

MICHIGAN TASK FORCE ON WELL-BEING IN THE LAW

Report and Recommendations

August 2023



well-being:

a continuous process toward thriving across all life dimensions

emotional • occupational • intellectual • spiritual • social • physical

Table of Contents

Membership of the Task Force on Well-Being in the Law	4
Introduction	6
The National Task Force on Lawyer Well-Being’s Call to Action.....	6
COVID-19 Pandemic Further Impacts Well-Being of Legal Professionals	7
Answering the Call—Michigan’s Task Force on Well-Being in the Law.....	8
Recommendations	9
Recommendation #1 - Establish a Commission on Well-Being in the Law	9
Law Students / Schools	9
Recommendation #2 - Reassure law students that seeking mental health treatment will not create obstacles to bar admission and law practice.	10
Recommendation #3 - Encourage and incentivize law schools that are not yet doing so to follow the American Bar Association (ABA) standards in Section 303 and 314.	10
Recommendation #4 - Promote law student success and retention by offering more robust, long-term, and sustainable mental health resources to students.	11
Recommendation #5 - Develop a timeline for delivering well-being messages to law students throughout law school.	12
Recommendation #6 - Normalize the ability to make mistakes as part of the learning process.	13
Practitioners	14
Recommendation #7 – More frequently utilize LJAP resources during the Attorney Grievance Commission intake screening process.	14
Recommendation #8 – Provide ongoing training to the Attorney Discipline Board and Attorney Grievance Commission staff on lawyer well-being and mental health.	15
Recommendation #9 – Include well-being training at the State Bar of Michigan’s “Tips and Tools” for a Successful Practice seminar.	15
Recommendation #10 - Formation of well-being committees for all local and affinity bars and legal employers.	16
Recommendation #11 - De-emphasize alcohol at social events and legal functions.	17
Recommendation #12 - Amend Michigan Rule of Professional Conduct 1.1 (Competence) to include lawyer well-being as a function of competence.	17
Recommendation #13 – Implement incentives, such as recognitions and awards for law firms, lawyers, and non-lawyers who demonstrate their commitment to well-being.	18
Recommendation #14 – Solicit and include a personal testimonial of recovery following the discipline section of Michigan Bar Journal.	19
Recommendation #15 - Offer regular wellness seminars to all members of the State	

Bar	20
Recommendation #16 - Create and utilize a tool to measure the impact of well-being initiatives on lawyer well-being.....	21
Judicial Officers	23
Recommendation #17 - Communicate that well-being is a priority for the judiciary to reduce the stigma of mental health and substance use problems.	23
Recommendation #18 - Develop policies focusing on prevention and early intervention for judicial well-being.	24
Recommendation #19 - Conduct judicial well-being surveys.	25
Recommendation #20 - Provide well-being programming for judges and staff.	26
Recommendation #21 - Monitoring for struggling judges and establish a partnership between the Judicial Tenure Commission and the Lawyers and Judges Assistance Program.	27
Conclusion.....	27

Membership of the Task Force on Well-Being in the Law

We thank members of the Task Force on Well-Being in the Law for their meaningful contributions and dedication. We would like to acknowledge the following members (organized by stakeholder category) for their service this past year:

Michigan Supreme Court and State Bar of Michigan:

- Justice Megan K. Cavanagh, Michigan Supreme Court
- Dana Warnez, President, State Bar of Michigan (2021-2022)
- Peter Cunningham, Executive Director, State Bar of Michigan
- Andrea Crumback, Deputy Legal Counsel, Michigan Supreme Court
- Maribeth D. Graff, Executive Director, Michigan Board of Law Examiners
- Molly Ranns, Director, Lawyers and Judges Assistance Program, State Bar of Michigan

Judiciary

- Chief Judge Donald Allen, 55th District Court, Mason
- Chief Judge Carol Kuhnke, Washtenaw County Trial Court
- Judge Curtis Bell, Kalamazoo County Probate Court
- Chief Judge Mabel Mayfield, Berrien County Trial Court

Law Schools

- Abijah Taylor, Assistant Dean for Student and Academic Affairs, Michigan State University College of Law
- Margaret Hannon, Clinical Professor of Law, University of Michigan Law School
- Amy Timmer, Associate Dean of Academic & Student Affairs, Western Michigan University Cooley Law School
- Ieisha Humphrey, Director of Student and Faculty Services, University of Detroit Mercy School of Law
- Rebecca Robichaud, Director of Clinical Education, Wayne State University Law School

Law Students

- Adriana Lopez-Torres, Co-President of the Latinx Law Student Association (2022 – 2023), University of Michigan Law School

Mental Health

- Kelly Arenz, DO, Program Director, Family Medicine Residency, St. Joseph Mercy Livingston

- Laurie Orlando, Attorney; Licensed Professional Counselor, Orlando Counseling Services, PLLC

Law Firms

- Sean Siebigteroth, The Williams Firm; Chair, Lawyers and Judges Assistance Committee, and Member, Representative Assembly, State Bar of Michigan
- Katherine M. Stanley, Attorney and Community Engagement Manager, Legal Services of Eastern Michigan; Advisory Board Member, Crim Fitness Foundation Mindfulness Initiative
- Jennifer Colagiovanni, Wachler & Associates, P.C.; Founder, Michigan Chapter of the Mindfulness in Law Society
- Richard E. Hillary II, Miller Johnson

Young Lawyers

- Kristina Bilowus, Assistant Director for Career Services, MSU College of Law; Chair, Young Lawyers Section, State Bar of Michigan

Regulation

- Wendy Neeley, Deputy Director, Michigan Attorney Discipline Board
- Kimberly Uhuru, Deputy Administrator, Michigan Attorney Grievance Commission
- Judge Pablo Cortes, 62A District Court, Wyoming; Member, Judicial Tenure Commission

Tribal Courts

- Judge Matthew Fletcher, Chief Justice of the Pokagon Band of Potawatomi Indians, Appellate Justice for the Grand Traverse Band of Ottawa and Chippewa Indians, Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, and Nottawaseppi Huron Band of the Potawatomi

