

NOT ALONE:
HELP AND HOPE FOR
THE IMPAIRED LAWYER

Presented by Bree Buchanan, JD
Director, Texas Lawyers' Assistance Program

Prepared by Chris Ritter, JD
Staff Attorney, Texas Lawyers' Assistance Program

www.texasbar.com/tlap
800-343-TLAP(8527)
512-427-1453

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ABSTRACT

Being a lawyer in Texas is not easy. This paper provides some basic information and tools to help lawyers understand and address the serious stress, mental health and substance use issues which so many attorneys face.

I. INTRODUCTION.

For those practicing law in Texas, it may be no surprise that lawyers suffer very high rates of mental health and substance use disorders. Lawyers are handed their clients' worst problems and are expected to solve them. They are supposed to be perfect or their reputations dwindle. If they make a mistake, it can be career changing or devastating to a client's life. There is little time to smell the roses, and when that opportunity comes, it is hard if not impossible to stop thinking about the fires which need putting out at the office. It is a tremendous understatement to say that the life of a lawyer can be very stressful and difficult.

Researchers have become interested in the strenuous life of a lawyer. They have found extraordinary differences between the mental health and substance use of attorneys compared to normal people. For example, a recent law review article noted that attorneys had the highest rate of depression of any occupational group in the United States.¹ A 1990 study

¹ See Lawrence S. Krieger and Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers*, 83 *GEO. WASH. U. L. REV.* 554 (2015), also published as FSU

indicated that attorneys suffer depression 3.6 times as often as the general population.²

With regard to alcohol use, researchers have found that attorneys have almost double the usual rate of problem drinking.³ One study found that before law school, only 8% reported alcohol problems. By the third year of law school, 24% reported a concern about having a drinking problem.⁴

In a startling 2014 law school wellness study of nearly 4,000 participating law students at 15 law schools across the country, 43% reported binge drinking in the past 2 weeks and 25% reported marijuana use in the past year.⁵ Additionally, 14% reported using prescription drugs in the past year without a prescription, 27% reported having an eating disorder, and 21% percent reported that they had considered suicide.⁶

Regarding suicide, lawyers have historically topped the list of all professionals in

College of Law, Public Law Research Paper No. 667(2014); see also Rosa Flores & Rose Marie Arce, Why are lawyers killing themselves?, CNN (Jan. 20, 2014, 2:42 PM), <http://www.cnn.com/2014/01/19/us/lawyer-suicides/>.

² See William Eaton ET AL., *Occupations and the Prevalence of Major Depressive Disorder*, 32 *J. OCCUPATIONAL MED.* 1079, 1085 tbl. 3 (1990).

³ See Justin J. Anker, Ph.D., *Attorneys and Substance Abuse*, Butler Center for Research (Hazelden 2014)(available at http://www.hazelden.org/web/public/document/bcrup_attorneyssubstanceabuse.pdf)

⁴ See Benjamin, G.A. H., Darling, E.J., and Sales, B. *The Prevalence Of Depression, Alcohol Abuse, And Cocaine Abuse Among United States Lawyers*. 13 *International Journal of Law and Psychiatry* at 233-246 (1990).

⁵ See 2014 ABA/Dave Nee Survey of Law Student Well-Being (co-piloted by David Jaffe and Jerry Organ and funded by the ABA Enterprise Fund and the Dave Nee Foundation).

⁶ *Id.*

suicide rates.⁷ They have been found to be twice as likely as the average person to commit suicide.⁸

Obviously, these are major problems. No one wants to be troubled by thinking about these issues, but they deserve real attention. This paper is an effort to provide some basic information and tools to help attorneys and others in contact the legal community understand and address the unique and substantial stress, mental health and substance use issues from which so many attorneys suffer.

II. DEFINING THE ISSUES.

While there are a large number of hardships faced by attorneys practicing law across the State of Texas, the following are some of the most common and most serious:

A. Anxiety Disorders.

Disorders relating to anxiety range from a general Panic Attack (which is Panic Disorder with or without Agoraphobia⁹) to specific phobias such as Social Anxiety Disorder (SAD), Obsessive-Compulsive Disorder (OCD), Posttraumatic Stress Disorder (PTSD), Acute Stress Disorder (ASD), Generalized Anxiety Disorder (GAD), Substance-Induced Anxiety

Disorder, anxiety due to a medical condition, and anxiety disorder not otherwise specified.

Generalized Anxiety Disorder is prevalent in the legal community, although most lawyers would argue that its symptoms sound like what one experiences every day when practicing law:

1. Excessive anxiety and worry (apprehensive expectation) which occurs more days than not for at least six months about a number of events or activities (such as work or school performance);
2. The person finds it difficult to control the worry;
3. The anxiety and worry are associated with three (or more) of the following six symptoms present for more days than not for the past 6 months:
 - a. restlessness or feeling keyed up or on edge;
 - b. being easily fatigued;
 - c. difficulty concentration or mind going blank;
 - d. irritability;
 - e. muscle tension;
 - f. sleep disturbance (difficulty falling or staying asleep or restless unsatisfying sleep);
4. The focus of anxiety or worry is not about another disorder (panic, social phobia, OCD, PTSD, etc);
5. The anxiety, worry or physical symptoms cause clinically significant distress or impairment in social, occupation or other important areas of functioning; and
6. The disturbance is not due to the direct physiological effects of a substance (drug of abuse, medication, etc.) or a general medical condition and does not exclusively occur during a mood disorder or psychotic disorder.¹⁰

B. Substance Use Disorders and Process Addictions.

Approximately 20% of the lawyers in the United States are affected by substance use disorders compared with about 10% of the

⁷ According to a 1991 Johns Hopkins University study of depression in 105 professions, lawyers ranked number one in the incidence of depression. See William Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 JOURNAL OF OCCUPATIONAL MEDICINE 11, Page 1079(1990).

