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**Lawyering Under
the Volcano:**
*Keeping Sane
and Sober in the
21st Century*

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Welcoming Samantha Updegraff and Ryan Walters



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David describes. . . An Ordinary Day

It was just an ordinary day. Wake up, shower and shave, get dressed, drive to the office, put in a full day and go home at night. A day like the thousands that had preceded it—a perfectly normal day. Behind the normalcy was the stark reality that each night on the way home from work, the car would stop at a different liquor store and the miniatures or the quart bottles and the bottles of wine and vodka would be bought and opened on the way home, where I would continue drinking until the booze was gone or I passed out. These ordinary days turned into ordinary weeks, into ordinary months, and into a hellish existence—year after year after year.

I was the kind of drunk who was built a drink at a time over a long period. Those occasional drinks after work gradually became a nightly routine and, drink-by-drink, they came to dominate the way I lived my life. There were many signposts along the way, and I knew there was a problem. There were episodes of short-term sobriety and efforts—some serious and some half-hearted—to moderate my drinking, but without exception each attempt ended with the same result: I would return to the same patterns of consumption and destruction with an ever-increasing vengeance.

As a young man, I remember talking with a friend whose father was dying of an alcohol-related disease. We decided that as long as you didn't miss work, "there wasn't a problem." I carried that misconception like some bizarre talisman until I staggered into recovery, and you can still count on one hand the days of work I missed in 30 years of practice.

On another occasion, I was talking with a doctor about how my drinking had become an "issue" in my marriage. He casually opined that many people use alcohol to "medicate stress." Not a wise decision to give a drunk that kind of excuse—"I'm not drunk; I'm medicated." The alcoholic mind thinks just like that. It hears what it wants to hear and creates convincing illusions. For example, among the many that made up my life was the illusion that just being physically present at work meant my clients, employer, and colleagues were getting a fair day's work. Somehow, in my mind, just taking my "sorry ass" to work each day altered the progressive effects of getting drunk every night. My ability to function at some minimum level gave me the illusion that my professional competence wasn't a problem. I saw my participation in professionally related activities and any accolades from colleagues as further proof that my drinking couldn't be a problem. Finally, the cruelest illusion of all: despite my drinking, I was always available for my family and was, therefore, a good husband and father.

A drunk like me is always waiting at some subconscious level for worlds to collide. You can't coexist in the ego-driven world of illusions and the world as it truly exists without coming to often catastrophic crossroads. For me, it was not waking up in jail having killed someone or coming to consciousness in an ER or simply not waking up at all, though my abuse of alcohol could certainly have produced any of these results. Rather, it was a progression of those

ordinary days in the long months preceding what was to be my last drink that led me to a place without hope, a place with no past or future, a place where I simply stopped caring. Other than at work,

I stopped any effort to hide the fact that I was drinking heavily and constantly. I was a completely absent husband and father whether I was home or not. Alcohol was my love, my religion, my past and my future. I quit each morning only to start again each night. Whatever demons or angels drove that compulsion to drink hardly mattered because the end result was always the same.

So what happened? My daughter reached out to several mutual friends for help. They put her in touch with the Lawyers and Judges Assistance Program (NMJLAP), which facilitated an intervention at the offices of a friend with whom I was co-teaching a class at the law school. When I walked into that conference room and saw my youngest daughter (who was supposed to be in New York City), I knew what was about to happen. This realization was confirmed when I saw other members of my family, friends, and NMJLAP volunteers. The intervention completely shattered the illusion which was my life as I listened to the most important people in my life, whom I loved beyond all measure, describe how my drinking was destroying anything of value in our relationships. In that moment of what for me was complete desolation, the NMJLAP offered the hope of recovery if I was willing to take one small step: to surrender to a plan that could begin a journey out of a very dark and painful place.

For whatever reason (and to this day I have no explanation), I did extend my hand and begin a long walk back to a world of flesh and blood, of body and soul, of forgiveness and redemption. That I now live in a world of grateful recovery is a direct result of the NMJLAP and its permanent staff and volunteers. They were present for me and we will be there for you, a living fact for which I will be forever grateful and indebted. I don't know much, but I do know this: as long as I don't pick up a drink today, this day and every day that follows will not be ordinary. It will offer the promise of extraordinary things. ■