State Court Administrative Office (SCAO)

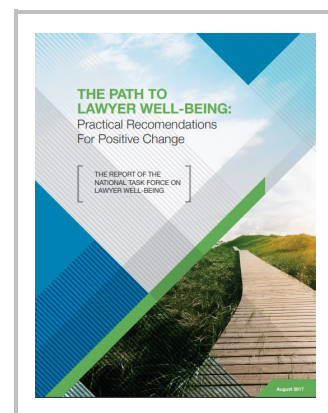
- Monique Smith, Human Resources Director
- Staff from Field Services and Councils/Commissions

Introduction

In May 2022, the Michigan Supreme Court and the State Bar of Michigan collaboratively [launched](#) the Michigan Task Force on Well-Being in the Law (the Task Force) in response to compelling research demonstrating that the legal profession is struggling with depression, anxiety, and substance use issues. The American Bar Association's Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation's 2016 study of nearly 13,000 practicing attorneys revealed high rates of mental health and substance use concerns.¹ Within the first 10 years of practice, those lawyers were found to experience the greatest rates of depression, anxiety, and problematic drinking.² The Survey of Law Student Well-Being, also published in 2016, revealed similar statistics for law students regarding depression, anxiety, and problematic drinking, and revealed concerning high rates of suicidal ideation.³

The National Task Force on Lawyer Well-Being's Call to Action

In light of these statistics, the American Bar Association through the National Task Force on Lawyer Well-Being (the National Task Force) issued a national report entitled, "[The Path to Lawyer Well-Being: Practical Recommendations for Positive Change](#)." (the National Report). The National Report seeks to identify ways to improve the well-being of the legal profession. The National Task Force defines well-being as "a continuous process toward thriving across all life dimensions" with emotional, occupational, intellectual, spiritual, social, and physical dimensions.⁴ The National Report identifies three reasons to take action to promote the multi-dimensional well-being of members of the legal profession:



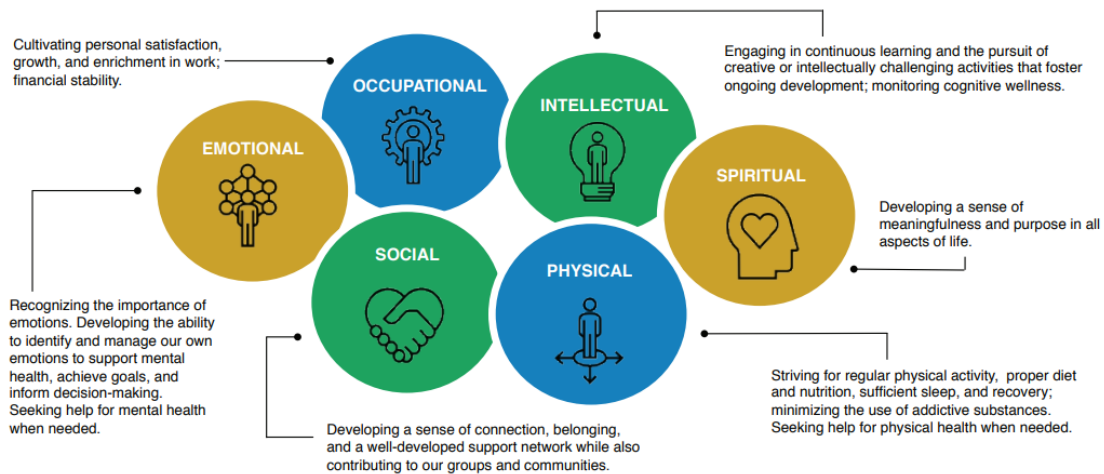
- 1) Promoting lawyer well-being contributes to organizational success;
- 2) Promoting lawyer well-being improves lawyer ethics and professionalism; and
- 3) Promoting lawyer well-being is a humanitarian endeavor.

In sum, the National Report concluded that enhancing lawyer well-being will help to maintain public trust in the legal system and increase access to justice.

The National Task Force's call to action includes identifying stakeholders to assist in reducing the mental health stressors faced by the legal profession; reducing the stigma associated with help-seeking behaviors; educating the legal profession, including law students, lawyers, and judges on well-being issues; and encouraging incremental steps to instill greater well-being in the profession.⁵

Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of their lives:



* from National Task Force on Lawyer Well-Being final report
[“The Path to Lawyer Well-Being: Practice Recommendations for Positive Change”](#)

COVID-19 Pandemic Further Impacts Well-Being of Legal Professionals

Mental health stressors became more pronounced during the COVID-19 pandemic. The pandemic caused an unprecedented disruption to all of society. The practice of law was no different. Therefore, it is not surprising that since the National Task Force was formed and National Report written, studies have continued to demonstrate a pressing need for attention to the well-being of the legal profession. Whereas the 2017 law student and lawyer well-being research certainly established the languishing state of attorney and law student wellness, the statistics from more recent studies undertaken during the pandemic speak volumes about the pandemic’s contribution to the unmistakable decline in the legal profession’s mental and emotional health.⁶

Statistics related to law student well-being mirrored the legal professionals’ decline in mental and emotional health. The 2021 Survey of Law Student Well-Being demonstrated that over 70% of the 5,400 respondents identified needing help with an emotional or mental health issue, up 42% from a similar same survey done in 2014, and 80% reported experiencing emotional trauma.⁷ Another study done in the Spring of 2021 reflected that law students were “struggling beyond anything they have experienced collectively before” and that the pandemic made structural inequalities even more pronounced.⁸ The study concluded that disparities based on race, ethnicity, gender, socioeconomic status and other markers “exploded” due to the pandemic. The latest study published by the National Institute for Health in March 2023, underscores yet again the pandemic’s far-reaching, negative impacts on lawyer well-being because it created an unprecedented disruption to the practice of law, which has long been

recognized as a profession already burdened with stress, depression and substance use.⁹

Answering the Call—Michigan’s Task Force on Well-Being in the Law

Under the leadership of Michigan Supreme Court Justice Megan Cavanagh, Michigan’s Task Force on Well-Being in the Law agrees with the National Report’s findings that enhanced well-being of members of the legal profession helps maintain public trust in the legal system and increase access to justice. In light of the previously existing challenges to well-being, in addition to those brought on by the COVID-19 pandemic, the Task Force is determined to answer the National Report’s call to action.

