the law to the facts. From that can come a tendency to see everything in terms of how we believe it should fit into the world as we see it. And we will use our finely tuned persuasive and argumentative skills to insist upon it.
2. Perfectionism. We are told from the beginning in law school that mistakes will cost us. From the humiliation of the Socratic method when we are not prepared (or even if we are) to cases where professional discipline occurs because of missing deadlines and important details, we learn that we must not fail. When we learn perfectionism it is not limited to our work life. Any possible failure becomes an opportunity for intense self scrutiny and every move we make can become defined by winning or losing.
3. Pessimism. We may be the only profession that succeeds because we can anticipate the worst that might happen. Yet, how else do we solve problems? The pessimist not only sees what can go wrong but is more likely to view bad things as permanent and unchangeable. Optimists see opportunity.
4. Vicarious Trauma. This may be our greatest risk. We are not the immediate first responders to the worst things that happen in our world, but we may spend more time with the details and people who experience the direct trauma than anyone else. Yet our need to be perfect (don't let them see you sweat) and pessimistic can make us even more vulnerable to the effects of this trauma. We don't show our weakness, we don't process and we hold it inside until we burnout. Yet studies have shown that simply talking about what one experience, even and especially secondarily, can reduce the effects of the trauma.

B. How do you know that you are over-stressed?

1. Physical Signs

- Throbbing in Chest
- Indigestion
- Breathlessness
- Tiredness and Fatigue
- Aches and Pains
- Frequent Infections
- Headaches
- High blood pressure

2. Emotional Signs

- Mood Swings
- Lack of Enthusiasm
- Guilt
- Lack of Concentration
- Anxiety
- Lack of Confidence
- Loss of Self Esteem

3. Behavioral Signs

- Accident Proneness
- Increased smoking/drinking/drugging
- Appetite Changes
- Irritability
- Change in Sleeping Patterns
- Change in Working Patterns
- Chronic Lateness/Procrastination
- Poor Hygiene
- Clumsiness

C. Our Response to Stress

Many try to cope with stress by turning to tobacco, alcohol, caffeine, herbal remedies, legal or illegal drugs as well as diversions like gambling, internet shopping, games and porn or compulsive eating. These substances and processes may mask some of the symptoms of stress and provide temporary relief but they don't help in the development of effective stress-management techniques. They may harm your physical health, weakening resistance to stress even further and cause additional stressful complications in life.

II. Impact of Addiction and Dependency in the Legal Profession

A. Estimates of alcoholism and dependency among lawyers – Generally

1. The ABA estimates that 15 to 20 percent of U.S. lawyers suffer from alcoholism or chemical dependency. “Surveys reveal that as high as 18 percent of all lawyers—nearly one in five—

will personally develop problems related to substance abuse. That figure does not include the number of partners, associates, family members, and colleagues who will be forced to deal with the effects of addiction as a result of an impaired attorney they know or work with.” John W. Clark, Jr., *We’re From the Bar and We’re here to Help You*,” *G.P. Solo Magazine* (A.B.A. Pub.; v.21, no. 7: October/November 2004).

2. “[M]ore than 20 percent of the male Washington lawyers are scoring above the cutoff for probable alcohol related problems for the current year.... This percentage is over twice the approximately 9% alcohol abuse and/or dependency prevalence rates estimated for adults in the United States.” “Approximately 70% of the lawyers in the sample are likely to develop alcohol problems in their lifetime.” Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 *Jour. of Law & Health* 1, 50-51 (1995-96).
3. Gender Differences – Women are less likely to have substance abuse problems in general and as attorneys. Most often, women don’t seek help until the disease is more advanced than for men, partly because of stigma attached to public intoxication for women.