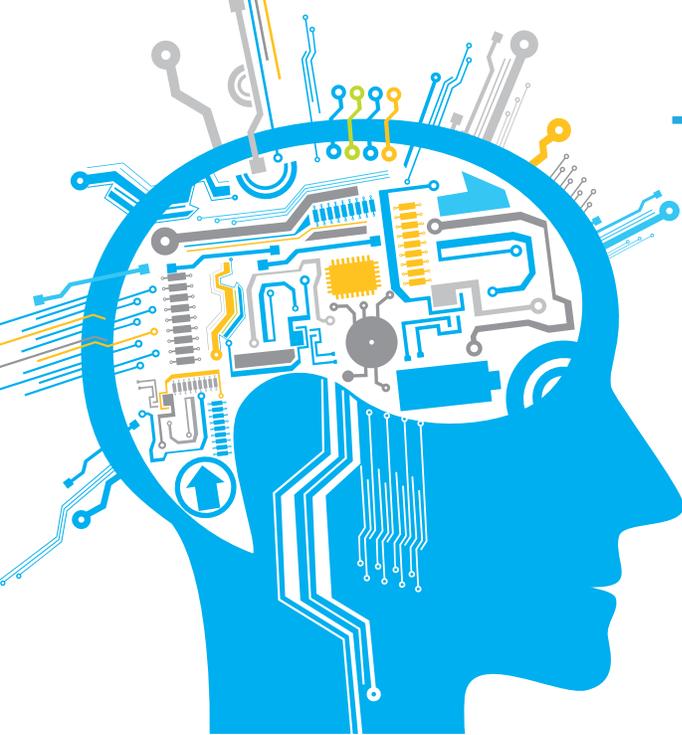
About the Author
This is a true story written by "David," a member of the State Bar.

Albuquerque Attorney Support Group

- Morning groups meet on the third Monday of the month.
- Afternoon groups meet on the first Monday of the month.
- Both groups meet at the First United Methodist Church at Fourth and Lead SW, Albuquerque.
- For more information, contact Bill Stratvert, 505-242-6845.

Santa Fe Support Group for Legal Professionals

- The group meets on the second Thursday of the month.
- Unitarian Universalist Church, 107 West Barcelona Rd., Santa Fe.
- For more information, call Diego Zamora, 505-629-7343.



The Disease of Addiction

By Jill Anne Yeagley

Despite the declaration by the American Medical Association in 1956 that alcoholism is a chronic and treatable disease, there remain some who view it as a moral failing or weakness. The disease of addiction has parallels to diseases such as diabetes and heart disease, yet our society attaches a stigma to addiction that often serves as a lethal weapon. This stigma feeds into the shame, isolation, and denial that surround the addicted, pushing them deeper into the disease process and farther away from the possibility of recovery. This article is intended to counter the stigma with a deeper understanding of addiction that will in turn encourage individuals to seek assistance when concerned about themselves, a loved one, or a colleague.

The disease of addiction has parallels to diseases such as diabetes and heart disease ...

Recent advancements in MRIs and SPECT scans make it possible for researchers to clinically observe the impact of various drugs on the brain. This has led the American Society of Addiction Medicine to expand the AMA's initial definition of alcoholism to include all chemical addictions and to reflect the most current research:

“Addiction is a primary, chronic disease of brain reward, motivation, memory and related circuitry. Dysfunction in these circuits

leads to characteristic biological, psychological, social, and spiritual manifestations, which are reflected in the individual pathologically pursuing reward and/or relief by substance use.

Addiction is characterized by an inability to consistently abstain, impairment in behavioral control, craving, diminished

recognition of significant problems with one's behaviors and interpersonal relationships, and a dysfunctional emotional response.

Like other chronic diseases, addiction often involves cycles of relapse and remission. Without treatment or engagement in recovery activities, addiction is progressive and can result in disability or premature death.”¹

How does someone become addicted?

A large body of scientific research shows that addictive drugs specifically target reward pathways in the brain that evolved long ago to promote activities essential to species survival such as reproduction, security (shelter and food), and socialization. These reinforcement pathways, composed of central nervous system structures and endogenous neurotransmitters communicating between the structures, are located in the primitive limbic system. Whenever we act to satisfy a need or fulfill a desire, the neurotransmitter dopamine is released into the nucleus accumbens and a feeling of pleasure is produced. Because the brain perceives this process as a signal that the action we've taken promotes survival or reproduction, it records the experience and becomes likely to repeat it. In nature, the rewards usually come only with effort and after a delay, but with addictive drugs the reward comes quickly and easily. These drugs spur a biological process that floods the nucleus accumbens with dopamine and, over time, severely reduces the brain's capacity to produce dopamine.

