

The Supreme Court of South Carolina

COMMISSION ON CONTINUING LEGAL EDUCATION AND SPECIALIZATION

November 12, 2020

RCBA

Richland County Bar Association

<u>COURSE #</u>	<u>DATE</u>	<u>COURSE NAME</u>	<u>CREDITS</u>	<u>ETHICS</u>	<u>SA/MH</u>	<u>TRIAL AD</u>	<u>SPECIALTY CREDIT</u>
900273ADO	11/20/20	Annual Ethics CLE Online	3.00	2.00	1.00	0.00	

Your application(s) for accreditation has been approved.

In extending accreditation for CLE activities, the Commission reserves the right to have a representative attend all programs without charge to the Commission and/or its representatives and requires adherence to its accreditation standards found on page two of the Application for Accreditation.

Click this link to review the [**Application for Accreditation.**](#)

Within 30 days of the CLE, attendance is required to be furnished to the Commission with a list of the South Carolina attendees, with South Carolina Bar numbers and attendance totals indicated for each attendee. When submitting a list of attendees, or other correspondence, please refer to the course number(s) indicated above.

All programming is approved on a calendar year basis and expires annually on December 31 of the year in which the program was presented. Programming must be resubmitted (via a comprehensive application packet) in subsequent years to retain accreditation approval. Please note that an application for online, on-demand, teleconference, and in-house programming must be received and approved by the Commission prior to the presentation of the program.

Sincerely,

DeAnne Bullock
Accreditation Coordinator

Richland County Bar Association
Annual Ethics CLE Seminar

Friday, November 20, 2020

Zoom Pro Webinar

Course # 900273ADO

3.0 total – 2.0 Ethics & 1.0 SA/MH

2020 Richland County Bar Association Annual Ethics CLE

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2020 Richland County Bar Association Annual Ethics CLE

Friday, November 20, 2020

Course # 900273ADO

AGENDA

8:30 – 8:35 am

Welcome

Alex T. Postic and Susan Porter, Ethics CLE Co-Chairs

8:35 – 8:50 am

Introduction

Dean William C. Hubbard, University of South Carolina
School of Law

8:50 – 9:20 am

IncluSELF: ALL IN

D. Nichole Davis, Risk Management Director, SC Bar

9:20 – 9:50 am

***Diversity in the Legal Workplace: Educate Yourself from
the Perspective of Others***

Discussion moderated by Cheslyne Brighthop and Ashley
Story with panelists C. David Beale, Jr., Lamar Fyall
and Leslie Simpson

9:50 – 9:55 am

Break

9:55 – 10:25 am

Bioethical Issues in Health Law and Policy

Professor Jacqueline Fox, JD, LLM

10:25 – 11:25 am

Counselor to Counselor – A Fresh Outlook on Therapy

Anthony Hampton, LISW-CP and Beth Padgett, M.Ed.,
M.A., ADC

11:25 – 11:55 pm

2020 Ethics Year-in-Review

Michael J. Virzi, Esq.

11:55 – 12:00 pm

Closing

Charles F. Moore, President, Richland County Bar
Association

2020 RCBA Ethics CLE – Combined Biographies of Presenters

Dean William C. Hubbard

William Hubbard became Dean of the University of South Carolina School of Law in August 2020. He has served as president of the American Bar Association, chair of the ABA's House of Delegates, and president of the American Bar Foundation and the American Bar Endowment. From 2019–2020, he served as chair of the Standing Committee on the Federal Judiciary, which reports to the DOJ and the U.S. Senate on the qualifications of federal judicial nominees. He is chair of the Board of the World Justice Project; an Honorary Master of the Bench of Middle Temple in London; a fellow of the American College of Trial Lawyers and the American Board of Trial Advocates and a member of the Council of the American Law Institute and the Leaders Council of the Legal Services Corporation. Hubbard was presented the Order of the Palmetto in 2002 and also received the American Inns of Court Professionalism Award for the US Court of Appeals, Fourth Circuit. In 2016, the Burton Foundation, in collaboration with the Library of Congress, named Hubbard the recipient of its inaugural "Leadership in Law" award. He served on the Board of Trustees of the University of South Carolina from 1986–2020 and served as chairman of the board from 1996–2000. Dean Hubbard earned a JD from the UofSC School of Law and a BA in History, magna cum laude, from the University of South Carolina. In 2010, the university awarded him its highest recognition, the Honorary Doctor of Laws. Dean Hubbard was law clerk to U.S. District Judge Robert F. Chapman and is a former partner with Nelson Mullins Riley & Scarborough LLP.

Nichole Davis

Nichole Davis serves as Risk Management Director at the South Carolina Bar and as administrator of the South Carolina Supreme Court's Lawyer Mentoring Program. Prior to joining the SC Bar staff, Nichole litigated child abuse and neglect cases on behalf of the Department of Social Services. Nichole is a member of Leadership South Carolina class of 2019, a member of the ABA Collaborative Bar Leadership Academy Class of 2019, and a member of the SC Bar Leadership Academy Class of 2015. She is a recipient of the 2018 Silver Compleat Lawyer Award and in 2016, she was named SC Bar Young Lawyer of the Year. Nichole currently serves on the ABA Standing Committee on Professionalism. She is a member of the National Association of Bar Executives (Diversity Committee), National Legal Mentoring Consortium, SC Bar Diversity Committee, and the SC Women Lawyers Association. Nichole also serves as an adjunct professor at UofSC Law and as Chairwoman of the Board of Directors for The RAM Foundation, which offers a free 6-week summer enrichment program to underprivileged youth.

Cheslyne Brighthop

Cheslyne Brighthop is an Associate at Turner Padgett. She started her legal career at the Richland County Public Defender's Office where she learned true advocacy for her clients and gained valuable courtroom experience which allows her to fight tirelessly for those she represents. Prior to her career in public service, she served as a judicial clerk to The Honorable William P. Keesley of the Eleventh Judicial Circuit. Cheslyne's practice is focused on representing individuals with professional licenses who are facing disciplinary action and she also litigates insurance matters. The belief that everyone deserves effective and top-tier representation is what motivates Cheslyne to do everything in her power to ensure a successful result for her client. She is extremely dedicated in her service to the community, serving as co-chair of the Richland County Bar's Diversity Committee, chair of the SC Bar's Young Lawyers Division Membership Committee and the 5th Circuit Representative for the SC Bar's Young Lawyers Division. Cheslyne received her JD from the University of South Carolina School of Law in 2012 and her BA from the University of South Carolina in 2009.

Ashley C. Story

Ashley Story takes a personal interest in public education since she attended SC public schools and graduated from Cheraw High School. She is proud of her native roots and takes great passion in assisting school districts and other public entities on a variety of topics ranging from employment and personnel matters to student disciplinary concerns and tort issues. Ashley enjoys connecting with her clients and others by presenting on various legal topics at conferences throughout the state. She previously practiced employment law with J. Lewis Cromer & Associates, LLC, gaining experience in both federal and state employment issues by representing employees in both the private and public sectors, giving her a unique perspective on defending potential employment claims and providing legal advice as it concerns personnel matters. Ashley is currently President-Elect of the Richland County Bar and will serve as President in 2021. She obtained her undergraduate degree in International Business and Marketing from the UofSC with Honors from the South Carolina Honors College. Prior to graduating from UofSC School of Law, Ashley served as a Public Interest Law Fellow and clerked with SC Legal Services and Richland County CASA. She was actively involved with various law school activities, including the Mock Trial Bar, Vice President of the Pro Bono Board and a member of the Black Law Student Association.

C. David Beale, Jr.

David Beale was born and raised in Columbia, SC where he attended Dreher High School. While in high school, he used two of his summers to travel to South Africa, Mozambique, and Nepal. That passion to see the world and experience life and cultures outside of the United States continued and, after obtaining a bachelor's degree in English Literature at the University of South Carolina, he served two years in the United States Peace Corps. Upon his return to the states, he served as a unit director for the Boys and Girls Club of the Midlands before attending Mercer University School of Law in Georgia and graduating in 2013. After practicing as both a Public Defender and Assistant District Attorney in the suburbs of Atlanta, David decided it was time to come back home to Columbia. He returned and defended businesses and their insurance carriers before returning to his roots by serving every day citizens navigate the confusing world of litigation. When he's not helping his clients, David can be found playing music around town, on the golf course, or hanging out somewhere with a beach.

Lamar Fyall

Lamar Fyall is an Assistant Solicitor for the Fifth Judicial Circuit of South Carolina, which serves Richland and Kershaw Counties. He is a 2009 graduate of Winthrop University, where he received a BA in Psychology and a minor in Philosophy. In 2014, he received his JD from the University of South Carolina School of Law. He joined the Fifth Circuit Solicitor's Office as a Law Clerk in June of 2012 and became an Assistant Solicitor in December of 2014. Since that time, he has prosecuted a range of cases from misdemeanors to homicides and currently prosecutes cases for the violent crimes team. Lamar is a member of the Young Lawyers Division of the South Carolina Bar, where he serves on both the Diversity Committee and the Color of Justice Committee planning forums and community events to encourage demographic diversity as well as diversity of thought in the legal profession. In addition, Lamar serves his community by attending neighborhood meetings on behalf of the Solicitor's Office, volunteering at various public schools, coaching the USC BLSA mock trial team, attending Career Fairs, working with youth and speaking for nonprofit organizations throughout the Midlands. He is a member of Phi Beta Sigma Fraternity, Inc. and the Richland County Bar's Diversity Committee.

Leslie Simpson

Leslie Simpson is an attorney with the South Carolina Association of Counties. A native of Houston, Texas, Simpson earned her JD from the University of South Carolina School of Law and her BA from Claflin University. Simpson was named a 2019 Phenom by the Columbia Regional Business Report for her influence on the community and being an up-and-coming go-getter who is changing the landscape of the

Midlands. Simpson is a member of the USC Law Young Alumni Council, the South Carolina Black Lawyers, and the South Carolina Bar Association, where she serves on the Diversity Committee and the Professional Responsibility Committee. She is also a member of the Richland County Bar, where she is an active member of the Diversity Committee. Simpson is a past member of the SC Bar Young Lawyers Division, where she served as past co-chair to the Diversity Committee, responsible for award winning programming focused on uncomfortable conversations concerning diversity in the legal community. Simpson is currently the cheerleading coach at Claflin University and is a member of the Richland County Alumnae Chapter of Delta Sigma Theta Sorority.

Professor Jacqueline Fox

Jacqueline Fox is a Professor of Law at the University of South Carolina School of Law. She received a BA from Sarah Lawrence College and a JD and LLM from Georgetown University School of Law, completed a post-doctoral Greenwall Fellowship in Bioethics and Health Policy at Johns Hopkins and Georgetown University, and was a Donaghue Visiting Scholar of Research Ethics at Yale University. Professor Fox teaches Health Care Law and Policy, Public Health Law, Bioethics, and Torts. She has published numerous articles on health law, health care financing and regulation, and health care reform in publications including the *University of Cincinnati Law Review*, *Buffalo Law Review*, *Seton Hall Law Review*, the *Yale Journal of Health Policy, Law, and Ethics*, the *International Journal of Healthcare Technology and Management*, and *The Hasting Center's Health Care Cost Monitor*. Her current work closely examines the newly created Independent Payment Advisory Board, which is tasked with capping the costs of the Medicare program.