B. Impact of alcoholism on discipline and malpractice claims

1. Alcohol abuse has been estimated to be a factor in at least 27 percent of the attorney discipline cases in the United States. G. Andrew H. Benjamin, et al.; *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*; 13 *Intern’l. Jour. of Law and Psychiatry* 233, 243 (1990).
2. “A study conducted in 1986, by the Oregon State Bar Professional Liability Fund (OSBPLF) showed the relationship of alcohol and drug problems with malpractice claims. OSBPLF reviewed the records of 100 consecutive lawyers who entered its lawyer's assistance program. Sixty percent of the lawyers had malpractice suits filed against them while suffering from substance abuse.” G. Andrew H. Benjamin, et al.; *supra* at 244.
3. Minnesota’s experience
 - a. The number of probationary cases where chemical dependency was a component of the agreement was 16.4% as of December 31, 2006. *Annual Report of the Lawyers Professional Responsibility Board and the Office of Lawyers Professional Responsibility* (July 2007)
 - b. The actual impact of chemical abuse is much higher. Mike Hoover, former Director of the Office of Lawyers Professional Responsibility (OLPR), stated that his staff expected to find chemical dependency in at least half the discipline cases they investigated. Amy Lindgren, *Counting the Costs: Substance Abuse in the Legal Profession*, *Bench and Bar of Minnesota*, Vo. 47, no 3, p. 22 (March 1990)
 - c. The difference between these figures is partly caused by attorneys denying how their chemical use affects their practice. Many misconduct allegations involve behaviors closely related to the symptoms of chemical abuse and dependency. Marcia E. Femrite, “Addicted Attorneys in Disciplinary Proceedings”, *Michigan Bar Journal*, February 1991, p. 152. For example, 75% of all OLPR open probationary files involved charges of

neglect and non-communication; 24% involved non-cooperation with OLPR; and 42% involved conduct prejudicial to the administration of justice (primarily missed court appearances). *Annual Report*, supra at 13.

III. The Disease of Addiction and Dependency.

A. Addiction

1. Why do people take drugs?
2. What it is.
3. How it develops.
4. Risk factors. These include genetics, age at first use, chronic stress, physical or mental health, culture, history of abuse and unresolved emotions.

B. Definitions:

1. The American Medical Association (AMA) defines “alcoholism” as a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by continuous or periodic impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Robert M. Morse and Daniel K. Flavin, “The Definition of Alcoholism.” *Journal of the American Medical Association*, August 26, 1992, Vol. 268, No. 8, pp. 1012 – 1014.
2. The American Society of Addiction Medicine (ASAM) defines “addiction” as a disease process characterized by the continued use of a specific psychoactive substance despite physical, psychological or social harm. *Principles of Addiction Medicine*, 2d ed., 1968.
3. The American Psychiatric Association’s *Diagnostic and Statistical Manual (DSM IV)* defines “substance dependence” as a pattern of substance use leading to clinically important distress or impairment during a single 12-month period, shown by three (3) or more of the following:
 - Tolerance, shown by either: (1) a markedly increased intake or the substance is needed to achieve the same effect; or (2) with continued use, the same amount of the substance has markedly less effect.
 - Withdrawal, shown by either (1) the substance’s characteristic withdrawal syndrome; or (2) the substance (or one closely related) is used to avoid or relieve withdrawal symptoms.
 - The amount or duration of use is often greater than intended.
 - Repeated attempts without success to control, reduce or stop using the substance.
 - An increasing or inordinate amount of time is spent using the substance, recovering from its effects, or trying to obtain it.
 - The reduction or abandonment of important social, occupational, or recreational activities because of substance use.
 - Continuing to use the substance despite the knowledge that it has probably caused physical or psychological problems.

4. The American Psychiatric Association's *Diagnostic and Statistical Manual (DSM IV)* defines "substance abuse" as a substance use causing clinically important distress or impairment in a single 12-month period as shown by one or more of the following:
 - Failure to carry out major obligations at work or at home due to the repeated use of a substance.
 - The use of substances even when it is physically dangerous.
 - Repeated legal problems from substance use.
 - Continued use of the substance, despite knowing that it has caused or worsened social or interpersonal problems.
 - The patient has not previously been diagnosed as dependent on this class of substance.

C. Stages of Dependency

1. Early Stage: includes relief use, loss of control over use, increasing frequency of use and amount, and blackouts or memory loss.
2. Middle Stage: includes employment, school or family problems; personality changes; behaviors not consistent with the person's value system; and work and financial difficulties.
3. Late Stage: includes increased tolerance of the substance, physical deterioration, free-floating fears and anxiety, institutionalization because of a decline in mental health, and death.