When the Task Force launched in May 2022, a diverse stakeholder group was identified and assembled. This group included representation from the Michigan Supreme Court, the State Bar of Michigan, Michigan’s law schools, allies in the field of mental health, law firms, “young lawyers,”¹⁰ the judiciary, regulators, and tribal courts.

On August 9, 2022, members of the Task Force gathered at the Michigan Supreme Court’s Hall of Justice as a sign of their commitment to the well-being of the legal profession. Bree Buchanan, the President of the [Institute for Well-Being in the Law](#) (IWIL) and an author of the National Report, helped guide this vital work. Task Force members shared thoughts on the current state of well-being for members of Michigan’s legal community, identified the most pressing well-being issues, and established goals for the Task Force. Three work groups were created to focus on issues related to law students, practitioners, and the judiciary. Guided by the goals from the National Report, each group was tasked with identifying feasible recommendations to improve well-being in its specific area of focus.

Recommendations



Recommendation #1 - Establish a Commission on Well-Being in the Law

The Task Force recommends the Michigan Supreme Court establish a Commission on Well-Being in the Law to oversee implementation of these recommendations. The work of the Task Force has established a solid foundation for improving well-being in the legal profession. To ensure this important work continues and to implement the Task Force's recommendations, an ongoing Commission on Well-Being in the Law should be established. The Commission can build upon the good work already accomplished by the Task Force and continue the forward momentum to change the climate of the legal culture by promoting well-being within the legal profession. It is the hope of The Task Force that members of the legal profession will move beyond "survival mode" and learn how to thrive. To do this, Michigan's legal community must understand that well-being is an essential component of competence and must do its part to foster an environment that encourages each member of the legal profession to strive for greater mental, physical, and emotional health.

“It is the hope of the Task Force that members of the legal profession will move beyond ‘survival mode’ and learn how to thrive.”

Implementation Strategies

Implementation of this recommendation would require the Michigan Supreme Court to establish a standing Commission on Well-Being in the Law. Representation on this Commission should be similar to the Task Force and include lawyers, judges, legal professionals from all practice areas and sizes, allies in the field of mental health, and should draw from geographic areas all across Michigan.

The remainder of the recommendations of the Task Force are organized below according to the target stakeholder group.

Law Students / Schools

Shifting the culture of the legal profession to embrace well-being as a foundational element to ensuring a thriving profession must begin with those seeking to join the profession. Upon entering law school, those individuals are immediately confronted with significant stressors and challenges. Researchers have found that these challenges frequently lead to increased distress and depression in the first year of law school.¹¹ Therefore, it is critical that well-being and help-seeking behaviors are emphasized early

and often to law students. The following recommendations will help provide the support and tools necessary to promote the well-being of law students during law school and as they enter the profession.



Recommendation #2 - Reassure law students that seeking mental health treatment will not create obstacles to bar admission and law practice.

The Task Force recommends increasing the [Board of Law Examiners](#) (BLE) and the State Bar of Michigan's [Lawyers and Judges Assistance Program](#) (LJAP) involvement with law students at all levels, beginning with encouraging 1Ls, to seek mental health treatment when it is needed while reassuring them that getting help will not create obstacles to obtaining admission to the bar or to practicing law. The BLE has historically engaged 2L and 3L students by speaking about various topics, such as character and fitness requirements and taking the bar exam. This should be expanded to law students at all levels. The BLE emphasis should be that bar applicants with a past mental health history and applicants currently undergoing counseling (without more) will not block admission to the bar. The BLE should also let law students know that bar applicants are no longer asked to disclose their mental health history on their bar application. Applicants are simply asked whether they have exhibited any conduct or behavior in the past five years that could affect their ability to practice law properly. This is important due to the large number of students who do not seek treatment because they believe they will be required to disclose their treatment on their bar application. LJAP could work with the BLE to co-present at the same scheduled events.

Implementation Strategies

Implementation of this recommendation will include the involvement of the BLE and LJAP. The BLE and the LJAP can contact the Student Affairs campus directors of all Michigan law schools proposing speaking dates and holding three sessions, one for each law student year, with relevant BLE and LJAP topics. The letter could include a commitment that if the law school commits to and schedules these talks and implements at least one of the remaining recommendations, the law school's name will be included on the State Bar of Michigan's and Michigan Supreme Court's Well-Being webpage, as a law school committed to the well-being of law students and lawyers.



Recommendation #3 - Encourage and incentivize law schools that are not yet doing so to follow the American Bar Association (ABA) standards in Section 303 and 314.

The Task Force recommends that law schools not yet doing so be encouraged and incentivized to follow the ABA standards in Section 303 (Curriculum) and 314 (Assessment of Student Learning)¹² particularly with respect to the directive that the

“law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.” The Task Force further recommends that law schools incorporate cross-cultural competencies, formative assessments, and meaningful feedback into their curriculum by:

- 1) Encouraging law school faculty to offer more structured assessments along the way, whether by offering midterms, practice exams, or implementing other assessment tools, in order to offer students learning opportunities at points in time when they can most effectively address learning shortfalls. Ample evidence supports that meaningful feedback through structured assessments helps law students succeed, improves performance, and enhances learning.¹³
- 2) Encouraging law school faculty to provide reasonable notice to students for when they are on call to provide responses during lectures to reduce the anxiety associated with cold calling. Evidence shows that cold calling is a recurring source of anxiety for law students.¹⁴
- 3) Incorporating cross-cultural competencies into teaching models.

Implementation Strategies

Implementing this recommendation will require incentivizing staff and faculty to implement new teaching and learning techniques that reduce student stressors and promote an environment that reflects a greater respect for an understanding of people from different cultures. To this end, the Task Force recommends that a designated justice of the Michigan Supreme Court send letters to each of the deans of the law schools, urging them to reach out to their senior faculty to designate a faculty member to oversee compliance with the ABA standards by implementing the three-step approach outlined above. The letter could offer the cited data to explain why the three-step approach helps faculty meet the ABA standards. The letter could include a commitment that, if the law school commits to and implements at least one other recommendation, the law school’s name will be included on the State Bar of Michigan’s and Michigan Supreme Court’s Well-Being webpage as a law school committed to law student/lawyer well-being.