⁸ A 1992 OSHA report found that male lawyers in the US are two times more likely to commit suicide than men in the general population. See <http://www.lawpeopleblog.com/2008/09/the-depression-demon-coming-out-of-the-legal-closet/>.

⁹ This is a type of anxiety disorder in which you fear and often avoid places or situations that might cause you to panic and make you feel trapped, helpless or embarrassed.

¹⁰ See www.depression-screening.org for self-assessment screening tests for anxiety disorders.

general public.¹¹ The substances used to excess include: alcohol, amphetamines, methamphetamine, caffeine, club drugs, cocaine, crack cocaine, hallucinogens, heroin, marijuana, myriad prescription drugs, nicotine, sedatives, steroids and a combination of all of the above (polysubstance abuse/dependency).

Substance use disorders span a wide variety of problems arising from substance use. The following are the 11 different criteria for diagnosing a substance use disorder under the recently established DSM-5¹²:

1. Taking the substance in larger amounts or for longer than meant to;
2. Wanting to cut down or stop using the substance but not managing to;
3. Spending a lot of time getting, using, or recovering from use of the substance;
4. Cravings and urges to use the substance;
5. Not managing to do what should be done at work, home or school, because of substance use
6. Continuing to use, even when it causes problems in relationships;
7. Giving up important social, occupational or recreational activities because of substance use;
8. Using substances again and again, even when it puts one in danger;
9. Continuing to use, even when known that there is a physical or psychological problem that could have been caused or made worse by the substance;
10. Needing more of the substance to get the effect wanted (tolerance); and/or

¹¹ See G.A.H. Darling et al., *The prevalence of depression, alcohol abuse, and cocaine abuse among United States lawyers*, 13 INTERNATIONAL JOURNAL OF LAW AND PSYCHIATRY 233-246 (1990).

¹² The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, abbreviated as DSM-5, is the 2013 update to the American Psychiatric Association's (APA) classification and diagnostic tool. In the United States, the DSM serves as a universal authority for psychiatric diagnosis. See AM. PSYCHIATRIC ASS'N, DIAGNOSTIC & STATISTICAL MANUAL OF MENTAL DISORDERS (5th ed. text rev. 2013) (hereinafter "DSM-5").

11. Development of withdrawal symptoms, which can be relieved by taking more of the substance.

The DSM-5 further provides a measure for determining the severity of a substance use disorder as follows:

MILD: Two or three symptoms indicate a mild substance use disorder

MODERATE: four or five symptoms indicate a moderate substance use disorder, and

SEVERE: six or more symptoms indicate a severe substance use disorder. Clinicians can also add "in early remission," "in sustained remission," "on maintenance therapy," and "in a controlled environment."¹³

Though they are not all classified as substance use disorders, TLAP works in increasing numbers with lawyers who also experience process addictions (compulsive or mood altering behavior related to a process such as sexual activity, pornography – primarily online, gambling, gaming, exercise, working, eating, shopping, etc.). The DSM-5 now recognizes Gambling Disorder as a behavioral addiction.

C. Depressive Disorders.

Texas lawyers often present with symptoms of depressive disorders, including Major Depression, Persistent Depressive Disorder (formerly referred to as Dysthymic Depression), Compassion Fatigue, and Depression Not Otherwise Specified.

1. Major Depressive Disorder: A major depressive episode is a period characterized by the symptoms of major depressive disorder when five or more of the following are present during the same two-week period:

¹³ *Id.* See also <http://www.alcoholscreening.org/> for an alcohol use disorder self-assessment test.

- a. depressed mood most of the day, nearly every day, as indicated by subjective report or observation made by others;
- b. markedly diminished interest or pleasure in all or most activities most of the day, nearly every day;
- c. significant weight gain or loss (when not dieting) or decrease or increase in appetite nearly every day;
- d. insomnia or hypersomnia nearly every day;
- e. psychomotor agitation or retardation nearly every day;
- f. fatigue or loss of energy nearly every day;
- g. feelings of worthlessness or excessive or inappropriate guilt nearly every day;
- h. diminished ability to think or concentrate, or indecisiveness, nearly every day; and/or
- i. recurrent thoughts of death, recurrent suicidal ideation without a plan, suicide attempt or a specific plan for completing suicide.¹⁴

2. Persistent Depressive Disorder: This is a disorder involving a depressed mood that occurs for most of the day, for more days than not, for at least 2 years with the presence of at least two of the following six symptoms:

- a. poor appetite or overeating;
- b. insomnia or hypersomnia;
- c. low energy or fatigue;
- d. low self-esteem;
- e. poor concentration or difficulty making decision; and/or
- f. feelings of hopelessness.

Additionally, for Persistent Depressive Disorder to be diagnosed, the person must not have been without the symptoms above for more than two months at a time during the 2-year period of the disturbance and must not have experienced a major depressive episode, manic episode or hypomanic episode in that time.

