

We Are Losing Too Many Lawyers



Jennifer M. Grieco

In January, I attended the National Conference of Bar Presidents as part of the American Bar Association mid-year meeting. ABA President Robert Carlson spoke about his bar-year initiatives, one of which is lawyer wellness. Carlson, who is from Butte, Montana, said that lawyers in Montana commit suicide every year.

Montana is not unique. Fifteen attorneys have committed suicide in Kentucky since 2010. There were six attorney suicides in 18 months in South Carolina, and one reported lawyer suicide every month for a year in Oklahoma.¹

I wish I could argue that being a leader in the legal profession is a guarantee of happiness and coping skills, but Ervin Gonzalez was former president of the Dade County Bar Association and a former member of the Florida Bar Board of Governors. A personal-injury lawyer with more than 33 verdicts of at least \$1 million, Gonzalez suffered for years with depression and took his own life at 57.²

Family members are now speaking out about the need to recognize and address mental-health concerns in our profession

The views expressed in the President's Page, as well as other expressions of opinions published in the *Bar Journal* from time to time, do not necessarily state or reflect the official position of the State Bar of Michigan, nor does their publication constitute an endorsement of the views expressed. They are the opinions of the authors and are intended not to end discussion, but to stimulate thought about significant issues affecting the legal profession, the making of laws, and the adjudication of disputes.

and our culture. Last October, 42-year-old attorney Gabe MacConaill took his own life, one month before a trip to celebrate his 10-year wedding anniversary. In a moving article, "Big Law Killed My Husband: An Open Letter from a Sidley Partner's Widow," MacConaill's wife, Joanna, described him as happily married and successful despite occasional struggles with binge drinking. She noted that before his death, he was working himself to the point of exhaustion. He refused to check into a hospital to deal with his failing health because he believed doing so would be the end of his career. "[H]e would rather die than live with the consequences of people thinking he was a failure," she said.³ Too many of us are wired this way.

Two weeks after the bar presidents' meeting, Michigan's legal community suffered its own tragic loss with the death of Travis Weber, a member of the State Bar of Michigan Board of Commissioners. To say the news was shocking would be an understatement. The 33-year-old Weber was former legal counsel to Governor Snyder and had just started a new position with Warner Norcross + Judd.⁴ He was intelligent and witty, with a wonderful smile and so much to offer the profession.

It's time to recognize the magnitude of this epidemic. Suicide rates have increased

by 30 percent over the last century.⁵ And lawyers, who experience depression and substance abuse at rates higher than the general population, are at a greater risk for suicide.⁶

The statistics

Depression affects 28 percent of our profession. Our DNA contributes to our propensity toward depression and professional burnout.⁷ Lawyers are competitive and often believe everything must be perfect, or else we are failures.⁸ We are problem solvers and fixers in a profession that is, by its very nature, adversarial, and where the results can be win or lose.⁹ Many of us suffer from the secondary trauma that arises from dealing with the emotions, stress, anger, and frustration of our clients.¹⁰ The profession attracts workaholics and requires long hours, resulting in a common pattern of stress leading to depression, which then triggers substance abuse, marital dysfunction, or other destructive behavior.¹¹

Too many lawyers manage their depression by self-medicating with drugs and alcohol. Between 21 and 36 percent of licensed, employed attorneys qualify as problem drinkers, and 19 percent of lawyers demonstrate symptoms of clinical anxiety.¹² Lawyers in their first 10 years of practice have the highest incidence of problem drinking and

Many lawyers suffer alone, afraid to admit they are depressed or that the pressures of the profession are affecting their health and ability to cope.

Since 1979, the SBM Lawyers and Judges Assistance Program has been a confidential source of guidance and support to attorneys, judges, and law students throughout Michigan.

anxiety.¹³ A study of law student well-being showed one in four are at risk for alcoholism.¹⁴ By the time those students graduate, 40 percent are suffering from depression.¹⁵

These are troubling statistics for a profession in which the challenges and pressures facing lawyers are on the rise. The legal system's primary purpose was justice and fairness; now, billable hours and the bottom line control the definition of success.¹⁶ New lawyers have always borne the psychological burden of anxiety that comes with inexperience. But the great majority of new lawyers today also carry the added stress that comes with substantial law school debt.