Anthony Hampton

Anthony Hampton is a Licensed Clinical Social Worker, Certified Addictions Counselor, and Registered Yoga teacher serving in private practice in Columbia, SC. He received his BS in Theater, Speech and Dance, and his master's in Social Work, both from the University of South Carolina. Anthony brings a rich and diverse background to his practice: as a father, former professional ballet dancer, business owner and person in long-term recovery. He describes his therapeutic approach as being centered in the client-therapist relationship. It is the therapeutic relationship which allows us to co-create a path for improved functioning, healing, and personal growth. "Trust is a must." Anthony prides himself on providing a safe, compassionate, and welcoming atmosphere for this work to unfold. He works with adult individuals, families, and couples addressing a wide variety of emotional and behavioral concerns. Special areas of interest include substance use disorders, behavioral addictions, PTSD and unprocessed trauma, chronic anxiety, depression, divorce, loss and grief, family of origin, as well as issues around sexuality. To learn more about his services or to schedule an appointment, visit www.AnthonyHamptonTherapy.com.

Beth Padgett

Beth Padgett was named Co-Director of Lawyers Helping Lawyers at the South Carolina Bar in April 2018, after having served as Assistant Director since December of 2010. Beth received a Bachelor of Arts Degree from the University of South Carolina, a Master of Education degree from the University of South Carolina and a Master of Arts in Human Behavior and Conflict Management from Columbia College. She has completed numerous graduate hours in counseling and addiction studies at USC. Beth holds a certification in drug and alcohol counseling through the South Carolina Association of Alcoholism and Drug Abuse Counselors and certification as a Grief Specialist through the University of Wisconsin at Madison Continuing Education Program. She completed the Mindfulness for Professionals Program at Duke Integrative Medicine Center in 2011 learning to bring the benefits of mindful awareness into her work with attorneys and law students. She has also completed Phase I of Koru Mindfulness Teacher Certification, a mindfulness program for emerging adults developed at Duke University; a 200-hour yoga

teacher training course in 2014, teacher training in Y12SR (Yoga for 12-Step Recovery) in 2015, and numerous continuing education hours in yoga, including laughter yoga, and mindfulness, including Mindfulness Based Addiction Recovery.

Michael Virzi

Michael Virzi teaches first-year Legal Research, Analysis and Writing I & II and Professional Responsibility. He has also taught upper-level courses in Advanced Legal Writing and Fundamentals of Law Practice and Professionalism. Prior to becoming a full-time faculty member, Mr. Virzi taught as an adjunct professor at the School of Law and taught Business Law I and II as an adjunct professor in the Paralegal Studies program at Midlands Technical College. He came to the School of Law from the South Carolina Supreme Court's Office of Disciplinary Counsel where he investigated and prosecuted attorneys for ethical misconduct. Prior to working for the Disciplinary Counsel, Mr. Virzi practiced in the areas of commercial and business litigation and creditors' rights. He received his BA in Political Science from the University of South Carolina in 1991 and graduated cum laude from the University of South Carolina School of Law in 2000. He is a member of the South Carolina Bar, the North Carolina Bar (inactive), the U.S. District Courts of North and South Carolina, and the U.S. Court of Appeals for the Fourth Circuit. Mr. Virzi has served on the South Carolina Bar's Professional Responsibility Committee since 2011 and the Ethics Advisory Committee since 2003, including as Chair from 2007–2010. He is a member of several state and national organizations involving legal ethics and is a frequent CLE speaker and law school guest lecturer on the topics of legal ethics and the lawyer discipline process.



IncluSELF: ALL IN

D. Nichole Davis
Risk Management Director
South Carolina Bar

Objectives



Recognize Your Bias



Identify Types of Biases



Explore Tips on Navigating Bias



This impact...consideration...
contemplation...is where you
start your journey towards

**COURAGEOUS
CONVERSATIONS**

How are implicit biases formed?



Types of Biases

- Affinity
- Ageism
- Attribution
- Beauty
- Confirmation
- Conformity
- In-Group
- Likeability
- Maternal
- Name
- Self-Serving
- Weight

Conformity



Affinity

∞ Attraction to people that mirror us.

Affinity Bias





Air Traffic
Controller

- Sharon
- Female
- Divorced
- 42
- 2 kids
- Straight
- College
- Filipino & White
- No disability



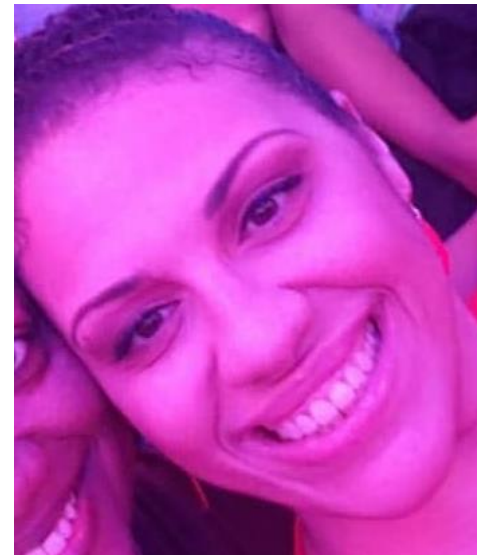
Diversity
Program Manager

- Kimberly
- Female
- Married
- 36
- 3 kids
- Straight
- College
- Black
- No disability



High School Teacher

- Pamela
- Female
- Married
- 43
- 4 kids
- Straight
- College
- Thai & Black
- No disability



Registered Nurse

- Aja
- Female
- Married
- 39
- 2 kids
- Straight
- College
- Italian & Black
- No disability

Beauty Bias



Confirmation

∞ (False Consensus): Paying more attention to information that proves our preconceived beliefs and to disregard information that is contradictory.

Examples of Confirmation Bias



Not seeking out
objective facts

οχι αντικειμενικα γεγονητα
μηδ αναζητησιν αυτων



Interpreting information to
support your existing belief

ερμηνευσιν πληροφοριων το
επιβεβαιωσιν ηδη υφισταμενης πεποιθησης



Only remembering details
that uphold your belief

επιμνησιν μονο των λεγομενων
οτι επιβεβαιωσιν ηδη υφισταμενης πεποιθησης



Ignoring information that
challenges your belief

αγνοησιν πληροφοριων οτι
επιτιμωσιν ηδη υφισταμενης πεποιθησης

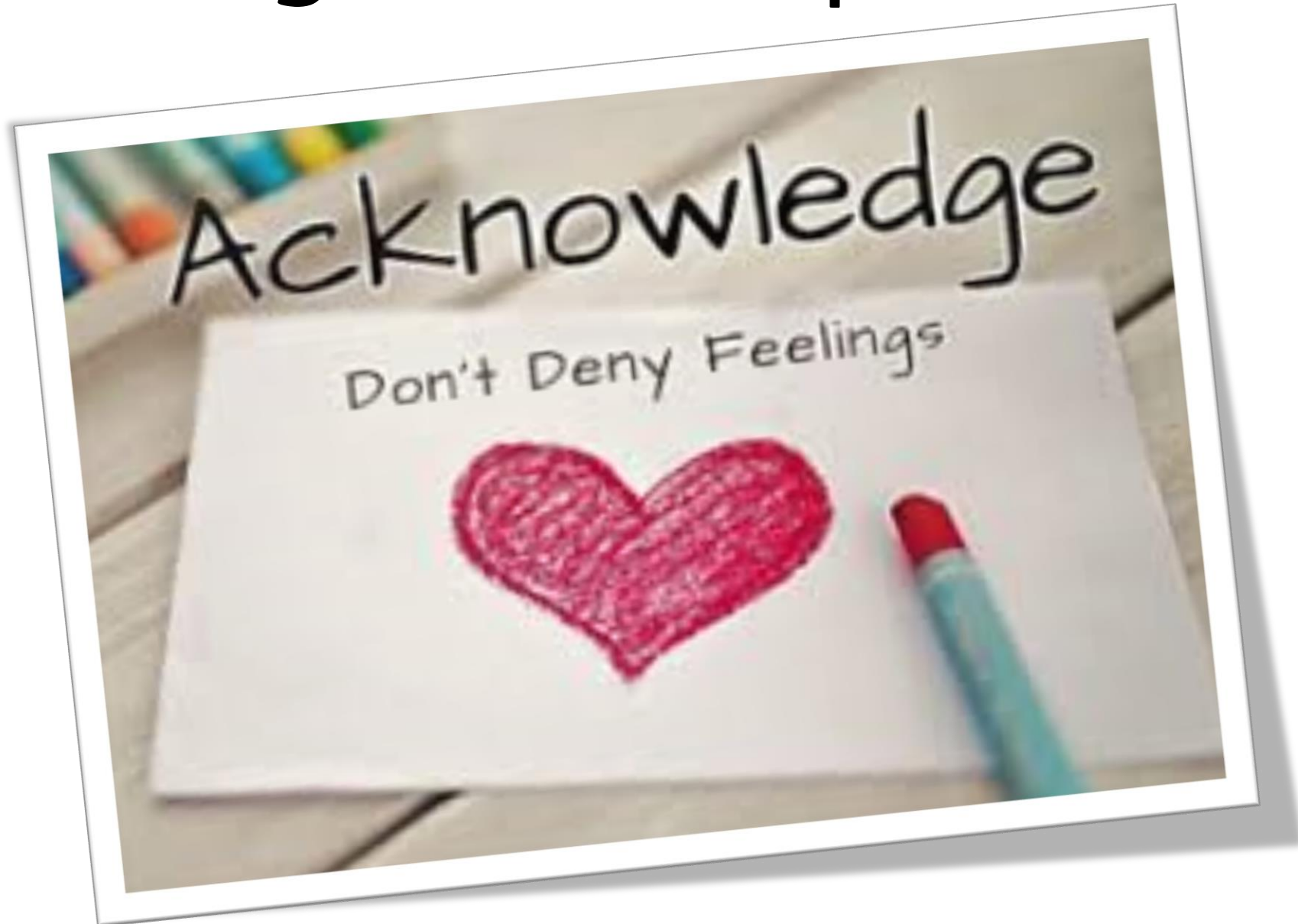
Why Does It Matter?



What can you do?



