Mental Well-Being in the Law

Scope, Evidence and Thoughts to Improve

STATE BAR OF MONTANA ANNUAL MEETING

22 SEPT 2022
Let me introduce myself

- PhD in Public Health, specifically Occupational Epidemiology
- 20 year career studying interplay of job and health
- 3 of the Largest Studies ever among workers and employers
- 115 peer-reviewed publications, dozens of invited lectures
- Conducting Well-Being research with legal professionals
  - National Center for State Courts and Conference of Chief Justices
  - State Bars and Firms for Well-Being among lawyers, staff
  - Law Schools for Well-Being among students
Disclosures

- Employed by the University of Utah – Associate Professor (Tenured)
- Received grants and contracts from NIH, NSF, CDC, NGOs
- Institute for Well-being in Law Board Member
  - Chair of the Research and Scholarship Committee
- Consultant for multiple organizations
  - American College of Occupational and Environmental Medicine
- Chief Research Officer for ShiftAside
Well-Being

A continuous process toward thriving in all dimensions of life.

- Emotional
- Occupational
- Intellectual
- Spiritual
- Physical
- Social
Managing Stress at Work

Stress is how we react when we feel under pressure or threatened.

You will never completely remove stress from your life.

A certain amount of stress is actually good.
What Is Burnout?

Three domains:

Depersonalization
  ◦ “I feel I look at certain people/clients impersonally, as if they are objects.”

Emotional exhaustion
  ◦ “I feel emotionally drained by my work.”

A sense of low personal accomplishment
Differences between Stress and Burnout

STRESS vs BURNOUT

Stress:
- Overengagement
- Reactive or over-reactive emotions
- Sense of urgency and hyperactivity
- Lost or diminished energy
- Leads to anxiety
- Physically tolling

Burnout:
- Disengagement
- Blunted or distant emotions
- Sense of helplessness
- Motivation is lost or diminished
- Leads to feeling depressed
- Emotionally tolling
Depression: Clinical vs Reality

9.5% clinically diagnosed

up to 60% experience symptoms

80% of us will experience some form of depression in our lifetimes

Harvard Business Review | People Want their Employers to Talk About Mental Health
Organizational Impacts of Depression

200 million lost workdays per year

Median cost $30.5 billion
Increase in injuries (e.g. Low Back Pain)

Impacts Presenteeism | Absenteeism | Productivity
Lawyer Specific Well-Being Data

First report was 1978 by C. Maslach on burnout in legal services

1990 Report by Benjamin et al
- Lawyers average depression was worse than 98.8% of general population
- 19% suffered from depression
- 18% were problem drinkers

1990 Eaton et al.- Lawyers have 3.6 times level of depression as compared to other professions, highest out of all professions screened

2013 Bergin et al. – Law profession specific demands related to both depression and anxiety (in Australia)
- These were exacerbated by overcommitment

Lawyers at Risk

Psychological Health of the Legal Profession

- 11.5% Suicidal Thoughts
- 19% Anxiety
- 21% Alcohol Use Disorder
- 23% Harmful Stress
- 28% Depression

Study of 13,000 Lawyers; 19 States (Krill, Johnson, & Albert, 2016)
THE PATH TO LAWYER WELL-BEING:
Practical Recommendations
For Positive Change

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING

Call to Action
2016 ABA CoLAP/Hazelden Betty Ford Foundation’s study of mental health and substance use disorders among lawyers and of the 2016 Survey of Law Student Well-Being

Recommendations for specific groups:
- Lawyers
- Law Students
- Firms
- Judges

Started movement for improving well-being
Feelings of Value among Lawyers

- 62.4% reported feeling valued for personal/professional attributes
- 27.5% reported feeling valued for productivity/responsiveness
- 10.1% reported feelings of value from employers
- Thompson Reuters Institute reports that firms risk potentially losing 125% of associates in just 5 years.

(Krill, Anker et al., 2022, Thompson Reuters Institute 2022)
SF-12 Mental Health Scores

The SF-12 is a health-related quality-of-life questionnaire used to assess physical and mental health. Higher scores are better.

100% of respondents are below U.S. average.
Utah Lawyer Well-Being Study

Completely Confidential
Approved by U of U IRB
Collecting Data:
Demographics
Mental Well-Being
Activities to promote well-being
Utilization of Available Services
Measures

Depression – Patient Health Questionnaire 9 question assessment (PHQ-9)
  ◦ High sensitivity and specificity

Maslach Burnout Scale

General Anxiety Disorder screening tool (GAD-7)

Drug Abuse Screener Tool (DAST)

Alcohol Use Disorders Identification Test-Concise (AUDIT-C)
Participant Recruitment

Law Professionals: 3 methods

1. Random Selection of bar members – Email addresses
   ◦ Want to get sample that represents the larger group
   ◦ Stratify by area of concern (rural vs. urban)

