

By Trisha M. Rich and Lisa M. Kpor

Substance Abuse and Mental Health Concerns in the **Profession**

# Shattering the Silence, Overcoming the Stigma



In a March 24, 2016 Chicago Tribune piece, author Lisa F. Smith wrote:

*The morning before I got sober, my breakfast consisted of nearly a bottle of red wine and a few thick lines of cocaine. I got dressed, checked my teeth for lipstick and my nose for coke, put my laptop in its case and picked up the paper on my way out to work at my law firm.*

Earlier this year, author and former lawyer Brian Cuban published his tome, *The Addicted Lawyer*, which details his own story of addiction and depression. The New York Times recently provided

the latest article in a string of high-profile pieces that focus on substance abuse and mental health issues in the profession, in the widely-circulated “The Lawyer, the Addict.” In harrowing detail, the author recounts the tale of discovering her ex-husband’s lifeless body on his bathroom floor after he lost his battle with addiction.

Our high-stakes, high-stress profession provides a natural breeding ground for attorneys to develop both substance abuse problems and mental health issues. There is no shortage of anecdotal stories or articles that show that lawyers face these issues regularly. The challenge for us as a profes-

sion is to identify and provide treatment options for our fellow members of the bar and bench. The good news is, there are ways that lawyers and the legal community can help.

## **Substance Abuse and Mental Health Distress Among Attorneys Nationwide**

Recently, the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyers Assistance Programs funded a nationwide study on the rates of substance use and other mental health problems of attorneys. The study results were published in the January/February

ruary 2016 issue of the *Journal of Addiction Medicine*.

The report revealed “a concerning amount of behavioral health problems among attorneys in the United States.” Over 20% of attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders; other studies have concluded that this number is actually closer to 33%. In other white collar professions, the rate of alcohol abuse hovers closer to 12%. Lawyers working in law firms suffer from the highest rates of alcohol abuse. Junior associates consistently report having the highest rates of alcohol abuse, followed by senior associates and junior partners.

Reported levels of mental health concerns were also significant, with 28%, 19% and 23% of attorneys experiencing mild or high levels of depression, anxiety or stress, respectively. And 11.5% of participants reported having suicidal thoughts at some point during their career.

An overwhelming majority (nearly 75%) of attorneys participating in the Hazelden study skipped questions related to drug use. Commentators have surmised that participants were afraid to answer, fearing that they might jeopardize their law licenses or legal careers by answering questions regarding illicit drug use. Those who did complete the drug use portion of the survey admitted to using the following substances in the past 12 months:

Substance Abuse in the Past 12 Months	n (%)
Sedatives	2,015 (15.7%)
Marijuana	1,307 (10.2%)
Opioids	722 (5.6%)
Stimulants	612 (4.8%)
Cocaine	107 (0.8%)

The Hazelden study provides a stark reminder that members of our profession carry particular risk in these areas. Put simply, attorneys are more likely to be addicted to alcohol and drugs, depressed,

Year	% of Disciplined Attorneys with Impairment Issues
2012	22%
2013	25%
2014	27%
2015	27%
2016	31%

anxious, or suicidal than nearly any other white collar profession.

**Substance Abuse and Mental Health Distress Among Attorneys in Illinois**

There are no recent, comprehensive studies regarding the level of substance abuse and mental disorders among lawyers in Illinois. However, each year, the ARDC’s annual report outlines the percentage of sanctioned lawyers who identified one or more substance abuse or mental impairment issues. “An element frequently seen in discipline cases is that the lawyer... is impaired by an addiction to alcohol or other substance or suffers some type of mental disease or disorder.” See ARDC 2009 Annual Report.

From 1998-2002, the number of sanctioned lawyers with impairments rose from 24% for 1998-2002 to 32% for 2003-2007. That number peaked in 2009 at 34.6% before dropping considerably soon thereafter. Unfortunately, since 2012, the number of disciplined attorneys with impairment issues has steadily begun to rise yet again, as reflected in table above.

**Taking Action: The Illinois Supreme Court**

Data collected by the Illinois Supreme Court Commission on Professionalism between 2010 and 2016 illustrated that continuing legal education courses offered

on the topic of mental health and addiction remained at a relatively low and static level. The Commission believed that attorneys avoid participating and offering courses on these topics given the pervasive stigmas associated with mental illness and substance abuse. Many attorneys noted that attendance at such CLEs might convey to others that they have addictions or mental health problems.

Equipped with this knowledge and relying, in part, on the ABA-Hazelden study, the Commission recommended that the Supreme Court amend the CLE requirements to require that, within the six hours of professional responsibility CLE mandated in each reporting period, attorneys be required to devote at least one hour in the area of mental health and substance abuse.

On April 3, 2017, the Illinois Supreme Court adopted the recommendation and announced changes to Supreme Court Rule 794(d). Under the Amended Rule 794(d), all Illinois attorneys are now required to complete at least one hour of mental health and substance abuse CLE as part of their professional responsibility CLE requirement. In the Supreme Court’s press release, Robin Belleau, Executive Director of the Illinois Lawyers’ Assistance Program, was quoted as saying, “Education is the key to reducing the stigma attached

to these diseases and enhancing career satisfaction.”

### **Taking Action: Law Firms and Legal Employers**

On August 14, 2017, the National Task-Force on Lawyer Well-Being issued a comprehensive report entitled, “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change.” Members of the Task Force began by acknowledging that too many lawyers “experience chronic stress and high rates of depression and substance use.” The report sets forth precise recommendations for fostering lawyer well-being in various sectors of the legal community.

The Task Force makes three recommendations to legal employers (1) establish organizational infrastructure to promote well-being, (2) establish policies and practices to support lawyer well-being, and (3) provide training and education on well-being, including during new lawyer orientation.

