

Written Materials

A Healthier Future for the Legal Profession

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Program: Talks On Law CLE "Attorney Well-Being: Mental Health & The Legal Profession"

1. Key Issue: The Mental Health Crisis in Law

The legal profession is characterized as a "high-performance" environment with intense competition and long hours. While hard work is a staple of the field, empirical data reveals a growing tension between professional demands and attorney well-being. Core questions:

- **Prevalence:** How widespread are mental health and substance use issues among law students and practicing lawyers?
- **Regulatory Barriers:** Do state bar "Character and Fitness" inquiries violate the Americans with Disabilities Act (ADA) by deterring help-seeking?
- **Structural Drivers:** How do law school and firm environments undermine the psychological needs required for human thriving?

2. Summary of Key Survey Data (2014 vs. 2021)

Dean Jaffe co-authored two major national surveys on law student well-being: *Suffering in Silence* (2014) and *It Is Okay to Not Be Okay* (2021). The comparison reveals concerning trends:

Metric	2014 Survey (Pre-Pandemic)	2021 Survey (Mid-Pandemic)	Trend
Depression	18% of respondents	33% of respondents	Significant Increase
Anxiety	21% of respondents	40% of respondents	Significant Increase
Suicidal Ideation	21% (Lifetime)	33% (Lifetime); 11% (Past Year)	Significant Increase
Alcohol Use	High rates of binge drinking	Reported decrease	Improvement
Drug Use	Lower usage reported	Increase in marijuana use	Mixed/Shift

Note: The 2021 increase in depression/anxiety may be partially attributed to COVID-19 isolation, but the underlying upward trend remains a critical concern for the profession.

3. Core Legal Doctrines: The ADA and Bar Admissions

A significant barrier to well-being is the fear that seeking mental health treatment will lead to denial of bar admission.

United States v. Louisiana Supreme Court (2014)

- **The Issue:** The Department of Justice (DOJ) investigated the Louisiana Supreme Court's Committee on Bar Admissions for asking applicants intrusive questions about their mental health diagnosis and treatment history, rather than focusing on conduct.
- **The Violation:** The DOJ determined these questions violated Title II of the Americans with Disabilities Act (ADA) by discriminating against qualified individuals with disabilities.
- **The Settlement:** In August 2014, the Louisiana Supreme Court agreed to:
 - Prohibit inquiries into mental health diagnosis alone.
 - Focus "Character and Fitness" reviews on **conduct or behavior** that affects the ability to practice law, rather than medical history.
 - Discontinue "conditional admission" based solely on diagnosis.

Relevance to Current Practice:

Despite this precedent, fear persists. Over 60% of students in the Jaffe surveys reported fearing that seeking help would delay or prevent bar admission. Attorneys must understand that conduct—not condition—is the lawful standard for fitness.

4. Psychological Framework: Self-Determination Theory (SDT)

Dean Jaffe applies **Self-Determination Theory (SDT)** to explain the structural erosion of well-being in law. SDT posits that three basic psychological needs must be met for individuals to thrive:

1. **Autonomy:** The need to feel control over one's own life and work.
 - *Legal Context:* Law school (rigid curriculum) and junior associate life (lack of control over schedule/assignments) severely restrict autonomy.
2. **Competence:** The need to feel effective and capable.
 - *Legal Context:* The "curve" in law school and the high-stakes nature of practice often fuel "Imposter Syndrome," eroding the sense of competence even in high achievers.
3. **Relatedness:** The need to feel connected to others.
 - *Legal Context:* The adversarial nature of law and isolationist study/work habits attack relatedness. Jaffe notes: "*The opposite of depression is not happiness; it is connection.*"

The SDT Strategy:

To combat burnout, firms and schools must actively rebuild these pillars—giving associates

more ownership over cases (Autonomy), providing constructive feedback (Competence), and fostering non-competitive community spaces (Relatedness).

5. Structural & Cultural Drivers of Distress

The "Stigma" Barrier

- **Perception vs. Reality:** Students and lawyers often perceive their peers as "fine," leading to isolation. Jaffe's "word bubble" exercises reveal that distress is communal, even if hidden.
- **Gender Dynamics:** Survey data indicates female students report higher rates of anxiety/depression and help-seeking, while male students are less likely to report or seek help due to perceived stigma.

Law Firm Economics & Culture

- **The Billable Hour:** Incentivizes long hours over efficiency or health.
- **"Window Dressing" vs. Real Change:** Wellness programs (e.g., yoga, mindfulness) fail if leadership does not model the behavior.
- **Leading by Example:** Jaffe cites examples of partners who respect boundaries (e.g., mandating vacations where email is disconnected) versus those who inadvertently pressure associates to work 24/7.

6. Practical Guidance for Lawyers & Firms

For Individuals:

- **Seek Help Early:** Utilizing Lawyer Assistance Programs (LAPs) provides a layer of confidentiality distinct from employer-provided resources.
- **Separate Conduct from Condition:** Understand that seeking therapy is generally viewed positively by bar examiners today; it is the *conduct* resulting from untreated issues that causes licensure problems.
- **Reclaim "Relatedness":** Actively cultivate hobbies and relationships outside the legal sphere to maintain perspective.

For Law Firms:

- **Audit the Environment:** Use anonymous surveys to gauge the true "pulse" of associate well-being.
- **Integrate Wellness into Billables:** Follow the lead of firms offering billable credit for wellness activities (up to 25 hours/year) to signal institutional value.
- **Leadership Modeling:** Partners must visibly prioritize their own health (e.g., leaving for family events, not emailing on weekends) to validate the policy for associates.

7. Key Take-Aways for CLE Participants

1. **Mental Health is a Competency Issue:** Unaddressed depression or substance use is a leading cause of disciplinary issues; well-being is ethical maintenance.

2. **Connection is the Antidote:** "Relatedness" can be a neglected need in the legal profession; restoring community is essential for resilience.

8. Further Reading & Resources

- Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, Ph.D., "It Is Okay to Not Be Okay": The 2021 Survey of Law Student Well-Being, *University of Louisville Law Review* (2022).
https://digitalcommons.wcl.american.edu/facsch_lawrev/3142/
- Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, Ph.D., *Suffering in Silence: The Survey of Law Student Well-Being*, 66 *J. Legal Educ.* 116 (2016).
<https://jle.aals.org/home/vol66/iss1/13/>
- *Settlement Agreement Between the United States of America and the Louisiana Supreme Court* (Aug. 14, 2014).
https://www.ada.gov/louisiana-supreme-court_sa.htm
- *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (The National Task Force on Lawyer Well-Being, 2017).
<https://lawyerwellbeing.net/the-report/>
- ABA Commission on Lawyer Assistance Programs (CoLAP) – Directory of State LAPs.
https://www.americanbar.org/groups/lawyer_assistance/