

Reclaim your practice, reclaim your life

It's no secret that many lawyers suffer from crippling anxiety and depression. Some cope by turning to harmful behaviors like substance abuse. Recognizing the problem is the first step toward positive change.

G. ANDREW H. BENJAMIN

Do you procrastinate on a regular basis? Feel trapped in your practice? Often remain disengaged from your loved ones?

If you answered yes to any of these questions, you are not alone. Many of your colleagues do, too, and it all probably began in law school. Several empirical studies have demonstrated that up to 40 percent of law students fail to cope effectively with the demands of law school and that graduation is no panacea.¹

A longitudinal study of law students and lawyers found that 32 percent of the law students suffered from depression by late spring of their first year of law school, and the figure increased to 40 percent by late spring of the third year. Further, no statistically significant drop occurred in the percentages two years after the students graduated from law school.²

The rate of depression among entering law students did not differ from that in the general population, but it grew alarmingly as students became dispirited by the rigors and competition of the legal education system. This bleak data has been corroborated by methodologically rigorous studies.³

Further empirical research has also shown that the negative effects of law school stress continue to affect many lawyers. The dysfunctional patterns of behavior that took root in law school have been shown to contribute to depression, alcoholism, drug abuse, and marked hostility after graduation.⁴

In one study, one-third of lawyers

from Washington State indicated they suffered from depression.⁵ This is not an outlier, given a 1990 Johns Hopkins study that found that lawyers had the highest incidence of depression among 104 occupational groups.⁶ The data collected on lawyers also demonstrated “that nearly 70 percent of lawyers are likely candidates for alcohol-related problems at some time within the duration of their legal careers.”⁷

A study that followed University of North Carolina law students as lawyers for 30 years suggested that those with significantly elevated levels of hostility were more likely to have died prematurely from cardiovascular disease.⁸ Although patterns of dysfunctional behavior exist in a number of professions, lawyers suffer in much greater percentages than any other professional group, including physicians, nurses, and teachers.⁹

Additional study of a nationwide long-term random sampling of lawyers by the American Bar Association (ABA) showed that most lawyers—whether they worked in private, corporate, or government practices—felt increasing dissatisfaction with their practices.¹⁰ In 1990, only 29 percent of the lawyers surveyed were very satisfied, compared with 40 percent in 1984. The dissatisfaction prevailed throughout the profession, regardless of the type of practice or the amount of money a lawyer made.

The study found links among three concerns: pressures of a deteriorating work environment; increased levels of

mental and physical distress (for example, depression, anxiety, stress-induced physical illness, interpersonal problems, alcohol and drug abuse, and obsessive-compulsive behavior); and decreased ability to cope with distress by using, for example, social support, relaxation, exercise, or humor. These increased levels of distress and decreased coping abilities affected the lawyers’ quality of work and productivity; their relationships with their families, firms, and clients; and their level of dissatisfaction with the profession.

In another publication, the ABA reported that 50 percent to 75 percent of disciplinary actions and 60 percent of malpractice claims against lawyers stemmed from the lawyers’ stress-related mental illness or chemical dependency, or both.¹¹

The downward slope

Many researchers and commentators have proposed that legal education is a common source of the problem for both students and lawyers because conventional pedagogy poorly prepares lawyers for practice.¹² Indeed, research has found that students began law school “quite happy and healthy . . . with relatively intrinsic and prosocial values,”¹³ so it cannot be said that law school simply attracts unhappy, psychopathological people.¹⁴

In illuminating studies, psychology professor Kennon Sheldon and law professor Lawrence Krieger have extended our knowledge about how psychopathology likely develops and affects so

many law students.¹⁵ Negative aspects of legal education include:

- excessive workloads, stress, and competition for academic superiority
- institutional emphasis on comparative grading, status-seeking placement practices, and other hierarchical markers of worth
- lack of clear and timely feedback
- excessive faculty emphasis on analysis and linear thinking, causing loss of connection with feelings, personal morals, values, and sense of self
- teaching practices that are isolating or intimidating, and content that is excessively abstract or unrelated to the actual practice of law
- conceptions of law that suppress moral reasoning and creativity.¹⁶

The data from this research showed that the declines in law students' subjective well-being were related to a marked decrease in intrinsic motivation and the ability to make major life decisions.¹⁷ The shift in motivation and adapting to the negative aspects of law school listed above led to the abandonment of long-held values, which resulted in psychopathological symptoms and prompted a fundamental shift in personal focus for many nascent practitioners.