To establish the recommended organizational infrastructure, the Task Force recommended that law firms and employers form a Lawyer Well-Being Committee or appoint a Well-Being Advocate. They should also consider routinely assessing the state of well-being among lawyers and staff in the workplace through surveys and burnout assessments.

With respect to policies, legal employers should establish confidential reporting procedures for lawyers and staff to internally notify the proper authority about their colleagues’ mental health or substance abuse. Similarly, employers should permit lawyers to seek confidential help for themselves without fear of being penalized or stigmatized. Legal employers should also actively combat social isolation and embrace social activities among their employees.

Finally, legal employers can provide training and education on topics related to well-being like meditation, yoga sessions and resilience workshops. Such programming should also be incorporated into new lawyer orientation schedules.

Those serving in any leadership capacity should review the detailed recommendations and discuss implementation of recommendations suitable for their office.

### **Taking Action: Responding to Signs of Substance Abuse and Mental Illness**

One of the more difficult issues that lawyers grapple with is identifying and acting upon substance abuse and mental health issues in other lawyers. However, as a profession, we need to continue to work to combat this uncomfortableness and do something proactive. This is important for many reasons, including the likelihood that these types of impairments can lead very quickly to serious ethical lapses.

In a 2016 article published by the D.C. Bar, one lawyer described his firm’s intervention, which was conducted with the help of D.C.’s local lawyers’ assistance program. The lawyer recounted that the intervention was “the best day of [his] life,” and said that he was “relieved.” *A Lawyer’s Addiction, A Firm’s Intervention*, D.C. Bar, June 23, 2016.

Many law firms have internal programs that can help to identify and assist lawyers facing such problems. Bar groups and lawyers’ assistance programs across the state can provide resources if someone in your firm or professional circle is suffering. The Illinois Lawyers’ Assistance Program (LAP) can help set up interventions and provide guidance on steps to take if someone you know needs help.

### **Taking Action: Voluntarily Participating in Treatment Groups**

One of the most critical segments of the ABA-Hazelden report indicated that the two most common barriers to treatment for alcohol and drug use among lawyers is “not wanting others to find out they needed help” and “concerns regarding privacy and confidentiality.”

There are many resources for attorneys with addictions and mental illnesses. The Illinois LAP is certainly one that lawyers should turn to first. LAP’s website ([www.illinoislap.org](http://www.illinoislap.org)) contains a wealth of infor-

mation on substance abuse and mental health issues, including online CLE programs, newsletters, brochures, videos, and contact information for over a dozen other support organizations. Most importantly, all information shared with LAP volunteers and trained interveners during interventions and related meetings is totally confidential, pursuant to Rule 1.6 of the Illinois Rules of Professional Conduct.

### **Taking Action: What You Can Do for Your Fellow Members of the Legal Community**

To make progress on this issue, the legal community needs to face this challenge head on. Mental health and substance abuse issues are epidemics in the legal community, and it is up to each one of us to do our part to try to help our fellow lawyers.

Perhaps the most important thing lawyers can do in the short term is to educate themselves about the signs of substance abuse and mental impairments. After all, we will not recognize these symptoms in others if we do not know what we’re looking for.

Next, lawyers should keep our eyes and ears open. Pay attention to the lawyers and legal professionals you work with and interact with. Actively look for signs of distress or substance abuse.

Finally, plenty of pro bono and volunteer opportunities exist for people who would like to become more involved. LAP welcomes volunteers, both those in recovery and those not in recovery, and LAP volunteers provide a variety of services. LAP provides volunteer training, and then volunteers can provide peer support to lawyers in need or serve on intervention teams to help legal professionals who may not yet realize that they have a problem. LAP volunteers also serve as educators, speaking and writing about addiction, substance abuse, and mental health issues.

The American Bar Association has CoLAP, or the ABA Commission on Lawyer Assistance Programs. CoLAP also has volunteer opportunities, aimed at fulfilling their mission: assuring that every judge, lawyer, and law student has access to

Learn more about how to identify mental health conditions, in both your colleagues and your clients, at this Pro Bono Week CLE program.

**Effective Representation of Individuals with Mental Health Conditions**

Friday, October 27, 12:00-2:00 pm

Holland & Knight LLP, 131 S. Dearborn St.

Mental health conditions can impact any individual, community, or legal case, but they are often ignored or misunderstood. Learn how to better advocate for and empower your pro bono clients by acknowledging both their legal and non-legal needs. This session will cover how to recognize and address challenges that may be rooted in mental health conditions, as well as best practices, strategies, and resources for addressing them in an effective and compassionate manner. Two hours of PR CLE credit subject to approval. Register at [www.chicagobar.org/probonoweeek](http://www.chicagobar.org/probonoweeek).

the support and assistance they need when confronting alcoholism, substance abuse disorders, or mental health issues.

**Conclusion**

The ABA-Hazelden report concluded by saying the “confidential nature of lawyer-assistance programs should be more widely publicized in an effort to overcome the

privacy concerns that may create barriers between struggling attorneys and the help they need.” The Illinois Lawyers’ Assistance Program is perhaps the single best resource in the state for lawyers suffering from substance abuse issues or mental health impairments, and LAP’s assistance is both free and confidential.

But we, fellow members of the bar, carry a burden in this area as well. It is incumbent upon all of us to keep our eyes and ears open and help the members of our profession when we can. Start by sharing this article with your colleagues. Or discuss it at your next lunch meeting. We have a collective responsibility to increase awareness and help to reduce the stigma of substance abuse and mental health problems. It is critical that as a profession, we confront these issues together, work to solve them together, and continue to move forward, together. ■

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