

Introduction to Substance Abuse and Mental Health Issues

Resource 12

Legal professionals and in particular— lawyers with 10 years of less experience— suffer from depression and alcohol problems at significantly higher rates than other professionals and the general population. Untreated, these problems can harm not only the affected individuals, but their families, colleagues, and clients.

This resource should facilitate a discussion about substance abuse and mental health issues in the profession, including possible warning signs, what to do is the new lawyer is faced with such a problem, the responsibility for being “my brother’s keeper,” and resources for assistance.

- Discuss the goals of substance abuse/mental health education, which include raising the attorney population’s awareness regarding the problems, informing all lawyers of how to detect, prevent, and assist impaired lawyers and increasing the consciousness of and willingness to utilize available resources. (See attached article on Landmark Study).
- Share with the new lawyer experiences, if any, you have had dealing with an impaired lawyer or judge and how you handled (or should have handled) the situation(s).
- Discuss with the new lawyer your experiences (if any) with noticing the signs and symptoms of a substance use or mental health problem in someone with whom you worked. Talk about how one might professionally address this type of situation.
- Discuss a lawyer’s duty to decline or withdraw from representation if a physical or mental condition materially impairs his or her ability to represent a client. See Code of Professional Conduct, 16-116 NMRA. https://www.law.cornell.edu/ethics/nm/code/NM_CODE.htm
- Discuss a lawyer’s duty to report the misconduct of a colleague when a substance abuse problem or mental health issue affects his or her fitness to practice law. See 16-803 NMRA Code of Professional Conduct and Rule 21-300 Code of Judicial Conduct. https://www.law.cornell.edu/ethics/nm/code/NM_CODE.htm
- Review the NM Lawyers and Judges Assistance Program webpages with the new lawyer at: http://www.nmbar.org/nmstatebar/Membership/Lawyers_Judges_Assistance/Nmstatebar/F_or_Members/Lawyers_Judges_Assistance/Lawyers_Judges_Assistance.aspx?hkey=edb062fd-8e81-4f2d-9573-2921c71b5a38.
 - Discuss the confidentiality of referrals to the NM Lawyers and Judges Assistance Program (NMJLAP).

- Review the signs and symptoms of addiction and depression, including the self-tests for alcohol/other drug problems and depression.
- Discuss how the NMJLAP can assist with a judge or colleague about whom you are concerned.
- Discuss the most professional ways for dealing with the following situations:
 - The judge before whom you appear seems to be impaired.
 - The opposing counsel in your case attempts to negotiate with you while s/he appears impaired.
 - The opposing counsel in your case appears with his or her client at a deposition or hearing and you suspect s/he is impaired.
 - Your client appears for a hearing impaired.
- Discuss a lawyer's personal and professional duties to assist colleagues if impairment is suspected.
- For inside mentoring relationships, share with the new lawyer any policy your firm or organization has for dealing with an employee who exhibits symptoms of chemical dependency or mental health problems. Discuss what the new lawyer should do if such problems are suspected of partners, other associates or support staff.
- Discuss any support plans your firm or organizations has in place for assisting an employee with chemical dependency or mental health problems.
- If the mentor and new lawyer are in separate firms or organizations, direct the new lawyer to inquire as to his/her organization's policy for dealing with an employee who exhibits symptoms of chemical dependency or mental health problems, including any support plans his/her organization may have in place to assist an impaired employee.
- Discuss the importance of protecting clients' cases from an impaired lawyer.

Landmark National Study Confirms High Rates of Problem Drinking and Other Behavioral Health Issues in the Legal Profession

By Jill Anne Yeagley, New Mexico Lawyers and Judges Assistance Program



Sources:

Krill, P., Johnson, R., Albert, L. "The Prevalence of Substance Abuse and Other Mental Health Concerns Among American Attorneys." Journal of Addiction Medicine. Jan Feb issue, 2016.
<http://journals.lww.com/journaladdictionmedicine/pages/default.aspx>.

Infographic modified with permission from the State Bar of Wisconsin, which originally appeared in the February 2016 *Wisconsin Lawyer*™ magazine.

The **New Mexico Lawyers and Judges Assistance Program** offers free assessments, information and referrals, and intervention services. Any legal professional can confidentially (even, anonymously) obtain assistance regarding their own or a colleague's mental health or substance use problem by calling **1-800-860-4914** or **505-228-1948**. The confidentiality of communications with NMJLAP is protected under NMRA 16-803 and the New Mexico Code of Judicial Conduct, Rule 21-300.

A new landmark study conducted by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs confirms that lawyers suffer from problem drinking and mental health problems at significantly higher rates than other professionals and the general population.¹ The research also indicates that too many lawyers are not seeking the help they need, for common, yet unwarranted, reasons. The researchers and lawyer assistance programs hope this data will promote change and encourage those affected to seek assistance.