2. Recruitment through firms

3. Self-selection of participants
   ◦ Volunteers from annual conference
   ◦ Advertise in bar journal

Students- Direct email using school email addresses with follow up
Results

Participants: 3 Selection Strategies, statistically equivalent

565 Lawyers
185 Law Students
135 Law Administrative Staff (e.g. paralegals)

<table>
<thead>
<tr>
<th>Type of Law Practice</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative, Government or Regulatory</td>
<td>14.0%</td>
</tr>
<tr>
<td>Family Law</td>
<td>11.7%</td>
</tr>
<tr>
<td>Litigation (civil)</td>
<td>34.2%</td>
</tr>
<tr>
<td>Litigation (criminal)</td>
<td>8.5%</td>
</tr>
<tr>
<td>Transactional</td>
<td>20.6%</td>
</tr>
<tr>
<td>Other</td>
<td>11.1%</td>
</tr>
</tbody>
</table>
NATIONAL HEALTH AND NUTRITION SURVEY (NHANES)

- Publicly Available Data
- Collected since 1960s
  - 2 year time blocks
- NHANES (n=2305) subjects included for comparison only if:
  - currently employed working 30 hours or more per week
- Each NHANES participant is supposed to represent 50,000 people
- Adjusted for age and gender differences between the populations
Over the last 2 weeks, how often have you had trouble falling or staying asleep, or sleeping too much?

Lawyers in this study are **3.3, 4.3 and 2.6 times** more likely to report trouble falling asleep, staying asleep or sleeping too much as compared to the general working population.
Over the last 2 weeks, how often have you felt down, depressed, or hopeless:

- Not at all
- Several Days
- More than Half the Days
- Nearly Every Day

Lawyers in this study are **4.3, 3.7 and 6.7 times** more likely to report feeling down, depressed or hopeless as compared to the general working population.
Over the last 2 weeks, how often have you felt bad about yourself — or that you are a failure or have let yourself or your family down?

Lawyers in this study are **7.2, 5.3 and 13.8 times** more likely to report feeling bad about themselves or that they are a failure than the general working population.
Over the last 2 weeks, how often have you had thoughts that you would be better off dead or of hurting yourself in some way

Lawyers in this study are **8.5 times** more likely to report thoughts of being better off dead or hurting themselves as compared to general working population.
PHQ-9 Screening Tool for Clinical Depression

17.5% of the population meet definition for Major Depressive Disorder
AUDIT-C Measure for problems with Alcohol

33.2% of lawyers meet definition of problem drinking
<table>
<thead>
<tr>
<th>Effect</th>
<th>Odds Ratio</th>
<th>95% Confidence Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>In house attorney: corporation of for-profit institution</td>
<td>1.00</td>
<td>Reference</td>
</tr>
<tr>
<td>College or law school</td>
<td>8.04</td>
<td>0.85  75.97</td>
</tr>
<tr>
<td>In house attorney: government, public interest, or non-profit</td>
<td>4.38</td>
<td>1.53  12.55</td>
</tr>
<tr>
<td>Other law practice setting</td>
<td>9.99</td>
<td>2.33  42.81</td>
</tr>
<tr>
<td>Other setting (not law practice)</td>
<td>2.59</td>
<td>0.61  10.96</td>
</tr>
<tr>
<td>Private firm</td>
<td>3.78</td>
<td>1.40  10.19</td>
</tr>
<tr>
<td>Sole practitioner private practice</td>
<td>3.29</td>
<td>1.12  9.67</td>
</tr>
</tbody>
</table>

- Many types of law practice settings are associated with potential for alcohol problems
- Adjusted for age and gender
Results from Lawyers- AUDIT-C

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<th>Odds Ratio</th>
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</thead>
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<tr>
<td>Transactional</td>
<td>1.00</td>
<td>Reference</td>
</tr>
<tr>
<td>Administrative, Government or Regulatory</td>
<td>1.85</td>
<td>0.93</td>
</tr>
<tr>
<td>Family Law</td>
<td>1.23</td>
<td>0.59</td>
</tr>
<tr>
<td>Litigation (civil)</td>
<td>1.69</td>
<td>0.95</td>
</tr>
<tr>
<td>Litigation (criminal)</td>
<td>3.23</td>
<td>1.47</td>
</tr>
<tr>
<td>Other</td>
<td>1.00</td>
<td>0.46</td>
</tr>
</tbody>
</table>

- May different types of law practice are associated with potential for alcohol problems
- Adjusted for age and gender
Correlation Statistics among Lawyers

<table>
<thead>
<tr>
<th>Burnout</th>
<th>Engagement</th>
<th>Workload</th>
<th>Control</th>
<th>Reward</th>
<th>Community</th>
<th>Fairness</th>
<th>Values</th>
<th>Detachment</th>
<th>Employer's Commitment to Well-Being</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00</td>
<td>-0.65</td>
<td>0.20</td>
<td>-0.46</td>
<td>-0.35</td>
<td>-0.43</td>
<td>-0.48</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-0.65</td>
<td>1.00</td>
<td></td>
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Quotes from participants

• **Statements about doing well/thriving at your job**
  • Collaboration/Enjoy working with others
  • Creativity/Intellectual Challenge
  • Flexible work schedule, ability to do other things
  • Knowing that my contributions are valued

• **Statements about challenges to thriving at your job**
  • Actions of other attorneys at my firm
  • Billable hour requirement
  • Client stress/pressure
  • Frustrations with opposing counsel
  • Inflexible court deadlines
Lawyers in this study, and other published research have statistically significantly high levels of depression, anxiety, burnout, suicidal ideation than the general working population.