Finally, the disturbance must not occur exclusively during the course of a chronic psychotic disorder, must not be due to substance

¹⁴ See www.depression-screening.org for a self-assessment screening test for depression.

use or another medical condition, and must cause clinically significant distress or impairment in social, occupational or other important areas of functioning.¹⁵

3. Compassion Fatigue and Burnout.

Compassion fatigue has been defined as “a combination of physical, emotional, and spiritual depletion associated with caring for persons in significant emotional pain and physical distress.”¹⁶ Its components are the presence of Secondary Traumatic Stress (STS) in combination with a condition commonly referred to by lawyers as “Burnout”:

a. Secondary Traumatic Stress. Secondary Traumatic Stress is the presence of traumatic symptoms caused by indirect exposure to the traumatic material. The following are characteristics of this kind of trauma:

- (1). Symptoms are similar to Post Traumatic Stress Disorder except the information about the trauma is acquired indirectly from communicating with the person who personally experienced the traumatic event.
- (2). The traumatic event is persistently re-experienced in one or more of the following ways: recurrent and intrusive distressing recollections, dreams, acting or feeling as if the event is reoccurring.
- (3). Persistent avoidance of the stimuli associated with the trauma (the client, the case, the deposition, specific facts, etc.) and numbing of general responsiveness develops.
- (4). Persistent symptoms of increased arousal such as difficulty falling or staying asleep, irritability or outbursts of anger, difficulty concentrating, hyper vigilance, or exaggerated startle response.

b. Burnout. Burnout is the term used by many lawyers to describe the psychological syndrome of emotional exhaustion, depersonalization and

¹⁵ See DSM-5.

¹⁶ Barbara Lombardo & Carol Eyre, *Compassion Fatigue: A Nurse's Primer*, 16 THE ONLINE JOURNAL OF ISSUES IN NURSING 1 (2011).

reduced personal accomplishment. Burnout symptoms include:

increased negative arousal, dread, difficulty separating personal and professional life, inability to say “no,” increased frustration, irritability, depersonalization of clients and situations, diminished enjoyment of work, diminished desire or capacity for intimacy with family and friends, diminished capacity to listen and communicate, subtle manipulation of clients to avoid them or painful material, diminished effectiveness, loss of confidence, increased desire to escape or flee, isolation.

If you are concerned about suffering from Compassion Fatigue, you may be interested in taking the self-assessment test at <http://www.compassionfatigue.org/pages/cfassesment.html>.

D. Suicide. There is no need to define suicide, but because it is such a serious matter and so prevalent among lawyers, it deserves further discussion.

A recent study by the Air Force (2010) found that suicide prevention training included in all military training reduced the mean suicide rate within the population studied by an unprecedented 21%.¹⁷ In light of this recognition of the major impact training and education can have on suicide, it is appropriate that TLAP has made it a priority since 1987 to inform lawyers about this issue. If you want to know how to carry on a conversation about suicide, how and when to get a client, friend or colleague to professional help, or how to handle a suicide emergency, explore the resources on TLAP’s website at www.texasbar.com/TLAP.¹⁸

¹⁷ See Eric D. Caine, *Suicide Prevention Is A Winnable Battle*, 100 *AMERICAN JOURNAL OF PUBLIC HEALTH* S1 (2012).

¹⁸ If you or anyone you know is in need, the National Suicide Prevention Hotline is available 24/7 at 1(800)273-8255(TALK).

III. TEN HELPFUL TIPS FOR LAWYERS DEALING WITH STRESS, MENTAL HEALTH, OR SUBSTANCE USE ISSUES.

When dealing with the spectrum of problems faced by Texas attorneys, there is no single solution which will take care of everything, but many tools are useful for both mental health and substance abuse issues. The following are ten practical tools which any affected attorney should consider using for prevention or to help solve a problem:

1. Take Action! Whether a lawyer is living in the darkness of depression or lost in a routine of substance abuse, there is a solution but it depends on *action*. Taking action requires courage. By expressing the need for help to someone, the process to peace begins. TLAP is available for any lawyer to confidentially share a desire to change the way he or she is living and to assist the person in getting the help needed.¹⁹ Once an attorney is able to take even the smallest action toward solving their problem, life gets better quickly.

a. Get Professional Help. Lawyers are slow to utilize professional assistance, perhaps due to fear of what people might think, how it might affect their practice, or being ashamed of not being able to figure it out alone. It has been said that people cannot think their way out of bad thinking. Of all people, lawyers know that using a professional who specializes in solving a particular problem is wise.

If what you are doing is not working and you would like to confidentially get professional help but do not already know a suited professional, TLAP can help guide you to licensed professionals who are a good fit for you

¹⁹ TLAP is afforded confidentiality of communications through the Texas Health and Safety Code Chapter 467.

and who are experienced in working with lawyers.

b. Take The Steps Which Are Suggested. Having discovered and accepted the fact that a problem exists, it is important to accept help from people who have experience in solving that problem. Once a plan is made, it is important to accept and follow the steps suggested for getting better. Professionals and doctors may prescribe certain actions to address your problem and which may bring about major changes in the way you function and feel. Likewise, there are many 12 Step programs²⁰ which provide guidance for recovery from a variety of problems and which suggest specific actions which bring about change in the way a person thinks and lives so as to overcome the “problem.”

