

Call to Action: Attorney Well-Being in Public Law Offices

**Chief Judge Edward J. Cleary
Judge Karen Asphaug
February 28, 2019**



**MINNESOTA
JUDICIAL BRANCH**

3 Goals for Today

- Understand why well-being is critical for public attorneys
- Be introduced to the ABA Well-Being Toolkit
- Be introduced to the ABA Well-Being Pledge



Why Focus on Well-Being?

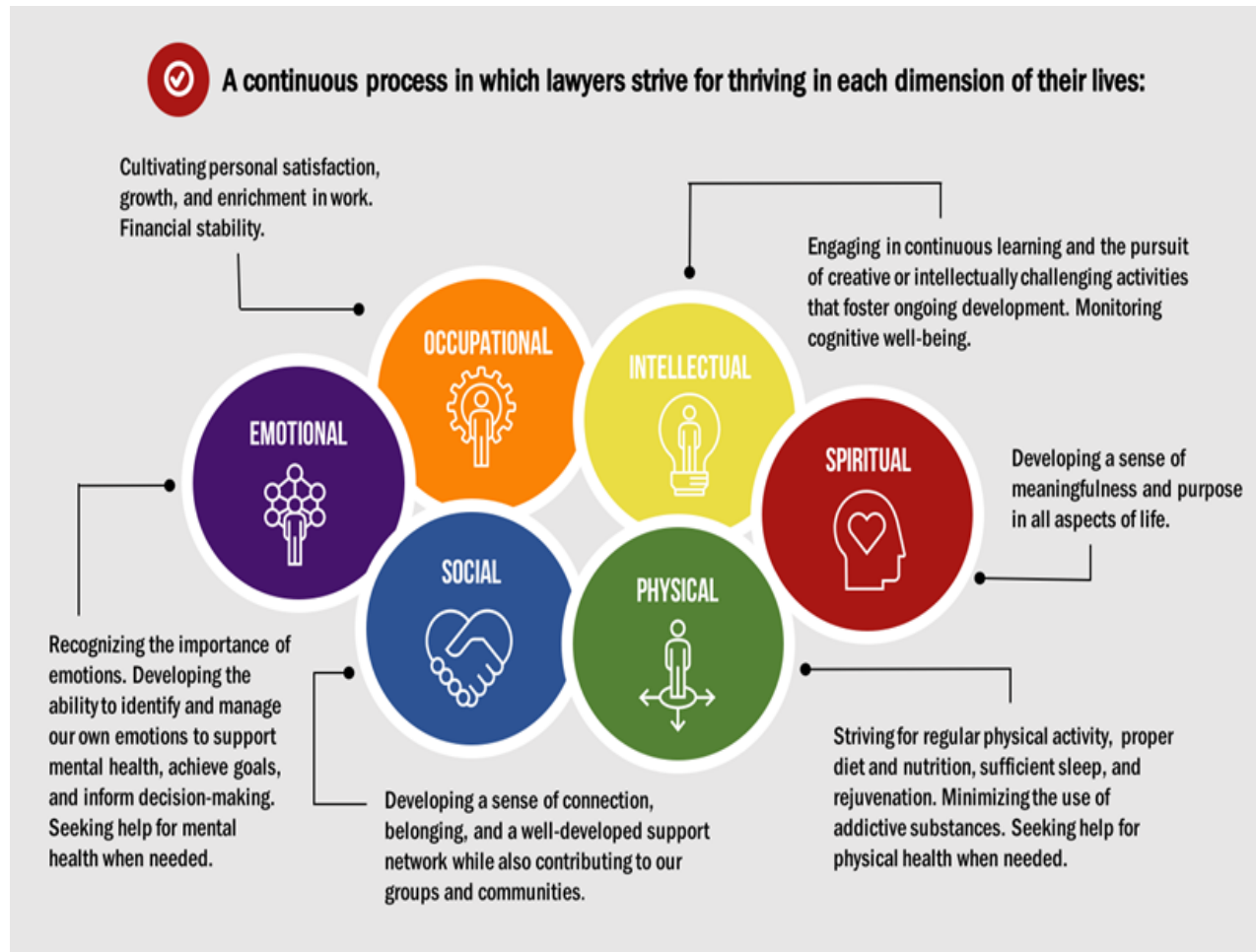
- Organizational success
 - Office sustainability
 - Client service
- Well-being influences ethics and professionalism.
 - Rule 1.1 – competence
 - Rule 1.3 – diligence
- Humanitarian reasons—untreated mental health and substance use disorders ruin lives and careers

Public Lawyers

- High volume caseload
- Stress of trial work
- Lack of control over calendars
- Difficult constituents (clients, police officers, witnesses)
- Frustration over inability to perform at highest level
- Compassion fatigue
- Financial pressures on public salaries



What is lawyer “well-being”?