Recommendation #4 - Promote law student success and retention by offering more robust, long-term, and sustainable mental health resources to students.

The Task Force recommends that mental health resource referrals should be expanded to offer more long-term resources, address all income levels, and be accessible to all. Existing mental health resources tend to be short-term (5 sessions), and there is usually

a waitlist, which results in delaying assistance for many. Long-term and affordable services are needed. In addition to making referrals to LJAP, law schools should have a counselor on-site, provide meaningful third-party counselor recommendations, and provide other outside resource recommendations to law students, such as counseling through Timely MD and Early Alert (texts for law students).

Implementation Strategies

Implementation of this recommendation will involve law schools taking an inventory of counseling resources and referral networks, assessing whether the existing resources and networks are meeting the current needs of the student body, and striving to improve upon meeting the current needs. Each law school should, as much as possible, strive to have counselors on-site or immediately available off-site, in numbers on-site proportionate to the size of the student body. If the law schools have not already done this, it is recommended that each law school identify a referral network of social workers that they can work with as a resource for law students who have exhausted short-term care options. The social workers can:

1. Explore insurance coverage for long-term counseling (either through private insurance or Medicaid) for law students who have exhausted short-term care; and
2. Identify a referral network that is communicated to the short-term counselors so that they can refer students that need more long-term counseling to additional agencies or care providers. LJAP can assist as it maintains a list of vetted providers and can provide referrals to law schools when needed.

Each law school should recruit peer panels through existing law student groups to discuss how to effectively handle law school stress and manage well-being.



Recommendation #5 - Develop a timeline for delivering well-being messages to law students throughout law school.

The Task Force recommends that law schools be sensitive to the overwhelming nature of orientation, and the quantity of information being given to students during that time, trying to include only the most critically important information during orientation. The law schools should develop a timeline for delivering messages to law students throughout their law school career, not just at orientation or in a certain class. This will require a team effort by all involved. Note that this recommendation is not meant to conflict with ABA Standard 303. This recommendation is meant to encourage law schools to focus on those essential items that must be covered in orientation to provide the foundation students need for a successful first year. That foundational information should include

education on bias, cross-cultural competency, and racism.

Implementation Strategies

Implementation of this recommendation will involve engaging the law school's faculty or staff in charge of orientation to develop a timeline template for presenting topics at orientation with a view toward bare minimum orientation covering only critical topics. Topics removed from orientation can be covered in virtual sessions and/or recorded sessions to permit access by students at a time that works for them. Review of removed material can still be required and be electronically verified.



Recommendation #6 - Normalize the ability to make mistakes as part of the learning process.

The Task Force recommends that law schools work to normalize the ability to make mistakes as part of the learning process. In law school, a fear of making mistakes can have a negative impact on law students' mental health and their academic growth. Mistakes should be viewed as a learning tool on the path to success. They are a necessary part of the education process and allow students to maximize their learning and effectiveness. When peers and lawyers are willing to share the mistakes they have made and the lessons they have learned, law students are less likely to fear their mistakes and more likely to view them as an opportunity for growth.

Implementation Strategies

Implementation of this recommendation will involve leveraging existing law student groups and soliciting their participation on panels that talk about mistakes made and lessons learned. The sessions can be recorded and made available online. Podcasts could also focus on these topics. In order for implementation to be effective, faculty should be sensitized to this concept and asked to model normalizing behavior during classes.

Practitioners

Studies consistently demonstrate that many legal practitioners are struggling with well-being. Lawyers are experiencing chronic stress and high rates of depression, anxiety, and substance use issues.¹⁵ The Task Force agrees with the National Task Force’s assessment that “to be a good lawyer, one has to be a healthy lawyer.” The Task

Force’s recommendations for legal practitioners are designed to shift the mindset of the legal profession to embrace well-being as a foundational element to both professional and personal success. These recommendations will also aid in equipping lawyers with the knowledge and resources necessary to address their well-being needs.

**“To be a good lawyer,
one has to be a healthy
lawyer.”**

- The National Task Force on Lawyer Well-Being



Recommendation #7 – More frequently utilize LJAP resources during the Attorney Grievance Commission intake screening process.

The Task Force recommends that the [Attorney Grievance Commission](#) (AGC) make it a practice to recommend participation in LJAP as part of the intake screening process when it appears that an attorney may be experiencing a mental health crisis or substance use issues. This practice would enhance the well-being of Michigan practitioners by making mental health and substance use resources more accessible to those in need.

Implementation Strategies

Implementation of this recommendation will require a cooperative partnership between LJAP and the AGC. The AGC Intake department can implement this recommendation by creating, with the help of LJAP, a form letter that accompanies LJAP resource materials. The AGC should provide these materials not only in cases of impaired driving convictions, but also to any case where there is a demonstration that the attorney may benefit from mental health support. Further, the materials should be provided whenever there is an indication that such services may be beneficial and not just when there has been a determination of misconduct.



Recommendation #8 – Provide ongoing training to the Attorney Discipline Board and Attorney Grievance Commission staff on lawyer well-being and mental health.

The Task Force recommends ongoing staff training on well-being and mental health to help both the [Attorney Discipline Board](#) (ADB) and Attorney Grievance Commission (AGC) recognize these issues earlier in the discipline process in order to mitigate damage to clients and to protect the public.

Implementation Strategies

Implementation of this recommendation will require a commitment from the AGC and ADB to facilitate annual training (perhaps hosted by LJAP) for AGC staff attorneys and ADB hearing panelists and Board members focusing on:

1. The importance of well-being and mental health issues in the legal profession, and
2. Identification of substance use and mental health issues in ongoing investigations or pending disciplinary proceedings when such issues are not disclosed by the respondent attorney.