D. How Chemicals Affect the Brain

- Necessary neurotransmitters are blocked or released in abnormal ways
- The brain tries to return to normal but what if chemical use is perceived as normal?
- Then chemicals become necessary to return to normal and addiction has set in.
- Any mood-altering drug will now have this effect.

E. A basic checklist for signs of impairment in a legal professional.

Personal behavior

- Gradual deterioration of personal appearance [hygiene/health].
- Loses control at social gatherings, even where professional decorum is expected.
- Distorts the truth; is dishonest.
- Manages finances poorly; fails to make tax filings and payments on a timely basis.

Attendance

- Routinely arrives late and/or leaves early.
- Regularly returns late or fails to return from lunch.
- Fails to keep scheduled appointments.
- Has frequent sick days or unexplained absences.

Job performance

- Procrastinates; has a pattern of missed deadlines.
- Neglects prompt processing of mail or timely return of calls.

- Shows decline in productivity/number of hours worked each month.
 - Overreacts to criticism; shifts blame to others.
 - Is unable to get along with or withdraws from fellow lawyers and other staff.
 - Performance declines throughout the day.
 - Clients complain about performance/communication.
 - Co-mingles or borrows clients' trust funds.
 - Appears under the influence and/or smells of alcohol in the office or during court appearances.
- Waldhauser, Carol; "Identifying Addictions"; G.P. Solo Magazine (A.B.A. Pub.; v.18, no. 5: July/Aug 2001).

BUT, the lawyer must continue to work to support the addiction so she or he may function very well in a work setting. By the time work performance begins to suffer, significant destruction may have occurred in other aspects of his or her life.

The employer can do a number of things to encourage those who may be more quickly aware of problems to bring them to the attention of management, another employee or to call LCL for help:

- Educate support staff
- Provide non-threatening reporting options
- Give family members a contact
- Distribute LCL or other information with benefits materials

F. Reaching Out to Others. There are various places where a concerned person can reach out.

- Expression of concern from one lawyer to another
 - Drop off a brochure, e-mail our website, call LCL
- Visits and calls by LCL volunteers
- Intervention
- Crisis Response (immediate assistance needed)

G. Recovery

1. Types and Settings of Treatment

- a. Inpatient (detox/stabilization, short term C.D. units)
- b. Residential (Therapeutic Communities)
- c.. Outpatient
- d.. Methadone Treatment, monitors, nutrition counseling

2. Does treatment work?

Generally, statistics reflect that C.D. treatment is at least as successful as treatment for other chronic diseases.

Studies of outcomes for selected chronic diseases have shown:

- 40% to 60% of clients from C.D. treatment programs are continuously abstinent and an additional 15% to 30% have cut down on their use.

Of the other chronic diseases, the proportion of patients fully adhering to their medication schedule is:

- Type 2 diabetes (adults) – less than 60%

- Hypertension – Less than 40%
- Asthma – less than 40%

In addition to treatment adherence, relapse rates are very similar among all four of these chronic disorders:

- Chemical dependency relapse: 40% to 60%.

Of the other chronic diseases, the proportion of adult patients who require medical care to reestablish symptom remission in one year:

- Type 2 diabetes – 30% to 50%.
- Hypertension – 50% to 70%.
- Asthma – 50% to 70%.

McLellan, A.T.; Lewis D.C.; O’Brien, C.P. and Kieber, H.D. Drug Dependence, a Chronic Medical Illness: Implications for Treatment, Insurance, and Outcomes Evaluation, Journal of the American Medical Association, v.284, No. 13, p. 1689 (2000).

IV. Discipline & Malpractice: Impact of Chemical Dependency on Lawyers

Specifically, treatment has been shown to have a tremendous impact on attorneys’ malpractice liability and discipline. A recent study in Oregon analyzed a group of 55 recovering lawyers.

