



WOMEN IN BUSINESS LAW INITIATIVE
Roundtable Series | June 13, 2019
Panel Two | Maintaining Wellness for Longevity in the Legal Industry

Memorandum of Recommendations

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"[L]awyer wellness is not a fad. It's a movement born out of recognition that too many of our colleagues and loved ones are suffering. Our problems affect lawyer confidence and we have taken an unbearable human toll. We must act. We must start in the law school."
—Bob Carlson, ABA President

INTRODUCTION

Last month, The [Women in Business Law Initiative](#) Roundtable Series hosted its second event, [Addressing Recruiting and Integration](#). There were two panels, one of which was titled, “Maintaining Wellness for Longevity in the Legal Industry.” The panel, moderated by Delia Violante, included Robin Belleau, Director of Wellbeing at Kirkland & Ellis and Serena Miller, Director of Professional Development at Wilson Sonsini. Their discussion continued a conversation that has finally taken center stage in legal circles—the unacceptable prevalence of substance abuse and mental health problems among law school students and practicing attorneys.¹

As a gateway to the legal profession, Berkeley Law has taken many laudable steps to address the wellbeing crisis by establishing a culture of wellness amongst its students. This memorandum presents a few more meaningful ways that Berkeley Law can leverage the American Bar Association’s (ABA) work to help end the wellness crisis. Part One of the memorandum lists the major reports, surveys and findings on the scope of the crisis. Part Two presents an overview of the ABA’s wellbeing movement. Part Three offers steps Berkeley Law should consider taking to further its commitment to wellness.

¹ [Resolution 105](#): RESOLVED, That the American Bar Association supports the goal of reducing mental health and substance use disorders and improving the well-being of lawyers, judges and law students; and FURTHER RESOLVED, That the American Bar Association urges all federal, state, local, territorial, and tribal courts, bar associations, lawyer regulatory entities, institutions of legal education, lawyer assistance programs, professional liability carriers, law firms, and other entities employing lawyers to consider the recommendations set out in the report, [The Path to Lawyer Well-Being: Practical Recommendations for Positive Change](#) by the [National Task Force on Lawyer Well-Being](#). See also, <http://lawyerwellbeing.net/>

PART ONE: A PROFESSION IN CRISIS

The reports and findings listed below are not exhaustive, but they are testaments to the alarming and sad fact that for too many years, too many law students and too many practicing lawyers have suffered from chronic stress, depression and substance use.

- In 1994, a [report](#) by the Association of American Law Schools sounded the alarm on substance abuse in law schools noting it as the place where “The seeds of substance abuse by lawyers may be sown...”
- In 2015, the ABA conducted an online screening of close to 4,000 law students to gauge their mental health. The survey [findings](#) showed that of the students screened (1) 76% showed symptoms of generalized anxiety disorder; (2) 71 % showed signs of depression; (3) 43% exhibited symptoms connected to bipolar disorder; (4) 23% showed symptoms of post-traumatic stress disorder.
- In 2016, a [study](#) by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs analyzed the responses of 12,825 licensed, practicing attorneys across 19 states. The study found that 20.6% of those surveyed had a drinking problem, 28% struggled with some level of depression, 19 % had symptoms of anxiety, and 23% had symptoms of stress. The study also found that the highest incidence of these symptoms was among lawyers in their first 10 years of practice. It also found that respondents who were 30 years or younger were more likely than their older peers to suffer from these conditions.
- In 2016, a [report](#) on the 2014 *Survey of Law Student Well-Being*, the first multi-school study (15 law schools and over 3,300 law students) found not only a significant percentage of law students faced alcohol, drug use and/or mental health issues, but that many did not seek help for fear it would jeopardize their academic status, social standing, bar admission, or employment.² The survey also found that one-fifth to one-sixth of the students who suffered from anxiety or depression were diagnosed after starting law school.

The data are alarming. Indeed, it was the results of the 2016 studies that prompted the ABA to act decisively to address the crisis.

² Law students did not seek help for alcohol/drug issues due to concerns over the potential threat to bar admission (63%), job/academic status (62%), social stigma (43%). Other reasons included concerns over privacy (43%), finances (41%), self-help thought sufficient (39%), and, lack of time (36%). The percentages dropped in relation to mental health issues: job/academic status (48%), social stigma/finances (both 47%), bar admission (45%), self-help thought sufficient (36%), lack of time (34%).

PART TWO: A WAY FORWARD

“To be a good lawyer, one has to be a healthy lawyer.”³

The ABA’s National Task Force⁴ was formed to galvanize a wellness movement in our profession. In August 2017, the Task Force published a first-of-its-kind report, [The Path To Lawyer Well-Being: Practical Recommendations For Positive Change](#) which included specific actions members of the legal community—including law schools and legal employers—could take to make wellness a top priority. The report prompted the formation of the Presidential Working Group to Advance Well-Being in the Legal Profession (Working Group)⁵, which, in April 2019, not only published its [Well-Being Toolkit For Lawyers And Legal Employers](#), but launched a [Campaign](#) to continue to push for prompt action by legal employers. The centerpiece of the campaign is its seven-point Pledge.

Legal organizations who sign the Pledge commit to: (1) acknowledge the significance of the problem; (2) acknowledge that more can and must be done to address the problem; (3) support the ABA wellness campaign; and (4) begin the work of adopting a seven-point framework for promoting lawyer well-being. To date, the Pledge has been signed by over 100 legal organizations, 15 of which are law schools.⁶

The Pledge’s seven-point framework requires that legal employers commit to:

1. Offer educational programs to their attorneys and staff on well-being, substance use disorders, and mental health distress topics.
2. Take steps to de-emphasize alcohol at social events.