Such training would allow the AGC to more easily identify when early intervention should be offered and in what form. For the ADB, such training would help hearing panelists and Board members determine whether to impose conditions in conjunction with appropriate discipline. Conditions can include requiring attorneys to seek, or continue, treatment for alcohol, drug, or emotional problems, attending continuing legal education seminars or courses, and/or obtaining guidance from the State Bar’s [Practice Management Resource Center](#). Hearing Panels or the Board could also require an attorney to work with a mentor or other monitor of their practice and encourage attorneys to consider self-care and well-being to avoid disciplinary action in the future.



Recommendation #9 – Include well-being training at the State Bar of Michigan’s “Tips and Tools” for a Successful Practice seminar.

The Task Force recommends that the State Bar of Michigan incorporate well-being training into its curriculum for the bi-annual “Tips and Tools” for a Successful Practice seminar (Tips and Tools seminar). The current Tips and Tools seminar does not include programming on well-being. However, its aim is to help solo practitioners and new attorneys obtain ethical guidance. The LJAP already offers a presentation during this seminar providing information about LJAP’s resources. Offering training with an emphasis on attorney well-being at the seminar will expand outreach and educational programming on well-being issues. Offering this training at the seminar is a natural fit, because well-being is an indispensable part of a lawyer’s ethical responsibilities,

including the duty of competence.

Implementation Strategies

Implementation of this recommendation will require LJAP's participation. The Program Director for the LJAP, or another clinical staff member, could provide a professional presentation on lawyer well-being during the bi-annual "Tips and Tools" for a Successful Practice seminar. This presentation could be provided in a 45–60-minute time frame and focus on raising awareness of wellness as an issue facing attorneys. It could provide a working definition of well-being and how this definition is specific to lawyers, information pertaining to findings on the current state of lawyer well-being, and practical solutions to improve overall well-being. In this way, lawyers can better recognize the importance of mental health and navigate the practice of law in a more healthy manner.



Recommendation #10 - Formation of well-being committees for all local and affinity bars and legal employers.

The Task Force recommends that local and affinity bars establish well-being committees, and that legal employers lead culture shift at the organizational level towards prioritizing health and well-being in the legal profession. Committees can, and likely will, take various forms depending on the size of the legal employer or bar association. The committees' focus should include providing education, resources, and activities in support of lawyer well-being as well as destigmatizing and encouraging help-seeking behaviors that support both personal and professional success.

To maximize the effectiveness of well-being committees, the Task Force encourages bar association leadership and legal employer leaders to play an active role in the committee. This involvement demonstrates the organization's commitment to well-being in the legal profession. This leadership can also serve as the catalyst for implementation of well-being considerations in other areas of the association's or employer's practices such as educational opportunities, new lawyer orientation programs, retreats, and social functions.

Implementation Strategies

Implementation of this recommendation will require the State Bar's participation and oversight. The State Bar could appoint a liaison to local and affinity bar associations and legal employers to reach out by letter, telephone, or email communication to introduce the concept and to encourage development of a well-being committee. The liaison can support the associations and employers by assisting in developing programming to

support the mental and physical well-being of their members. The State Bar could also provide incentives in the form of special recognition in the State Bar Journal and at its annual meetings to highlight and acknowledge an association's or employer's efforts to promote lawyer well-being.



Recommendation #11 - De-emphasize alcohol at social events and legal functions.

The Task Force recommends de-emphasizing the use of alcohol at social events and legal functions to promote lawyer well-being. Alcohol should be consumed only in moderation. Making alcohol use the center of a social event or legal function can be problematic. “Wine Tastings,” “Whiskey Samplings,” “Happy Hours,” “Bar Reviews,” “Thirsty Thursdays,” and the like are common in the legal profession. By their very nature, however, these events tend to exclude or discourage the attendance of legal professionals in recovery. Events or workplace cultures that promote alcohol use at social gatherings can contribute to overuse and can sometimes lead to problem drinking. They can also create social barriers for those who may wish to seek help for an alcohol use problem. De-emphasizing the use of alcohol at social events and legal functions promotes lawyer well-being.

Implementation Strategies

Implementation of this recommendation will require law firms and other organizations employing and serving the legal profession to commit to and take the lead in implementing these efforts. It will require widespread education among private and public legal employers, state and local bar associations, and others in the legal profession who plan social gatherings. Through education, the Task Force believes that alternatives to alcohol-themed events will be more frequently offered to social planners, and that non-alcoholic beverage options will routinely be provided so that they are readily available for anyone who might for any reason choose not to consume alcohol.



Recommendation #12 - Amend Michigan Rule of Professional Conduct 1.1 (Competence) to include lawyer well-being as a function of competence.

The Task Force recommends that the Michigan Supreme Court amend [Michigan Rule of Professional Conduct 1.1](#) to include well-being as an element of legal competence. To accomplish this, a comment with the following language could be included:

“Enhancing the well-being of attorneys is a priority and necessity in providing competent representation to clients. Attorneys are encouraged

to maintain mental and physical well-being, and to seek help when issues such as depression or substance use are present. However, while an attorney’s overall well-being may affect his or her competence and ability to provide legal services, disciplinary proceedings should never be initiated solely because of a failure to make healthy choices. Actionable misconduct must also be present.”

Such an amendment would validate the importance of self-care and remind and encourage Michigan attorneys to make healthy and positive choices to ensure quality within both their personal and professional relationships. The amendment would further emphasize that maintaining mental, emotional, and physical well-being is an important aspect of maintaining competence to practice law.

The Task Force suggests amending the rule by adding a comment, rather than amending the body of the rule. MRPC 1.0 indicates that the text of each rule is authoritative, and the comment to each rule does not expand or limit the scope of an attorney’s duties or obligations. Amending the comment rather than the rule highlights the importance of self-care for the bar, without penalizing attorneys for their failure to make choices that promote wellness.

Implementation Strategies

Implementation of this recommendation will involve the Michigan Supreme Court. The Michigan Supreme Court could issue an administrative order to notify the bar, and the public that it is considering an amendment to MRPC 1.1. As is customary, prior to adopting, revising, or rejecting the proposed rule amendment, the bar and the public can be given an opportunity to provide written comment to the Court and to provide oral comment at a public hearing.