The stigma

Many lawyers suffer alone, afraid to admit they are depressed or that the pressures of the profession are affecting their health and ability to cope. As fixers, we are not expected to have our own problems; importantly, lawyers may be concerned that acknowledging these problems signals an inability to handle the job.¹⁷ As a result, we do not seek the help we need.

Several commentators have indicated that questions regarding mental health on the bar application exacerbate the stigma of seeking mental-health treatment.¹⁸ Many jurisdictions, like Michigan, require applicants to disclose mental-health treatment on their bar applications, leading some law students to believe that seeking treatment is at odds with a successful legal career;¹⁹ they may abstain from seeking help to avoid negatively affecting their bar admission.²⁰

Because of this concern, many states have revised the bar exam application by replacing questions about mental-health treatment with questions focused on conduct.

Some states have removed questions about mental health altogether. Although the Board of Law Examiners in Michigan added language to the preamble indicating it “supports applicants seeking mental health and/or substance abuse treatment, and views effective treatment by a licensed professional as enhancing an applicant’s ability to meet the essential eligibility requirements,” the questions remain on the application. The Michigan Supreme Court recently issued an order of notification to ask whether questions regarding mental health should be included on the personal affidavit provided with the bar exam application and, if so, what form those questions should take.²¹ Many committees and sections weighed in on the issue and the SBM Board of Commissioners has recommended removing treatment questions.

Even if these changes are made, this positive step will not remove the stigma preventing lawyers from seeking mental-health treatment—or even raising the concern. Our profession needs to acknowledge the high incidences of depression and alcohol or drug dependency and develop strategies to advance the attitude that seeking help is not a sign of weakness, but one of strength. If 28 percent of practicing lawyers suffer from depression or abuse alcohol or drugs, they’re not outliers. Assuming Michigan’s rates are similar to those nationally, that amounts to approximately 12,600 lawyers struggling with depression or drug or alcohol abuse. It’s time to acknowledge that lawyers are humans and to actively encourage this significant segment of our profession to get the help and treatment they need without the fear of risking their jobs or reputations.

Florida’s Young Lawyers Division recently launched a campaign entitled #Stigma-

FreeYLD, which aims to extinguish the prejudices and barriers that discourage lawyers from admitting they have a problem and getting help.²² Through a series of biographical videos, lawyers describe their struggles with bipolar disorder, problem drinking, or drug addiction while showing that dealing with these problems makes you a better and stronger lawyer.²³ Combatting the stigma and changing the narrative on mental health in our profession requires lawyers, including our leaders and role models, to come forward and tell their stories.²⁴ And we need to actively encourage lawyers to seek help rather than suffer alone.

How employers can help

Given client demands and competition for business, lawyers are working all the time. We spend an estimated 50 percent of our waking time working in the office. As a result, according to a study by the *Harvard Business Review*, law is the loneliest profession, and this is affecting our health. Research has shown that our relationships and a sense of community have more of an impact on our health than factors such as diet, exercise, or smoking.²⁵ We may be surrounded by people all day at work but still feel isolated with no one to talk to about what we’re experiencing. It is to the employer’s benefit to create an atmosphere that does not ignore the human aspect of lawyers by focusing solely on profits. Work-related well-being in the form of employee engagement is linked to an organization’s success, including lower turnover, higher client satisfaction and loyalty, and greater productivity and profitability.²⁶ Promoting connections between coworkers may cost a few billable hours up front, but that time is an investment in the health of employees and the firm’s success.²⁷

The harsh truth is that law firms ignore the benefits of addressing the impact of the work environment at the risk of their bottom line. Depression is an expensive problem.²⁸ A 2016 survey by Law360 found that more than 40 percent of lawyers said they were likely or very likely to leave their firms within the next year, a turnover rate that would cost firms \$25 million annually.²⁹

Equally if not more important, when a lawyer suffers from serious depression or chemical dependency, there is a heightened risk that his or her work will suffer.³⁰

Tools are being developed to help address the crisis.

