

In the past four years, several groundbreaking American Bar Association (ABA) studies and reports¹ have been generated regarding mental health and substance use issues in the legal profession. It has been sobering to learn about the elevated levels of mental health issues in our profession, and it is also a formidable task to chart a healthy course forward. ABA materials include:

► 2016: The ABA facilitated the first nationwide lawyer mental health study, “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” and the results were a serious “wake-up call” to our profession.

► 2017: In response to the 2016 ABA study, the ABA published comprehensive recommendations to all stakeholders in “The Path to Lawyer Well-Being: Practical Solutions for Positive Change” to provide an effective road map toward improving the mental health wellness of *all* legal professionals.

► 2018: The ABA published the “Well-Being Toolkit for Lawyers and Legal Employers” that provides comprehensive lawyer-specific mental health wellness tools that benefit our profession.

The overarching message is loud and clear — our passionate work ethic must be intentionally tempered with healthy boundaries and well-being practices if we are to ever improve our profession’s mental health statistics.

Heretofore, the well-being message has primarily focused on lawyers, but the ABA has just released its 2019 “Survey on Judicial Stress and Resiliency.” This newest ABA study included responses from 1,034 judges across all levels of jurisdiction and is the largest such survey ever conducted. It is very important information because judges face mental health challenges that are unique due to the specialized nature of their work.

Here are some “Fast Facts” from the

2019 Judicial Survey:

Top Five Sources of Judicial Stress

1. The importance and impact of rendering decisions.
2. Heavy dockets (workload).
3. Unprepared attorneys.
4. Self-represented litigants.
5. Dealing with the same parties without addressing the underlying issues.

Top Five Symptoms of Judicial Stress

1. Fatigue and low energy after hearing several cases in a row.
2. Sleep disturbances (insufficient sleep, awakenings, daytime drowsiness).
3. Interference with attention and concentration; tend to be distracted.
4. Rumination or worry about cases after they have been decided.
5. Increased health concerns (high blood pressure, etc.).

Suicidal Ideations

2.2% of judges surveyed reported suicidal ideations (this is “good news” when compared to 11.5% for lawyers and 6% for law students).

Top Five Symptoms of Judicial Depression

1. Fatigue and low energy after several cases.
2. Not having initiative to do what I used to.
3. Preoccupation with negative thoughts.
4. Feeling that work is no longer meaningful.
5. Can’t wait for the day’s work to end.

Top Five Symptoms of Judicial Anxiety

1. Increased health concerns.
2. Feelings of apprehension or anxiety.
3. Intrusive thoughts of traumatic images of people or evidence.
4. Find it difficult to ask a respected col-

league for a critique of my work.

5. Difficulty breathing, excessively rapid breathing.

“Risky” Alcohol Use in the Judiciary

9.5% scored in the “at risk” range for alcohol problems (this is “good news” when compared to 20.6% for lawyers).

Top Five Resiliency Activities Used by Judges

1. Physical exercise (walk, jog, bike, swim).
2. Relaxation, stretching (yoga, tai chi, etc.).
3. Meditation, mindfulness, mind-quieting.
4. Spiritual, faith traditions.
5. Hobbies and pastimes.

In response to the Judicial Survey, the ABA Taskforce on Well-Being rendered recommendations for judicial stakeholders including state Supreme Courts, presiding judges and judicial regulators, etc.

Supreme Courts are encouraged to communicate and demonstrate that judicial well-being is a priority, make sure the judiciary has access to well-being resources, and ensure that confidential JLAPs have adequate resources to help judges.

Presiding judges are encouraged to be an example of well-being by taking vacations and sick leave, exercising, meditating and eating healthfully. They should monitor and support judges/staff who may show signs of vicarious trauma. Well-being content should be included at bench meetings.

Judiciary Commissions are encouraged to include JLAP in educating staff and leadership on judicial stress, mental health and substance issues. They should allow for a JLAP diversion or intervention program that’s separate from other complaints and an alternative confidential referral option to JLAP.

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By Kenzie Schott Cardella

MALPRACTICE POLICY: PAYMENTS AND PERKS

Time to brush up on your malpractice policy. CNA's professional liability policy for Louisiana attorneys, endorsed by the Louisiana State Bar Association (LSBA), offers several benefits that you may not remember or have yet to encounter. This article highlights three supplementary payments covered in the malpractice policy. If any of these scenarios come into play, you will know how your policy might help you.

Under the LSBA's endorsed policy, CNA agrees to make three supplementary payments discussed below which are not subject to the deductible (so CNA will make these payments regardless of whether you have met your deductible) and are in addition to your limits of liability (which means any payments made by CNA will not reduce your limits). As an insured, these are both wins for you.

► **Loss of earnings payments.** CNA reimburses each insured attorney up to \$500 per day for the attorney's attendance, if requested in writing by the insurer, at a trial, hearing or other proceeding involving a claim against the

insured. CNA will pay up to \$15,000 per insured attorney and \$50,000 total for each policy period. These payments help offset lost billable hours and allow you to focus more on the proceeding.

► **Disciplinary proceedings payments.** CNA also reimburses you up to \$50,000 for attorney fees and other costs and expenses paid to third parties resulting from a disciplinary proceeding, if notice of such proceeding was received by the insured and reported in writing to the insurer during the policy period or within 60 days after termination of the period. If there is a determination of "no liability" of the insured, CNA will reimburse you up to \$100,000.

► **Subpoena assistance payments.** If you receive a subpoena for documents or testimony arising from legal services performed by you, you may request CNA's assistance in responding and CNA will pay the attorney fees (excluding disbursements) incurred for the subpoena assistance. The subpoena must arise from a civil lawsuit to which you, the insured, are not a party and you must not have been engaged to provide

advice or legal testimony in connection with the lawsuit.

Of course, refer to your policy or ask questions regarding your specific coverage. This information is a general overview and only your specific insurance policy can provide the actual terms, coverages, amounts, conditions and exclusions. Coverage determinations are always subject to interpretation.

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Judges and Lawyers Assistance Programs are encouraged to publicize the CoLAP Judicial Survey, offer programming for judges, develop a peer support network, advocate for well-being efforts and educate new judges about JLAP's services.

Your Louisiana JLAP provides comprehensive, professional clinical support that spans everyone's needs, including all the needs of judges.

From well-being education all the way

to conducting an intervention to save an individual's life and career, JLAP offers confidential services to judges, lawyers, law students, family members and staff. Call JLAP at (985)778-0571, email jlap@louisianajlap.com or visit the website at www.louisianajlap.com.

FOOTNOTES

1. All of the studies cited in this article are available online at www.louisianajlap.com and resources for judges are available online at <http://louisianajlap.com/who-we-help/judges/>.

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