Recognize Your Implicit Bias



Observe Your Implicit Bias Objectively



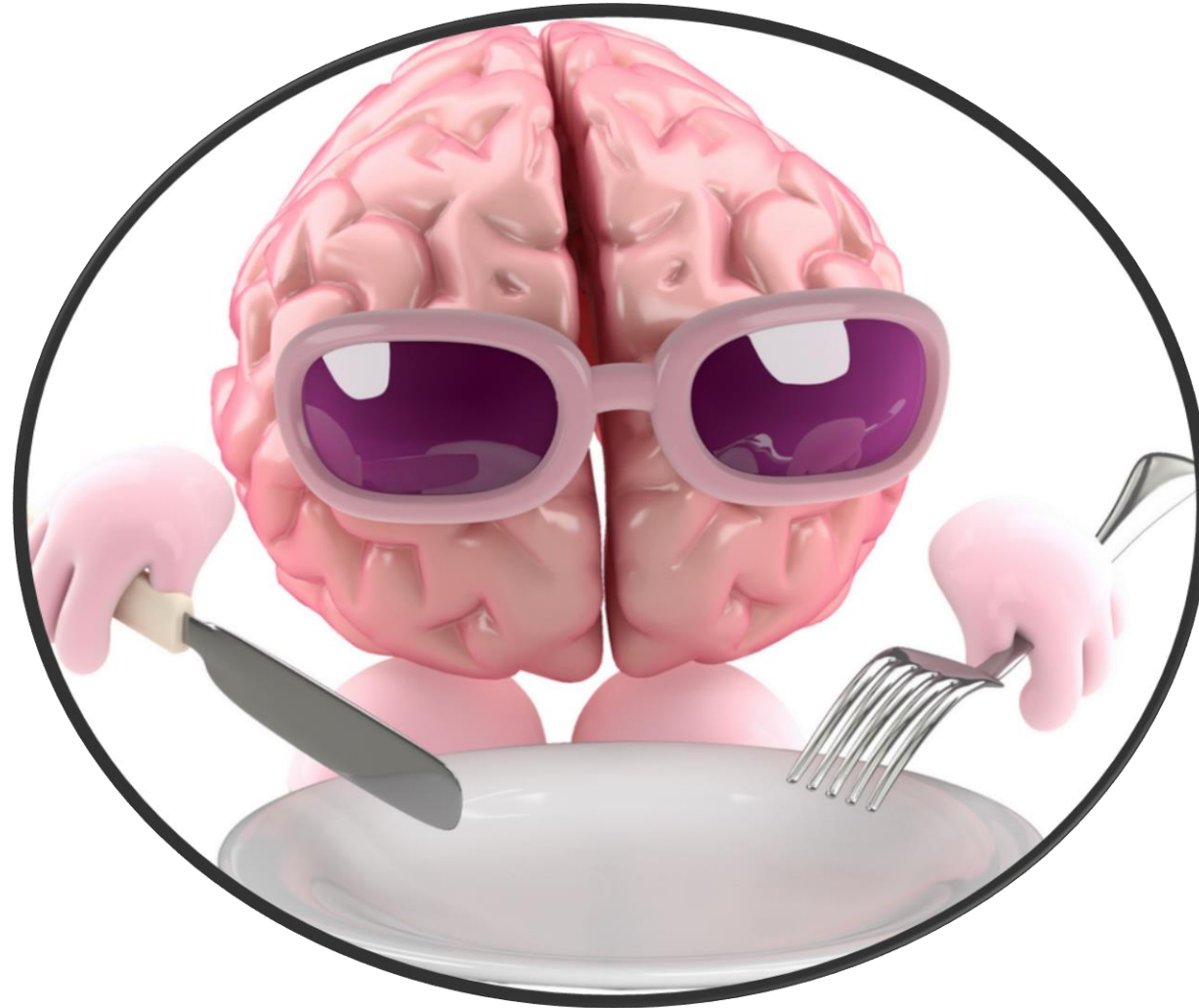
Form **New Relationships** to Overcome Your Bias



Pay Attention to **Surprises**

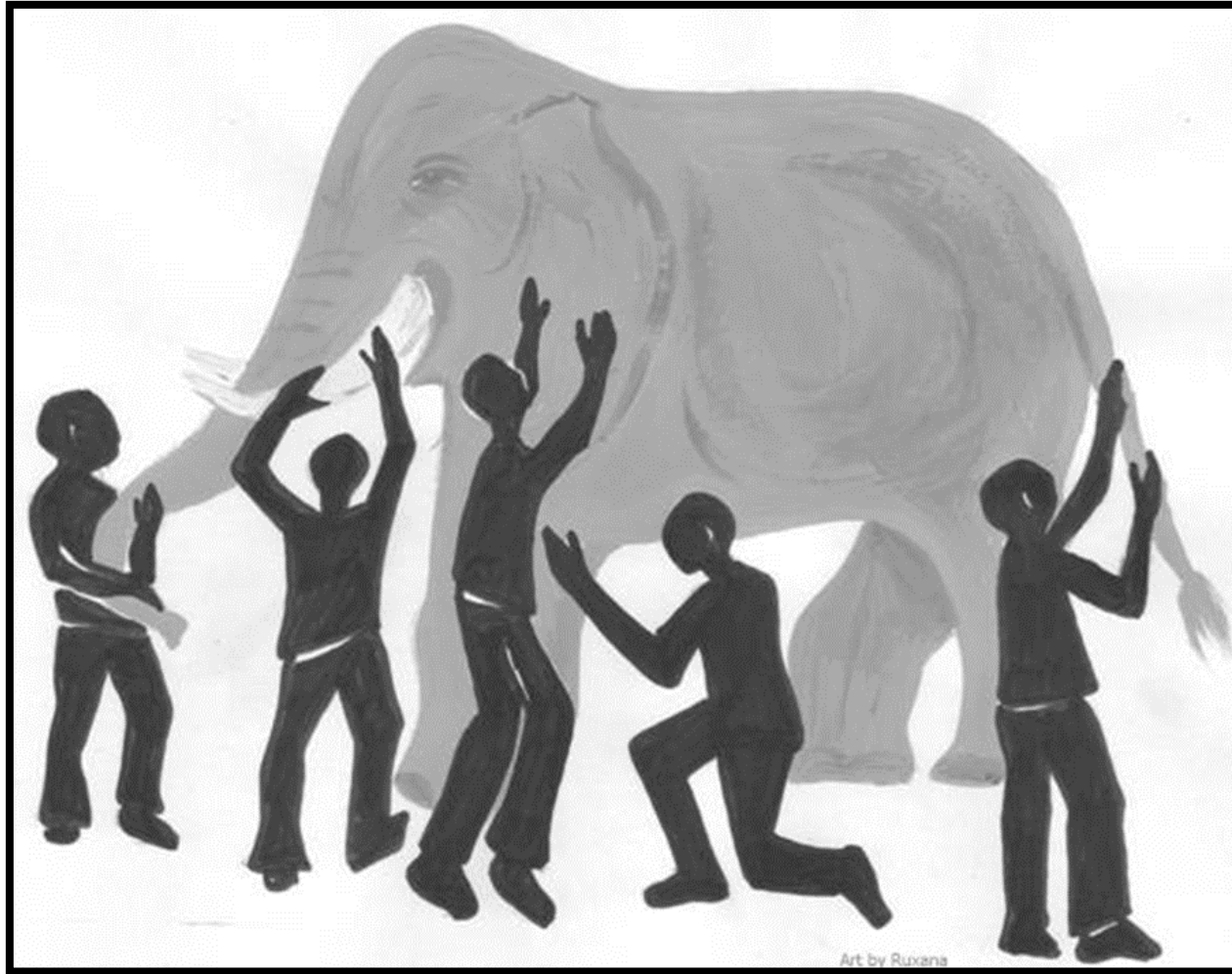


**Be Mindful of What You Read,
Watch, Listen To, and Say**



The Six Elephants

- Ancient Myth with a Moral



Don't Make ASSUMPTIONS

cultivate flexible (optimistic)
thinking

~~UN~~HAPPY

Reframe with **BIG PICTURE** in mind



Be An **ACTIVE** Listener



Ask

POWERFUL Questions



Be IMPECCABLE in your WORD

Use YOUR Words For Good



~~IMPOSSIBLE~~



**Always
Challenge
your
Mindsets**



Language

Attitude

Physical
Attributes

Age

Race

Talents

Values

Gender

Disability

Family Structure

Financial Status

Work History

Religion

Heritage

Sexual Orientation

Political Views

Education

Sexual Identity

Thought Processes

Life Experiences

RCBA Annual Ethics CLE – Friday, November 20, 2020

“Diversity in the Legal Workplace: Educate Yourself from the Perspective of Others”

A panel discussion moderated by Cheslyne Brighthop & Ashley Story.

Panelists: C. David Beale, Jr., Lamar Fyall & Leslie Simpson

Potential discussion scenarios for 30-minute session, roughly 10 minutes per topic/scenario with identified panelist to lead off discussion for each one. Simple slides will also be made outlining each scenario but since this is a virtual presentation, we want the bulk of the session to be devoted to the panelists and their discussion.

Scenario 1: An associate lawyer, Brenda, who is white, is approached by her senior partner, Laura (also white), and asked the following question as it pertains to Brittany, an African American associate attorney in the same firm: “Why does Brittany wear her hair in thick braids? Don’t you think that looks unprofessional?”

How might Brenda respond? What perceptions/judgments does Laura make about Brittany and other Black women’s hairstyles? What can we learn from this exchange and how might we, as lawyers, work together to educate one another and prevent similar instances? How might this scenario go differently if Brittany, seeking advice from her supervising partner, Laura, asked Laura the following: “Laura, I’m due to appear in court this week for a hearing; do you think that the judge (a white male) will take me seriously if I wear my traditional African braids rather than style my hair in a more relaxed fashion?”

Scenario 2: During an internal firm communication, a white partner, Sarah, asked her co-partners and associate lawyers to provide feedback about another law firm and anyone’s experience with that firm. In response to this email inquiry, another white partner, Bob, in the same firm responded, “that’s a firm of black lawyers.” When an African American lawyer, Ted, in the firm questioned Bob’s response, other white lawyers in the firm opined that Bob was not racist. Indeed, Bob visited Ted in his office and told Ted he wasn’t racist. He also asked Ted, during that same discussion, to refrain from sending out any communications about the situation to the firm and/or others.

In confidence, Ted shares this scenario with you and discusses his feeling that if Laura asked this question about a predominately white law firm, Bob’s response would not have been, “that’s a firm of white lawyers.” How do you advise Ted moving forward? Did Bob’s comment suggest something untoward about a diverse or minority firm and/or was his response racist – implicitly, explicitly, or both? Is Ted validated in his concern that Bob likely would not have identified a law firm comprised of mainly white members in the way that he identified a firm by its black membership? What effect, if any, does Bob’s request of Ted (not to discuss the matter further in the firm) say about the need for understanding of diversity and implicit bias in the legal community?

What steps can the firm consider taking to educate all of its staff members, including leadership, about implicit bias to further diversity to avoid scenarios like these? In the wake of national tragedies that negatively impact minority communities, like George Floyd's death and, most recently that of Walter Wallace, Jr., others – how can leaders of our legal community, particularly those in large firms, encourage diversity and work with each other to foster awareness of these ongoing injustices?

Scenario 3: Toni has practiced at the County Public Defender's Office for five years as a deputy public defender. Everyone knows that Toni is Jewish, and Toni shared with his colleagues years ago that he keeps kosher. Whenever the office throws a party (birthdays, communal holidays – such as Thanksgiving and Christmas), Toni contributes to the money pool for the supplies like everyone else, but the party organizers never offer kosher food options. In fact, no one ever suggests celebrating Jewish holidays, either. Toni is a nice guy, and he never complains. Each party cycle, he contributes money but always for refreshments that he knows he cannot enjoy and brings his own food in keeping with his personal religious beliefs.

Putting aside the obvious employment issues plagued by this scenario, how might you, as a friend or colleague, advise Toni to handle this situation or do so on his behalf, if the latter is appropriate? In firms and offices where holidays and other events are celebrated, how can attorneys be cognizant of including lesser known and more diverse activities/beliefs/customs that are meant to be enjoyed in the same or similar way as those that are more common? Taking it a step further, would it be appropriate for office management, in this or a similar hypothetical, to ban all celebrations in the wake of attention being brought to Toni's Jewish faith?