Reflecting on the scientific data and hundreds of lawyers I have treated as a psychologist, the development of one or more symptoms of alcohol or drug abuse or other psychological problems in law school appears to predict dysfunctional patterns of behavior after law school. These behaviors include taking on too much work and having trouble maintaining healthy relationships. This, in turn, precipitates career dissatisfaction, loss of intrinsic motivation, and abandonment of personal values.

These behavior patterns leave many lawyers suffering from clinically high levels of depression and alcohol abuse and from chronically elevated levels of hostility, cynicism, and aggression. The data have shown that being plagued with such conditions during the practice of law can lead to a shorter life span.

Identifying and acting to end these destructive behavior patterns can significantly improve lawyers' quality of life. If three or more symptoms in any of

the following arrays are apparent during a period of a few weeks or more, change is needed.

The dysphoric array. Thoughts of suicide;¹⁸ increasing social isolation; feeling so unhappy that you cannot shake it or stand it; being dissatisfied or bored with most aspects of your life; feeling chronically overwhelmed; using nicotine (a very effective anti-dysphoric); and en-

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during disrupted sleep that results in never feeling sufficiently rested.

The alcohol- and drug-dependency array. Managing sleep patterns by using alcohol or drugs; feeling guilty about use of alcohol or drugs; using more than intended, minimizing, or lying about the amount used; drinking or using drugs in a manner that creates relationship problems with romantic partners, friends, or relatives; neglecting obligations for longer than a day because of alcohol and drug use; using nicotine; or forgetting periods of time after drinking.

The hostility and cynicism array. Holding persistent negative, hostile, or cynical thoughts during relationship interactions; chronic impatience; frequent irritability; disconnecting from others due to an empathic deficit (for example, being rigid in relationship interactions); or suffering continual fatigue.¹⁹

Reflecting further on the research of Sheldon and Kreiger, a promising diagnostic test became evident:

One study has shown that law students—and I would add lawyers—need to feel that they are good at what they do, or at least can become good at it (competence); that they are doing what they choose and want to be doing—i.e., what they enjoy or at least believe in (autonomy); and that they are relating meaningfully to others in the process—i.e., connecting with the selves of other people (relatedness).²⁰

Hence, aligning personal values with life skills will increase competence, au-

tonomy, and relatedness—and these results do predictably have uplifting effects.²¹ When assessing and treating lawyers, I have them consider the following life competencies: ethics, manners, communication sending, communication receiving, emotional health, physical health, work health, recreational health, romance, marriage or long-term partnership, and friendship. I then have

them list three values—that is, statements about themselves as they would like to be—in first-person present tense for each competency.

A lawyer I treated recently provided the following values in her self-evaluation. For communication sending, she wrote, "I am clear and specific in how I talk with others." For friendship and emotional health, she wrote, "I am dependable and faithful to my friends, and I initiate daily meaningful [connective] interactions with friends." After considering how little her current behavior matched these and other values, she became determined to change.

Try this exercise, and after writing out your own values, ask yourself whether you have followed them in the last two weeks. If the answer is no, or only somewhat, these aspects of your life need attention. Act.

What can you do?

How can you regain your perspective and align your actions with values that the practice of law has undermined? Here's what you can do to recover from depression, problem drinking, or other emotional or psychological distress.

Take control of your practice. When

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working with a group of practicing lawyers who were also peer counselors, I noticed that the psychologically healthiest of the group generally shared at least two of the following three characteristics: They had clients with personalities that fit well with their own personality; they worked with legal issues that were stimulating to them; and they either started cases with a sufficient retainer or took them on a pro bono basis.²²

From this developed what I call the “rule of two.” It has been used by hundreds of sole practitioner clients and has helped them get back on track with their values. Almost without exception, lawyers who suffer from depression or alcohol abuse have developed habits that violate the rule of two. Their practices involve tedious work that consumes their lives, or they take on additional work to

address cash flow problems that occur when they choose cases unwisely.

How well does the rule of two apply to your practice? To find out, conduct an audit of your open files and those closed during the last month. Note what types of cases violated the rule of two, and determine at least two patterns that led to these violations. Then make sure that you do not replicate these dysfunctional patterns in the future.

Connect with others. Legal practice isolates many lawyers from others who share their values. Develop or redevelop trusting relationships. Often, rekindling a lifelong interest will lead to developing more meaningful relationships with kindred spirits²³ who share that interest.

Balance. The process of making decisions or engaging in relationships consistent with your values helps show where

you lack balance. You will gain perspective by following your values consistently in your daily life. Repeated inability to adhere to your values for a certain life competency strongly suggests that you lack balance in that area.