c. Get proactive. Know that this profession can wear you out. So, get an annual physical. Take a vacation (or “stay-cation”). Develop a team of experts for yourself: peer support, primary care physician, therapist and psychiatrist. Act now, do not wait to address your burnout, sense of

²⁰ The following are some of the many 12 Step Programs: AA - Alcoholics Anonymous; ACA - Adult Children of Alcoholics; Al-Anon/Alateen, for friends and families of alcoholics; CA - Cocaine Anonymous; Co-Anon, for friends and family of addicts; CoDA - Co-Dependents Anonymous, for people working to end patterns of dysfunctional relationships and develop functional and healthy relationships; DA - Debtors Anonymous; EA - Emotions Anonymous, for recovery from mental and emotional illness; FA - Food Addicts in Recovery Anonymous; FAA - Food Addicts Anonymous; GA - Gamblers Anonymous; Gam-Anon/Gam-A-Teen, for friends and family members of problem gamblers; MA - Marijuana Anonymous; NA - Narcotics Anonymous; NicA - Nicotine Anonymous; OA - Overeaters Anonymous; OLGA - Online Gamers Anonymous; PA - Pills Anonymous, for recovery from prescription pill addiction; SA - Smokers Anonymous; SAA - Sex Addicts Anonymous; and WA - Workaholics Anonymous.

dread, lingering grief, daily fear, or excessive substance use intended to numb all of the above.

d. Call TLAP. The only way to ensure that the situation changes for you is to take action. It may be hard to figure out what action to take. If you are wondering what to do, TLAP's experienced and professional staff is available by phone 24/7 to answer your questions about substance abuse, mental health and wellness issues. Your calls will be to attorneys with resources and helpful ideas to better your life. You can call TLAP at any time at 1-800-343-TLAP(8527). By statute, all communications are confidential pursuant to the Texas Health and Safety Code Chapter 467. TLAP services include confidential support, referrals, peer assistance, customized CLE and education, mandated monitoring, and volunteer opportunities. Without proper intervention and treatment, substance abuse and mental illness are both chronic health conditions that worsen over time. Please call and find out how TLAP can help.

2. Set Boundaries. Boundaries are important for a person practicing self-care. Personal or professional boundaries are the physical, emotional and mental limits, guidelines or rules that you create to help identify your responsibilities and actions in a given situation and allow you take care of yourself. They also help identify actions and behaviors that you find unacceptable. They are essential ingredients for a healthy self and a healthy law practice. In essence, they help define relationships between you and everyone else.

How does one establish healthy boundaries? Know that you have a right to personal and professional boundaries. Set clear and decisive limits and let people know what you expect and when they have crossed the line, acted inappropriately or disrespected you. Likewise, do not be afraid to ask for what you

want, what you need and what actions to take if your wishes are not respected. Recognize that other's needs and feelings and demands are not more important than your own. Putting yourself last is not always the best – if you are worn out physically and mentally from putting everyone else first, you destroy your health and deprive others of your active engagement in their lives. Practice saying no and yes when appropriate and remain true to your personal and professional limits. Do not let others make the decisions for you. Healthy boundaries allow you to respect your strengths, your abilities and your individuality as well as those of others.²¹

3. Connect with Others. Connecting with others who know first-hand what you are going through can help reduce the fear and hopelessness that is often connected to mental health and substance use disorders. A growing body of research shows that the need to connect socially with others is as basic as our need for food, water and shelter.²² Fortunately, there are support groups available for lawyers. TLAP and the Texas Lawyers Concerned for Lawyers²³ programs have joined together to offer and support lawyer self-help and support groups around the state. Groups are active around the

state in major cities and other areas (Austin, Beaumont, Corpus Christi, Dallas, El Paso, Ft. Worth, Houston, Lubbock, Rio Grande Valley, and San Antonio). These groups operate to support lawyers dealing with a variety of concerns, primarily stress, anxiety, substance use, addictions, and depression. A list of active groups and local contacts is available at www.texasbar.com/TLAP.

Additionally, TLAP's resources include a dedicated and passionate group of hundreds of volunteers who can connect with a lawyer suffering from a mental health or substance use issue. These volunteers are lawyers, judges and law students who are committed to providing peer assistance to their colleagues and who have experienced their own challenges, demonstrated recovery, and are interested in helping others in the same way they were helped. TLAP volunteers uniquely know how important confidentiality is to the lawyer in crisis and are trained to help in a variety of ways: providing one-on-one peer support and assistance, sharing resources for professional help, introducing others to the local support groups and other lawyers in recovery, speaking and making presentations and a host of other activities.

4. Practice Acceptance. Acceptance is a big, meaningful word which encompasses a variety of important tools for a person seeking a positive life change. First, being able to honestly accept the place where you are at present is an important step in making a change. Until a person is able to accept that the future is not here yet and that the past is gone, he or she cannot be present to focus on what is within grasp that day.

Furthermore, accepting that something is wrong is a step many lawyers resist. Perfectionism and pride play a role in learning to be a good lawyer, but the effects of those can be limiting on a person who needs to get honest

²¹ This section along with many resources herein were originally included in a paper written by Ann D. Foster, JD, LPC-Intern entitled *Practicing Law and Wellness: Modern Strategies for the Lawyer Dealing with Anxiety, Addiction and Depression*, which is available online at www.texasbar.com/AM/Template.cfm?Section=Wellness1&Template=/CM/ContentDisplay.cfm&ContentID=15158, and is included herein with her permission.