Recommendation #13 – Implement incentives, such as recognitions and awards for law firms, lawyers, and non-lawyers who demonstrate their commitment to well-being.

The Task Force recommends that the State Bar of Michigan implement incentives by creating a category of recognitions and awards to honor those persons in the legal profession who demonstrate a dedication to lawyer well-being. This recognition will encourage all lawyers to get and stay well and create a professional culture that values lawyer wellness. This recommendation stems from one of the goals found in the Report of the National Task Force on Lawyer Well-Being, which is to take smaller, incremental steps to improve the well-being of the profession.

Implementation Strategies

Implementation of this recommendation will involve the State Bar's creation of recognition and/or award categories that focus on lawyer well-being. Historically, the State Bar has awarded Circle of Excellence status to lawyers who fulfill the voluntary standard of pro bono service during the calendar year. Using the Circle of Excellence as a model, the State Bar could create an award or other recognition to be given to law firms, lawyers, and/or non-lawyers in recognition of their commitment to well-being in the legal profession.

This will require having defined standards for 'commitment' to lawyer well-being. The standards could include one or more of the following:

- Participating in or organizing an event that promotes wellness.
- Demonstrating dedication to physical health and fitness.
- Demonstrating dedication to mindfulness/spiritual practices.
- De-emphasizing alcohol at social events.
- Creating a wellness committee or subgroup within the organization.
- Partnering with other organizations or stakeholders in the legal community who support and raise awareness of well-being.
- Supporting rule changes, legislation, and/or professional responsibility rules that support lawyer well-being as an indispensable part of a lawyer's duty of competence.
- Assisting with regular review, analysis, or evaluation of effectiveness of activities and initiatives related to lawyer well-being.



Recommendation #14 – Solicit and include a personal testimonial of recovery following the discipline section of Michigan Bar Journal.

The Task Force recommends that the State Bar solicit and include in the Michigan Bar Journal at least one personal story of recovery from a member of the legal profession in each issue, or as often as possible. These stories should be placed in the area of the Bar Journal immediately following the orders of discipline and disability section.

In 12-Step models of recovery, one way that members share their experience, strength, and hope with those new to recovery is through personal testimonies. This provides an opportunity for those who may be suffering silently to connect with community care and resources, to identify that they are not alone, and to gain hope that recovery is possible. The [Michigan Bar Journal](#) publishes disciplinary findings and consequences imposed on attorneys, and includes an explanation as to why the attorneys are being disciplined.

Many of these cases involve substance use issues and/or mental health issues. Often the attorneys being disciplined seek treatment and ultimately recover. Providing personal stories of recovery following these interventions offers hope to other attorneys struggling with similar issues and could motivate them to seek treatment.

Implementation Strategies

Implementation of this recommendation will involve the State Bar's participation. The State Bar could solicit testimonials from its membership, encouraging attorneys that have sought help following mental health or substance use issues and then recovered to share their stories. These stories could then be published in the Journal to normalize help-seeking behavior in the legal community, provide hope for recovery, share experiential leadership and mentorship in lawyer well-being efforts, and create a platform for well-being-related discussions and community healing in the legal field at large.



Recommendation #15 - Offer regular wellness seminars to all members of the State Bar.

The Task Force recommends that wellness seminars be regularly offered to State Bar members, with the aim of offering them at least twice per year. The report of the National Task Force was produced with the knowledge that too many lawyers and law students are experiencing elevated rates of stress, depression, and substance use. The Report's recommendations focus on several central goals, including expanding outreach and education to lawyers, judges, and law students on well-being issues. In October 2022, LJAP's Committee hosted its first-ever virtual wellness event with a nationally renowned speaker, which was offered free of cost to all members of the State Bar. This event emphasized that well-being is an indispensable part of a lawyer's duty of competence and provided attorneys with tools to thrive both personally and professionally. Attendees found the event so beneficial that they requested similar events be provided on a regular basis.

Implementation Strategies

Implementation of this recommendation will involve LJAP and its Committee to plan and host regular wellness seminars. LJAP could work with its Committee to plan and host a wellness event at least twice yearly. LJAP could assemble a working subgroup of Committee members interested in the planning and preparation of this wellness seminar which can be done either virtually or in-person. The State Bar communications team could identify, contact, and secure speakers; select topics; create course descriptions; and promote the events. These events should aim to utilize nationally renowned speakers specializing in lawyer well-being. While they continue to be available, LJAP

could utilize its funds held in the Michigan State Bar Foundation for the expenses associated with these events so that the events can be provided free of cost to all members of the State Bar of Michigan.



Recommendation #16 - Create and utilize a tool to measure the impact of well-being initiatives on lawyer well-being.

Success should not be measured solely in economic terms. The Task Force recommends creating and using a robust tool to measure the effectiveness of the Task Force’s well-being initiatives and inform policy decisions. A robust set of measurements are important because they will provide the Task Force with the necessary insight to determine whether the initiatives are achieving their intended purpose. They will also assist the Task Force in determining which initiatives are most needed, which have the most impact, and which need to be re-structured or replaced with more effective initiatives.

Implementation Strategies

Implementation of this recommendation will require a commitment from legal employers and bar associations to provide candid and meaningful feedback. Assessments could be done internally by legal employers and bar associations who could assess the state of well-being among lawyers, support staff, and all other team members. Surveys are a good place to start. The surveys should be anonymous and conducted at least annually. They should be designed to measure team member attitudes about well-being in the workplace, potential job-related stressors, and whether the team members feel supported in the workplace by the employer and others. The 2017 National Task Force on Lawyer Well-Being recommended that legal employers gauge, at a minimum the following among their workforces:

- Do team members perceive that organizational leaders value and support well-being?
- Are organizational leaders role modeling healthy behaviors and understanding of lawyers and other team members who may be struggling?
- Do team members have suggestions for improvements to better support well-being?
- Do team members feel comfortable seeking help, which may include requesting time off?

