

Overachieving, Anxiety, & Addiction: Substance Abuse in the Profession A Talk with Lisa Smith

Substance and Alcohol Abuse in the Profession

- Prevalence of issue in the profession
 - 2016 ABA and Hazelden Betty Ford study¹ on prevalence among licensed attorneys found:
 - 21% were problem drinkers;
 - Higher proportion of younger attorneys and those less than 10 years into practice reported alcohol dependency; and
 - 28%, 19%, and 23% reported symptoms of depression, anxiety, and stress, respectively.
 - Alcohol or drug dependency can afflict any attorney or any age, gender, or race. There is no one typical alcoholic or drug-addicted lawyer.
 - Many lawyers with a drinking problem are high functioning for a period of time. They're able to maintain their jobs and hide the severity of the problem, which may make it more difficult for them to acknowledge their addiction. Denial is common in addiction.
- Barriers to getting help
 - The ABA/Hazelden study also looked at the barriers to getting services they may need. The most two common barriers were not wanting others to find out and concerns regarding privacy or confidentiality. Fear of stigma and reputation harm discourages many attorneys from seeking help.
 - The American Lawyer's Young Lawyer Editorial Board's survey revealed that among its respondents, 79% would not feel comfortable seeking support from their firm for a mental health concern for fear or being perceived as weak or hampering their career. 62% said they would not perceive a colleague as weak for a mental health concern, 27% said they might, and 11% said they would.²
- Common factors that contribute
 - Problem can develop prior to or during law school and worsen. More than a quarter of those surveyed in the ABA/Hazelden study reported problematic alcohol or substance use prior to law school. Stress and competitive nature of law school can compound the issue.
 - Underlying mental health issue or a genetic predisposition.

¹ Access the full report, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, in the Journal of Addiction Medicine:

https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_U

² A Call for an Open Dialogue on Mental Health in the Law, by The American Lawyer Young Lawyer Editorial Board. June 01, 2018. Law.com: <https://www.law.com/2018/06/01/we-need-an-open-dialogue-on-mental-health-in-the-law-292-29020/>

- Stress and pressures of the job, long hours and heavy workloads, unpredictability of trials or client matters.
- Workplace culture, with little emphasis on work-life balance.
- Profession facilitates social drinking environment. Attorney can feel pressured to drink in networking or social settings. Attitudes and norms in a firm can facilitate drinking culture.
- Help seeking not part of the norm in the profession.
- Potential professional consequences
 - About a quarter of lawyers facing disciplinary actions are found to be abusing substances or alcohol and suffering from a mental disorder.³ Some accounts put the figure higher, with more than half of attorney proceedings and malpractice actions being linked to alcohol or substance abuse or mental health issue.
 - Substance abuse or problem drinking may lead a lawyer to make poor choices. The longer the problem is left untreated, the more likely it is that there will be negative consequences to not only the attorney but also their clients and employer.
 - Disciplinary consequences arise when a complaint of professional misconduct is filed.
 - Most jurisdictions have professional responsibility rules that prohibit conduct that adversely reflect on the lawyer's fitness as a lawyer.
 - Examples of behaviors that may violate professional responsibility rules include billing time to client for work done while significantly impaired, procrastinating or ignoring deadlines, and not communicating with the client in a timely manner. Client neglect is a serious matter that may result in suspension or other disciplinary action.

Addressing the problem

- Education and identification
 - Many attorneys fail to recognize and acknowledge that they indeed have a drinking or substance abuse problem until they experience significant negative consequences.
 - Education, awareness, and more open discussions are keys to tackling the issue in the profession.
 - The ABA lists a directory of websites for chemical dependency and self-help: https://www.americanbar.org/groups/lawyer_assistance/resources/links_of_interest/

³ 17 Statistics on Drug Abuse Among Lawyers: <http://interventionstrategies.com/17-statistics-on-drug-abuse-among-lawyers/>

- In 2017, the ABA amended its Model Rule for MCLE to require lawyers to receive at least one hour of mental health or substance use disorder programming every three years. The Model Rule recommended a stand-alone requirement rather than having programming related to mental health and substance use count toward a general or ethics CLE requirement.⁴ Several states have adopted this requirement, including CA, IL, NV, NC and SC.
- Lawyer assistance programs
 - The ABA Commission on Lawyer Assistance Programs assists and supports all bar association and lawyer assistance program.
 - Link to ABA Commission on Lawyer Assistance Programs:
https://www.americanbar.org/groups/lawyer_assistance/
 - State bars have lawyer assistance programs that provide confidential services.
 - Typically, programs offer consultation, evaluation and assessment, counseling, referral, intervention, peer support, attorney monitoring programs, and outreach and education. Many operate call centers that are open 24/7.
 - Link to directory of Lawyer Assistance Programs in each state:
https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/
- The ABA created the National Task Force on Lawyer Well Being after the Hazelden Betty Ford study.
 - The Task Force is a collection of entities from within the ABA and outside organizations including The National Organization of Bar Counsel, the Association of Professional Responsibility Lawyers, National Conference of Chief Justices, and National Conference of Bar Examiners.
 - The Task Force published *The Path to Lawyer Well-Being: Practice Recommendations for Positive Change* to change the discussion surrounding attorney well-being.
 - Follow this link to access the report in full:
<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>
- The ABA's Well-Being Toolkit for Lawyers and Legal Employers provides an 8-step action plan outlining strategies and resources to promote lawyer well-being.
 - Part of the action plan includes conducting a needs assessment, evaluating current policies and practices, and creating a well-being policy.
 - Follow this link to access the Toolkit in full:
https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf

⁴ ABA Model Rule of Minimum Continuing Legal Education Section 3. MCLE Requirements and Exemptions. Comment 4: https://www.americanbar.org/content/dam/aba/images/abanews/2017_Midyear_Meeting_Resolutions/106.pdf