Work with a psychologist. In a few intensive hours of evaluation and treatment, an experienced psychologist can help you make great gains in changing the dysfunctional aspects of your practice and, by extension, your life. To find a psychologist who fits your needs, request a brief phone interview with at least two.

Several state bar associations have established Lawyer Assistance Programs (LAPs) that protect lawyer confidences from the bar’s disciplinary authority, while evaluating and treating the lawyers. LAPs can make referrals to psychologists known to work well with lawyers.²⁴ Ex-

How stress and anxiety become depression

DANIEL T. LUKASIK

Lawyers suffer from clinical depression at an alarming rate. I am one of them.

I have been a litigator for more than 20 years, and I didn’t suffer from depression in the beginning of my career. But I did have trouble managing the stress of my practice.

Over time, this constant stress developed into anxiety. I started feeling like I couldn’t control everything. I would go to bed fearing the problems and disasters to confront me the next morning. After years of this, the pendulum swung from states of anxiety to states of depression. Why did this happen? It took me a long time to understand.

Depression develops because of a complex interplay of genes, neurochemistry, emotional history, and personality. Recently, scientists have been focusing on the connection between stress and anxiety and the role they play in producing and maintaining depression. This is something that should be of interest to lawyers, who frequently report feeling stressed or burned out in their practices.

“Stress” is anything in our environment that knocks our bodies out of their

homeostatic balance. Stress responses are the physiological adaptations that ultimately reestablish balance. Most of the time, our bodies do adapt, and a state of balance is restored.

However, “if stress is chronic, repeated challenges may demand repeated bursts of vigilance,” warns Dr. Robert Sapolsky, an expert on stress-related illness. “At some point, this vigilance becomes overgeneralized, leading us to conclude that we must always be on guard—even in the absence of stress. And thus the realm of anxiety is entered.” (Robert Sapolsky, *Taming Stress*, 289 *Sci. Am.* 88 (2003).)

Stress went on too long in my life as a litigator. I had, indeed, entered the realm of anxiety. I felt like I had a coffee pot brewing 24/7 in my stomach. I became hypervigilant; each file on my desk was like a ticking time bomb about to go off.

At some point, the anxiety made me dysfunctional, and I was unable to do as much as I had before. The litigation mountain became harder to climb as the anxiety persisted over a period of years.

Sapolsky writes, “If the chronic stress is insurmountable, it gives rise to helplessness.

This response, like anxiety, can become generalized: A person can feel . . . at a loss, even in circumstances that [he or] she can actually master.”

Helplessness is one pillar of a depressive disorder that becomes a major issue for lawyers because we think of ourselves as invulnerable superheroes who are the helpers, not the ones in need of help. Lawyers often don’t get help for their depression and feel ashamed if they do.

Many lawyers do not appreciate the connection between their stress and anxiety and their risk for developing clinical depression. But the occurrence of anxiety disorder with major depression is frequent; in fact, 60 percent of people with depression are also suffering from anxiety.

Maybe this connection helps explain the studies that find such high rates of depression for lawyers.

Depression “is stress that has gone on too long,” according to Dr. Richard O’Connor, author of *Undoing Perpetual Stress: The Missing Connection between Depression, Anxiety, and 21st Century Illness*. Many people with depression have prob-

plain to each psychologist the symptoms you are concerned about and what you believe the underlying issues might be. Then ask how each would approach your treatment.

Pick the psychologist who responds with courtesy and common sense and with whom you believe you could establish a good rapport. After the first treatment hour, reassess the relationship. If you feel that a trusting relationship will not develop, restart the selection process.

Recognizing that there is a problem with your approach to your practice is the first step. If change is necessary, start to-day. You can reclaim your life. ■

Notes

1. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 Am. U.L. Rev. 1337, 1378-79 (1997).

2. G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers*, 11 Am. B. Found. Res. J. 225 (1986).

3. See Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 Personality & Soc. Psychol. Bull. 883 (2007) [hereinafter Sheldon & Krieger, *Understanding the Negative Effects*]; Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 Behav. Sci. & L. 261 (2004) [hereinafter Sheldon & Krieger, *Undermining Effects*].

4. G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse among United States Lawyers*, 13 Intl. J. L. & Psych. 233, 233-34 (1990); Connie J.A. Beck et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns among a Sample of Practicing Lawyers*, 10 J.L. & Health 1, 2 (1996); see also John Hagan & Fiona Kay, *Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice*, 41 L. & Soc. Rev. 51 (2007).