Many of these are inter-related.

Scientifically validated measures.

Wide variability within the profession.
What can you do?
Assess where you are

Organization – Scientific evaluation
- Confidentiality and protection of information
- Multiple domains (e.g. depression, engagement, support)
- As short as possible
- Incorporate individual feedback in process

Individual – many assessment tools online
- Be honest with yourself
From Burnout to Wellbeing
Do Mitigation Strategies Work?

Meta-analysis of 52 studies

Individual and organizational strategies:
  ◦ Decreased burnout from 54 to 44%
  ◦ Decreased emotional exhaustion scores from 23.8 to 21.2 points
  ◦ Decreased depersonalization scores from 9.1 to 8.41 points.

Both individual and organizational strategies reduced burnout

More research needed on combined methods

West, Lancet 2016
What are the most effective treatments for depression?

- Cognitive Behavioral Therapy
- Talk Therapy
- Exercise
- Improved Sleep
- Antidepressants
- Nutrition
Positive Psychology and A Culture of Wellness

The Seven Principles
• Social Investment
• The 20 Second Rule
  Activation energy
• The Zorro Circle
  Locus of control
• Falling Up
• The Tetris Effect
• Happiness, Gratitude, Optimism
• The Fulcrum and the Lever
• The Happiness Advantage

Achor: The Happiness Advantage
Principle #1: The Happiness Advantage

Happiness → Success

Success → Happiness

Workers who were primed to feel happy were much faster and more creative in solving problems and having higher productivity.

Achor: The Happiness Advantage
Principle #2: The Fulcrum and The Lever

In order to maximize our potential, we can adjust:

◦ The length of our lever, i.e., the potential power and possibility we believe we have
  OR
◦ The position of the fulcrum, i.e., the mindset with which we generate the power to change

Example would be to reframe your perspective about your employment:
◦ Job
◦ Career
◦ Calling

Achor: The Happiness Advantage
Principle #3: The Tetris Effect

This principle teaches us to retrain our brain to spot pattern of possibility and seize opportunities

Drivers of the Positive Tetris Effect:

◦ Happiness
◦ Gratitude
◦ Optimism

Example: List 3 positive things that happened in the last 24 hours

Achor: The Happiness Advantage
Principle #4: Falling Up

Finding the mental path that leads us up out of failure or suffering and teaches us to be happier and more successful because of it.

Example: Changing from a volume based to value based reimbursement system may threaten financial viability of a practice.

OR

This opportunity may help to develop a better model of care utilizing all the skills in a practice and improving patient access and experience.

Achor: The Happiness Advantage
Principle #5: The Zorro Circle

Self-awareness
Locus of control
Focus on one small goal

Achor: The Happiness Advantage
Principle #6: The 20 Second Rule

We like to follow the path of least resistance

The 20 Second Rule
- Lower the activation energy (or the effort to overcome inertia) for the habits you want to adopt

Corollary: Make the distracting activities more difficult
E.g., Remove shortcuts

Achor: The Happiness Advantage
Principle #7: Social Investment

Interactions with others are crucial.

Actively and constructively respond to good news.

Be present.

Achor: The Happiness Advantage
Towards a Mindset of Wellbeing

**(B-A SMARTER Goals and Objectives)**

**Goal:** To promote positivity for my personal health and wellness

<table>
<thead>
<tr>
<th><strong>Barriers</strong></th>
<th>Time, energy level</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accountability</strong></td>
<td>I will let my family know about my goal</td>
</tr>
<tr>
<td><strong>Specific</strong></td>
<td>Write down three good things for 14 days</td>
</tr>
<tr>
<td><strong>Measurable</strong></td>
<td>Journal entries</td>
</tr>
<tr>
<td><strong>Appropriate</strong></td>
<td>Will promote personal resilience</td>
</tr>
<tr>
<td><strong>Relevant</strong></td>
<td>Important personal strategy to prevent burnout</td>
</tr>
<tr>
<td><strong>Timely</strong></td>
<td>Yes – Short term measure within two weeks</td>
</tr>
<tr>
<td><strong>Evaluate</strong></td>
<td>Assess - progress and outlook after two weeks</td>
</tr>
<tr>
<td><strong>Re-evaluate</strong></td>
<td>Re-evaluate after a month</td>
</tr>
</tbody>
</table>

Dewey C. Vanderbilt Center for Professional Health  http://ww2.mc.vanderbilt.edu/cph
Towards a Mindset of Wellbeing: Personal Resilience and A Culture of Wellness

Fig. 2. Resilience skills and workplace factors.
Questions?

Contact me any time

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Consultation, references and original articles available on request