²² See MATTHEW LIEBERMAN, *SOCIAL: WHY OUR BRAINS ARE WIRED TO CONNECT* (Crown Publishers 2013).

²³ Texas Lawyers Concerned for Lawyers (TLCL), a volunteer organization associated with the State Bar of Texas Lawyers' Assistance Program (TLAP), helps those in the legal profession who are experiencing difficulties because of alcohol and/or substance abuse, depression, anxiety and other mental health issues.

about a difficulty.²⁴ Acceptance of the fact that you have an issue for which help is needed is a major part of solving the problem.

5. Learn to Relax. For attorneys, relaxing can seem almost impossible. The mind is an instrument, but sometimes it seems that the instrument has become the master. Breathing exercises, meditation, and mindfulness²⁵ practices have been very effective for attorneys who need to relax, or “quiet the mind.” Much has been written to express how impactful these tools can be to bring about peace in the life of an attorney.²⁶

There are countless variations of breathing exercises and resources to learn how to build control of your thoughts and worries.²⁷ TLAP’s website includes links to several of these wellness resources at www.texasbar.com/TLAP.

²⁴ See Brené Brown’s Ted Talk on “The price of invulnerability”:

https://www.youtube.com/watch?v=UoMXF73j0c&list=PLvzC42i6_rJJkyzWp1hyqUytxBBvNKgl6. Dr. Brown is a research professor at the University of Houston Graduate College of Social Work where she has spent the past 10 years studying courage, shame and authenticity.

²⁵ See Rhonda V. Magee, *Making the Case for Mindfulness and the Law*, 86 NW Lawyer 3 at p. 18 (2014)(available online at: http://nwlawyer.wsba.org/nwlawyer/april_may_2014/?pg=20#pg20).

²⁶ See e.g., STEVEN KEEVA, TRANSFORMING PRACTICES: FINDING JOY AND SATISFACTION IN THE LEGAL LIFE (1999); Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Clients*, 7 HARV. NEGOT. L. REV. 1 (2002); Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535 (2010).

²⁷ Guided breathing exercises and meditations: <http://marc.ucla.edu/body.cfm?id=22>; Meditate at your desk: <https://www.youtube.com/watch?v=nQjMJpQyj8E&feature=youtu.be>;

Suggestion: Calendar what you want to do. Wishing and wanting to change are important ingredients for change but action is important. If there is something that you want to do, what would be the first thing to accomplish to move toward that goal? Calendar it. First things really do come first. Try it!

Finally, in order to relax, cultivate interests unrelated to the practice of law. This will provide you with opportunities to take a well-deserved break from your work, and, quite frankly, helps to make you a far more emotionally well-developed and interesting person. You will also meet a host of new friends and contacts who will help give some additional perspective about your life and your choices.

6. Practice Positive Thinking.

There is a growing body of research showing the powerful positive effects of positive thinking and positive psychology.²⁸ The goal of this movement is to help people change negative styles of thinking as a way to change how they feel.

Suggestion: Make a Gratitude List. One way to practice positive thinking is to focus your attention on what is right in your life. This is a proven and effective way to escape the sometimes overwhelming thoughts of all of the things that may seem to be wrong. Become conscious of your gratitude. Studies have shown that taking the time to make a list of things for which you are grateful can result in significant improvement in the way you feel and the amount of happiness you experience.²⁹ Try making a list of three to five things for which

²⁸

See <http://www.ppc.sas.upenn.edu/publications.htm>.

²⁹ See Steven Toepfer, *Letters of Gratitude: Improving Well-Being through Expressive Writing*, J. OF WRITING RES. 1(3) (2009).

you are grateful each morning for a week and see what happens.

7. Help Others. Service work sounds like just one more thing to add to the list of things you do not have time for, but this is something helpful for you, so consider really making time to do. Obviously, until you secure your oxygen mask, you should not attempt to rescue others, but lawyers have been found to gain “intense satisfaction” from doing service work,³⁰ and studies show it helps improve mental health and happiness.³¹

For example, a researcher named Dr. Martin Seligman highlighted this theory in an experiment called “Philanthropy versus Fun,” Seligman divided up his psychology students into two groups. The first partook in pleasurable past times such as eating delicious food and going to the movies. The second group participated in philanthropic activities, volunteering in feeding the homeless or assisting the physically handicapped. What Seligman found was that the satisfaction and happiness that resulted from volunteering was far more lasting than the fleeting reward of food or entertainment.³² Even if you feel that it is being

done for your own selfish gain, try it anyway and before long you will experience a heightened sense of peace, joy and satisfaction in life.

Service Work Suggestions: Try to do something kind for someone at least once a week. Try something small. If you have the time, volunteer your time to help another. Do not make the activity about you – it should be about giving to others. Whatever measure you take, large or small, remember that it will not only help others, but it will also serve to build your self-esteem, help put your life in perspective, and help to develop and maintain a vital connection with the community in which you live.³³

8. Live in the Present. This cliché phrase may be one of the most under-appreciated tools for the legal profession of any listed here. As lawyers, this sounds like a joke. Deadlines loom. Trials approach. How can this work?