This national study of approximately 13,000 currently employed lawyers (representing 19 states in every region of the country including New Mexico) found that 36 percent drink at levels consistent with problem drinking and 21 percent meet the AUDIT-10 criteria for an alcohol use disorder.² These rates are roughly 3–5 times higher than the government estimates for alcohol use disorders in the general population. The study also revealed an alarming 28 percent of practicing attorneys currently experience mild-to-severe depression as compared to 7 percent of adults in the general U.S. population.

Younger and less experienced practitioners most at risk for alcohol problems

While it is clear that legal professionals as a group suffer elevated rates of alcohol abuse, an analysis of the data by practice

time and age shows younger lawyers are struggling the most with alcohol abuse. Respondents identified as 30 years or younger have a 32 percent rate of problem drinking, almost 1 in 3, which is substantially higher than any other age group. Attorneys, ages 31–40, report a 25 percent rate of problem drinking, and starting at age 51, the rates fall below 20 percent.

In addition to age, an inverse correlation between years of practice and problem drinking was evident. Approximately 28 percent of individuals working 10 years or less reported problem drinking behavior as compared to 19 percent of practitioners with 11–20 years of experience, 16 percent of practitioners with 21–30 years and 15 percent of professionals with 31–40 years of experience. This early onset of problems is further illustrated by the 44 percent of lawyers surveyed who indicated their use of alcohol was problematic during the 15 year period following their graduation from law school.

As a cohort, individuals employed in private firms had the highest rates of problem drinking (23 percent), after attorneys working in bar associations (24 percent). Elevated rates were also evident among lawyers working in other legal environments: 19 percent of lawyers who identified as an in-house, governmental, public or nonprofit lawyer met the AUDIT criteria for problem drinking, as did approximately 19 percent of those identified as solo practitioners. Among the judiciary, 6 percent met the criteria for an alcohol use disorder.

Reporting Drug Use

In contrast to the AUDIT alcohol-related section of questions which had almost full participation, only 27 percent answered the questions comprising the Drug Abuse Screening Test. While alcohol is the most common drug of choice among legal professionals (84.1 percent), the large number of respondents skipping these questions suggests substantial fears of repercussions and more drug use than the data shows. Among individuals reporting drug use other than alcohol in the past 12 months, sedatives were the most prevalent at 15.7 percent, followed by marijuana at 10.2 percent.

Of those who reported other drug use, 0.1 percent reported severe drug use, 3 percent reported substantial drug use, 20.9 percent reported intermediate use and 76 percent reported low use. Lead author of this study, attorney and clinician Patrick R. Krill said the significant number of participants reporting low and intermediate drug abuse is particularly disturbing when one considers the proliferation and addictive nature of today's prescription drugs. "If a lawyer is abusing prescription medications, it can quickly turn to 'substantial' or 'severe' use," Krill said, "And given the even higher stigma associated with drug use, lawyers may be even more hesitant to seek help."

Depression and Anxiety Continue to Plague Legal Professionals

Studies examining depression rates and suicidal risk in legal and other professional groups have consistently found elevated rates for lawyers and judges, and this study further supports those findings. Ninety percent of the study participants completed all questions comprising the Depression Anxiety Stress Scale (DASS-21), providing highly reliable data. Of these individuals, just over 28 percent and 19 percent reported current symptoms of depression and anxiety, respectively and 23 percent reported experiencing mild to high levels of stress.

Not surprisingly, the incidence of depression, anxiety and high stress at some point during the participants' careers was significantly higher. Forty-six percent reported experiencing concerns with depression and 61 percent with anxiety.

Particularly disturbing was the finding that 11.5 percent had suicidal thoughts during their career and 0.7 percent had made at least one suicide attempt during their career.

Like the findings concerning alcohol abuse, the rates of depression, anxiety and stress decreased as participants' ages or years worked in the field increased. The study also found significantly higher rates of depression, anxiety and stress among participants classified as problem drinkers.

"Any way you look at it," says Krill, "this data is very alarming and paints the picture of an unsustainable professional culture that's harming too many people. Attorney impairment poses risks to the struggling individuals themselves and to our communities, government, economy, and society. The stakes are too high for inaction."

Barriers to Seeking Help

Fewer than seven percent of respondents reported having received treatment for alcohol or other drug use problems. When asked to identify the major barriers to seeking assistance, 68 percent said they didn't want others to find out and 64 percent identified privacy and confidentiality as a major concern. About 31 percent cited concerns about maintaining their law license and 18 percent said they didn't know who to ask or didn't have the money for services. These same concerns were also identified as barriers to seeking help for mental health issues, with approximately 55 percent saying they didn't want others to find out and 47 percent expressing concerns about confidentiality and privacy. An additional 22 percent said they didn't know who to ask for help.

