Frazzled or Focused: How to cope with the unique challenges of legal practice

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Ever wonder why do so many legal professionals struggle with anxiety or depression?

Though we have heard a great deal about the prevalence of substance abuse problems in the legal profession, depression may be even more common in the attorney population than substance abuse issues. A study of 12,000 adults by a team of researchers from Johns Hopkins University discovered that among all the occupational groups represented in that large sample, attorneys had the highest prevalence of signs and symptoms of clinical depression. The rate of depression among the attorneys studied was 3.6 times the norm for all occupations. [1] What accounts for such a high prevalence of mood disorders in the legal field? Can the answer be found in the challenges associated with legal practice alone, or is something else at play here?

Is it nurture or nature that determines which of us will struggle with disorders like anxiety, depression, and substance abuse? Scientists say it is a little bit of both. Some of us are born with a particularly brain chemistry to makes us more susceptible to these problems. Most of us face challenging circumstances from time to time, but only a small portion of us become anxious, depressed or turn to alcohol or drugs to cope; the factor that often determines how we react to these problems appears to be the particular brain chemistry we inherited. The brains of those of us who inherit a susceptibility to anxiety and/or depression react to challenges in life in a manner that produces or exacerbates these symptoms. It seems unlike therefore that the stress of legal practice alone accounts for the high incidence of anxiety and depression among legal professionals.

Those of us who work with legal professionals who struggle with anxiety, depression and substance abuse believe that self-selection contributes to the high incidence of mental health problems in the profession. For reasons that we don't yet fully understand, some individuals who are susceptible to experiencing substance use and mood problems are also drawn to the practice of law. The same personality traits that are over-represented in the populations of adults recovering from substance-related disorders and mood

[1] Eaton, Anthony, Mandel & Garrison, "Occupations and the Prevalence of Major Depressive Disorder," Journal of Occupational Medicine, 32 (11), 1079-1086 (1990).

disorders—high achievement orientation, perfectionism, obsessive-compulsive—are also common in the legal community.[2]

Law School Professor and Psychologist Susan Daicoff explains that the law school experience further exacerbates these tendencies, often producing increased aggression under stress, a preference for competition versus cooperation, and a failure to rely on natural sources of social support from one's peers.[3] Her study also revealed high rates of anxiety and depression symptoms in the cohort of students she followed for three years, and other studies of law school populations have produced similar results.

Lawyers are taught to anticipate and prepare for a whole range of problems that non-lawyers are generally blind to—even far-fetched outcomes need to be considered. When Professor Martin Seligman followed and repeated assessed the Virginia School of Law 1990 class for three years he discovered that the most pessimistic students in that class performed the best on all the standard measures of law school performance. These traits that help lawyers to be good at their profession may make many miserable when applied to their personal lives.[4] Professor Lawrence Krieger states in The Hidden Sources of Law School Stress, "thinking like a lawyer is a legal skill, not necessary a life skill."[5] Studies have shown that lawyers tend to be competitive and prefer analytical thinking over the expression of feelings (both their own and others). These traits are often effective when applied to professional practice but rarely produce positive results in personal relationships.

A closer look at depression

Depression associated with a significant personal loss or bereavement is normal, and not considered a clinical condition unless it lasts for a period of months. Of greater concern is the presence of the above symptoms in the absence of any obvious event or trigger, or symptoms that don't go away. Common forms of depression include a Major Depressive Episode, characterized by some or all of the above symptoms lasting two weeks or longer; and Dysthymia, characterized by less severe, but chronic symptoms lasting two years or longer. Dysthymia can be insidious. Many people cope with depressive symptoms for years before recognizing or acknowledging that they have a condition that isn't going to abate without help.

[2] S. Daicoff, Lawyer Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses, Law and Public Policy: Psychology and the Social Sciences (2004).

[3] Diacoff, Note 2.

[4] M. Seligman, *Authentic Happiness*, Free Press (2002).

[5] Krieger, L., *The Hidden Sources of Law School Stress*, Lawrence Krieger (2014).

Depressed and potentially suicidal individuals often exhibit changes in their mood, appetite and energy level, which can be noticed by colleagues, friends and family members and should be a matter of concern. Common symptoms of depression include:

- feelings of hopelessness;
- restlessness and irritability;
- fatigue or weakness;
- inability to concentrate;
- loss of appetite; and
- diminished interest in sex and recreation.

Depression sufferers undergoing treatment typically experience a marked decline in the severity of symptoms. Treatment usually consists of psychotherapy, medication, or a combination of the two. People with depression often begin to see positive results within a month of beginning treatment.