- Are team members aware of resources available through the organization to assist their well-being?
- Do team members feel they are expected to drink alcohol at organizational events?
- Do team members feel that substance use, and mental health problems are stigmatized within the origination?
- Do team members understand that the organization will accommodate health conditions, including recovery from mental health disorders and addiction?

Small-group discussions sponsored by the organizations' well-being committees are also an excellent way to gather feedback. The survey results and other feedback could be reported to the Task Force/Commission. The Task Force/Commission could develop a survey and ask the entities undertaking well-being initiatives to ask participants in the initiatives to complete the survey.

Judicial Officers

While occupying an esteemed position within the legal community, judges, referees, and magistrates regularly face significant and stressful challenges while serving on the bench. The weight of contentious proceedings and making life-changing decisions for individuals, children, and families can take a toll on judicial health and well-being. Simultaneously, the public facing role and stigma that is frequently attached to seeking help for substance, mental health, or other well-being can often make individuals who need help hesitant to seek it. The following recommendations aim to erase this stigma and encourage judicial officers to embrace the importance of well-being and help seeking behaviors.

“...the public facing role and stigma that is frequently attached to seeking help for substance, mental health, or other well-beings can often make individuals who need help hesitant to seek it.”



Recommendation #17 - Communicate that well-being is a priority for the judiciary to reduce the stigma of mental health and substance use problems.

The Task Force recommends communicating to people within and outside of the judicial community that well-being is an important priority for the judiciary. One of the most significant impediments to well-being in the legal profession is the stigma that those with mental health and substance use problems are incompetent, weak, and unfit for the profession. While this stigma is shared across all members of the profession, the impact of stigma on the judiciary is especially acute. Judges sit in judgment of others. Judges are held to high ethical and professional standards. Judges are subject to discipline and removal by the [Judicial Tenure Commission](#) and the Michigan Supreme Court and are accountable to the citizens who elect them to office. While the nature of the judicial role in many ways leads to judges feeling isolated from their families, friends, and communities, the stigma associated with mental health and substance use problems can cause judges to feel even more isolated. For these reasons, the Task Force recommends emphasizing communication to people within and outside of the judicial community that well-being is a priority for the judiciary to help to disarm the stigma and reduce feelings of isolation.

Implementation Strategies

Implementation of this recommendation will involve the Michigan Supreme Court’s creation of a commission to continue the work of this Task Force. The

Michigan Supreme Court should create an ongoing Commission on Well-Being in the Law. The Commission, like the Task Force, should include representatives of all stakeholders within the legal profession.

The Commission on Well-Being in the Law could develop and implement a peer support program to encourage judges to build relationships with other judges and to create opportunities for judges to share personal and professional stressors and strategies for managing them.

The Commission on Well-Being in the Law could develop and implement a forum for Chief Judges to raise and address issues relating to well-being. The forum could facilitate communications among chief judges relating to well-being, including but not limited to establishing regular meetings, perhaps regionally, and creating a listserv. The Michigan Supreme Court should include an opportunity for the Chief Judges forum to meet at the bi-annual State Judicial Conference.

The Michigan Supreme Court and State Court Administrative Office could include in the Chief Judge application process, consideration of a candidate's commitment to acknowledging and addressing well-being for judges and court staff.



Recommendation #18 - Develop policies focusing on prevention and early intervention for judicial well-being.

The Task Force recommends that the judicial community develop policies aimed at both preventing well-being crises for judges and intervening with support services before full-blown crises occur. As noted in the 2017 Report of the National Task Force on Lawyer Well-Being, judges face unique challenges to their well-being:

Judges regularly confront contentious, personal, and vitriolic proceedings. Judges presiding over domestic relations dockets make life-changing decisions for children and families daily. Some report lying awake at night worrying about making the right decision or the consequences of that decision. Other judges face the stress of presiding over criminal cases with horrifying underlying facts (citations omitted).¹⁶

In the area of judicial well-being, like in so many other areas, prevention and early intervention should be the goal. For these reasons, the Task Force recommends that the judicial community develop policies aimed at both preventing well-being crises for judges and intervening with support services before full-blown crises. These policies should consider the unique causes of judicial stress and tailor solutions accordingly.

Implementation Strategies

Implementation of this recommendation will require participation from the [Judicial Tenure Commission](#) (JTC) in cooperation with LJAP. The JTC and LJAP can develop a collaborative relationship to focus on preventative and early-intervention efforts. The JTC could implement an IOP that includes providing information and resources about LJAP to judges when the JTC determines that there are warning signs of mental or emotional health issues and substance use disorders.

The State Court Administrative Office (SCAO) could conduct a survey of national best practices for developing and implementing “Ok to Say” policies, anonymous well-being reporting and referrals in the workplace, policies to address bullying and toxic work environments, and policies to address secondary trauma.

The [Michigan Judicial Institute](#) (MJJI) could develop a collection of educational materials on judicial well-being, including secondary trauma and other sources of stress unique to judges, and make them accessible to judges anonymously.



Recommendation #19 - Conduct judicial well-being surveys.

The Task Force recommends that individual courts regularly conduct surveys of their judges to measure the well-being of the judiciary and build well-being awareness. Judges need assistance with building awareness of well-being issues affecting themselves, their families, their fellow judges, their staff, and the lawyers and litigants who appear before them. Regular surveys and assessments of the judiciary can help build this awareness.

Implementation Strategies

Implementation of this recommendation will require the involvement of local courts. The Task Force can supply the survey materials. The Institute for Well-Being is working with the National Center for State Courts to develop a survey to assess the behavioral health of courts. Individual courts in Michigan could implement the national survey when it becomes available so that these courts can build awareness of concerns specific to their stakeholders and develop steps to address these concerns in their court environment. The Task Force feels strongly that these surveys and resulting action plans be handled locally, rather than by the State Court Administrative office, so that the survey is not transformed into a performance evaluation or disciplinary tool and so that participants can express their opinions and experiences openly.

The State Court Administrative Office could also develop a tool or process to conduct a scan of trial judges' working environment, sources of support, and resource deficits. The [Judicial Resources Recommendations Report \(JRR\)](#), which is currently used by the State Court Administrative Office to determine where and how to allocate the number of judges, could be modified to focus on where to relieve points of stress, provide support, and provide resources.