5. Benjamin et al., *supra* n. 4.

6. William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. Occupational Med. 1079, 1085 (1990).

7. Beck et al., *supra* n. 4, at 3.

8. John C. Barefoot et al., *The Cook-Medley Hostility Scale: Item Content and Ability to Predict Survival*, 51 Psychosomatic Med. 46 (1989).

9. See Daicoff, *supra* n. 1, at 1347; Benjamin et al., *supra* n. 4; Sheldon & Krieger, *Undermining Effects*, *supra* n. 3.

10. Am. Bar Assn., *At the Breaking Point: The Report of a National Conference on the Emerging Crisis in the Quality of Lawyers' Health and Lives, and Its Impact on Law Firms and Client Services* (ABA 1991).

11. H. Green, *Half of Malpractice and Lawyer Discipline Complaints Stem from Substance Abuse* (Nat'l. Conf. of B. Pres. Annual Meeting 1988); Assn. of Am. L. Schs. Comm. Rep., *Report of the AALS Special Committee on Problems of Substance Abuse in Law Schools*, 44 J. Leg. Ed. 35, 39 (1994).

12. Daicoff, *supra* n. 1, at 1378-80; William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (Carnegie Found. for Advancement of Teaching 2007). The Carnegie report authors found an "increasingly urgent need [for legal education] to bridge the gap between analytical and practical knowledge." *Id.* at 12.

13. Sheldon & Krieger, *Undermining Effects*, *supra* n. 3, at 271.

14. *Id.*; Benjamin et al., *supra* n. 2.

15. Sheldon & Krieger, *Undermining Effects*, *supra* n. 3.

16. *Id.* at 262.

17. *Id.*

18. Laura Gatland, *Dangerous Dedication*, 83 ABA J. 28 (Dec. 1997) (male lawyers were reported to commit suicide at twice the expected rate of the general population).

19. G. Andrew H. Benjamin & Deborah Arron, *Rambo v. Atticus Finch: Professionalism in the Law* (Wash. St. B. Assn. 1990). This conference of more than 150 Washington judges and lawyers delineated the hostility symptoms.

20. Sheldon & Krieger, *Understanding the Negative Effects*, *supra* n. 3, at 890.

21. Sam Bradley, *The Happy Couple* (SEK Publications 2008).

22. G. Andrew H. Benjamin et al., *Comprehensive Lawyers' Assistance Programs: Justification and Model*, 16 L. & Psychol. Rev. 113 (1992).

23. This is a phrase found in John Keats's "Sonnet to Solitude" and portrayed by Asher B. Durand's painting *Kindred Spirits* (www.nga.gov/press/2005/releases/durand/index.shtml).

24. Almost all states and provinces have a LAP, but many are not associated with bar associations, in order to maximize confidentiality. The ABA's Commission on Lawyer Assistance Programs (COLAP) maintains a list of LAPs at www.abanet.org/legalservices/colap/lapdirectory.html. For punitive jurisdictions, where the LAP is able to release the confidences of lawyers to the disciplinary authority, you can seek an independent psychologist at http://psychologistshelp.org/choosing/straight_talk.php.

lems dealing with stress because they are not "stress resilient," O'Connor writes. It's not some central character flaw or weakness but a complex interplay between genetics and one's experience over a lifetime.

How our bodies and brains deal with stress and anxiety hasn't changed much in the last 10,000 years. A wonderful defense mechanism, which is wired into our nervous system, is called the fight-or-flight response. When confronted with a threat—whether real or perceived—this response kicks in and floods our bodies with the powerful hormones cortisol and adrenaline, which propel us into action. This was an essential survival device for our ancestors who lived in the jungle and would have to flee beasts or fight foes trying to kill them.

Lawyers don't face these types of real life-or-death threats. But they *perceive* life-or-death threats in their battles with opposing counsel while sitting in a deposition or sparring in the courtroom. Our bodies respond as if we were being chased by a hungry lion. Accordingly,

the stress response can be set in motion by mere anticipation, and when humans chronically believe that a homeostatic challenge is imminent, they develop anxiety.

Over time, this chronic anxiety causes the release of too many fight-or-flight hormones. Research has shown that prolonged release of cortisol damages areas of the brain that have been implicated in depression: the hippocampus (involved in learning and memory) and the amygdala (involved in how we perceive fear).

Litigators need to learn better ways to deal with stress and anxiety and avoid multiple triggers that can cause or exacerbate clinical depression. Turning and facing those things that make us stressed and anxious gives us the best protection against depression. ■

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