The mechanism of drug addiction can be compared to that of viruses, both of which are pathogenic agents for humans. Viruses enter our cells and use the host cell's core subunits—DNA and RNA—to create more viruses and promote their survival. As the viruses infect more and more cells, the host experiences unpleasant symptoms and may even die. “Just as viruses hijack a cell's RNA or DNA, drugs hijack the brain's core reward pathway to promote continued use.”² The cell depends on its core DNA and RNA for survival just as the human being is dependent on an intact brain reward pathway for survival. By modifying cellular function in the brain's reward pathways, mood-altering drugs create changes in emotions, cognitive function, and behaviors that frequently result in serious negative consequences, including death. There is, however, a notable distinction between the mechanisms of viral infection and drug addiction that must be understood. The changes in emotions and cognitive function brought on by the drugs make it extremely difficult for addicts to recognize their deterioration despite the progression of negative consequences. In many situations, it takes someone outside the addiction to shine a light on the disease before the recovery process can begin.

Why do some people become dependent on drugs and others do not?

The etiology of the disease of addiction represents a complex interaction between genetic and environmental factors. Research shows that certain people have a genetic predisposition to dependence, while others have psychological issues that predispose them. In addition, one's social environment can serve to either increase or decrease the likelihood of exposure to and abuse of a toxic substance. For example, a culture that considers alcohol and other drug use as necessary or expected and that reinforces use through rituals is likely to have more members who use and abuse drugs.

The chances of developing alcohol dependence are 40 percent if one parent has alcoholism and about 60 percent if an identical twin is alcoholic. As with other genetically-influenced diseases, having multiple, chemically-dependent family members increases each individual member's risk of becoming dependent. Studies of other drugs suggest similar rates of heritability, although more research is needed.

Research and treatment program data indicate that individuals exposed to any type of significant trauma have a greater risk of abusing drugs and developing drug dependence, and several studies have found that the majority (75–90 percent) of women seeking treatment for addiction have been the victims of abuse, usually childhood sexual abuse. Additionally, a National Institute of Mental Health Epidemiologic Catchment Area study estimated that 45 percent of individuals with an alcohol abuse disorder and 72 percent of those with a drug use disorder also had at least one co-occurring psychiatric disorder, most often anxiety or depression.

Louis Teresi, MD, likens “stress and addiction to gasoline and fire,” noting that exposure to stress can initiate or increase drug use and is strongly associated with relapse.³ Research shows that the neuro-endocrine stress systems are intimately related to the reward system involving drug use, and recent brain imaging studies illustrate neuroadaptations in brain stress circuits associated with chronic drug addiction.

Regardless of which factors precipitate an individual's drug dependence, two facts prevail. Recovery (remission) from this chronic disease is attainable, and maintaining recovery is a life-long process to be followed as with other chronic relapsing



illnesses such as diabetes and hypertension.⁴ The State Bar's Lawyers and Judges Assistance Program (NMJLAP) can help legal professionals and their families select the most appropriate treatment modality and provider, and NMJLAP volunteers who have “been there” stand ready to provide ongoing support and guidance. If the dependent person isn't “ready” for treatment, NMJLAP can help his/her loved ones effectively intervene. ■

About the Author

Jill Anne Yeagley (jyeagley@nmbar.org) is a licensed social worker and alcohol and drug counselor with more than 30 years of treatment, intervention, and prevention experience. She is the program administrator/clinician for the Lawyers and Judges Assistance Program (NMJLAP).

Endnotes

¹ American Society of Addiction Medicine, *Public Policy Statement: Definition of Addiction*, <http://www.asam.org/for-the-public/definition-of-addiction> (April 19, 2011).

² Teresi, L., Haroutunian, H. *Hijacking the Brain: How Drug and Alcohol Addiction Hijacks Our Brains The Science Behind Twelve-Step Recovery* (Bloomington: Author House, 2011), 15.

³ Teresi, L. Haroutunian, H., 126

⁴ American Society of Addiction Medicine, *Public Policy Statement: Treatment for Alcohol and Other Drug Addiction*, <http://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2011/12/15/treatment-for-alcohol-and-other-drug-addiction>

New Mexico Lawyers and Judges Assistance Program

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Work Smarter: The Power of Recharge



By Hallie Neuman Love



A 2012 ABA Law Practice article states that burnout in the legal profession is greater than that of other professions.¹

Why does law practice lead to such extreme results for so many attorneys? This article will examine data from a broad spectrum of scientific research in positive psychology, exercise science, neurobiology, neuroscience, and complementary and alternative medicine (the new mind-body sciences) in order to identify factors that may lead to attorney burnout and to explain why those factors may contribute to attorney distress. Further, this article will introduce work trends that utilize the emerging mind-body sciences to pioneer smarter ways to be more productive and thus avoid burnout. Finally, this article will offer an overview of scientifically proven interventions and recharging techniques that may provide a buffer against the occupational hazard of attorney depression and burnout.