Bioethical Issues in Health Law

This short talk will cover three interesting concepts within bioethics that have important implications for the practice of law when people are advising care providers and patients. Importantly, a better understanding of these issues will help lawyers satisfy their ethical obligations to a wide range of clients who may be dealing with heated and difficult situations. The issues these relate to are all hot button ones in terms of people's political and moral stances. Bioethics has some tools that help ratchet down the breadth and scope of disagreement when decisions have to be made, and so these topics will all be discussed using those bioethical tools.

1. Fetal/maternal distinction
2. Doctrine of double effect
3. Autonomy v. Ethics of Care

Counselor to Counselor
A Fresh Outlook on Therapy

Anthony Hampton, LISW-CP
Beth Padgett, M.Ed., M.A., ADC

In this one-hour CLE the presenters will provide information on mental health challenges of lawyers along with habits and mindsets of lawyers that create problems related to health, relationships, finances, and careers.

One habit or mindset that will be particularly explored is unwillingness to seek help. There are multiple reasons for this mindset, which they will outline. Their goal is to turn this idea on its head and help the audience gain a new outlook on help-seeking and therapy. Many mental health and addiction counselors love to go to therapy. What would it take for lawyers to love to go to therapy? What might happen in their lives and in the profession if they did? They will explore reasons why lawyers might like lawyering more, finding it easier to uphold professional and ethical standards.

- I. Lawyer Mental Health and Habits
 - A. Overview of Betty Ford/Hazelden/ABA CoLAP Survey
 - B. Characteristics of lawyers and the practice of law
 - C. Habits and environments that foster poor mental health
- II. Resistance to seeking help
 - A. Fear of change
 - B. Stigma
 - C. Mental illnesses
 - D. Help-seeking as a lawyer
- III. Benefits of Counseling
 - A. Healing depression/anxiety disorders/substance use disorders
 - B. Healing grief and loss
 - C. Negotiating stressful career/life
 - D. Maintaining and enhancing wellness
- IV. Unravelling Resistance
 - A. Myths about counseling
 - B. Myths about effects on career
 - C. Your life with counseling vs your life without counseling
 - D. Resources

OPEN

The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys

Patrick R. Krill, JD, LL.M., Ryan Johnson, MA, and Linda Albert, MSSW

Objectives: Rates of substance use and other mental health concerns among attorneys are relatively unknown, despite the potential for harm that attorney impairment poses to the struggling individuals themselves, and to our communities, government, economy, and society. This study measured the prevalence of these concerns among licensed attorneys, their utilization of treatment services, and what barriers existed between them and the services they may need.

Methods: A sample of 12,825 licensed, employed attorneys completed surveys, assessing alcohol use, drug use, and symptoms of depression, anxiety, and stress.

Results: Substantial rates of behavioral health problems were found, with 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent drinking. Men had a higher proportion of positive screens, and also younger participants and those working in the field for a shorter duration ($P < 0.001$). Age group predicted Alcohol Use Disorders Identification Test scores; respondents 30 years of age or younger were more likely to have a higher score than their older peers ($P < 0.001$). Levels of depression, anxiety, and stress among attorneys were significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively.

Conclusions: Attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders at a higher rate than other professional populations. Mental health distress is also significant. These data underscore the need for greater resources for lawyer assistance programs, and also the expansion of available attorney-specific prevention and treatment interventions.

Key Words: attorneys, mental health, prevalence, substance use

(*J Addict Med* 2016;10: 46–52)

From the Hazelden Betty Ford Foundation (PRK, RJ); Wisconsin Lawyers Assistance Program (LA).

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Funding: The study was funded by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs.

Conflicts of interest: Linda Albert is an employee of the State Bar of Wisconsin. Remaining authors are employees of the Hazelden Betty Ford Foundation. No conflicts of interest are identified.

Send correspondence and reprint requests to Patrick R. Krill, JD, LL.M., Hazelden Betty Ford Foundation, PO Box 11 (RE 11), Center City, MN 55012-0011. E-mail: pkrill@hazeldenbettyford.org.

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Little is known about the current behavioral health climate in the legal profession. Despite a widespread belief that attorneys experience substance use disorders and other mental health concerns at a high rate, few studies have been undertaken to validate these beliefs empirically or statistically. Although previous research had indicated that those in the legal profession struggle with problematic alcohol use, depression, and anxiety more so than the general population, the issues have largely gone unexamined for decades (Benjamin et al., 1990; Eaton et al., 1990; Beck et al., 1995). The most recent and also the most widely cited research on these issues comes from a 1990 study involving approximately 1200 attorneys in Washington State (Benjamin et al., 1990). Researchers found 18% of attorneys were problem drinkers, which they stated was almost twice the 10% estimated prevalence of alcohol abuse and dependence among American adults at that time. They further found that 19% of the Washington lawyers suffered from statistically significant elevated levels of depression, which they contrasted with the then-current depression estimates of 3% to 9% of individuals in Western industrialized countries.

While the authors of the 1990 study called for additional research about the prevalence of alcoholism and depression among practicing US attorneys, a quarter century has passed with no such data emerging. In contrast, behavioral health issues have been regularly studied among physicians, providing a firmer understanding of the needs of that population (Oreskovich et al., 2012). Although physicians experience substance use disorders at a rate similar to the general population, the public health and safety issues associated with physician impairment have led to intense public and professional interest in the matter (DuPont et al., 2009).

Although the consequences of attorney impairment may seem less direct or urgent than the threat posed by impaired physicians, they are nonetheless profound and far-reaching. As a licensed profession that influences all aspects of society, economy, and government, levels of impairment among attorneys are of great importance and should therefore be closely evaluated (Rothstein, 2008). A scarcity of data on the current rates of substance use and mental health concerns among lawyers, therefore, has substantial implications and must be addressed. Although many in the profession have long understood the need for greater resources and support for attorneys struggling with addiction or other mental health concerns, the formulation of cohesive and informed strategies for addressing those issues has been handicapped by the

outdated and poorly defined scope of the problem (Association of American Law Schools, 1994).

Recognizing this need, we set out to measure the prevalence of substance use and mental health concerns among licensed attorneys, their awareness and utilization of treatment services, and what, if any, barriers exist between them and the services they may need. We report those findings here.

METHODS

Procedures

Before recruiting participants to the study, approval was granted by an institutional review board. To obtain a representative sample of attorneys within the United States, recruitment was coordinated through 19 states. Among them, 15 state bar associations and the 2 largest counties of 1 additional state e-mailed the survey to their members. Those bar associations were instructed to send 3 recruitment e-mails over a 1-month period to all members who were currently licensed attorneys. Three additional states posted the recruitment announcement to their bar association web sites. The recruitment announcements provided a brief synopsis of the study and past research in this area, described the goals of the study, and provided a URL directing people to the consent form and electronic survey. Participants completed measures assessing alcohol use, drug use, and mental health symptoms. Participants were not asked for identifying information, thus allowing them to complete the survey anonymously. Because of concerns regarding potential identification of individual bar members, IP addresses and geo-location data were not tracked.

Participants

A total of 14,895 individuals completed the survey. Participants were included in the analyses if they were currently employed, and employed in the legal profession, resulting in a final sample of 12,825. Due to the nature of recruitment (eg, e-mail blasts, web postings), and that recruitment mailing lists were controlled by the participating bar associations, it is not possible to calculate a participation rate among the entire population. Demographic characteristics are presented in Table 1. Fairly equal numbers of men (53.4%) and women (46.5%) participated in the study. Age was measured in 6 categories from 30 years or younger, and increasing in 10-year increments to 71 years or older; the most commonly reported age group was 31 to 40 years old. The majority of the participants were identified as Caucasian/White (91.3%).

As shown in Table 2, the most commonly reported legal professional career length was 10 years or less (34.8%), followed by 11 to 20 years (22.7%) and 21 to 30 years (20.5%). The most common work environment reported was in private firms (40.9%), among whom the most common positions were Senior Partner (25.0%), Junior Associate (20.5%), and Senior Associate (20.3%). Over two-thirds (67.2%) of the sample reported working 41 hours or more per week.

TABLE 1. Participant Characteristics

	n (%)
Total sample	12825 (100)
Sex	
Men	6824 (53.4)
Women	5941 (46.5)
Age category	
30 or younger	1513 (11.9)
31–40	3205 (25.2)
41–50	2674 (21.0)
51–60	2953 (23.2)
61–70	2050 (16.1)
71 or older	348 (2.7)
Race/ethnicity	
Caucasian/White	11653 (91.3)
Latino/Hispanic	330 (2.6)
Black/African American (non-Hispanic)	317 (2.5)
Multiracial	189 (1.5)
Asian or Pacific Islander	150 (1.2)
Other	84 (0.7)
Native American	35 (0.3)
Marital status	
Married	8985 (70.2)
Single, never married	1790 (14.0)
Divorced	1107 (8.7)
Cohabiting	462 (3.6)
Life partner	184 (1.4)
Widowed	144 (1.1)
Separated	123 (1.0)
Have children	
Yes	8420 (65.8)
No	4384 (34.2)
Substance use in the past 12 mos ^a	
Alcohol	10874 (84.1)
Tobacco	2163 (16.9)
Sedatives	2015 (15.7)
Marijuana	1307 (10.2)
Opioids	722 (5.6)
Stimulants	612 (4.8)
Cocaine	107 (0.8)

^aSubstance use includes both illicit and prescribed usage.

Materials

Alcohol Use Disorders Identification Test

The Alcohol Use Disorders Identification Test (AUDIT) (Babor et al., 2001) is a 10-item self-report instrument developed by the World Health Organization (WHO) to screen for hazardous use, harmful use, and the potential for alcohol dependence. The AUDIT generates scores ranging from 0 to 40. Scores of 8 or higher indicate hazardous or harmful alcohol intake, and also possible dependence (Babor et al., 2001). Scores are categorized into zones to reflect increasing severity with zone II reflective of hazardous use, zone III indicative of harmful use, and zone IV warranting full diagnostic evaluation for alcohol use disorder. For the purposes of this study, we use the phrase “problematic use” to capture all 3 of the zones related to a positive AUDIT screen.