In response to the high incidence of mental-health and substance-abuse issues among lawyers, the ABA Work Group to Advance Well-Being in the Legal Profession created the Well-Being Toolkit to help lawyers and their employers create an atmosphere promoting mental well-being while ensuring that the firm is part of the solution and not the problem. The toolkit is a comprehensive document with an 8-Step Action Plan for Legal Employers that includes enlisting leaders, launching a well-being committee, and creating and executing an action plan and well-being policy. The toolkit also includes a policies and practices audit; suggestions for activities, events, education, and development; online resources; book recommendations; potential speakers; and 17 worksheets to support lawyers and employers in their well-being initiatives.

In addition, the ABA has developed a well-being pledge for law firms, including pledging to provide education on topics related to well-being, substance use disorders, and mental-health distress; to provide confidential access to addiction and mental-health experts and resources; and to create a written protocol and leave policy that covers the assessment and treatment of substance use and mental-health issues, including a defined back-to-work policy following treatment.³¹

The SBM can help

Many may think the SBM Lawyers and Judges Assistance Program (LJAP) exists solely to monitor lawyers or law students referred by the Attorney Grievance Commission or Character and Fitness Department. Not true.

Since 1979, the program has been a confidential source of guidance and support to attorneys, judges, and law students throughout Michigan. Any member struggling with depression, stress and anxiety, or alcohol or other substance dependency or misuse

should not hesitate to contact the LJAP helpline at (800) 996-5522.³²

Members may be concerned that contacting LJAP puts their licenses or employment at risk because their information will be reported to the Bar. However, calls, assessments, and monitoring are *completely confidential*.

LJAP has four staff clinicians who are either licensed professional counselors or licensed master social workers.³³ Their qualifications are important because the Michigan Public Health Code requires confidentiality from these professionals.³⁴ In addition, the confidentiality of substance-abuse treatment records is protected by 42 CFR Part 2. In fact, while the Michigan Rules of Professional Conduct require lawyers to report violations of ethics rules, there is an exception for “information received in the course of providing counseling services in the State Bar’s lawyers and judges assistance program....”³⁵ Accordingly, communication between lawyers and LJAP staff and any assessments LJAP may provide are completely confidential.³⁶

LJAP clinicians are either lawyers themselves or knowledgeable and trained on the additional pressures affecting lawyers. Clinicians meet with members in a private room at the SBM offices in Lansing, or at a restaurant or coffee shop if that is preferred. Consultations and assessments are free, and clinicians can help lawyers (or family members on their behalf) find a suitable therapist in the lawyer’s community or a neighboring community.

For lawyers looking for self-help tools, the LJAP web page at <https://www.michbar.org/generalinfo/ljap/home> contains more than 50 articles about practicing wellness and two self-screening tests to assess alcohol dependency and depression. There’s also the SBM On Balance podcast on Legal Talk Network, which typically focuses on the interplay between practice management and lawyer wellness. Archived titles include “Overcoming Addiction and Achieving Wellness as a Lawyer” and “Depression in the Legal Industry.”³⁷

Finally, LJAP offers free stress-management training to law firms and local and affinity bar associations. Training topics in-

clude vicarious trauma training for lawyers dealing with difficult personalities, developing resilience, depression and suicide prevention, compassion fatigue and secondary trauma, signs and symptoms of lawyer impairment, and anxiety in senior attorneys.

Are we doing enough?

Although there has been progress in treating depression, the number of attorneys who are depressed is increasing.³⁸ Some suggest this shows that bar association efforts are ineffective, but it may indicate that some lawyers are not taking advantage of medical advances because of the stigma against obtaining treatment.³⁹ That stigma may extend to using the SBM resources available for lawyers.

Many lawyers I have talked with, including those who are recovering alcoholics or have struggled with depression, do not believe that members feel comfortable using LJAP resources, despite the confidentiality of LJAP’s assessments and referrals and exemption from reporting to the Attorney Grievance Commission, a separate entity. Numerous states have dealt with this concern by creating separate, lawyer-run volunteer organizations such as Lawyers Concerned with Lawyers in Massachusetts, Texas, and Pennsylvania, or The Other Bar in California. These private, nonprofit corporations are funded by voluntary contributions and private donations, and advertise that the organizations are founded on anonymity and provide services in strict confidentiality. Other states have dedicated committees of volunteers focusing on mental health and wellness with missions such as destigmatizing mental illness, recommending best practices, and focusing on balance in lawyers’ lives.⁴⁰ Video counseling is available from some bar associations at reduced rates while others are offering four free counseling sessions.⁴¹ There’s a clear and urgent need to gather data to determine which approaches are most effective at addressing this growing problem.