³ Report from the National Task Force on Lawyer Well-Being.

⁴ The Task Force was formed by the American Bar Association Commission on Lawyer Assistance Programs and the National Organization of Bar Counsel.

⁵ The Working Group was formed September 2017 at the direction of the then American Bar Association President, Hilarie Bass.

⁶ The law schools who have signed the pledge as of July 1, 2019 are American University Washington College of Law, Howard University School of Law, Santa Clara University School of Law, Southwestern Law School, Suffolk University Law School, The John Marshall Law School, UC Irvine School of Law, University of Connecticut School of Law, University of Idaho College of Law, University of Miami School of Law, University of Michigan Law School, University of Mississippi School of Law, University of San Diego School of Law, University of St. Thomas School of Law (MN), University of Toledo College of Law. https://www.americanbar.org/groups/lawyer_assistance/working-group_to_advance_well-being_in_legal_profession/

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3. Develop partnerships with third-party entities that offer assistance in reducing substance use disorders and mental health issues.
4. Offer confidential access to addiction and mental health experts and resources to all employees, including free, in-house self-assessment tools.
5. Establish written protocols and leave policies that cover the assessment and treatment of substance use and mental health problems, including a defined back-to-work policy following treatment.
6. Actively and consistently promote and encourage help-seeking and self-care as core values of their organization.
7. Showcase the adoption of the Pledge as a vehicle to attract and retain the best lawyers and staff.

To remain on the list of signatories, a year after their initial signing and annually thereafter, each employer must complete a [Commitment Form](#) describing their efforts against each of the seven steps. Failure to do so will result in their name being dropped from the list.

PART THREE: RECOMMENDATIONS

“It always seems impossible until it’s done.” — Nelson Mandela

The goal of the following recommendations is to further enhance Berkeley Law’s commitment to promulgating a culture of wellness not only within its walls, but in the legal community, particularly law firms and other employers who recruit at Berkeley Law. The recommendations are in line with the ABA’s wellness Campaign and Pledge.

It is the hope of the Berkeley Law Women in Business Law Initiative that these recommendations will spark active debate amongst the Berkeley Law leadership and others who hold the health of our students as paramount.

RECOMMENDATIONS

Recommendation No. 1: Berkeley Law should sign the Pledge. Becoming a signatory will further demonstrate our commitment to promulgate a culture where the well-being and mental health of its community are as important as its academic excellence. Moreover, due to its high standing as a legal educator and employer, it has the gravitas to influence other law schools to become signatories. Signing the Pledge will also send a message to legal employers who recruit at Berkeley Law that the school is looking to them to follow its lead.

Recommendation No. 2: Consider following [Harvard Law School’s](#) decision to conduct an annual mental health survey developed with law school-specific questions. The survey would be an excellent way for Berkeley Law to gain insight into the mental health welfare of the student body⁷ and the effectiveness of its wellness initiatives.

Recommendation No. 3: Consider telling the stories of individuals in our law school community who have struggled with substance abuse and mental health problems. Two examples of websites that do a terrific job in this area are [Time to Change](#) (UK) and [Real Warriors](#) (US). These stories can appear in a dedicated website or the current [Peer Wellness Coalition](#) website. Whatever the vehicle the goal is to focus on the individuals and their stories.

⁷ The results of the Harvard Law School survey are sobering. Among 886 respondents, 25% reported suffering from depression, 24.2% reported suffering from anxiety, and 20.5% said they were at heightened risk of suicide. The survey also showed that 66% of the respondents said they experienced new mental health challenges during law school.

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Recommendation No. 4: Dean Chemerinsky should consider writing an open letter to all legal employers who recruit at Berkeley Law encouraging them to sign the Pledge. As one of the most influential, respected, and liked figures in our community, his words and his actions have the power to affect change.

Recommendation No. 5: The Berkeley Law Career Center together with other campus groups—including student leaders⁸—involved in recruiting activities and events should consider working together to develop ways to publicize and otherwise recognize those legal employers who have signed the Pledge. If the information is available, it would be significant to highlight the legal employers who have honored the Pledge by submitting their annual Pledge [Commitment Form](#).

Recommendation No. 6: Consider developing a questionnaire similar to the ABA's Commitment Form and ask all legal employers who recruit at Berkeley Law to voluntarily complete the form. Those who are Pledge signatories and have completed the Commitment Form can forgo the law school's questionnaire and submit the Commitment Form. The responses of all the questionnaires can then be made available to the student body in preparation for on-campus interviews and other career focused events.

⁸ See the Elite Law School Pledge signed by University of California, Berkeley: School of Law Co-Presidents Katie Lee and Travis Mitchell. Other law student organization signatories include the presidents of the Cornell Law Students Association, Harvard Law School Student Government, Duke University School of Law Bar Association, Stanford Law Association, University of Pennsylvania Law School Council of Student Representatives, Yale Law School Student Representatives, Columbia Law School Student Senate, University of Chicago Law Students Association, Northwestern Pritzker School of Law, NYU School of Law, Texas Law Student Bar Association, University of Michigan Law School Student Senate. <https://images.law.com/contrib/content/uploads/documents/292/LawSchoolsMHPledge-1-copy.pdf>

FINAL NOTE

The critical goal of keeping our legal community healthy requires the commitment of many. But law schools are the gateway to our profession. As such, we have a special responsibility. It is simply not acceptable that so many students continue to suffer from serious but treatable mental health issues. We must do all we can.