PERIOD	DISCIPLINARY COMPLAINTS	MALPRACTICE COMPLAINTS
five years before beginning sobriety	76	83
five years after beginning sobriety	20	21

GROUP	DISCIPLINARY RATE	MALPRACTICE RATE
five years after beginning sobriety	7%	8%
all lawyers in the state	9%	13.5%

Zarov, Ira and Fishleder, Barbara S.; New Study Shows Recovery Saves Dollars, Highlights of the A.B.A. Commission on Lawyer Assistance Programs (v5, #2: Spring 2002)

V. Mental Health Disabilities and the Practice of Law

Psychological Distress and Law School. “Although not present prior to law school, a variety of forms of psychological distress become evident at clinically significant levels within the first few months of law school attendance. These symptoms increased as the law students progressed through the three years of the program and did not significantly decrease during the first two years of practice.” Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 Jour. of Law & Health 1, 44 (1995-96) citing G.A.H. Benjamin, et al, *The role of legal education in producing psychological distress among law students and lawyers*, American Bar Foundation Research Journal 225-252, (1986).

A. Surveys of mental health issues among lawyers.

1. A 1990 study by Johns Hopkins University found that of 28 professions, attorneys are the most likely to suffer from depression, at a rate 3.6 times the average for the adult population. W.W. Eaton, et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 *Jour. of Occupational Medicine* 1079 (1990).
2. “This sample of lawyers gives substantial indication of a profession operating at extremely high levels of psychological distress.” The study asked attorneys to self report on psychological distress symptoms. The results, with comparisons from other studies of the general population, were:

	Generalized Anxiety Disorder	Obsessive-Compulsiveness	Depression
Gen'l Pop. – Male	4%	2.1%	8.5%
Gen'l Pop – Female	4%	1.4%	14.1%
Male Lawyers	30%	20%	Almost 21%
Female Lawyers	Nearly 20%	15%	16%

Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 *Jour. of Law & Health* 1, 49-50 (1995-96).

3. Gender differences – The statistics show that female attorneys are far more likely to report mental health concerns than women in the general population, but at a lesser rate than male attorneys.

B. Impact of mental health issues on discipline and malpractice claims.

1. “[N]eglect cases tend to arise among lawyers who are procrastinating because they are clinically depressed. Finally, lawyers who go untreated tend to become defendants in malpractice claims.” Benjamin, *supra* at 244.
2. Minnesota’s experience

- a. The number of disability related probationary cases due to mental health issues has been increasing substantially.

	12/31/99	12/31/04	12/31/06
Proportion of Probation Cases With Mental Health Disorder as a Factor To all Disciplinary Probation Cases	9/9%	22.5%	19.2%

Annual Report of the Lawyers Professional Responsibility Board and the Office of Lawyers Professional Responsibility, (June 2000, June 2005, July 2007)

- b. During the MSBA Depression Task Force discussion in 1999, OLPR Director Ed Cleary reported that the rate at which mental health is being reported as a factor in disciplinary cases is increasing, while the rate at which alcohol and drugs are being reported as a factor is decreasing.
- c. Many misconduct allegations involve behaviors closely related to the symptoms of mental health issues, primarily depression. For example, 50% of all OLPR open

probationary files involved charges of neglect and non-communication; 23% involved non-cooperation with OLPR; and 36% involved conduct prejudicial to the administration of justice (primarily missed court appearances). *Annual Report*, (June 2002).

A significant number of attorney discipline cases involve impaired attorneys. Since the Supreme Court addressed the impact of alcoholism on discipline in *In re Johnson* in 1982, more than 100 suspension or disbarment cases have involved alcoholism or alcohol abuse. Since *In re Weyhrich*, when the court applied the mitigation test to mental illness, more than 50 public discipline decisions have included the requirement that the attorney prove psychological fitness before being reinstated to practice.

The very best way to prevent discipline of yourself or your colleagues is to get the attorney the help he or she needs by contacting LCL.