How can attorneys cope with stress?

Absence of control over the outcome of one's efforts, inadequate time to complete work satisfactorily, constant pressures to produce faster, the adversarial nature of most legal work, the dire consequences of an error in judgment or oversight—all are common sources of considerable stress in legal practice. In a recent sample of North Carolina lawyers, 31 percent of the respondents strongly agreed or agreed with the statement "I often feel worried or anxious." [6] Still, the majority of attorneys learn to cope successfully with these challenges.

The human brain is hardwired to scan the environment for threats. This is a survival mechanism that stems from a time when predictors were plentiful. What was originally referred to as the "fight or flight" reaction in our nervous system is now referred to as the **Three Fs:** *fright*, fight or flight. We not only scan for very real threats, we also tend to worry about possible negative outcomes. When you add this evolutionary tendency to the training all legal professionals receive, namely to anticipate and prepare for all possible negative scenarios, you wind up with a lot of stress. No wonder most legal professionals complain about stress.

The tendency of our brains to constantly return attention to the scariest thoughts not only creates an unnecessary level of stress, it also distracts our attention from addressing the important matters at hand. The best anecdote I know of for this dysfunctional brain function is the mental discipline of "paying attention," which can be gained from devoting time to one of the many available ***mindfulness practices***.

Mindfulness is about learning to focus our attention on something that is right in front of us or happening in this very moment. Studies have shown that mindfulness practice can have a whole host of benefits

[6] National Institute to Enhance Leadership and Law Practice (Buies Creek, North Carolina), *North Carolina Chief Justice's Commission on Professionalism, State of the Profession and Quality of Life Survey* (2002-2003).

including stress reduction, beneficial changes in the immune system, and enhanced memory/attention skills.

The Lawyer Assistance Program

Established by the California Legislature in 2001 (Business & Professions Code §§6140.9, 6230-6238), the Lawyer Assistance Program is a confidential service of the State Bar of California. Staffed by professionals with many years of experience assisting the legal community with personal issues, the LAP provides assistance to attorneys whose personal or professional life is being detrimentally impacted by substance abuse, other compulsive behaviors, and/or mental health concerns such as depression and anxiety.

The statute that created the program (SB 479, Burton) states that it is the "intent of the legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety."

The LAP is a comprehensive program offering support and structure from the beginning stage of recovery through continuing care. It includes:

- individual counseling;
- expert assessment and consultation;
- assistance with arrangements for intensive treatment;
- monitored continuing care;
- random lab testing;
- professionally facilitated support groups; and
- peer support groups.

The program also works with family members, friends, colleagues, judges and other court staff who wish to obtain help for an impaired attorney. Attorneys may self-refer into this program or may be referred as the result of an investigation or disciplinary proceeding (B&P Code § 6232). In some cases, monitored participation may result in a lower level of disciplinary action. When requested by an attorney who is facing disciplinary charges and whose practice has been impaired by personal problems, the LAP can monitor the attorney's continuing recovery for the State Bar Court's alternative discipline program and for the probation unit.

One of the unique characteristics of this program is that the confidential nature of participation in the program is mandated in the statute that created the program. The fact that an attorney is participating in the LAP is confidential (B&P Code § 6234). No information concerning participation in the program will be released without the attorney's prior written consent.

In addition to providing with professional assistance, the LAP also offers free short-term consultations concerning any personal issue as well as consultations with career consultants who specialize in working with attorneys looking to kick-start or change the course of their legal career.

Getting Help

Attorneys may be less likely to take care of themselves than medical doctors and other professionals. Mental health professionals have observed that attorneys, who are trained to be impersonal and objective, often apply the same approach to their personal problems and are reluctant to focus on their inner emotional lives. Some attorneys believe they should be able to handle their personal problems just as effectively as they handle their clients' problems.

Emotional distress, if not managed or treated, can lead to adverse impacts on an attorney's professional practice, clients, colleagues and personal life. Concerned colleagues and friends, therefore, should encourage a depressed or substance abusing attorney to seek professional help from available resources such as the LAP.

Legal professionals need an assistance program specifically geared to the unique pressures of legal practice and to the unique recovery support needs of attorneys. The Lawyer Assistance Program is that resource for all legal professionals licensed by the State Bar. Call toll-free 877-LAP 4 HELP (877-527-4435) for confidential assistance for yourself, a friend, colleague or a family member. Check us out at www.calbar.ca.gov/lap or watch our videos on *YouTube* by searching for California Lawyer Assistance Program.

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