Try it. Consider during your day the things which you are able to do that day. Live it “only for today.” If nothing can be done about something on your mind in the day you are in, return your focus to the things you can do that day. If you are not happy with your circumstance, what incremental thing can you do today about it? Nothing? Then move on and enjoy your today. As one attorney put it, “Be where your feet are.” The Serenity Prayer is something which can serve as a means to practice this “one day at a time” method: “God, grant me the serenity to accept the things I

³⁰ See Lawrence S. Krieger and Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers*. *GEO. WASH. U. L. REV.* 83 (2015 Forthcoming), FSU College of Law, Public Law Research Paper No. 667(2014) (citing Bruno Frey & Alois Stutzer, HAPPINESS AND ECONOMICS: HOW THE ECONOMY AND INSTITUTIONS AFFECT HUMAN WELL-BEING at 105 (2002)).

³¹ See also the following video of Dr. Charles Raison, the Assistant Professor of the Department of Psychiatry and the Director of the Mind/Body Program at Emory University, in which Dr. Raison talks about happiness and what causes it: <http://www.youtube.com/watch?v=OorvsH07zeg>

³² See Karen Salmansohn, THE BOUNCE BACK BOOK (Workman Publ'g 2008), partially available online at <http://www.psychologytoday.com/blog/bouncing-back/201003/the-world-taking-it-outta-you-seligman-study-shows-how-you-can-cheer-givin>. See also

Martin E. P. Seligman, *Authentic Happiness* (Simon & Schuster 2002).

³³ Ann D. Foster, JD, LPC-Intern entitled *Practicing Law and Wellness: Modern Strategies for the Lawyer Dealing with Anxiety, Addiction and Depression, which is available online at* www.texasbar.com/AM/Template.cfm?Section=WellnessI&Template=/CM/ContentDisplay.cfm&ContentID=15158.

cannot change, The courage to change the things I can, And the wisdom to know the difference.”

9. Expand your Spirituality or Consciousness. Whatever the variety, research has shown that expanding this area of life makes a major impact of the wellbeing of people, and particularly lawyers.³⁴ Spirituality has many definitions, but at its core spirituality brings context to our lives and the struggles within them. For many lawyers dealing with the legal world and its many issues, expanding the spiritual life is invaluable. Other lawyers who do not prefer religion or traditional spiritual practices often find great benefit to expanding their consciousness by means of an expansion of an involvement in natural, philosophical, or other pursuits which bring about the contemplation of the reality of existence.

10. Keep it Real. Recovering from a mental health or substance abuse problem requires honesty. If you begin to feel like you should be better than you are, but you are embarrassed to let others down by admitting your true condition, you are doing yourself a major disservice. Commit to “keeping it real.” Be honest with someone about how you are doing so that you do not lose touch with those who can help.

One way to develop or ensure honesty with ourselves is to do an inventory. We all know that any business that fails to take inventory is bound to fail. People are no different. Assessing your life by taking an inventory or snapshot of your daily life can give you an idea of where you are and -- of equal importance -- where you want to go. Small corrections in allocation of time today will help prevent an out-of-balance life tomorrow.

³⁴ See Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Clients*, 7 HARV. NEGOT. L. REV. 1 (2002).

Here is an exercise to help with this type of inventory: Draw a circle and divide the circle into wedges representing the time spent on your daily activities. Are you happy with the allocation of time and energy? Are there areas where you spend the majority of your time and you wish you'd spend less? Are there areas where you devote minimal or no time but wish you did? There is no right or wrong allocation. After all, it is your life and your responsibility. If your inventory highlights areas of concern, what can you do to change them? Or, better said, what would your perfect day's circle look like? Would there be enough time for all-important life activities: work, family, self, exercise, friends, hobbies, spiritual practices, meditation, fun, sex and sleep? What's really important to you?³⁵

IV. HELP AND HOPE: TLAP -- A SAFE PLACE TO GET HELP

Why TLAP?

As you know, practicing law can be an awesome adventure, a wonderful walk, a paralyzing fear factory, a sea of depressing doldrums, or all of the above in the same week, depending on your circumstances, lifestyle and perspective. Research shows that perspective and mental wellbeing are paramount to lawyer happiness.³⁶ Mark Twain once said, “There has been much

³⁵ Ann D. Foster, JD, LPC-Intern entitled *Practicing Law and Wellness: Modern Strategies for the Lawyer Dealing with Anxiety, Addiction and Depression*, which is available online at www.texasbar.com/AM/Template.cfm?Section=WellnessI&Template=/CM/ContentDisplay.cfm&ContentID=15158, portions included herein with her permission.

³⁶ See Lawrence S. Krieger and Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers*. 83 GEO. WASH. U. L. REV. 554 (2015).

tragedy in my life; at least half of it actually happened.” This sort of disconnection between perspective and reality is common for attorneys. The Texas Lawyers Assistance Program (TLAP) is a powerful tool for lawyers, law students, and judges to restore or keep wellness to have a hopeful and happy life practicing law.

Background.

TLAP began in 1989 as a program directed toward helping attorneys suffering from alcoholism. While that role remains important for TLAP (attorneys have twice the rate of alcoholism as the general population), the mission is now much broader.

Currently, approximately half of all assistance provided by TLAP is directed toward attorneys suffering from anxiety, depression, or burnout. Additionally, TLAP helps lawyers, law students, and judges suffering problems such as prescription and other drug use, cognitive impairment, eating disorders, gambling addictions, codependency, and many other serious issues. These problems³⁷ are very treatable, and TLAP’s staff of experienced attorneys can connect a person-in-need to a variety of life-changing resources.

TLAP is a Safe Place to Get Help.