VI. Mood Disorders: Depression & Anxiety

A. Common types of depression

1. Major depression – manifested by a combination of symptoms (see below) that interferes with the ability to work, study, sleep, eat, and enjoy once pleasurable activities. An episode may occur only once, but more commonly returns several times in a lifetime.
2. Dysthymia – involves long-term, chronic symptoms that do not disable, but keep one from functioning well or feeling good. An individual with dysthymia may also experience major depressive episodes.
3. Bipolar disorder – also called manic depression. Not nearly as frequent, is characterized by cycling mood changes from extreme elation (mania) to depression. Most often the mood change is gradual. Depressive condition is similar to major depression. A manic period is characterized by being over-talkative and overactive, and having excess energy. It affects thinking, judgment, and social behavior and may lead to grand romantic or business schemes that create serious problems and embarrassment. Untreated mania can lead to a psychotic state.

B. Characteristics of depression

1. It is defined as a mood disorder that also affects our body and thoughts.
2. Symptoms of major depression include:
 - a. Persistent sad, anxious or “empty” (absence of feelings) mood.
 - b. Feelings of hopelessness and pessimism.
 - c. Loss of interest or pleasure in activities we once enjoyed, e.g. sex.
 - d. Feelings of guilt, worthlessness, helplessness.
 - e. Decreased energy, fatigue, being “slowed down.”
 - f. Difficulty concentrating, remembering, making decisions.
 - g. Insomnia, early-morning awakening, or oversleeping.
 - h. Appetite and/or weight loss or overeating and weight gain.
 - i. Thoughts of death or suicide, suicide attempts.
 - j. Restlessness, irritability.
 - k. Persistent physical symptoms that do not respond to treatment, such as headaches, digestive disorders, and chronic pain.

3. These symptoms must persist over a period of time. Depression is not a blue mood that passes after a few hours or days.
4. Often, the symptoms occur in stages. For instance, feelings of sadness will precede the empty feeling which reflects an absence of feelings. This is followed by a feeling of helplessness or hopelessness, which is often followed by thoughts of death or suicide.
5. Depression from the Outside
Gloomy · Tearful · Pessimistic · Negative · Moody · Irritable · Complaining
Brooding · Anxious · Critical
6. Gender Differences
 - a. Women report depression twice as frequently as men.
 - b. Men are less likely to admit depression and doctors are less likely to suspect it. Men tend to cover up symptoms with alcohol, drugs, and work. Depression in men is more likely to show up as anger and irritability, rather than hope/helplessness.

(NIH Pub No. 00-3561, 2000; avail. At www.nimh.nih.gov/publicat/depression.cfm)

C. Anxiety

1. Generalized Anxiety Disorder (GAD), is an anxiety disorder characterized by chronic anxiety, exaggerated worry and tension, even when there is little or nothing to provoke it.
(www.nimh.nih.gov/healthinformation/gadmenu.cfm)
2. Obsessive Compulsive Disorder – people with OCD have persistent, upsetting thoughts (obsessions) and use rituals (compulsions) to control the anxiety these thoughts produce. Most of the time, the rituals end up controlling them.
(www.nimh.nih.gov/publicat/anxiety.cfm#anx3)
3. Post-traumatic stress disorder (PTSD) develops after a terrifying ordeal that involved physical harm or the threat of physical harm. The person who develops PTSD may have been the one who was harmed, the harm may have happened to a loved one, or the person may have witnessed a harmful event that happened to loved ones or strangers.
(www.nimh.nih.gov/publicat/anxiety.cfm#anx4)

VII. Suicide

Depression, untreated, is the #1 cause of suicide. Lawyers commit suicide at six times the rate of the general population. You may even know of some lawyers who have taken their own lives.

By offering help you can often (not always) prevent a suicide

Warning Signs of Suicide:

- Talking about ending one's life
- Statements about hopelessness, helplessness or worthlessness
- Preoccupation with death
- Suddenly happier, calmer

- Visiting or calling people one cares about, especially those one hasn't contacted recently
- Making arrangements, setting one's affairs in order
- Giving things away
- Significant symptoms of depression

QPR (Question Persuade Refer) is an approach to preventing suicide that has been proven to work. Over 250,000 people have been trained in QPR and suicide rates in setting where these people work have declined significantly. QPR teaches you how to ask someone if they are thinking about killing themselves, how to determine the seriousness of their situation, how to persuade them to accept help and how to connect them with appropriate resources. To become a QPR gatekeeper takes 2 hours or less. MN LCL offers this training free of charge. Your bar association or other legal group can schedule a training session for up to 25 people by calling LCL.