Factors Contributing to Attorney Burnout

Thorough review of the exploding research in the mind-body sciences and legal education reveals six significant factors that may contribute to attorney distress. By understanding how these factors affect brain chemistry, brain wiring, biology, and the stress response, we can alter their adverse effects by modifying our behaviors.

1. High Demands

Ever-higher demands, frustrations, and deadlines will always persist, but mind-body science proves we can cultivate vast control over their deleterious effects. The common logical response to overwhelming legal responsibilities is to log more continuous hours, nose to the grindstone, and view downtime as time wasted. The problem is that humans are not designed to burn up energy continuously. The need for physical and psychological recharging is embedded in our physiology. When we expend too much mental and emotional

energy without recharging, we become exhausted and it takes more hours to get the job done. Our bodies regularly tell us to take a break, but we supersede these signals with caffeine, sugar, and stress hormones.

Stress hormones work optimally when they flood our bodies for only for a short time until we are out of harm's way. This is neurobiology's famous fight/flight survival response. While it's true that stress physiology can provide motivation and improve performance in small doses, it's also true that the brain-body does not distinguish between physical and psychological threats. Every type of stressor releases a deluge of stress hormones. Chronic stress keeps the immune system suppressed 24/7, setting the body up for serious health risks, draining energy as the stress chemicals amp up the body's physiology for fight or flight, increasing heartbeat and blood pressure, and sending all energy to the muscles. Operating in chronic stress mode is physically exhausting, emotionally dispiriting, and is not sustainable. Continuous stress is so commonplace in law practice it seems "normal." The whole truth is that the real problem is lack of recovery from stress. The key to thriving is to strategically practice turning off the stress response and continually recharging energy throughout the day.

2. Multitasking

Juggling too many things at the same time splits focus and attention so that we are partially engaged in multiple activities but rarely fully engaged in any one primary task. Psychology studies conclude that multitasking typically increases the time it takes to finish the primary task by an average of 25 percent. Further, multitasking trains the brain to be ineffective at focusing and concentrating. Doing one thing at a time helps the brain get over this "cultural ADD." The better we are at focusing on one thing at a time for sustained periods, the more effective we are and the higher quality work we produce in less time, thereby decreasing the sense of overburden and stress.

3. Emotions

Studies in positive psychology and neuroscience reveal that the neurochemistry of emotions impacts attorneys daily. When we are confronted with an onslaught of demands and unexpected challenges, we slip into negative emotions—irritability, impatience, anxiety, insecurity, fear, frustration, anger, blame, resentment—multiple times a day. These negative emotions have a cascading effect. The stress response turns on, which undermines the brain's capacity to think clearly, logically, or broadly, which in turn makes us less productive. We are more likely to move into reactivity, which further drains energy. As we become physically and emotionally depleted, we are less engaged, more distracted, and less rational.

Without intermittent recharging, we are not physiologically capable of sustaining positive emotions that nourish the body with dopamine and serotonin. These feel-good chemicals counteract stress, build emotional resilience, and turn on the learning centers in the brain

that help us organize and store information, retrieve it faster, and make and sustain more neural connections which in turn allow us to think more quickly and creatively.

4. Legal Training

Experts in legal education have pointed out that the very nature of legal training may play a part in depression and burnout. In law school we learn to look for flaws and the holes in arguments. We train ourselves to be critical thinkers. We further our legal careers with optimized analytical thinking, defensive posturing, and looking for and zeroing in on weaknesses in opposing counsel. All are crucial skills for lawyers and make for the successful practice of law. By training this way hour after hour, we have ingrained neural pathways that are very adept at looking for and targeting the negative. The problem is that the better we get at scanning for the negative, the more we miss out on the positive.² Studies in positive psychology divulge that a lawyer's view of the whole world (not just legal issues) may become stuck in scanning for the negative, a concept called "cognitive afterimage." Unless there is an ability to compartmentalize these work-related skills, "legal thinking" can lead to a negative fault-finding, energy-draining, and stress-producing mindset. However, the brain is malleable and can change throughout our lives, allowing us to train our brains to scan for positives and create new neural pathways that afford conscious activation of positive emotions and their neurochemistry of wellbeing.