Recommendation #20 - Provide well-being programming for judges and staff.

The Task Force recommends regular well-being programming for judges and judicial staff. Because of the nature of their work and systemic isolation in the judicial system, judges are faced with unique challenges in finding ways to share their experiences and difficulties in handling stress, substance use and mental health challenges. The Task Force recommends that the legal system provide that support through frequent and substantive opportunities for judges to learn from experts and to share their experiences with their peers. Well-being programming for judges should highlight and draw upon the lived experience of other judges who are willing to share their struggles and strategies.

Implementation Strategies

Implementation of this recommendation will require assistance from the Michigan Judicial Institute (MJJI). MJJI provides judges and court staff with training. MJJI should include training on judicial well-being. Specifically, well-being issues should be regularly and substantively included in trainings provided to new judges, chief judges, and at the bi-annual State Judicial Conference.

The judicial associations (including the Michigan Judges Association, the Michigan District Judges Association, and the Michigan Probate Judges Association) could include annual educational programming devoted to well-being for judges and staff by, among other things, including relevant speakers and presenters at their annual association meetings.

The Commission on Well-Being in the Law could develop and implement “judicial round tables” where judges are given the opportunity to meet, discuss concerns, share solutions, offer support, and build connection and relationships.



Recommendation #21 - Monitoring for struggling judges and establish a partnership between the Judicial Tenure Commission and the Lawyers and Judges Assistance Program.

The Task Force recommends monitoring the judicial system for struggling judges to proactively address well-being concerns. Providing resources, treatment, support, and corrective action once a problem has been identified is obviously a necessity in any regulatory system. But it is also critically important to identify well-being concerns for judges before they manifest into full-blown crises. And it is equally important to look for “upstream” solutions for well-being concerns in the judiciary.

Implementation Strategies

Implementation of this recommendation will require JTC involvement. The JTC could develop a “soft referral” process where services-based and treatment-based intervention can be implemented prior to initiation of a formal request for investigation.

The JTC could work in partnership with LJAP to include referrals to treatment-based programs as one of the dispositions available to allegations of judicial misconduct. The Task Force further recommends that the JTC propose that the Michigan Supreme Court amend MCR 9.223(A), and any necessary IOPs, to effectuate this.

Conclusion

Well-being programs and initiatives have become increasingly important in the legal profession. The Task Force believes that the creation of a Well-Being in the Law Commission and advancement of the above recommendations can benefit law students, attorneys, and judges by providing them with essential coping strategies and stress management techniques. Through collaboration and strategic partnerships, we believe the efforts of the Commission could promote a healthier and more productive work and learning environment, as well as lead to increases in job satisfaction, academic success, and overall well-being. Investing in the well-being of legal professionals and law students benefits individuals, the entire legal community, and populations served. It is time for the legal profession to prioritize the well-being of its members.

Promoting lawyer well-being

-  **contributes to organizational success**
-  **improves lawyer ethics and professionalism**
-  **is a humanitarian endeavor**
-  **will help build and maintain public trust in the legal system**

Endnotes

¹ P. R. Krill, R. Johnson, & L. Albert, The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys, 10 J. ADDICTION MED. 46 (2016), available at https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx

² *Id.* at 51.

³ J. M. Organ, D. Jaffe, & K. Bender, Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns, 66 J. LEGAL EDUC. 116 (2016), available at <https://jle.aals.org/home/vol66/iss1/13/>

⁴ National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-being: Practical Recommendations for Positive Change* (“National Report”) (2017), <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>

⁵ *Id.* at 10.

⁶ M. Fore & E. Stevenson, The Impact of Covid-19 Pandemic on Overall Well-Being of Practicing Lawyers, PloS one, 18(3) (2023) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9997954/>

⁷ D. Jaffe, K. Bender, & J.M. Organ, ‘*It is Okay to Not be Okay*’: The 2021 Survey of Law Student Well-Being (2022), American University, WCL Research Paper No. 2022-08 available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4127297

⁸ Indiana University Center for Postsecondary Research, *Law School Survey of Student Engagement 2021 Annual Survey Results*, <https://ssse.indiana.edu/wp-content/uploads/2015/12/COVID-Crisis-in-Legal-Education-Final-1.24.22.pdf>

⁹ M. Fore & E. Stevenson, The Impact of Covid-19 Pandemic on Overall Well-Being of Practicing Lawyers, PloS One, 18(3) (2023) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9997954/>

¹⁰ According to the State Bar of Michigan Young Lawyers Section bylaws, an individual is eligible for section membership if they are younger than 36 or have been licensed to practice law for less than five years, whichever period is greater, <https://connect.michbar.org/ylys/home>

¹¹ L. S. Krieger, Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence, 52 J. LEGAL EDUC. 112, 113-15 (2002), available at <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1098&context=articles>

¹² American Standards and Rules of Procedure for Approval of Law Schools, available at https://www.americanbar.org/groups/legal_education/resources/standards/

¹³ See e.g., Paula J. Manning, *Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes*, 43 Cumb. L. Rev. 225 (2012); Daniel Schwarcz & Dion Farganis, *The Impact of Individualized Feedback on Law Student Performance*, 67 J. Legal Educ. 139 (2017) https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1656&context=faculty_articles; and Carol Springer Sargent & Andrea A. Curcio, *Empirical Evidence That Formative Assessments Improve Final Exams*, 61 J. Legal Educ. 379, 405 (2012)

¹⁴ See David Jaffee, Katherine M. Bender, PH.D. and Jerome Organ, “*It is Okay to Not be Okay*”: the 2021 Survey of Law Student Well-Being, Washington College of Law Research Paper No. 2022-08 at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4127297. See also Alan Reifman et al., *Depression and Affect Among Law Students During Law School: A Longitudinal Study*, 2 J. Emotional Abuse 93 (2000). Professors who engage students in finding the answer when the student is struggling reduce student anxiety and increase learning.

¹⁵ National Report, *Supra.* 4 at 1

¹⁶ *Id.* at 21