If you have not had the training, you can still make a difference by doing the following:

- Be aware of the signs of depression and the warning signs of suicide
- Be willing to get involved
- Ask the person you are concerned about if they are considering harming themselves
- Tell them you care about them and can assist them in getting help
- Help them access help by calling LCL, by going to a mental health clinic, by going to a hospital, etc.
- Do talk with their family or others if they are reluctant to accept help
- If the person is clearly planning on taking their life and refuses any offers of assistance, call local law enforcement. They are authorized to place the person on a 72-hour hold and take them to a hospital or other treatment facility. The person may be angry with you, but better mad than dead.

VIII. The Interrelationship between Addiction and Mental Health.

A. Frequency of occurrence (using depression as an example).

Addiction and dependency disorders (both alcohol and other substances) frequently coexist with depression. Substance abuse disorders are present in 32 percent of individuals with depression disorders. They co-occur in 27 percent of those with major depression and 56 percent of those with bipolar disorder. National Institute of Mental Health, Fact Sheet, "Co-Occurrence of Depression with Medical, Psychiatric, and Substance Abuse Disorders."

<http://www.nimh.nih.gov/publicat/abuse.cfm>

B. Diagnosis issues

Substance use must be discontinued in order to clarify the diagnoses and maximize the effectiveness of psychiatric interventions. Treatment for depression as a separate condition is necessary if the depression remains after the substance use problem is ended. Id.

IX. Stress and Pro Bono

Pro bono can be an excellent stress management tool. It adds variety to your practice, often allows you to see a quicker and more concrete result than in many practice areas and can offer a needed respite to everyday demands and routines. However, it can also add to your stress under some circumstances. The most obvious of these is time. You may already feel overworked. Unless you understand and accept that your pro bono cases or work are as deserving of your time and attention as paid work, you may also feel resentment and give less than your full attention to the needs of the client. That can set up feelings of guilt which of course will add to your stress. Busy attorneys who successfully integrate pro bono into their practices note that the acceptance of the case as deserving equal attention (and sometimes more because you're learning something new) helps them to manage multiple demands.

Another source of stress can be the level of institutional support for your pro bono efforts. Some organizations publicly state that they support pro bono but when the rubber hits the road, the support is not there or is lukewarm. Think about your reasons for doing pro bono and be prepared to discuss cost/benefit with those who may be skeptical or unsupportive. In the long run, pro bono can help you be a more effective and successful attorney. Be prepared to make your case and if the support is still not there, it may be appropriate to fund another position.

The level of emotional engagement with pro bono clients can be surprising for some attorneys, especially if your typical practice does not involve helping individuals in crisis. While this may be what drew you to the work, those situations which are overwhelming your client may also seem overwhelming to you. Pro bono supervisors who are mindful of the secondary effects that client trauma can exact can check in with volunteers and be a source of support or guidance on outside resources.

Opposing counsel will sometimes assume that the pro bono client is getting second rate or less attentive service and may challenge the pro bono lawyers in ways they are unaccustomed to, especially if it is a less familiar area of law. Mentors in the new area can point out the practical as well as the legal opportunities and pitfalls.

The bottom line is that many attorneys find that pro bono work relieves their stress. A good manager can watch for distress and as a volunteer you can look for ways to effectively integrate this value driven work into your everyday life.