This subject affects all of us, either personally or through a colleague or friend. I would love to hear from members on this issue; please send your thoughts to

president@michbar.org. Tell me: Would you or your colleagues contact LJAP for help if you were suffering from depression or self-medicating? Although contact with LJAP can be anonymous and is confidential, do you believe members would be more willing to seek assistance from a separate entity? What if the entity was separate but still managed by the SBM or worked closely with LJAP? Would it be beneficial for the SBM to increase resources to provide mental-health assistance and coping tools to our lawyers?

Gabe MacConaill's widow acknowledges that Big Law didn't directly kill her husband, but he lacked essential coping mechanisms. Many lawyers may be in the same boat. We need to train lawyers who can otherwise contribute significantly to their clients, firms, and the profession to manage the pressures and challenges of practicing law. This is in addition to convincing lawyers suffering from debilitating depression, stress, anxiety, or alcohol and drug abuse that they are not alone, and that rather than hide their condition and attempt to battle it on their own, they need to seek help.

The loss of one more lawyer is one lawyer too many. ■

ENDNOTES

- Flores & Arce, *Why are lawyers killing themselves?*, CNN (January 20, 2014) <<https://www.cnn.com/2014/01/19/us/lawyersuicides/index.html>> and Foster, *The Top Three Factors for Attorney Suicide and What We Can Do to Help*, Foster Web Marketing <<https://www.fosterwebmarketing.com/blog/top-three-factors-for-lawyer-suicide-and-what-we-can-do-to-help.cfm>>. All websites cited in this article were accessed April 17, 2019.
- Ovalle & Weaver, *Top Miami civil lawyer Ervin Gonzales found dead at his home*, Miami Herald (June 12, 2017) <<https://www.miamiherald.com/news/local/community/miami-dade/article155258389.html>>.
- Litt, *'Big Law Killed My Husband': An Open Letter From a Sidley Partner's Widow*, The American Lawyer (November 12, 2018) <<https://www.law.com/americanlawyer/2018/11/12/big-law-killed-my-husband-an-open-letter-from-a-sidley-partners-widow/>>.
- Livengood, *Ex-Snyder legal counsel Travis Weber remembered for intellect, passion for Detroit*, Crain's Detroit Business (February 13, 2019) <<https://www.craindetroit.com/deaths/ex-snyder-legal-counsel-travis-weber-remembered-intellect-passion-detroit>>.
- Brooks, *How to Fight Suicide*, The New York Times (March 14, 2019) <<https://www.nytimes.com/2019/03/14/opinion/suicide-prevention.html>> and Whalen, *CDC Find Rise in Suicide Rates Across the U.S.*, The Wall Street Journal (June 7, 2018) <<https://www.wsj.com/articles/cdc-finds-rise-in-suicide-rates-across-the-u-s-1528417378>>.
- ABA, *Suicide*, Comm on Lawyer Assistance Programs (November 21, 2017) <https://www.americanbar.org/groups/lawyer_assistance/resources/suicide/>.
- Weiss, *Lawyer Personalities May Contribute to Increased Suicide Risk*, ABA Journal (April 30, 2009) <http://www.abajournal.com/news/article/lawyer_personalities_may_contribute_to_increased_suicide_risk/>.
- Christin, *Survival Skill No. 2 for Lawyers: Dealing with Chronic Stress*, attorneyatwork.com (March 20, 2019) <<https://www.attorneyatwork.com/survival-skill-no-2-for-lawyers-dealing-with-chronic-stress/>>.
- Why are lawyers killing themselves?*
- Survival Skill No. 2 for Lawyers: Dealing with Chronic Stress*.
- Why are lawyers killing themselves?*
- Beckman, *Seeking Paths to Lawyer Well-Being*, ABA (December 27, 2018) <<https://www.americanbar.org/groups/litigation/publications/litigation-news/top-stories/2018/seeking-paths-lawyer-well-being/>> and Coyle, *The Report of the National Task Force on Lawyer Well-Being and the Role of the Bar Admissions Community in the Lawyer Well-Being Movement*, The Bar Examiner (Summer 2018) <http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBAR-Examiner%2Farticles%2F2018%2FBE-870218-Coyle.pdf>.