The AUDIT is a widely used instrument, with well established validity and reliability across a multitude of populations (Meneses-Gaya et al., 2009). To compare current rates of problem drinking with those found in other populations, AUDIT-C scores were also calculated. The AUDIT-C is a subscale comprised of the first 3 questions of the AUDIT

TABLE 2. Professional Characteristics

	n (%)
Total sample	12825 (100)
Years in field (yrs)	
0–10	4455 (34.8)
11–20	2905 (22.7)
21–30	2623 (20.5)
31–40	2204 (17.2)
41 or more	607 (4.7)
Work environment	
Private firm	5226 (40.9)
Sole practitioner, private practice	2678 (21.0)
In-house government, public, or nonprofit	2500 (19.6)
In-house: corporation or for-profit institution	937 (7.3)
Judicial chambers	750 (7.3)
Other law practice setting	289 (2.3)
College or law school	191 (1.5)
Other setting (not law practice)	144 (1.1)
Bar Administration or Lawyers Assistance Program	55 (0.4)
Firm position	
Clerk or paralegal	128 (2.5)
Junior associate	1063 (20.5)
Senior associate	1052 (20.3)
Junior partner	608 (11.7)
Managing partner	738 (14.2)
Senior partner	1294 (25.0)
Hours per wk	
Under 10 h	238 (1.9)
11–20 h	401 (3.2)
21–30 h	595 (4.7)
31–40 h	2946 (23.2)
41–50 h	5624 (44.2)
51–60 h	2310 (18.2)
61–70 h	474 (3.7)
71 h or more	136 (1.1)
Any litigation	
Yes	9611 (75.0)
No	3197 (25.0)

focused on the quantity and frequency of use, yielding a range of scores from 0 to 12. The results were analyzed using a cut-off score of 5 for men and 4 for women, which have been interpreted as a positive screen for alcohol abuse or possible alcohol dependence (Bradley et al., 1998; Bush et al., 1998). Two other subscales focus on dependence symptoms (eg, impaired control, morning drinking) and harmful use (eg, blackouts, alcohol-related injuries).

Depression Anxiety Stress Scales-21 item version

The Depression Anxiety Stress Scales-21 (DASS-21) is a self-report instrument consisting of three 7-item subscales assessing symptoms of depression, anxiety, and stress. Individual items are scored on a 4-point scale (0–3), allowing for subscale scores ranging from 0 to 21 (Lovibond and Lovibond, 1995). Past studies have shown adequate construct validity and high internal consistency reliability (Antony et al., 1998; Clara et al., 2001; Crawford and Henry, 2003; Henry and Crawford, 2005).

Drug Abuse Screening Test-10 item version

The short-form Drug Abuse Screening Test-10 (DAST) is a 10-item, self-report instrument designed to screen and quantify consequences of drug use in both a clinical and

research setting. The DAST scores range from 0 to 10 and are categorized into low, intermediate, substantial, and severe-concern categories. The DAST-10 correlates highly with both 20-item and full 28-item versions, and has demonstrated reliability and validity (Yudko et al., 2007).

RESULTS

Descriptive statistics were used to outline personal and professional characteristics of the sample. Relationships between variables were measured through χ^2 tests for independence, and comparisons between groups were tested using Mann-Whitney *U* tests and Kruskal-Wallis tests.

Alcohol Use

Of the 12,825 participants included in the analysis, 11,278 completed all 10 questions on the AUDIT, with 20.6% of those participants scoring at a level consistent with problematic drinking. The relationships between demographic and professional characteristics and problematic drinking are summarized in Table 3. Men had a significantly higher proportion of positive screens for problematic use compared with women (χ^2 [1, *N* = 11,229] = 154.57, *P* < 0.001); younger participants had a significantly higher proportion compared with the older age groups (χ^2 [6, *N* = 11,213] = 232.15, *P* < 0.001); and those working in the field for a shorter duration had a significantly higher proportion compared with those who had worked in the field for longer (χ^2 [4, *N* = 11,252] = 230.01, *P* < 0.001). Relative to work environment and position, attorneys working in private firms or for the bar association had higher proportions than those in other environments (χ^2 [8, *N* = 11,244] = 43.75, *P* < 0.001), and higher proportions were also found for those at the junior or senior associate level compared with other positions (χ^2 [6, *N* = 4671] = 61.70, *P* < 0.001).

Of the 12,825 participants, 11,489 completed the first 3 AUDIT questions, allowing an AUDIT-C score to be calculated. Among these participants, 36.4% had an AUDIT-C score consistent with hazardous drinking or possible alcohol abuse or dependence. A significantly higher proportion of women (39.5%) had AUDIT-C scores consistent with problematic use compared with men (33.7%) (χ^2 [1, *N* = 11,440] = 41.93, *P* < 0.001).

A total of 2901 participants (22.6%) reported that they have felt their use of alcohol or other substances was problematic at some point in their lives; of those that felt their use has been a problem, 27.6% reported problematic use manifested before law school, 14.2% during law school, 43.7% within 15 years of completing law school, and 14.6% more than 15 years after completing law school.

An ordinal regression was used to determine the predictive validity of age, position, and number of years in the legal field on problematic drinking behaviors, as measured by the AUDIT. Initial analyses included all 3 factors in a model to predict whether or not respondents would have a clinically significant total AUDIT score of 8 or higher. Age group predicted clinically significant AUDIT scores; respondents 30 years of age or younger were significantly more likely to have a higher score than their older peers (β = 0.52, Wald [*df* = 1] = 4.12, *P* < 0.001). Number of years in the field

TABLE 3. Summary Statistics for Alcohol Use Disorders Identification Test (AUDIT)

	AUDIT Statistics			Problematic %*	P**
	n	M	SD		
Total sample	11,278	5.18	4.53	20.6%	
Sex					
Men	6012	5.75	4.88	25.1%	<0.001
Women	5217	4.52	4.00	15.5%	
Age category (yrs)					
30 or younger	1393	6.43	4.56	31.9%	<0.001
31–40	2877	5.84	4.86	25.1%	
41–50	2345	4.99	4.65	19.1%	
51–60	2548	4.63	4.38	16.2%	
61–70	1753	4.33	3.80	14.4%	
71 or older	297	4.22	3.28	12.1%	
Years in field (yrs)					
0–10	3995	6.08	4.78	28.1%	<0.001
11–20	2523	5.02	4.66	19.2%	
21–30	2272	4.65	4.43	15.6%	
31–40	1938	4.39	3.87	15.0%	
41 or more	524	4.18	3.29	13.2%	
Work environment					
Private firm	4712	5.57	4.59	23.4%	<0.001
Sole practitioner, private practice	2262	4.94	4.72	19.0%	
In-house: government, public, or nonprofit	2198	4.94	4.45	19.2%	
In-house: corporation or for-profit institution	828	4.91	4.15	17.8%	
Judicial chambers	653	4.46	3.83	16.1%	
College or law school	163	4.90	4.66	17.2%	
Bar Administration or Lawyers Assistance Program	50	5.32	4.62	24.0%	
Firm position					
Clerk or paralegal	115	5.05	4.13	16.5%	<0.001
Junior associate	964	6.42	4.57	31.1%	
Senior associate	938	5.89	5.05	26.1%	
Junior partner	552	5.76	4.85	23.6%	
Managing partner	671	5.22	4.53	21.0%	
Senior partner	1159	4.99	4.26	18.5%	

*The AUDIT cut-off for hazardous, harmful, or potential alcohol dependence was set at a score of 8.

**Comparisons were analyzed using Mann-Whitney *U* tests and Kruskal-Wallis tests.

approached significance, with higher AUDIT scores predicted for those just starting out in the legal profession (0–10 yrs of experience) ($\beta = 0.46$, Wald [$df = 1$] = 3.808, $P = 0.051$). Model-based calculated probabilities for respondents aged 30 or younger indicated that they had a mean probability of 0.35 (standard deviation [SD] = 0.01), or a 35% chance for scoring an 8 or higher on the AUDIT; in comparison, those respondents who were 61 or older had a mean probability of 0.17 (SD = 0.01), or a 17% chance of scoring an 8 or higher.

Each of the 3 subscales of the AUDIT was also investigated. For the AUDIT-C, which measures frequency and quantity of alcohol consumed, age was a strong predictor of subscore, with younger respondents demonstrating significantly higher AUDIT-C scores. Respondents who were 30 years old or younger, 31 to 40 years old, and 41 to 50 years old all had significantly higher AUDIT-C scores than their older peers, respectively ($\beta = 1.16$, Wald [$df = 1$] = 24.56, $P < 0.001$; $\beta = 0.86$, Wald [$df = 1$] = 16.08, $P < 0.001$; and $\beta = 0.48$, Wald [$df = 1$] = 6.237, $P = 0.013$), indicating that younger age predicted higher frequencies of drinking and quantity of alcohol consumed. No other factors were significant predictors of AUDIT-C scores. Neither the predictive model for the dependence subscale nor the harmful use subscale indicated significant predictive ability for the 3 included factors.

Drug Use

Participants were questioned regarding their use of various classes of both licit and illicit substances to provide a basis for further study. Participant use of substances is displayed in Table 1. Of participants who endorsed use of a specific substance class in the past 12 months, those using stimulants had the highest rate of weekly usage (74.1%), followed by sedatives (51.3%), tobacco (46.8%), marijuana (31.0%), and opioids (21.6%). Among the entire sample, 26.7% ($n = 3419$) completed the DAST, with a mean score of 1.97 (SD = 1.36). Rates of low, intermediate, substantial, and severe concern were 76.0%, 20.9%, 3.0%, and 0.1%, respectively. Data collected from the DAST were found to not meet the assumptions for more advanced statistical procedures. As a result, no inferences about these data could be made.

Mental Health

Among the sample, 11,516 participants (89.8%) completed all questions on the DASS-21. Relationships between demographic and professional characteristics and depression, anxiety, and stress subscale scores are summarized in Table 4. While men had significantly higher levels of depression ($P < 0.05$) on the DASS-21, women had higher levels of anxiety ($P < 0.001$) and stress ($P < 0.001$). DASS-21 anxiety,

TABLE 4. Summary Statistics for Depression Anxiety Stress Scale (DASS-21)

	DASS Depression				DASS Anxiety				DASS Stress			
	n	M	SD	P*	n	M	SD	P*	n	M	SD	P*
Total sample	12300	3.51	4.29		12277	1.96	2.82		12271	4.97	4.07	
Sex												
Men	6518	3.67	4.46	<0.05	6515	1.84	2.79	<0.001	6514	4.75	4.08	<0.001
Women	5726	3.34	4.08		5705	2.10	2.86		5705	5.22	4.03	
Age category (yrs)												
30 or younger	1476	3.71	4.15		1472	2.62	3.18		1472	5.54	4.61	
31–40	3112	3.96	4.50		3113	2.43	3.15		3107	5.99	4.31	
41–50	2572	3.83	4.54	<0.001	2565	2.03	2.92	<0.001	2559	5.36	4.12	<0.001
51–60	2808	3.41	4.27		2801	1.64	2.50		2802	4.47	3.78	
61–70	1927	2.63	3.65		1933	1.20	2.06		1929	3.46	3.27	
71 or older	326	2.03	3.16		316	0.95	1.73		325	2.72	3.21	
Years in field												
0–10 yrs	4330	3.93	4.45		4314	2.51	3.13		4322	5.82	4.24	
11–20 yrs	2800	3.81	4.48		2800	2.09	3.01		2777	5.45	4.20	
21–30 yrs	2499	3.37	4.21	<0.001	2509	1.67	2.59	<0.001	2498	4.46	3.79	<0.001
31–40 yrs	2069	2.81	3.84		2063	1.22	1.98		2084	3.74	3.43	
41 or more yrs	575	1.95	3.02		564	1.01	1.94		562	2.81	3.01	
Work environment												
Private firm	5028	3.47	4.17		5029	2.01	2.85		5027	5.11	4.06	
Sole practitioner, private practice	2568	4.27	4.84		2563	2.18	3.08		2567	5.22	4.34	
In-house: government, public, or nonprofit	2391	3.45	4.26		2378	1.91	2.69		2382	4.91	3.97	
In-house: corporation or for-profit institution	900	2.96	3.66	<0.001	901	1.84	2.80	<0.001	898	4.74	3.97	<0.001
Judicial chambers	717	2.39	3.50		710	1.31	2.19		712	3.80	3.44	
College or law school	182	2.90	3.72		188	1.43	2.09		183	4.48	3.61	
Bar Administration or Lawyers Assistance Program	55	2.96	3.65		52	1.40	1.94		53	4.74	3.55	
Firm position												
Clerk or paralegal	120	3.98	4.97		121	2.10	2.88		121	4.68	3.81	
Junior associate	1034	3.93	4.25		1031	2.73	3.31		1033	5.78	4.16	
Senior associate	1021	4.20	4.60	<0.001	1020	2.37	2.95	<0.001	1020	5.91	4.33	<0.001
Junior partner	590	3.88	4.22		592	2.16	2.78		586	5.68	4.15	
Managing partner	713	2.77	3.58		706	1.62	2.50		709	4.73	3.84	
Senior partner	1219	2.70	3.61		1230	1.37	2.43		1228	4.08	3.57	
DASS-21 category frequencies	n	%			n	%			n	%		
Normal	8816	71.7			9908	80.7			9485	77.3		
Mild	1172	9.5			1059	8.6			1081	8.8		
Moderate	1278	10.4			615	5.0			1001	8.2		
Severe	496	4.0			310	2.5			546	4.4		
Extremely severe	538	4.4			385	3.1			158	1.3		