5. Mirror Neurons

Neuroscience has uncovered certain brain cells called "mirror neurons" that act as reflectors and tune us to each other at physical and emotional levels. Mirror neurons may be partially responsible for feeling energized while in the company of positive people and feeling depleted or frustrated while in the company of negative people. This may also help explain why lawyers who have direct and continuous contact with trauma-exposed clients may experience a sort of secondary trauma that can lead to burnout. There is evidence that exposure to overwhelmed clients, frustrated partners, and difficult opposing counsel can trigger negative emotions akin to their feelings as mirror neurons begin to resonate in a manner similar to theirs. Recharging techniques are useful for maintaining emotional balance in light of mirror neurons.

6. The Sedentary Nature of Law Practice

Neurobiology provides that continuous hours of sitting slows our body's metabolic rate and triggers a type of hibernation mode, shutting down the immune system as well as other systems. The body's chemistry becomes depressive. It is vitally important to move throughout the day and to get exercise, which is an anti-depressant.

Smarter Work Trends: A New Paradigm

The six factors discussed above typically result in less productivity. Left unchecked, one or more of these factors may result in overwhelming depression or burnout.

The explosion of research in the mind-body sciences makes the case for an alternative work ethic—working smarter, not longer, hours. Research shows that people have more energy and are more productive when they move from periods of high and fully engaged focus to periods of recharging their energy throughout the day. It's clear from emerging data that the quantity of energy available to us affects how well we feel, how well we think, and how motivated we are to do our jobs. In high productivity we can accomplish more in less time. By using techniques of recharging energy throughout the day, we have creative breakthroughs, broader perspectives, and reflective and long-term thinking. We will have time to metabolize what's learned, feel more motivated, and be capable of greater

cognitive functioning. By understanding that energy is renewable, we can strategically recharge our energy and remain productive. Recharging turns off the stress response, thereby building physical, mental, and emotional resilience as a buffer against depression and burnout. This is the new science of sustainable work stamina and high performance success.

Overview of Interventions and Recharging Techniques

Simple behavioral interventions that may help increase productivity include the reduction of interruptions that interfere with high focus; avoiding multitasking in an effort to help re-train the brain to focus on one thing at a time; eating right, sleeping right, and exercising (core-based exercise is most energizing); taking lunch fully unplugged away from the desk; getting up from the desk periodically to stretch (yoga is most effective); and moving the body to stave off the hibernation response.

Easy-to-learn recharging techniques include mini-recoveries that switch off the stress response and turn on the stress antidotes of dopamine, serotonin, and endorphins. Unplugging and completely changing channels are key because true recharging requires full disengagement from work. It takes practice to learn how to do it, but once learned, mini-recoveries needn't take more than 5–15 minutes to kick in the "reset" button. Some common mini-recoveries include breathing and relaxation exercises; resiliency training of the nervous system (provides for quicker discharge of negative emotions); rediscovery of the purpose of work and life (which provides increased focus, commitment, and perseverance); consciously cultivating positive emotions (confident, engaged, happy, invigorated) that build resilience and are an antidote to stress; and mindfulness meditation which can create one-pointed focus, a sense of calm and contentment, and more resilience.

A power recharging tool is Integrative Restoration® ("iRest") meditation. In the author's view, it is the most effective and long-lasting recovery available. It encompasses all of the mini-recoveries discussed above rolled into one easy practice.

In conclusion, the practice of law can easily include daily doses of recharge. Thinking and acting like a lawyer does not have to result in chronic stress or depression or burnout. There are easy-to-learn techniques to re-train the brain, body, and spirit to work smarter, with more productivity, decreased stress, and increased positivity. ■

About the Author

Author Hallie Neuman Love is a New Mexico attorney and nationally certified mind-body therapist (YA E-RYT 500.) She specializes in teaching iRest® for lawyers (currently at the State Bar Center) as well as strategic recharging techniques for optimal productivity.

Endnotes

¹ www.americanbar.org/publications/law_practice_magazine/2012/may_june/burnout-avoidable-not-inevitable.html

² Peterson, T.D., & Peterson, E.W., *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn From the Science of Positive Psychology*, 9 Yale J. Health Pol'y L. & Ethics, 357-434 (2009).