It is essential to emphasize and repeat this for those who may be worried: TLAP is a safe place to get help. It is confidential and its staff can be trusted.

TLAP’s confidentiality was established under Section 476 of the Texas Health & Safety Code. Under this statute, all communications by any person with the program (including staff, committee members, and volunteers), and all records received or maintained by the program, are strictly protected from disclosure. TLAP doesn’t report lawyers to discipline!

Call TLAP to Get a Colleague Help.

While the majority of calls to TLAP are self-referrals, other referrals come from partners, associates, office staff, judges, court personnel, clients, family members, and friends. TLAP is respectful and discreet in its efforts to help impaired lawyers who are referred, and TLAP *never* discloses the identity of a caller trying to get help for an attorney of concern.

Furthermore, calling TLAP about a fellow lawyer in need is a friendly way to help an attorney with a problem without getting that attorney into disciplinary trouble. Texas Health & Safety Code Section 467.005(b) states that “[a] person who is required by law to report an impaired professional to a licensing or disciplinary authority satisfies that requirement if the person reports the professional to an approved peer assistance program.” Further, Section 467.008 provides that any person who “in good faith reports information or takes action in connection with a peer assistance program is immune from civil liability.” *Id.*

³⁷ See www.texasbar.com/TLAP for resources for most of these problems.

What TLAP Offers.

Once a lawyer, law student, or judge is connected to TLAP, the resources which can be provided directly to that person include:

- direct peer support from TLAP staff attorneys;
- self-help information;
- connection to a trained peer support attorney who has overcome the particular problem at hand and who has signed a confidentiality agreement;
- information about attorney-only support groups such as LCL (Lawyers Concerned for Lawyers – weekly meetings for alcohol, drug, depression, and other issues) and monthly Wellness Groups (professional speakers on various wellness topics in a lecture format) which take place in major cities across the state;
- referrals to lawyer-friendly and experienced therapists, medical professionals, and treatment centers; and
- assistance with financial resources needed to get help, such as the Sheeran-Crowley Memorial Trust which is available to help attorneys in financial need with the costs of mental health or substance abuse care.

In addition to helping attorneys by self-referrals or third-party referrals, TLAP staff attorneys bring presentations to groups and organizations across the state to educate attorneys, judges, and law students about a variety of topics, including anxiety, burnout, depression, suicide prevention, alcohol and drug abuse, handling the declining lawyer, tips for general wellness, and more. In fact,

TLAP will customize a CLE presentation for your local bar association.

Finally, TLAP provides an abundance of information about wellness on its website. The site offers online articles, stories, blogs, podcasts, and videos regarding wellness, mental health, depression, alcohol and drugs, cognitive impairments, grief, anger and many other issues. Check the site out for yourself at www.texasbar.com/TLAP.

V. FINANCIAL HELP: THE SHEERAN-CROWLEY MEMORIAL TRUST

It is funny how society assumes lawyers are all rich. A 2014 CNN report indicated that, while law school debt that year averaged \$141,000, the average starting U.S. income for attorneys was \$62,000.³⁸ Considering the financial strain many lawyers face and the significant impairment of an attorney struggling with a mental health or substance use problem, you might see how plenty of lawyers cannot afford to get help.

For this reason, in 1995, a small group of generous Texas lawyers created The Patrick D. Sheeran & Michael J. Crowley Memorial Trust. These lawyers knew that about 20% of members of the bar suffer from alcohol or drug problems and that about the same percentage suffer from mental health issues such as depression,

³⁸ See Ben Brody, *Go to Law School. Rack Up Debt. Make \$62,000.* CNN (July 15, 2014), <http://money.cnn.com/2014/07/15/pf/jobs/lawyer-salaries/>.

anxiety, and burnout. They also knew that, if untreated, these problems would eventually devastate a lawyer's practice and life. With proper treatment and care, however, many of these lawyers can be restored to an outstanding law practice and a healthy life.

The Trust provides financial assistance to Texas lawyers, law students, and judges who need and want professional help for substance abuse, depression and other mental health issues. To be approved, the applicant must be receiving services from TLAP and must demonstrate a genuine financial need.

Once an individual's application for assistance is approved by the Trustees, grants are made payable directly to the care provider(s). To help protect the corpus of the Trust and to give applicants a significant stake in their own recovery, all applicants are asked to make a moral commitment to repay the grant. Beneficiaries can receive up to \$2,000 for outpatient counseling, medical care, and medication, \$3,000 for intensive outpatient treatment and medication, and \$8,000 for inpatient treatment.

The Trust is the only one of its kind in Texas that serves both substance abuse and mental health needs. It has been funded contributions from lawyers and organizations, including the State Bar of Texas, the Texas Center for Legal Ethics, and the Texas Bar College. The Trust is administered by TLAP staff and controlled by a volunteer Board of Trustees who are

also members of Texas Lawyers Concerned for Lawyers, Inc., a non-profit corporation that works closely with TLAP.

If you need assistance, or if you would like to help other attorneys in need by contributing to this trust, please contact TLAP at 1-800-343-TLAP (8527)! Also, for more information about the trust or about how to make contributions, see the form attached in the appendix or click here: [Sheeran-Crowley Memorial Trust Web Page](#).