Although 84 percent of lawyers said they were aware of lawyer assistance programs, only 40 percent said they would utilize these services if they were in need; once again, privacy and confidentiality concerns were cited as the main reason not to pursue help.



Unfortunately, there is a common misperception that contact with lawyer assistance programs is not confidential and that one's livelihood is at risk if others in the community learn an individual has sought help for a substance use or mental health problem. In fact, confidentiality of communications is ensured by law just as the lawyer-client relationship is, and the responsibility to uphold the privacy of individuals who contact the New Mexico Lawyers and Judges Assistance Program is taken very seriously. Getting help has saved the careers of many New Mexico lawyers and greatly enriched their professional and personal lives, and the only people who are privy to that information are individuals with whom the lawyers have chosen to share their experiences.

David Stout, UNM Law Professor and Lawyers and Judges Assistance Committee co-chair adds, "The NMJLAP volunteers openly share our stories of addiction, mental health challenges and recovery with our colleagues in distress to offer them hope and a lifeline to professional help and recovery. We share our experiences in the hope that those who are suffering will understand they are not alone. The best way to prevent the loss of one's reputation, livelihood and license is to access help early."

Sadly, the nature of the brain biology of addiction is that 95 percent of individuals who meet the diagnostic criteria for a substance use disorder don't perceive they have a problem or need treatment, and most people who do recognize they have a problem, don't seek help.³ Thus, it is especially critical for colleagues to contact the NMJLAP when they observe

behaviors in another legal professional that raise concerns. Once alerted to these concerns, the NMJLAP works with the callers to develop an appropriate action plan.

Today, thanks to the compassion of colleagues who were willing to break the silence, numerous lawyers and judges have been given a fresh start and are now in recovery.

The New Mexico Lawyers and Judges Assistance Program offers free assessments, information and referrals and intervention services. Any legal professional can *confidentially* (even, anonymously) obtain assistance regarding their own or a colleague's mental health or substance use problem by calling 1-800-860-4914 or 505-228-1948. The confidentiality of communications with NMJLAP is protected under NMRA 16-803 and the New Mexico Code of Judicial Conduct, Rule 21-300. ■

Endnotes

¹ Krill, P. R., Johnson, R., & Albert, L. (2016). The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys. *American Society of Addiction Medicine*, 10(1), 46-52.

² Alcohol Use Disorders Identification Test. The AUDIT is a ten-question test developed by a World Health Organization-sponsored collaborative project to determine if a person is at risk for alcohol abuse problems.

³ Substance Abuse and Mental Health Services Administration. Results from the 2013 national survey on drug use and health: Summary of national findings. NSDUH Series H-48, HHS Publication No. (SMA) 14-4863. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2014.

NEW MEXICO LAWYERS AND JUDGES ASSISTANCE PROGRAM (JLAP)

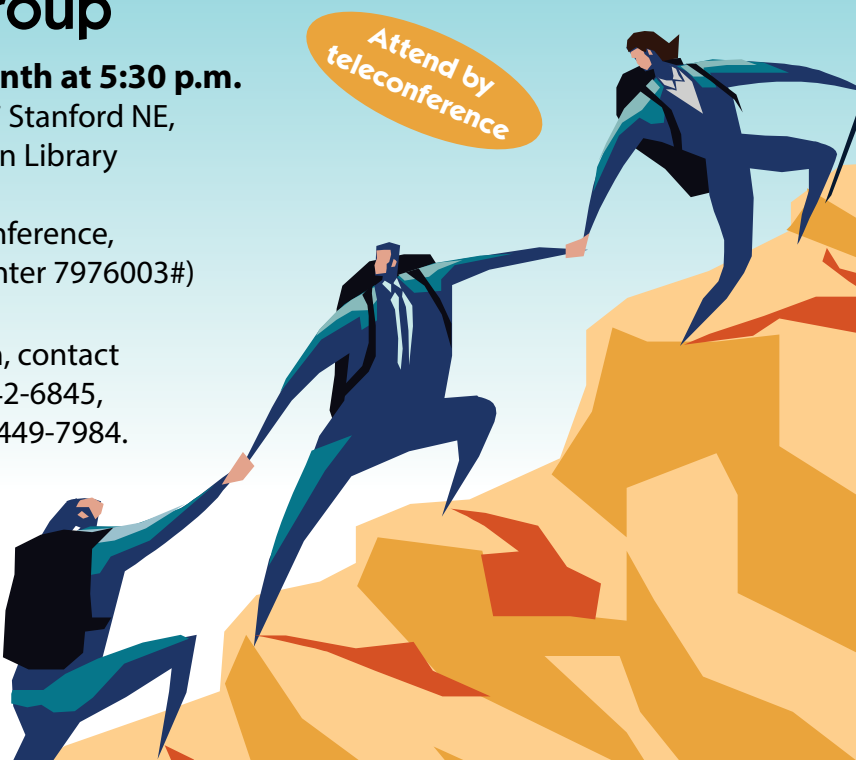
Support Group

Second Monday of the month at 5:30 p.m.