... the practice of law can easily include daily doses of recharge.

Recognizing Enabling and Denial and Their Roles in Addiction

By Hilary A. Noskin

For every person mired in an active addiction, there is at least one, and often multiple, “enablers.” These well-meaning individuals frequently share in the alcoholic’s/addict’s denial and unconsciously contribute to maintaining the addiction with their enabling behavior. Recovery becomes possible when those close to the alcoholic/addict gain insight into their enabling behavior and become willing to stop.

Who are these enablers? Colleagues, family members, friends, and others who cover up, make excuses, and assume responsibilities of the alcoholic/addict in order to minimize or eliminate negative consequences caused by the addiction. Although enablers are motivated by a desire to help, the outcome is just the opposite. Enabling reinforces the alcoholic’s/addict’s denial and deprives him/her of the real life opportunities that lead to recognition of the problem.

To determine whether an action is helpful or enabling, consider these definitions:¹ “*Helping* is doing something for someone that they are not capable of doing themselves. *Enabling* is doing for someone things that they could, and should, be doing themselves.” Some examples of enabling include the spouse who calls in “sick” for the lawyer home in bed with a bad hangover; the paralegal who finishes and submits a response for his attorney boss who is on a multi-day binge; and the attorney who, in a conversation with the managing partner, offers excuses for her colleague’s drunken, inappropriate behavior at a recent event. The common element in each example is that the enabler’s behavior assists the alcoholic/addict in avoiding the consequences of his/her actions.

Every time a consequence is minimized or avoided, the alcoholic/addict becomes more entrenched in the addictive process and its associated psychological defenses, as do the

enablers. For example, the hung-over lawyer whose spouse reports him “sick” is able to avoid the admonishment and disapproval of his partner/firm manager. To alleviate the discomfort he feels about missing work, the lawyer is likely to increase his hours and productivity for the proximate future and this, in turn, makes it easier for the lawyer to believe he has everything under control and that “things aren’t that bad.”

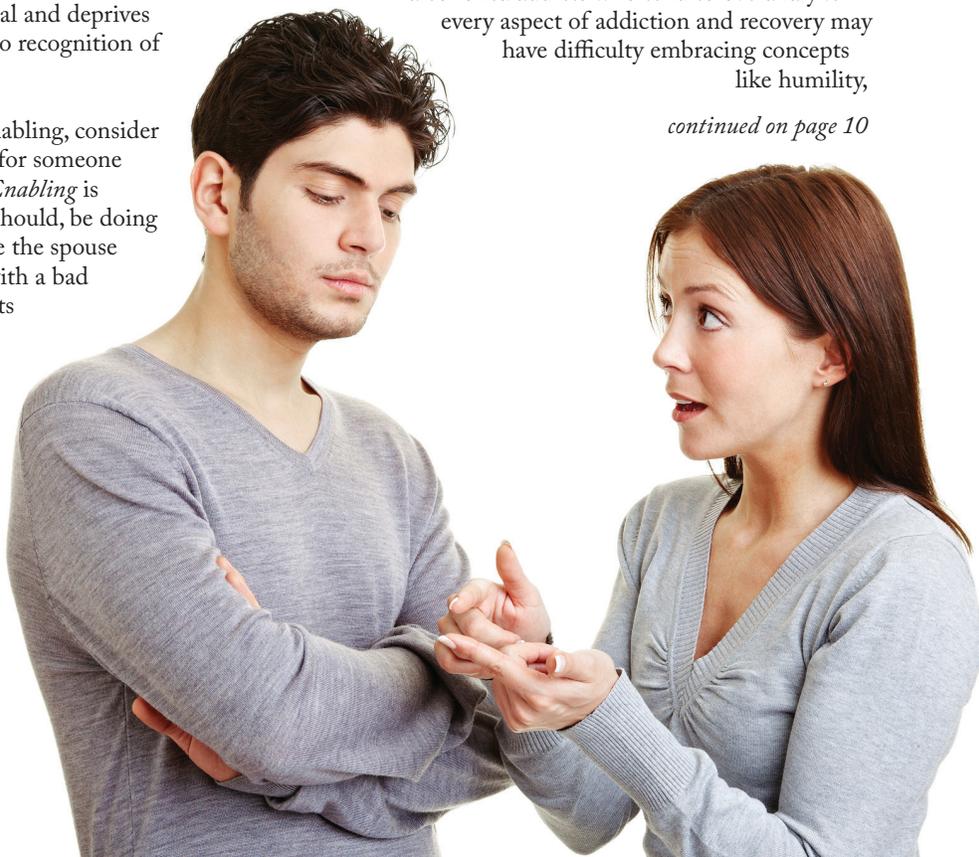
Qualities common to legal professionals, such as intelligence and problem-solving skills, also prolong the active addiction by allowing the individual to function at relatively high levels despite the addiction. In his article “Can You Outsmart Addiction?”² Dr. David Sack provides specific ways in which intelligence can become a handicap to recovery:

Intellectualization. Through this defense mechanism, the alcoholic/addict argues about logical flaws and overanalyzes insignificant details to prove there is no problem. If the alcoholic/addict is fortunate enough to receive treatment, he/she will discover that addiction is not an illness that can be approached intellectually. Even years into recovery, extremely bright people are more prone to relapse because their intellect tells them, “I can handle one drink/hit. I’m a new person and I know too much about my disease to ever go back to where I was.”

Overconfidence. Well-educated professionals tend to believe their intelligence will allow them to control their addiction. Since their best thinking has paid off for them in the past, they believe that “others can’t control their drug use, but I know more than they do. I can.”

Perceived Incompatibility with the 12 Steps. In meetings of Alcoholics Anonymous and other 12-step groups, it is often said that “everyone has enough intelligence to be able to follow the steps, but some have too much.” Highly intelligent alcoholics/addicts who tend to overanalyze every aspect of addiction and recovery may have difficulty embracing concepts like humility,

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Stress, Anxiety and Depression:

Understanding Their Connection and Treatment



By Jill Anne Yeagley

Several studies indicate that law students' rates of depression and anxiety upon entering law school are comparable to the rates of the general population, but then rise significantly by the spring semester and continue to increase to the end of the law school program, never returning to pre-law school levels. Other studies confirm rates of depression among lawyers are 2.5 to 3.6 times higher than other professional occupations. These alarming rates clearly call for early identification and treatment and for prevention strategies such as those discussed in this issue's "Work Smarter: The Power of Recharge" article by Hallie Neuman Love.

Depression is thought to result from a combination of genes, neurochemistry, environmental stressors, and personality. Researchers have recently confirmed a biological link between stress, anxiety, and depression which they believe explains how stress and anxiety can produce and maintain depression. This subject is particularly pertinent to lawyers who frequently feel stressed or burned out in their practices.

There are basically two types of stress: the quick, intense experience associated with the "fight or flight" response (see Love's article) and a less intense but longer-term reaction. Most of the time our bodies adapt, and we reclaim our balance without lasting effects. However, as renowned stress expert Dr. Robert Sapolsky cautions, "If stress is chronic, repeated challenges may demand repeated bursts of vigilance. 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."¹ And as Dr. Richard O'Connor wrote, "Depression is stress that has gone on too long."²

Depression is a common but serious illness that often goes undiagnosed for a variety of reasons. Many people regard the symptoms as normal, everyday occurrences to be tolerated. Some mistakenly see depression as a character weakness that is unalterable or must be overcome independently. Others seek to dismiss or bury the uncomfortable feelings and thoughts. Far too often, people attempt to self-medicate with harmful substances or behaviors, only to find themselves with additional problems and deeper depression.

Not all individuals with depressive illnesses experience the same symptoms. In general, men become more irritable, exhausted, lose interest in once-pleasurable activities, and have trouble sleeping. Women, on the other hand, are more likely to experience intense feelings of sadness, worthlessness, and excessive guilt. The severity, duration, and frequency of the symptoms vary depending on the individual and the type of depression. The most common symptoms include:

- persistent sad, anxious, or "empty" feelings;
- feelings of hopelessness or pessimism;
- feelings of guilt, worthlessness, or helplessness;
- markedly diminished interest or pleasure in activities once pleasurable;
- irritability, restlessness;
- insomnia, early-morning wakefulness, or hypersomnia;
- fatigue or loss of energy;
- diminished ability to think or concentrate, or indecisiveness;
- overeating, or appetite loss;
- aches or pains, headaches, cramps, or digestive problems that don't respond to medical treatment; and
- recurrent thoughts of death.

Although depression can occur in individuals with no family history, certain forms of depression, especially bipolar disorder, tend to run in families. Some newer genetic research indicates the risk for depression results from the influence of several genes acting together with environmental or other factors.³ Experiencing trauma, the loss of a loved one, or any other stressful situation may trigger a depressive episode, although some depressive episodes may occur without an obvious trigger.