- Id.*
- Id.*
- Why are lawyers killing themselves?*
- Lukasik, *Why So Many Lawyers Suffer From So Much Depression*, Lawyers with Depression (March 30, 2017) <<http://www.lawyerswithdepression.com/articles/many-lawyers-suffer-much-depression/>>.
- Why are lawyers killing themselves?*
- Pulliam, *Lawyer Depression: Taking a Closer Look at First-Time Ethics Offenders*, 32 J Legal Prof 289, 292 (2008).
- Id.*
- The Report of the National Task Force on Lawyer Well-Being*, p 9.
- Administrative Order No 2016-46 [2019] <https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Court%20Rules/2016-46_2019-01-22_FormattedOrder_PropAO.pdf>.
- Ash, *Young Lawyers Launch #StigmaFreeYLD Campaign*, The Florida Bar (February 18, 2019) <<https://www.floridabar.org/the-florida-bar-news/young-lawyers-launch-stigmafreeyld-campaign/>>.
- Young Lawyers Division, *Health & Wellness*, The Florida Bar <<https://flayld.org/health-wellness/>>.
- Klenner, *Reducing Stigma of Mental Illness Requires Firm Leaders to Come Out*, Bloomberg Law (November 1, 2016) <<https://www.bna.com/reducing-stigma-mental-n57982082103/#>>.
- Cho, *Lawyer loneliness: Facing and fighting 'No. 1 public health issue'*, ABA Journal (July 2018) <http://www.abajournal.com/magazine/article/lawyer_loneliness_public_health> and Silverthorn, *Here's the Secret to Law Student Wellness* (August 23, 2017) <<https://www.2civility.org/heres-the-secret-to-law-student-wellness/>>.
- Lawyer loneliness*.
- Id.*
- Rubino, *New Survey Proves Lawyer is the Loneliest Profession of All, Above the Law* (April 3, 2018) <<https://abovethelaw.com/2018/04/new-survey-proves-lawyer-is-the-loneliest-profession-of-all/>>.
- Brafford, *Well-Being Toolkit for Lawyers and Legal Employers*, ABA (August 2018) <https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/lc_colap_well-being_toolkit_for_lawyers_legal_employers.authcheckdam.pdf>.
- Seeking Paths to Lawyer Well-Being*.
- ABA, *Working Group to Advance Well-Being in the Legal Profession* (April 12 2019) <https://www.americanbar.org/groups/lawyer_assistance/working-group_to_advance_well-being_in_legal_profession/>.
- Vincent, *LJAP Offers Assistance on a Broad Range of Concerns*, SBM <https://www.detroitlawyer.org/wp-content/uploads/2018/03/LJAP-BAR-ARTICLE_2018.pdf>. In addition, Michigan lawyers can contact LJAP to assist with issues related to gambling, marriage and family issues, career transition, life-stage adjustment, or other general wellness issues.
- Tish Vincent is a licensed master social worker; Molly Ranns is a licensed professional counselor; Jeff Zapor is a licensed professional counselor; and Tom Garden, SBM's new clinical case manager, is also a licensed professional counselor. Their contact information and more is available through the SBM LJAP website <<https://www.michbar.org/generalinfo/ljap/contact>>.
- MCL 333.18117 and MCL 333.18513.
- See comments to MRPC 8.3.
- The only exception to confidentiality is the duty to warn when a client tells a therapist that he or she is going to physically harm or kill someone else or there is suspicion of child abuse or neglect of a child. See *Tarasoff v Regents of the University of California*, 17 Cal 3d 425; 551 P2d 334 (1976), regarding the duty to warn. Therapists are mandated reporters under the Michigan Child Protection Law, MCL 722.621 et seq. This law requires certain people to report their suspicions of child abuse or neglect to Children's Protective Services. These exceptions are explained to people in their first session with a clinician.
- SBM, Practice Management Resource Center <<https://www.michbar.org/pmrc/podcast>>.
- Lawyer Depression: Taking a Closer Look*.
- Id.*
- The Florida Bar, Mental Health and Wellness Center <<https://www.floridabar.org/member/healthandwellnesscenter/>>.
- Id.* and State Bar of Nevada, Lawyer Wellness <<https://www.nvbar.org/member-services-3895/wellness/>>.