UNM School of Law, 1117 Stanford NE,
King Reading Room in Library

(To attend by teleconference,
dial 1-866-640-4044 and enter 7976003#)

For more information, contact
Bill Stratvert, 505-242-6845,
or Hilary Noskin, 505-449-7984.



Call us before a personal problem sabotages your career, family life, or health.

Many of us, including legal professionals, need help overcoming personal issues at some time in our lives, yet many wait until the problem threatens their career or personal life. Denial is often the first reaction when faced with a problem, and even once recognized, fear and misplaced pride can interfere with asking for help.

NMJLAP urges you to contact us whenever you feel you have a problem. Our services are free and completely confidential. In working with lawyers, judges, and law students for over 20 years, we have developed a sensitivity to their concerns about seeking help. We also understand the stresses unique to the legal profession and how they can lead to serious personal and professional problems.

We have seen hundreds of lives improve as a result of seeking help. Take the first step and call us. We'll help you take it from there.

Please retain this brochure or pass it along to a legal professional in need.

Confidential Consultation

The N.M. Rules of Professional Conduct (Rule 16-803) and the N.M. Code of Judicial Conduct (Rule 21-300) provide for strict confidentiality regarding communications with NMJLAP.

NMJLAP does not report attorneys or judges to law enforcement, the Disciplinary Board, or to the Judicial Standards Commission.

Not ready to talk about it?

The NMJLAP website has information regarding program services and volunteers along with tips, articles, videos, and other resources for coping with many different concerns.

www.nmbar.org

NEW MEXICO LAWYERS AND JUDGES ASSISTANCE PROGRAM

5121 Masthead NE
Albuquerque, NM 87109
Office: 505-797-6003
Fax: 505-828-3765
Email: jyeagley@nmbar.org



NEW MEXICO LAWYERS AND JUDGES ASSISTANCE PROGRAM

You don't have to manage alone



Help and Support are only
a phone call away.
Confidential assistance –
24 hours every day.

Lawyers Helpline:

505-228-1948 in Albuquerque
800-860-4914

Judges Helpline:

888-502-1289

www.nmbar.org

The New Mexico Lawyers and Judges Assistance Program

The purpose of the New Mexico Lawyers and Judges Assistance Program (NMJLAP) is to provide help to members of the bar and bench and law students with emotional, behavioral, alcohol, other drug, gambling, or other personal problems that affect well being and performance.

NMJLAP includes a professional clinician and a statewide network of recovering attorneys and judges dedicated to helping others in the profession get the support and assistance they need.

NMJLAP will provide:

- Assessments of problems
- Peer support
- Professional & peer interventions
- Information & referrals for professional assistance

NMJLAP does not initiate any grievance procedures, practice law for any attorney, or provide financial help.

Assistance for the Helpers

Lawyers and judges are not unique.

Millions of people need help overcoming personal problems at some time in their lives. Sadly, many deny or minimize their symptoms until the problem threatens their career or personal life. This is especially true for helpers and problem-solvers such as lawyers and judges who tend to tough it out alone while searching for “the solution.”

We’ve helped hundreds—let us help you too.

NMJLAP has a proven record of helping legal professionals **confidentially** and **free** of charge. We are in a firsthand position to confirm what the research shows: addiction is highly treatable. Similarly, depression, anxiety, and other personal issues can be successfully managed or overcome. We can help, but only if you contact us.

When a lawyer you know is in trouble, call us.

Our sole purpose is to help, and every contact with NMJLAP is confidential so you needn’t worry that your call will do harm. In fact, your call may save a career and even a life! Even if the lawyer initially declines our help, we will have “planted a seed” and made a future request for help more likely.

Facts about Addiction, Compulsive Disorders, and Depression

- Addiction is a treatable disease for which early intervention most often leads to successful recovery.
- Legal professionals suffer from high rates of depression and addiction AND their recovery rates are high as well.
- Signs of depression include trouble with memory and concentration, loneliness, sleep and appetite problems, persistent sadness, and feelings of hopelessness.
- Job problems related to substance abuse and depression may include missing deadlines, failing to show for depositions, court appearances, or appointments; failing to return calls, avoiding others, making excuses for or lying about frequency or amount of use.
- Signs of pathological gambling include loss of or diminishing relationships, loss of job and money, borrowing money or selling items to finance gambling, gambling to get money to meet financial obligations, and feeling remorseful after gambling.