VI. CONCLUSION: Take Action, Call TLAP!

A call to TLAP will connect you to a staff attorney around the clock. A recent study indicated that the number one reason law students in need of help would not seek it was the fear of bad professional consequences (63% indicated this fear) such as losing a job, not being able to take the bar, etc.³⁹ There is **no professional** consequence for calling TLAP, but there will be a *personal* consequence for failing to do so if you need help!

Lawyers suffering from mental health and substance use disorders must take action to get better. As Mahatma Gandhi (a lawyer in his younger years) said, "The future depends on what you do today." If you or a lawyer, law student, or judge you know needs help, TLAP is available to provide guidance and support at 1(800)343-TLAP(8527).

³⁹ See 2014 ABA/Dave Nee Survey of Law Student Well-Being (co-piloted by David Jaffe and Jerry Organ and funded by the ABA Enterprise Fund and the Dave Nee Foundation).

APPENDIX 1:

MORE ABOUT THE SHEERAN – CROWLEY MEMORIAL TRUST AND DONATION FORM

The Patrick D. Sheeran & Michael J. Crowley Memorial Trust

Trustees: Mike G. Lee, Dallas; Dicky Grigg, Austin; Bob Nebb, Lubbock

In 1995, a small group of Texas lawyers created The Patrick D. Sheeran & Michael J. Crowley Memorial Trust. They were compelled to do so by the grim knowledge that approximately 15-20% of Texas lawyers suffered from mental illnesses such as substance abuse and depression and that these illnesses, if left untreated, directly impacted a lawyer's practice in myriad negative ways. They also knew that, with proper treatment and mental health care, a lawyer could be restored to a productive life and the ethical practice of law.

The Trust is specifically designed to provide financial assistance to Texas attorneys who need and want treatment for substance abuse, depression and other mental health issues. It serves those whose illnesses have impacted their financial situation and reduced their ability to pay or maintain insurance for necessary mental health care.

All applicants must be receiving services from the Texas Lawyers' Assistance Program and must demonstrate financial need. Once an individual's application for assistance is approved by the Trustees, grants are made payable only to the treatment or provider, after services have been rendered. To help protect the corpus of the Trust and to give applicants a significant stake in their own recovery, all applicants are asked to make a moral commitment to repay the grant. No applicant may be allowed additional grants unless previous grants have been repaid.

The Trust is the only one of its kind in Texas that serves both substance abuse and mental health needs and is currently funded solely by contributions from lawyers. Since 2000, the Trust has raised just over \$68,000. Since 2006, the Trust has granted an average of \$10,000 per year to lawyers in need of mental health services who could not otherwise afford them, but the need is much greater.

Mental health care is expensive: a psychiatrist charges an average of \$300 per hour and a master's level psychotherapist charges \$100 per hour. A three month supply of medication to treat depression may cost up to \$300. A typical out-patient eight week substance abuse treatment costs \$5000, and in-patient substance abuse treatment for one month starts around \$12,000. The good news is that lawyers who follow a recommended course of treatment usually respond well and often return to practice relatively quickly. Your generous donation could provide a month of therapy; a three month supply of medication; an out-patient course of treatment; a one month course of in-patient treatment or even more. There are no administrative fees or costs, and volunteer Trustees serve pro bono, to insure that all contributions provide truly valuable and much needed assistance.

In 2010, *The Texas Bar Journal* published the story of a lawyer who received funds from the Trust. Success speaks more eloquently than any fundraiser's plea:

“Approximately two years ago I found myself in a deep dark place from which I could see no hope for the future. The Sheeran Crowley Trust provided that hope.... I decided that rehab was appropriate for my situation. The next hurdle was financial.... I was totally surprised that there was some financial assistance available to help with the cost of treatment. I never expected financial assistance via a trust specifically set up to help lawyers like me.... Without the Sheeran Crowley Trust I don’t know where I would be today. They provided the financial backing to get me the help that I needed. I learned the rest was up to me. I’ve remained sober since my release from rehab and I have my law practice back. It’s been almost two years now. Thank God for TLAP. Thank God for the Sheeran Crowley Trust.”

The Trust is named in honor of the first Director of the State Bar of Texas’ Lawyers’ Assistance Program, Patrick D. Sheeran, and Michael J. Crowley, one of the founders of TLAP, who, during their lives, helped many attorneys to achieve recovery from alcohol, drugs, depression and other mental health issues. The Trust is supported by the Texas Lawyers’ Assistance Program and administered by a volunteer Board of Trustees who are also members of Texas Lawyers Concerned for Lawyers, Inc., a non-profit corporation that works closely with TLAP.

The Trust needs your help through your tax deductible contributions. For more information, please contact Bree Buchanan at 800-343-8527 or simply send a check made payable to the Trust, along with a copy of the accompanying form to: The Sheeran-Crowley Trust, c/o Bree Buchanan, P. O. Box 12487, Austin, Texas 78711.

***Yes, I want to make a difference! Please accept my donation to
The Patrick D. Sheeran & Michael J. Crowley Memorial Trust.***

_____ \$100	_____ \$5000
_____ \$300	_____ \$12,000
_____ \$1000	_____ Other

- I prefer to remain anonymous.
- This gift is in memory / honor of: _____.
- I have remembered the Trust in my will.
- I have purchased a life insurance policy naming The Patrick D. Sheeran & Michael J. Crowley Memorial Trust as beneficiary.

The Patrick D. Sheeran & Michael J. Crowley Memorial Trust is a 501(c)(3) charitable organization.

Thank you for your generous contribution!

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