*Comparisons were analyzed using Mann-Whitney U tests and Kruskal-Wallis tests.

depression, and stress scores decreased as participants' age or years worked in the field increased ($P < 0.001$). When comparing positions within private firms, more senior positions were generally associated with lower DASS-21 subscale scores ($P < 0.001$). Participants classified as nonproblematic drinkers on the AUDIT had lower levels of depression, anxiety, and stress ($P < 0.001$), as measured by the DASS-21. Comparisons of DASS-21 scores by AUDIT drinking classification are outlined in Table 5.

Participants were questioned regarding any past mental health concerns over the course of their legal career, and provided self-report endorsement of any specific mental health concerns they had experienced. The most common mental health conditions reported were anxiety (61.1%), followed by depression (45.7%), social anxiety (16.1%), attention deficit hyperactivity disorder (12.5%), panic disorder (8.0%), and bipolar disorder (2.4%). In addition, 11.5% of the participants reported suicidal thoughts at some point during their career, 2.9% reported self-injurious behaviors, and 0.7% reported at least 1 prior suicide attempt.

Treatment Utilization and Barriers to Treatment

Of the 6.8% of the participants who reported past treatment for alcohol or drug use ($n = 807$), 21.8% ($n = 174$) reported utilizing treatment programs specifically tailored to legal professionals. Participants who had reported prior treatment tailored to legal professionals had significantly lower mean AUDIT scores ($M = 5.84$, $SD = 6.39$) than participants who attended a treatment program not tailored to legal professionals ($M = 7.80$, $SD = 7.09$, $P < 0.001$).

Participants who reported prior treatment for substance use were questioned regarding barriers that impacted their ability to obtain treatment services. Those reporting no prior treatment were questioned regarding hypothetical barriers in the event they were to need future treatment or services. The 2 most common barriers were the same for both groups: not wanting others to find out they needed help (50.6% and 25.7% for the treatment and nontreatment groups, respectively), and concerns regarding privacy or confidentiality (44.2% and 23.4% for the groups, respectively).

TABLE 5. Relationship AUDIT Drinking Classification and DASS-21 Mean Scores

		Nonproblematic	Problematic ^a	P ^{b,c}
		M (SD)	M (SD)	
DASS-21 total score		9.36 (8.98)	14.77 (11.06)	<0.001
DASS-21 subscale scores	Depression	3.08 (3.93)	5.22 (4.97)	<0.001
	Anxiety	1.71 (2.59)	2.98 (3.41)	<0.001
	Stress	4.59 (3.87)	6.57 (4.38)	<0.001

AUDIT, Alcohol Use Disorders Identification Test; DASS-21, Depression Anxiety Stress Scales-21.

^aThe AUDIT cut-off for hazardous, harmful, or potential alcohol dependence was set at a score of 8.

^{b,c}Means were analyzed using Mann-Whitney U tests.

DISCUSSION

Our research reveals a concerning amount of behavioral health problems among attorneys in the United States. Our most significant findings are the rates of hazardous, harmful, and potentially alcohol dependent drinking and high rates of depression and anxiety symptoms. We found positive AUDIT screens for 20.6% of our sample; in comparison, 11.8% of a broad, highly educated workforce screened positive on the same measure (Matano et al., 2003). Among physicians and surgeons, Oreskovich et al. (2012) found that 15% screened positive on the AUDIT-C subscale focused on the quantity and frequency of use, whereas 36.4% of our sample screened positive on the same subscale. While rates of problematic drinking in our sample are generally consistent with those reported by Benjamin et al. (1990) in their study of attorneys (18%), we found considerably higher rates of mental health distress.

We also found interesting differences among attorneys at different stages of their careers. Previous research had demonstrated a positive association between the increased prevalence of problematic drinking and an increased amount of years spent in the profession (Benjamin et al., 1990). Our findings represent a direct reversal of that association, with attorneys in the first 10 years of their practice now experiencing the highest rates of problematic use (28.9%), followed by attorneys practicing for 11 to 20 years (20.6%), and continuing to decrease slightly from 21 years or more. These percentages correspond with our findings regarding position within a law firm, with junior associates having the highest rates of problematic use, followed by senior associates, junior partners, and senior partners. This trend is further reinforced by the fact that of the respondents who stated that they believe their alcohol use has been a problem (23%), the majority (44%) indicated that the problem began within the first 15 years of practice, as opposed to those who indicated the problem started before law school (26.7%) or after more than 15 years in the profession (14.5%). Taken together, it is reasonable to surmise from these findings that being in the early stages of one's legal career is strongly correlated with a high risk of developing an alcohol use disorder. Working from the assumption that a majority of new attorneys will be under the age of 40, that conclusion is further supported by the fact that the highest rates of problematic drinking were present among attorneys under the age of 30 (32.3%), followed by

attorneys aged 31 to 40 (26.1%), with declining rates reported thereafter.

Levels of depression, anxiety, and stress among attorneys reported here are significant, with 28%, 19%, and 23% experiencing mild or higher levels of depression, anxiety, and stress, respectively. In terms of career prevalence, 61% reported concerns with anxiety at some point in their career and 46% reported concerns with depression. Mental health concerns often co-occur with alcohol use disorders (Gianoli and Petrakis, 2013), and our study reveals significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use. Furthermore, these mental health concerns manifested on a similar trajectory to alcohol use disorders, in that they generally decreased as both age and years in the field increased. At the same time, those with depression, anxiety, and stress scores within the normal range endorsed significantly fewer behaviors associated with problematic alcohol use.

While some individuals may drink to cope with their psychological or emotional problems, others may experience those same problems as a result of their drinking. It is not clear which scenario is more prevalent or likely in this population, though the ubiquity of alcohol in the legal professional culture certainly demonstrates both its ready availability and social acceptability, should one choose to cope with their mental health problems in that manner. Attorneys working in private firms experience some of the highest levels of problematic alcohol use compared with other work environments, which may underscore a relationship between professional culture and drinking. Irrespective of causation, we know that co-occurring disorders are more likely to remit when addressed concurrently (Gianoli and Petrakis, 2013). Targeted interventions and strategies to simultaneously address both the alcohol use and mental health of newer attorneys warrant serious consideration and development if we hope to increase overall well being, longevity, and career satisfaction.

Encouragingly, many of the same attorneys who seem to be at risk for alcohol use disorders are also those who should theoretically have the greatest access to, and resources for, therapy, treatment, and other support. Whether through employer-provided health plans or increased personal financial means, attorneys in private firms could have more options for care at their disposal. However, in light of the pervasive fears surrounding their reputation that many identify as a barrier to treatment, it is not at all clear that these individuals would avail themselves of the resources at their disposal while working in the competitive, high-stakes environment found in many private firms.

Compared with other populations, we find the significantly higher prevalence of problematic alcohol use among attorneys to be compelling and suggestive of the need for tailored, profession-informed services. Specialized treatment services and profession-specific guidelines for recovery management have demonstrated efficacy in the physician population, amounting to a level of care that is quantitatively and qualitatively different and more effective than that available to the general public (DuPont et al., 2009).

Our study is subject to limitations. The participants represent a convenience sample recruited through e-mails and

news postings to state bar mailing lists and web sites. Because the participants were not randomly selected, there may be a voluntary response bias, over-representing individuals that have a strong opinion on the issue. Additionally, some of those that may be currently struggling with mental health or substance use issues may have not noticed or declined the invitation to participate. Because the questions in the survey asked about intimate issues, including issues that could jeopardize participants' legal careers if asked in other contexts (eg, illicit drug use), the participants may have withheld information or responded in a way that made them seem more favorable. Participating bar associations voiced a concern over individual members being identified based on responses to questions; therefore no IP addresses or geo-location data were gathered. However, this also raises the possibility that a participant took the survey more than once, although there was no evidence in the data of duplicate responses. Finally, and most importantly, it must be emphasized that estimations of problematic use are not meant to imply that all participants in this study deemed to demonstrate symptoms of alcohol use or other mental health disorders would individually meet diagnostic criteria for such disorders in the context of a structured clinical assessment.

CONCLUSIONS

Attorneys experience problematic drinking that is hazardous, harmful, or otherwise generally consistent with alcohol use disorders at a rate much higher than other populations. These levels of problematic drinking have a strong association with both personal and professional characteristics, most notably sex, age, years in practice, position within firm, and work environment. Depression, anxiety, and stress are also significant problems for this population and most notably associated with the same personal and professional characteristics. The data reported here contribute to the fund of knowledge related to behavioral health concerns among practicing attorneys and serve to inform investments in lawyer assistance programs and an increase in the availability of attorney-specific treatment. Greater education aimed at prevention is also indicated, along with public awareness campaigns within the profession designed to overcome the pervasive stigma surrounding substance use disorders and mental health concerns. The confidential nature of lawyer-assistance programs should be more widely publicized in an effort to overcome the privacy concerns that may create barriers between struggling attorneys and the help they need.

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Survey of Law Student Well-Being



The Study

In the spring of 2014, fifteen law schools around the country participated in the Survey of Law Student Well-Being (SLSWB), designed to examine alcohol, drug and mental health issues among law students.

The study was administered with a grant from the ABA Enterprise Fund, sponsored by the ABA Commission on Lawyer Assistance Programs, Law Student Division, Solo, Small Firm and General Practice Division, Young Lawyers Division and Commission on Disability Rights, as well as with support from the Dave Nee Foundation.

The December 2015 issue of the Bar Examiner included a preview of the results. ¹

A more comprehensive report of the findings was published in the Autumn 2016 issue of the Journal of Legal Education. ²

just some of The Findings



Over half of the respondents reported drinking enough to get drunk at least once in the prior 30 days. 43% reported binge drinking at least once in the prior two weeks and 22% reported binge drinking two or more times in the prior two weeks.