Prepare to Take Action

- One size does not fit all; each office's approach will look different
- Different sizes and resources
- Different cultures
- Different individual perspectives



Lawyers Concerned for Lawyers

- Since 1976 LCL serves lawyers, judges, law students and their families
- Up to 4 free counseling sessions on any issue causing stress or distress
- Statewide peer support
- Free and confidential; help available 24/7
- Legal organizations can call for guidance, coaching resources and training. Many have.
- 651-646-5590 • www.mnlcl.org • help@mnlcl.org



Rule 8.3

Reporting Professional Misconduct

(c) This rule does not require disclosure of information . . . gained by a lawyer or judge while participating in a lawyers assistance program or other program providing assistance, support, or counseling to lawyers who are chemically dependent or have mental disorders.

Rule 8.3

Reporting Professional Misconduct

Comment

[5] . . . [P]roviding 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.

Five core steps for a sustainable culture in the legal profession:

1. Identify stakeholders and their roles in bringing about culture change
2. Diminish stigma associated with seeking help for disorders
3. Emphasize that well-being is part of duty of competence
4. Expand educational outreach on mental health and substance use disorders, as well as issues related to well-being
5. Change tone of legal profession to make health and well-being a top priority

General Recommendation: Acknowledge the Problems and Take Responsibility

- Every sector of the legal profession must support lawyer well-being.
- Each of us should take a leadership role within our own spheres to change the profession's mindset.
- Transform passive denial of problems to proactive support for change.

The ABA Well-Being Toolkit

The ABA Well-Being Toolkit

- It's a comprehensive road map for legal employers on the promotion of well-being in the legal workplace.
- It's an excellent tool for beginning—or expanding—your office's well-being initiatives.

The ABA Well-Being Toolkit

- Well-being definitions
- 8-step Action Plan
- Policies & Practices Audit
- Activities and events
- Education and development
- Assessments
- Online resources and technology



The Toolkit: Key Action Steps



- **WARNING:** The Toolkit's breadth and depth may appear daunting.
- **RECOMMENDATION:** Treat the Toolkit as a buffet. Pick some action steps that fit your office.

The Toolkit: Key Action Steps

- Enlist leaders
- Create a Well-Being Committee
- Create a Well-Being Policy that includes what happens when an attorney is impaired



ABA Model Impairment Policy (Proposed)

Impairment defined: the inability to render services with reasonable skill and safety, caused by, but not limited to:

- Use of alcohol/drugs, mental health disorder, or physical illness/condition that adversely affects cognitive, motor or perceptive skills.



ABA Model Impairment Policy (Proposed)

The Policy covers:

- Duty to report
- Confidentiality
- Prohibition against retaliation



Procedures Upon Determination of Impairment

- Leave of absence
- Referral and treatment
- Restriction of work duties
- Review of lawyer's activity
- Remedial action on client matters
- Reporting to disciplinary authorities
- Conditional employment
- Termination



Key Action Steps from The Toolkit

- Conduct a needs assessment (surveys, audits)
- Consider the range of office practices that impact well-being:
 - Orientation
 - Billing policies and practices
 - Vacation policies
 - 24/7 availability expectations
 - Diversity



Key Action Steps from The Toolkit

- Announce well-being as a cultural theme and core value.
- Create and execute an action plan, with activities and events.
- Accumulate quick, small “wins.”



Key Action Steps from The Toolkit

Promote education and development:

- Stress/resilience & optimism
- Mindfulness meditation
- Work/life balance
- Meaning and purpose



Key Action Steps from The Toolkit

Promote tech resources, such as smart phone or online apps for:

- Meditation
- Mental/emotional health
- Work breaks



Key Tools from the Toolkit

Managers, Don't forget your own well-being:

- Ask for help to implement change
- Don't add to your workload; manage expectations
- Be consistent in leadership – who makes which decisions?
- Commit to a shared vision
- Look for outside support

Key Tools from the Toolkit

Positive Leadership: Bring out (y)our best by supporting and implementing:

- Autonomy
- Connection and Belonging
- Competence
- Service



The ABA Well-Being Pledge

The ABA Well-Being Pledge

- Provide robust education on well-being, mental health, and substance use disorders.
- Reduce the expectation of alcohol at office events and provide alternative beverages.
- Partner with outside providers committed to reducing substance use disorders and mental health distress.

The ABA Well-Being Pledge

- Provide confidential access to addiction and mental health experts and resources.
- Develop proactive policies and protocols on assessment and treatment of substance use and mental health problems.

The ABA Well-Being Pledge

- Show that the office's core values include self-care and getting help when needed: programs for physical, mental and emotional well-being.
- Use the pledge and the office's commitment to attract and retain the best lawyers and staff.

What is Your Well-Being Pledge?

- Do you understand your risks?
- Has the entire staff been involved?
- Do you support well-being initiatives in your office and profession?
- Can you say no?
- What is one step you can commit to today?

Thank you, and be well!