The most common depressive disorders include major depression, mild but chronic depression (dysthymia), and minor depression. Major depression is characterized by a combination of symptoms experienced "nearly every day" that interfere with the person's ability to work, sleep, study, eat, socialize, and enjoy once-pleasurable activities. While some people may experience a single episode of major depression during their lifetimes, many others will experience multiple episodes.

Dysthymia is characterized by long-term (two years or longer) symptoms which may not be severe enough to disable a person but interfere with normal functioning or a sense of wellbeing. Individuals with dysthymia may also experience one or more episodes of major depression.

Minor depression is characterized by symptoms that last for two weeks or longer and do not meet the criteria for major depression. Left untreated, people with minor depression are at high risk for developing a major depressive disorder.

The last form of depression, less common than major depression or dysthymia but debilitating without treatment, is bipolar disorder (formerly called manic-depression). It is generally characterized by cycles of moods from extreme highs; e.g., manic to extreme lows; e.g., depression. Bipolar disorder often develops in a person's late teens or early adult years and, like diabetes, is a lifelong disease that must be carefully managed.

The earlier treatment begins for any form of depression, the more effective it is. Because some medications or medical conditions can cause the same symptoms as depression, it's important to consult

with a physician first. If the doctor doesn't find any medical conditions causing the depression, the next step is a psychological evaluation. Once properly diagnosed, the depression can be treated with medications, such as selective serotonin reuptake inhibitors (SSRIs), and/or psychotherapy.

The most important information to remember is that depression, no matter how severe, can be effectively treated and NMJLAP is here to help. Call 505-228-1948 or 800-860-4914 today. ■

About the Author

Jill Anne Yeagley (jyeagley@nmbar.org) is the program administrator/clinician for the Lawyers and Judges Assistance Program (NMJLAP). She also administers the Bridge the Gap Mentorship Program at the State Bar.

Endnotes

¹ *Scientific American*, Robert Sapolsky, Volume 289, No. 3, September 2003.

² *Undoing Perpetual Stress: The Missing Connection between Depression, Anxiety and 21st Century Illness* (Berkley Trade, 2006):

³ *World Psychiatry*, MT Tsuang et. al., Vol. 3, No. 2, June 2004

Recognizing Enabling and Denial and Their Roles in Addiction

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powerlessness and surrender, instead believing firmly in their own willpower and logic.

Because the intellectually-gifted face unique obstacles in overcoming addiction, they often fare better in specialized addiction treatment programs for professionals.³ Particularly for those who are treatment-resistant, general and profession-specific support groups can help them remain open to feedback from peers who are also in recovery.

In addition to the impact of high intelligence discussed here, it is vital to recognize other elements of denial that interfere with enablers' ability to identify the problem and seek appropriate assistance. For example, people who care about an alcoholic/addict are prone to want to believe the "story" he/she perpetuates and to be reluctant to question what is really a fantasy. Others, especially in the workplace, believe it is "not their business" or that the person is "going through a rough patch." To many, it might seem preferable to just ignore the issue. But it is not! Untreated addiction robs individuals of their livelihoods and relationships and ultimately kills them.

Under the New Mexico Rules of Professional Conduct, Rule 16-803, a lawyer with knowledge of professional misconduct by another lawyer or judge must report it to the New Mexico Disciplinary Board or the New Mexico Judicial Standards Commission unless the communication is made for the purpose of reporting substance abuse or recommending, seeking or furthering

the diagnosis, counseling or treatment of a lawyer or judge for alcohol or substance abuse. In the most situations, a concerned legal professional may report to the New Mexico Lawyers & Judges Assistance Program (NMJLAP) instead of the disciplinary authorities. (Refer to Rule 16-803, Paragraph F for exceptions.)

All contact with NMJLAP is confidential and, most importantly, NMJLAP can help you stop enabling and interrupt the addiction process. Many lawyers with successful practices who are in recovery belong to the NMJLAP Committee. They share a strong fellowship and are ready to work with you to provide support and guidance. You don't have to manage alone. Call NMJLAP in Albuquerque at 505-228-1948 or 800-860-4914. ■

About the Author

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Endnotes

¹ Buddy T., *Enabling-When Helping Doesn't Really Help*, About.com Alcoholism, March 6, 2011

² Sack, D., *Can You Outsmart Addiction?*, PsychCentral, Addiction Recovery with David Sack, M.D., September 2012.

³ Sack, D. Ibid.

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