B. COPING WITH STRESS

20 Self-Help Suggestions

- . Take on a "Coping" Attitude
- . **Realize what you can control and what you cannot. Only focus on the things you can change**
- . **Realize you have many choices available; even choices about how you view the problem**
- . Learn to Learn
- . **Concentrate efforts on learning new, positive skills to reduce stress**
- . Hear What Your Body Is Telling You
- . **Physical symptoms such as headaches, backaches and irritation can be signs of over-stress**
- . Learn How to Use Relaxation
- . **Meditation, imagery and muscle relaxation can help**
- . **Choose a technique that fits you and use it**
- . Respect Your Feelings
- . **Feelings can help guide and motivate us to make changes**
- . **Feelings deserve attention**

- Benefit From Your Thoughts
 - **Thinking guides your behavior**
 - **The perspective we have of a given problem strongly guides how we handle it and the degree to which it ‘stresses us out’**
- Practice Assertion
 - **Just be yourself**
 - **Express yourself on an open and straightforward manner which will increase the likelihood that others will understand you and that problems can be resolved**
- Confide In a Friend
 - **Let yourself be open with a trusted friend-share what is going on in your life and how you are handling it.**
 - **This support is important and can generate new ideas or strategies**
- Come Face to Face With Your Problem
 - **As hard as it is, confronting the problem rather than avoiding it can provide opportunities for change and awareness**
 - **Try to view problems as challenges which will ultimately improve your life**
- Attempt to Solve the Problem
 - **Answers to life problems require consideration finding alternative solutions**
 - **There is seldom one simple, correct answer**
 - **Observe how others you trust solve their problems and learn from them**
- Act on Your Solution
 - **Decide what action you are going to take even if you are unsure of the results**
 - **Allow yourself to take risks and realize that taking risks is a normal part of life**
- Make Mistakes
 - **Attempt to learn from your mistakes**
 - **Realize that mistakes reflect BEHAVIORS not who you are as a person. Just because you make mistakes does not mean YOU are a failure**
- Develop and Use a Self-Help List
 - **Develop a list of things to do that will help you feel less disturbed or helpless**
 - **Consider things which have been helpful in similar situations such as exercising, talking with a friend, watching a movie etc.**
 - **Keep this list with you in case you need to refer to it**
 - **Upgrade the list when you discover new things that help**
- Concentrate on Yourself
 - **Know what your needs are and respect them**
 - **Allow yourself to be creative. Try new things that can be exciting**
 - **Make a point to indulge yourself on occasion. Even little things can make you feel better**
- Respect Others
 - **Recognize and pay attention to the needs of others**
 - **Kindness breeds kindness**
 - **Caring sometimes involves taking risks**
- Plan Goals for Your Future
 - **Know where you are going**
 - **Develop a list of objectives and create a general timeline for achievement**
 - **Imagine what your life will be like after the achievement**
- Recognize the Importance of Time Management
 - **Prioritize daily activities so the most important activities to improve your future are done first**
 - **Understand that people don’t FIND time, they MAKE it!**
 - **Take time to make time**
- Have Fun
 - **Set aside time for open, spontaneous and imaginative fun**
 - **Engage in activities that are pleasurable and gratifying**

X. Lawyers Assistance Programs (LAP) Minnesota and Across the Country

A. Every state has some form of lawyer assistance program (LAP). For a complete list, go to www.abanet/legalservices/colap/lapdirectory.html. For more than 20 years the ABA's Commission of Lawyer Assistance Programs (CoLAP) has been educating the legal community about alcoholism, other addictions, and mental health problems. CoLAP has helped attorneys, law students, judges, and concerned colleagues better understand addictions, addictive behavior, mental health problems, stress in the legal profession, and ways to assist in the recovery process. This ABA entity also serves as a resource for individual attorneys and state and local bar associations by providing outreach, model guidelines, information, education and confidential support. . Minnesota's LCL was founded 30 years ago by lawyers to provide confidential assistance to other lawyers who were abusing alcohol. Primary importance was placed on two factors.