Over 14% of respondents reported use of some prescription drug without a prescription in the prior 12 months. Use of marijuana and cocaine appears to have increased since a 1991 survey.



17% of respondents screened positive for depression. 23% of respondents screened positive for mild to moderate anxiety and 14% for severe anxiety. Of the 21% who have been diagnosed with anxiety, nearly one-third were diagnosed during law school.

Help-Seeking Attitudes

The survey also gathered information regarding the respondents' attitudes toward seeking help for alcohol, drug, or mental health issues.

Respondents indicated that they were much more likely to seek help from a health professional than a dean of students or a state Lawyer Assistance Program (LAP).

Only 4% of respondents indicated that they had ever used a health professional for issues associated with alcohol or drugs.

42% of respondents indicated they had thought they needed help for emotional or mental health problems in the past year, however, only about half had actually received counseling.

Discouraging Factors - alcohol and drugs

1. Potential threat to bar admission (63%)
2. Potential threat to job or academic status (62%)
3. Social stigma (43%)
4. Concerns about privacy (43%)
5. Financial reasons (41%)
6. The belief that they could handle the problem themselves (39%)
7. Not having the time (36%)

Discouraging Factors - mental health

1. Potential threat to job or academic status (48%)
2. Social stigma (47%)
3. Financial reasons (also 47%)
4. Potential threat to bar admission (45%)
5. The belief that they could handle the problem themselves (36%)
6. Not having the time (34%)
7. Concerns about privacy (30%)

1. Jerome M. Organ, David B. Jaffe & Katherine M. Bender, Ph.D., *Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students' Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders*, The Bar Examiner, December 2015

2. Jerome M. Organ, David B. Jaffe & Katherine M. Bender, Ph.D., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. Legal Educ., Autumn 2016, at 1, 116-36.

During COVID-19, I am taking new clients and using telehealth at this time. Message me ✕
for more information.

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Valid and Justified *Blog*

Myth #3: Lawyers Can't Go To Therapy

February 26, 2018

Alternatively titled “Therapy doesn’t work on lawyers.” Or “What would my coworkers think?”

Surprise! Lawyers do go to therapy, therapy works for almost everyone (if done well and with the right person), and your coworkers don’t care. That last one might not be true yet but we’re moving in the right direction.

I wish there was an easy answer to this one. It’s undeniable that there is a stigma against mental health in our society and law firms tend to be behind the cultural curve in all ways. Law firms are getting better about it and are beginning to offer mindfulness courses, which ostensibly shows that they value their employees’ mental and physical health, since mindfulness has been shown to reduce physical symptoms of stress. But how many lawyers out there really know how to use mindfulness and/or self-care effectively? It’s not just about taking five minutes to breathe when you’re upset or going out for dinner during a stressful week. Mindfulness is a practice that constantly runs in the background to monitor your emotional state, even when (or especially when) your

emotions are not running high. Self-care requires active self-awareness to know when you need to take a break or, even better, to anticipate when you might need a break later.

But how can you learn these skills? Certainly not by a lunch hour seminar you can attend only once. Therapy is the obvious answer but we run into problems because a law firm is not a single person to whom you can explain that, for you personally, going to therapy once a week is going to make you a happier person and a more productive employee. Instead, we have to work within with a culture that has a long-established set of values that is small-data driven and managed by people who have less business experience than a multi-million dollar company is usually run by. (For ethical reasons, law firms and medical practices can only be owned by licensed lawyers and doctors.) And, as we all are all-too familiar with, the easiest way to quantifiably measure a person's worth is with numbers: Number of clients, number of billed hours, number of hours in the office, etc. I have had very long conversations with law partners about all the ways they are losing money by focusing on these numbers, but that's not why you're here.

So now what? Unless and until your work culture has progressed, it might be in your best interest to keep your private life private. Look for a therapist who offers evening and weekend hours or is comfortable doing phone sessions.

If you're wondering – how can a therapist recommend hiding therapy? Isn't giving in to the stigma part of the problem?

And that's true; as a therapist and a mental health advocate, I fight against the stigma and the shame. But as I said in an earlier post, the therapist's first priority is the client's goals and well-being. If you work in an environment that punishes openness about mental health, then you have three choices: (1) to be open and punished, (2) to find a different environment, or (3) to maintain your privacy. When those are your choices, I think it's more than understandable to leave the stigma-fighting for someone else.

tl;dr Therapy works for lawyers and the reason you haven't heard about it is because no one is talking about it until they leave law.

Mandatory Biglaw Psychological Counseling Seems Like An Occam's Razor Problem

Isn't there a better way?

By JOE PATRICE

Jul 25, 2019 at 4:16 PM



A lot of spilled ink is devoted to the pernicious mental health issues plaguing the legal profession. From simple burnout to tragic episodes of substance abuse and even suicide, the industry takes a brutal toll. A pair of former Biglaw partners who've taken on second careers as psychologists have a proposal: mandatory (subject to opt-out) counseling at targeted career milestones.

This... seems to be a complex solution to a simpler problem.

From Law.com:

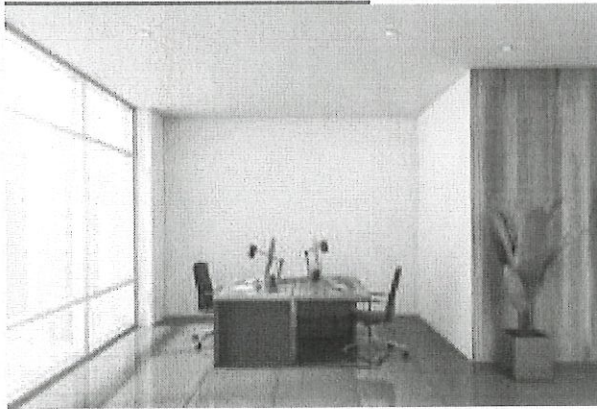
As such [Jonathan Moulton and Jonathan Coppins] have now joined forces to come up with a service that they believe could make a fundamental difference to the state of lawyers' mental health. What they are proposing is a series of seven psychotherapy sessions for every lawyer in any given firm at key points in their career.

The first point would be at three to four years' post-qualified, which is usually when the pair have found anxiety has started to kick in for lawyers; then at 10 years' qualified when the strain of making or not making partner is taking hold; and then again at 20 years' qualified where it is common for partners to plateau and feel they have wasted their lives while also dealing with problems in their private lives.

Mental health should be treated more seriously by everyone, not just attorneys, but Moul and Coppin are entirely right about the career turning points where the undue stress upon practitioners can take a turn toward the tragic.

But I just can't help but think this is another instance of the Biglaw mentality run amok. Confronted with all these negative impacts, Biglaw tries to find the right counseling while the simplest solution would be to address a model that thrives on putting people in a pressure cooker. Pull back on the hours, provide more leave, assign and manage tasks more humanely, ditch the "up or out" model that creates artificial career deadlines... basically address the source of stress rather than try to manage it.

SPONSORED CONTENT



Surviving an Economic Downturn: Pandemic Proof Your Small Law Firm

Above the Law readers are offered 1 free CLE course each quarter, thanks to Lawline.

LAWLINE

Sorry, that's just crazy talk. Biglaw isn't going to change.

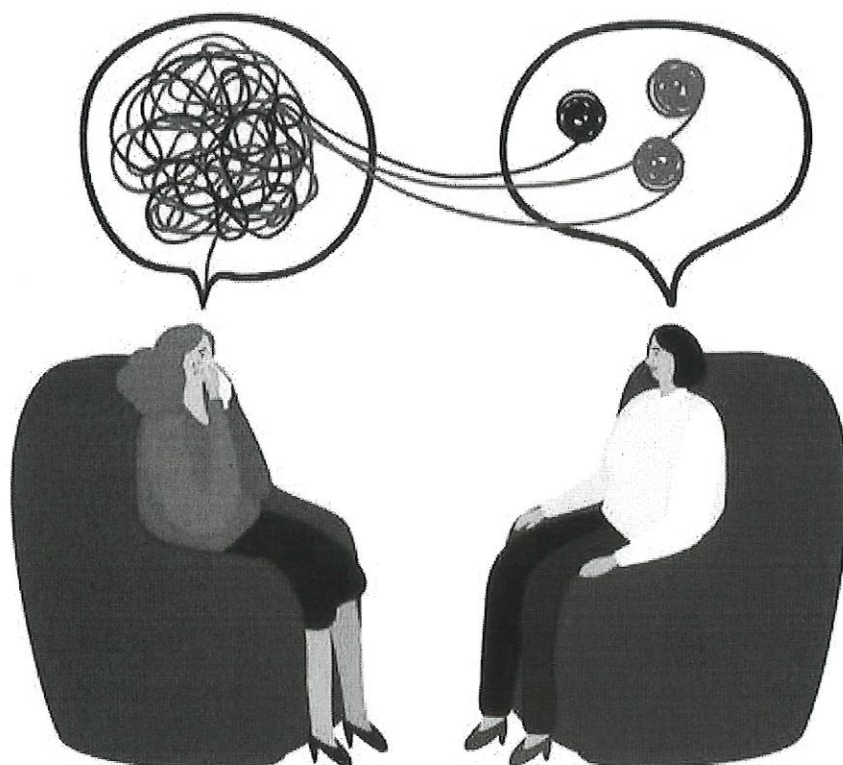
Would Mandatory Psychologist Appointments Reduce Burnout in Big Law? [Law.com]



Joe Patrice is a senior editor at Above the Law and co-host of Thinking Like A Lawyer. Feel free to email any tips, questions, or comments. Follow him on Twitter if you're interested in law, politics, and a healthy dose of college sports news. Joe also serves as a Managing Director at RPN Executive Search.

Why Everyone Needs a Therapist, (No Mental Illness Required!)

August 23, 2019 by Tiffany Teamer [Leave a Comment](#)



When was the last time you sat down and **really listened to yourself** about what you **need and want** from life? Have you ever scheduled a weekly appointment with yourself to **prioritize your needs and desires** and used the time so *wisely* that you left feeling radically productive, **hopeful and inspired**? Have you ever shared your deepest thoughts, feelings and concerns with another person who just totally *got you*, maybe even better than you get yourself sometimes?

While most people know that therapy is a place for expressing *feelings* and healing from *pain*, many people who have not experienced therapy don't actually know what to *expect* from the quiet room with the couch. I get it, it's an *intimidating* idea to share

our *inner voice* with a complete *stranger*. What will they *think*? What will they *say*? What if I *don't* want to do what is suggested? ***Is it safe to share everything? Will I be judged?***

Here is the real deal about therapy and why people who use it, LOVE it.

1. Therapists normalize the human experience.

As a therapist, there *isn't* much that I haven't heard. There are themes and patterns that people in life go through at different stages. Chances are, you are ***more like everyone else*** than you thought.

2. Therapy is a private judgement-free zone.

We don't share your name or your story with anyone without a ***purpose and permission***. I talk about my therapy work with other therapists in my peer supervision group for my own *support* and *growth* as a therapist, but I don't disclose any identifying information about my clients. Other than that, I need your permission to talk about you. Even with your permission, I am bound by professional ethics and will let you know if it is not in your best interest for me to involve others in your therapy. The only exception to that rule is if you are at *serious* imminent risk of harming yourself or someone else and you tell me so.

