

Going Beyond Wellness Programs

By Denise Perme



Lawyer assistance programs like the Bar's are not new. For decades staff and volunteers at these programs have helped attorneys struggling with substance use and mental health challenges.

Because of the stigma associated with these disorders, however, they were often met with resistance by legal employers. The familiar response was, "Everyone at our firm is just fine, thanks."

However, the tide is changing due in part to an industry-wide movement to raise awareness about how the stresses of a legal career often affect one's health and emotional well-being. The shift began in 2015 when groundbreaking research yielded alarming data about the prevalence of problematic drinking and mental distress among lawyers' and law students.²

In response to the findings, numerous organizations came together to form the National Task Force on Lawyer Well-Being, which published "The Path to Lawyer Well-Being: Practical Recommendations for Positive Change" in 2017. The report inspired the creation of the ABA Well-Being Pledge in 2018, and in 2020 the task force became the Institute for Well-Being in Law.

Today more legal employers are offering mental health and substance use awareness programs, a change that Kathy Schmidt, senior professional development manager at Wiley Rein LLP, hopes is just the beginning. "Ten years ago, nobody was even talking about this and now we are having conversations [across the firm]," says Schmidt, who sends out weekly well-being emails to firm attorneys and staff. "People have felt validated that it is OK to struggle with things."

The pandemic has wreaked havoc on mental health, but Jennifer Mezey, deputy legal

director of the Legal Aid Society of the District of Columbia, says it has also shown us that "taking better care of and being more responsive to our employees' mental health is an important thing to do."

Work at Legal Aid is emotionally draining, Mezey says, so being able to talk about it is crucial. "With any large employer, it is hard to do something that works for everybody, but people appreciate the trainings and individual reach-outs," says Mezey.

In May 2020, members of the D.C. Bar and the California Lawyers Association participated in a survey³ about their mental health. The results, published in May 2021, were discouraging. Women lawyers experience higher rates of depression and anxiety than men and are engaging in hazardous drinking at higher rates. Despite increased awareness and the availability of helpful resources, both male and female lawyers have higher rates of these disorders than the general population. The survey's outcome raises an important question: If education and self-awareness are not enough, what else can be done to improve lawyers' mental health? Moreover, is it up to the individual attorney to maintain well-being? What responsibility do large legal employers have to improve well-being?

At Crowell & Moring LLP, a training program encourages partners to be transparent when assigning work to associates. "We asked ourselves, what can partners do to reduce the amount of stress in the profession?" says Marguerite Eastwood, the firm's chief human resources officer. A separate training for associates will focus on communication with partners about reasonable deadlines and workloads.

In her two decades coaching, training, and advising lawyers and legal employers, Ellen Ostrow has seen many firms offer mindfulness trainings but still fall short on addressing lawyer stress. "These sessions are more of a Band-Aid. People learn some good stress management

skills, and firms get to check the box," says Ostrow, a psychologist and founder of Lawyers Life Coach LLC.

Ostrow works with firms to implement balanced-hours policies for more flexibility and improved lawyer retention. She would like to see firms shift their focus away from billable hours. "I would feel much better if leadership and partners were actually learning mindfulness in a way that transferred to the way they ran their practices," says Ostrow. The ABA agrees — its recently published "Practicing Law in the Pandemic and Moving Forward" report⁴ offers 10 best practices for legal employers, including providing parental resources and part-time and flex-time work options.

It is clear legal employers can do more. Well-being education programs are one tool — often the only one — legal employers use to help lawyers raise self-awareness, strengthen their boundaries, and access resources. Others, including reassessing compensation systems or reducing the importance of the billable hour, would have a bigger impact on lawyer well-being. But those tools are too heavy for the individual lawyer to lift. ■

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NOTES

- 1 Krill, Patrick R., et al., "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys," 10 *Journal of Addiction Medicine* (January/February 2016) at 1, 46–52.
- 2 Organ, Jerome M., et al., "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 *Journal of Legal Education* (Autumn 2016) at 1, 116–56.
- 3 journals.plos.org/plosone/article?id=10.1371/journal.pone.0250563.
- 4 americanbar.org/content/dam/aba/administrative/digital-engagement/practice-forward/practice-forward-survey.pdf.