1. Lawyers providing voluntary assistance to other lawyers.
2. Confidentiality.
 - a.) For the attorney being helped
 - i.) The stigma of being chemically dependent, mentally ill, or otherwise needing help from others.
 - ii.) The potential for problems with the Office of Lawyers Professional Responsibility.
 - b.) For the concerned person (coworker, colleague, family members, friend): fear that the attorney needing help will retaliate.
 - c.) For an attorney providing help: duty to report misconduct under Rule 8.3, Minn. Rules of Professional Conduct.
 - i.) Historically, the Court had an informal arrangement with LCL. The Court agreed it would not uphold discipline imposed upon an LCL volunteer attorney for not reporting an attorney's misconduct learned while assisting that attorney with an alcohol abuse issue.
 - ii.) In April 2000, the Court amended Rule 8.3 and its Comment:

“Rule 8.3 Reporting Professional Misconduct

- (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate authority.
- (b) A lawyer who knows that a judge has committed a violation of the applicable Code of Judicial Conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.
- (c) This rule does not require disclosure of information that Rule 1.6 requires or allows a lawyer to keep confidential or information gained by a lawyer or judge while participating in a lawyer's assistance program or other program providing assistance, support, or counseling to lawyers who are chemically dependent or have mental disorders.”

Addition to the comment for this rule.

“Information about a lawyer’s or judge’s misconduct or fitness may be received by a lawyer in the course of that lawyer’s participation in a bona fide lawyers assistance program or other program that provides assistance, support, or counseling to lawyers, including lawyers and judges who may be impaired due to chemical abuse or dependency, behavioral addictions, depression, or other mental disorders. In that circumstance, providing for the confidentiality of information obtained by a lawyer-participant encourages lawyers and judges to participate and seek treatment through such programs. Conversely, without such confidentiality, lawyers and judges may hesitate to seek assistance, which may then result in additional harm to themselves, their clients, and the public. The rule, therefore, exempts lawyers participating in such programs from the reporting obligations of paragraphs (a) and (b) with respect to information they acquire while participating. A lawyer exempted from mandatory reporting under part (c) of the rule may nevertheless report misconduct in the lawyer’s discretion, particularly if the impaired lawyer or judge indicates an intent to engage in future illegal activity, for example, the conversion of client funds. See Rule 1.6.”

- B. Services historically provided have included:
 - 1. Intervention – formal and informal.
 - 2. Information, informal evaluation, and referral for substance abuse and assistance to concerned persons.
 - 3. Support
 - a. Individual – mentoring, sponsorship
 - b. Group – AA meetings, membership meetings
 - 4. Education and Outreach

- C. As a “full service” Lawyer Assistance Program (LAP), LCL also addresses mental health issues such as depression, bipolar, anxiety disorder, PTSD, and obsessive compulsive disorder. We also address behavioral addictions related to issues such as gambling, sex, and food. In addition, lawyers and their immediate family members may receive support around stress, financial, career, relationship and other issues. Our expanded services now also include:
 - 1. Subcontracting with an EAP provider. DOR and Associates (DOR) provides confidential 24-hour crisis line, evaluation, referral, and up to four (4) counseling sessions per year for each issue(s) presented. Its staff includes master’s level counselors and licensed alcohol and drug counselors with many years of experience in the field.
 - 2. Additional support opportunities individually and in group settings.
 - 3. Increased Education, Outreach, and Public Awareness efforts, including presenting CLEs and improving our website by adding information and links to other sites.

- D. In 2006-07 LCL helped over 225 lawyers, judges, law students or their family members. Approximately 40% of those presented with a mental health problem. 134 referrals were made for professional assistance.

1/3 were seen for addiction, primarily alcohol but also involving other legal and illegal drugs, gambling, and other process addictions. 2/3 of those seen for addiction are “dual diagnosis”. 10% to 15% of depression cases involve suicidal ideation.

Of those cases involving stress and depression, several clients cited “billable hours” as the primary cause of stress. Somewhat surprisingly, there were more “severe” psychiatric cases coming in – more than expected - involving long term psychiatric care.

XI. CONCLUSION

There is hope and there is help for impaired lawyers, judges, and law students, and it may start with you. Chemical dependency and many mental health disorders share a common symptom – the impaired person will begin to isolate him/herself from colleagues, friends, and family. The intervention process can be as simple as not mirroring that behavior. When you see a colleague begin to withdraw, reach out and try to keep communication lines open: talk about LCL’s expanded services and attorney support groups. Remember that you, too, may call LCL if you’d like help and support in your efforts. We’re here as a confidential and free resource for both the impaired person and the concerned person who wants to help.