3. It is completely tailored to your unique self.

The time is ***100% focused on you***. That means we talk about whatever you want to talk about. We *prioritize* whatever you feel is a problem or an area of concern. We can develop *goals* for peace and happiness, personal growth, productivity, or anything you want really. If you identify an off-limits topic or something you are not ready to work on, that decision will be respected.

4. When we are in an emotional mindset, we can't also be in a logical mindset.

When we schedule regular therapy appointments with a professional person we *like* and *trust*, ***amazing things can happen***. (I know I am biased as a therapist, but having been on both sides of the couch, I know this to be completely true.) People get "*stuck*" when we are emotionally charged about something or have unresolved pain. It is hard to see things from an objective angle. Often we remain "*stuck*" in the

same pattern of thinking and behavior. When a therapist helps us see something in ourselves that we don't quite understand, it can lead to **massive growth and change**. That is why I see a therapist myself even though I have the education and experience of a being a therapist. I need that *objective* and *supportive* ear because I have emotions too.

5. Therapy is not opinion-based advice.

It is very different than what a friend or family member can provide. Your therapist should not tell you that you should divorce your spouse or that your feelings and behavior are wrong. We don't claim to know everything. We simply listen, really listen, both to what you are saying and not saying. We offer **support, education and compassionate feedback** to help you discover what you want and need for yourself. We can teach you where your feelings and symptoms could be stemming from and strategies to **feel better**.

6. Living your best life matters.

You **deserve** to set goals for yourself and to have **support, encouragement and guidance** on how to obtain them. Don't settle on a way of life that doesn't suit or serve you well. If you don't know how to make a change, but want to, give therapy a try.

7. Therapy is exactly the thing that is missing from our busy, overwhelming, ultra-convenient lifestyle.

It's a **safe** space to have peace, quiet, intentional thought, breathe, feel, slow down and be present. **Healthy** things can *grow* in that kind of environment.

8. An investment in health is never a waste of money.

This is an **investment** in your *mind*– it doesn't get better than that! As human beings, our brains can *learn, change* and *grow* all the time. If you decided tomorrow that you wanted to learn to speak a foreign language, you can teach your brain to do that. You can teach your brain to think and feel things that you don't currently. What you think is what you live. **Change your thoughts, change your life**. We can show you how.

Schedule an appointment to see what therapy is all about. If you've been in therapy before and didn't find it helpful, the therapist may not have been a **good fit** for you. Let us know what worked or didn't work for you in the past and we will try to suit

your needs *better*. We want it to be **helpful**! If we don't think we can serve your unique needs well, we will let you know and offer support in finding a better fit for you. It's completely *voluntary* and you can stop at any time. I hope you will consider giving therapy a try.



Ethics Update 2020

By Michael Virzi

Richland County Bar Association Free Ethics CLE

Friday, Nov. 20, 2020

I. Discipline Cases

In re Dotson

428 S.C. 253, 834 S.E.2d 460 (2019)

In re Rawlinson

428 S.C. 394, 835 S.E.2d 512 (2019)

In re Gaines

428 S.C. 538, 836 S.E.2d 791 (2019)

Each of these three lawyers failed to adequately represent clients and communicate with them, and each was suspended for between one and two years (all retroactive to the dates of their interim suspensions). Several clients of each lawyer complained about failing to communicate or failing to pursue their matters. Two of the opinions discussed the lawyers' emotional and health issues that contributed to the problems in their practices. Each of them initially failed to respond to ODC's Notice of Investigation and was subsequently placed on interim suspension.

In re Brannon

428 S.C. 644, 837 S.E.2d 488 (Dec. 18, 2019)

Lawyer quoted a client \$5,000 for a PCR action, and client paid \$1,000 toward the fee. Lawyer told client he would file the PCR application upon payment of the balance. Client's grandfather paid the balance a year later, which Lawyer incorrectly accounted for as a new matter, and Lawyer failed to file the PCR application until after the statute of limitations expired, resulting in dismissal.

The court publicly reprimanded Lawyer, noting that his "duties to provide competent representation and act with reasonable diligence and promptness arose on the day he was retained [A] lawyer may not condition the duties of representation on the payment of fees."

In re Sloan
429 S.C. 124, 838 S.E.2d 499 (Jan. 22, 2020)

Lawyer falsified time records and expenses, billing clients for work not performed and expenses not incurred. Lawyer also made false and misleading statements to clients about the status of their cases to cover up his failure to complete work. He agreed to a three-year suspension, which the court applied retroactively to the date of his interim suspension in 2017.

In re Moody
429 S.C. 627, 841 S.E.2d 624 (April 8, 2020)
429 S.C. 629, 841 S.E.2d 625 (April 8, 2020)

Lawyer was disbarred in 2014 and has not been reinstated. Two new complaints were filed regarding his conduct prior to disbarment, alleging misappropriation of funds. In two separate orders, the court ordered Lawyer to make restitution to the clients and to pay the costs of the disciplinary proceedings.

In re Dickey
430 S.C. 346, 844 S.E.2d 665 (2020)

Lawyer failed to adequately represent several clients, taking fees from them but not following through on their matters. Several filed complaints, to which Lawyer initially failed to respond, resulting in interim suspension in 2015. He ultimately agreed to a suspension of up to three years. The court suspended Lawyer for one year, retroactive to the date of his interim suspension.

In re Brooks
430 S.C. 499, 845 S.E.2d 915 (2020)

Lawyer was disbarred for providing false information on her S.C. Bar application. Lawyer failed to disclose:

- 1) a 2005 DUI arrest;
- 2) that she had been denied admission in North Carolina twice and Idaho once for failure to disclose the DUI arrest in each of those bar admission applications as well;
- 3) that she altered a document in her Wyoming Bar application and subsequently withdrew that application when the Wyoming Bar instituted an investigation; and
- 4) that she was charged with failure to cooperate along with a DUI arrest in 2014 (she did disclose the 2014 DUI but not the additional charge).

In re Parrott
431 S.C. 112, 846 S.E.2d 470 (2020)

Lawyer was disbarred for his third disciplinary offense involving harassment of women. The first was pulling down women's swimsuits at the beach; the second was taking pictures up women's skirts at the grocery store; and this one was for exposing himself and masturbating in public.

In re Wern
___ S.C. ___, ___ S.E.2d ___ (Oct. 7, 2020)

Lawyer was disbarred for using his trust account to make payroll and pay law firm bills, not reconciling the account or maintaining client ledgers, writing trust account checks to "cash," and ultimately being over \$400,000 short. ODC concluded its investigation in 2013, and Formal Charges were authorized that year but not filed until six years later.

Meanwhile, Lawyer was initially placed on interim suspension in 2013, but the interim suspension was lifted six weeks later on the condition that he have no access to any firm bank accounts and his partner file monthly trust account compliance reports with ODC. Apparently she did that for seven years and Lawyer continued to practice without incident, but ODC did not pursue the discipline case until 2019.

The Hearing Panel of the CLC recommended a six-week suspension with "credit for time served" during his 2013 six-week interim suspension. The Supreme Court held that an unjustified delay by ODC in prosecuting a case may be considered a mitigating factor only if the lawyer can show prejudice.

II. Ethics Advisory Opinions

S.C. Bar EAO 19-05
representing two clients against one defendant

Lawyer wants to represent homeowners in a breach of contract claim against their builder, while Lawyer already represents one of the builder's subcontractors in a payment claim against the same builder. The committee opined that the representation may be prohibited if there is a significant risk that the total of the two clients' claims exceeds the funds available to satisfy them. If such a risk exists, Lawyer may represent both only if both give informed consent and Lawyer believes the representation of both can be accomplished competently and diligently. The Committee noted that if the risk materializes—if the total claims exceed available funds—and the clients cannot agree on a distribution of the funds, then Lawyer would have an impermissible conflict. The possibility of withdrawal is one of the risks that must be explained to the clients at the start of the representation in order to for their consent to be "informed consent."

S.C. Bar EAO 20-01
competitive keyword advertising

Lawyer wants to bid on competitor lawyers' and law firms' names as search terms for online ad placement. The committee opined that bidding on a competitor's name does not violate the Rules of Professional Conduct as long as the lawyer's ad is properly identified as the lawyer's and not as the competitor's, which would deceptively mis-direct a web user with a deceptive link. The Committee's opinion was based on the near-unanimous view of other jurisdictions that have answered the question.

The PR Committee then immediately began working on proposal to create a rule that competitor keyword advertising would violate.

III. Rule Change Proposals

Rule 1.10
screening lawyers for conflicts

The Bar approved a PR Committee proposal to adopt screening procedures to prevent imputation of conflicts within a firm when a lawyer moves between firms, consistent with the Model Rule and with screening procedures elsewhere in the S.C. Rules (1.11 for government lawyers moving into private practice and 1.18 for conflicts related to prospective clients). The House of Delegates approved the proposal, and the Bar has forwarded it to the Court for consideration.

Rule 3.8(g) & (h)
post-conviction evidence of innocence

The PR Committee and the Bar have proposed that the court adopt a modified version of these Model Rule subsections to require prosecutors to disclose post-conviction evidence of innocence and, if it's within the prosecutor's jurisdiction, to investigate whether further evidence may confirm innocence. If the evidence is clear and convincing, the rule requires the prosecutor to take reasonable steps to remedy the conviction. The House approved the proposal, and the Bar has forwarded it to the Court for consideration.

Rules 7.1-7.5

communication & advertising

The PR Committee and the Bar have proposed that the court revise the advertising and communication rules to accomplish several goals:

- eliminate misunderstandings about what is and is not advertising by changing the title of Rule 7.2 to “communications concerning a lawyer’s services”
- codify the “accolades” opinion (S.C. Bar EAO 17-02)
- expand the referral fee prohibition to including giving or promising anything of value in exchange for referrals, but also to create two exceptions consistent with the ABA Model Rules:
 - nominal gifts
 - a mutual exchange of referrals between lawyers if:
 - it’s not exclusive
 - the client is informed, and
 - it’s in the client’s best interest.
- limit the solicitation regulation to only those sent to people known to be in need of legal services
- eliminate the 30-day waiting period for solicitations in personal injury and wrongful death cases
- eliminate the antiquated special rules for patent & admiralty lawyers

The House approved the proposal, and the Bar has forwarded it to the Court for consideration.

The Court received a separate petition to amend Rule 7.2 to add the following new restrictions to television ads:

- when past results are spoken aloud in an ad, a specific “results may vary”-type disclaimer must be spoken aloud in the same tone, volume, and cadence;
- all printed disclosures and disclaimers must appear in white lettering against a black background in a box no smaller than 1/6 the size of the screen; and
- references amounts obtained must include the month and year of the result.

Rule ___, SCACR

lawyer-to-lawyer dispute resolution board

The PR Committee has approved a proposal to adopt a new Appellate Court Rule that would create a dispute resolution board to arbitrate disputes among lawyers regarding division of fees. The proposal will be presented to the Board of Governors at an upcoming meeting.

Rule 42, SCRFC

transactors for uncontested divorces

The former Executive Director of the Bar has petitioned the Court to adopt a rule allowing a lawyer to serve as a “transactor” (or “facilitator” or “intermediary”) to represent both parties in an uncontested divorce.