

# Attorney Well-Being Doesn't Have to Be Spooky: Steps Attorneys Can Take to Support Mental, Emotional and Physical Health

PLUS Blog

Posted on October 29, 2024, by plushq

Dana A. Gittleman, Esq. and Alesia S. Sulock

**H**alloween trick-or-treating is almost here, but how are attorneys treating their mental health and well-being? It is no secret that attorney well-being can reach scary levels due to the mental, emotional and physical demands of the practice of law. A career in the legal profession is taxing, invites stress and is often exacerbated by the typically high-performing, high-achieving nature of those who choose to work in the industry. It's no wonder that the theme of this year's World Mental Health Day, celebrated on October 10, was "Mental Health at Work."

Attorney wellness is important not only for the general health of those in the profession, but also as a matter of professional competence. Model Rule of Professional Conduct 1.1 provides: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Competence includes the mental and physical capacity to handle the matter in accordance with the applicable standard of care an attorney owes to a client. Attorneys owe an ethical duty to their clients to adequately address attorney wellness issues in order to provide competent representation.

The impacts of attorney well-being are tangible. A significant percentage of disciplinary matters involve substance abuse or mental health problems. Client protection fund cases routinely involve chemical dependence or gambling components. Attorneys who fail to address their wellness issues face a higher risk of legal malpractice claims and disciplinary complaints. Attorney well-being implicates compliance with the Model Rules of Professional Conduct throughout, including in the areas of competence, diligence, communications, safekeeping property, candor and others. (See Model Rules of Professional Conduct 1.1 (Competence), 1.3 (Diligence), 1.4 (Communications), 1.15 (Safekeeping Property), 1.16 (Declining or Terminating Representation), 3.3 (Candor), 5.1 (Responsibilities of Partners, Managers and Supervisory Lawyers) and 5.2 (Responsibilities Regarding Non-lawyer Assistance)).

Inspired by the 2014 American Bar Association Resolution 105, legal employers, bar associations, and other organizations across the country have adopted and incorporated attorney wellness programs to begin addressing these serious issues facing our profession. Yet the recognition of attorney wellness issues throughout the profession is only the first step. Each of us can do more

to foster attorney wellness in our own practice and among our colleagues. In the spirit of Halloween, below are five “tricks and treats” for fostering an environment that promotes attorney mental, emotional and physical well-being:

1. Acknowledgement. The first step to addressing attorney wellness issues is to acknowledge that these problems exist. By not only acknowledging the myriad of attorney wellness problems that may impact the practice of law, but also talking about these matters, attorneys can work to eliminate the associated stigma and open up the door to those who are suffering to be able to seek help.
2. Education. In recent years, many bar associations, law firms and law schools have begun to offer programs focused on mental health, including offering continuing education credits for these courses. On an employer level, a simple starting point is to invite individuals who are well-versed in topics such as substance abuse, meditation, and burnout to initiate conversations about well-being and provide resources for those who may be suffering in silence among your employees. These topics can be reinforced through wellness retreats, literature, and encouraging open lines of communication and self-reflection. By offering CLE credit, employers can highlight the importance of education while balancing against the high pressures facing busy attorneys who may not feel able to step away from their

desk to learn about attorney wellness. An open door policy can likewise go a long way, where attorneys feel comfortable to discuss these matters with their employers before they develop into more serious problems.

3. Boundaries. Many attorneys, particularly those beginning their careers, are hesitant to decline an assignment. However, not doing so is a disservice to themselves (and their well-being) and to the assigning attorney and client. It is important to assess capacity in connection with competence and establish reasonable boundaries to avoid burnout. Law firms should encourage candor in this regard, and should encourage supervising attorneys to make efforts to assess an attorney’s workload before adding an assignment. It is important to recall that law firms and supervising attorneys have ethical obligations to oversee subordinate attorneys. The failure of a subordinate attorney to provide competent representation can lead to disciplinary problems for supervising lawyers. Law is a “team sport,” and it is important to encourage reliance on one’s team. One way to do this is to remind younger attorneys that their careers will not suffer if they express, honestly, that they cannot competently complete an assignment due to other professional or personal obligations. Likewise, more senior attorneys should acknowledge their own limitations and lead by example by only taking on work which can be competently completed.

4. Hobbies. So many of us are busy with work, families and social obligations that we forget to take time for the activities we truly enjoy. It is easier said than done, but it really is important for attorneys (and anyone) to take a break from purely obligatory activities and devote time to hobbies that bring you joy. It can seem like this is impossible, but even a few minutes can make a difference in your mental and physical health. For example, exercise need not involve hours in the gym, running or bench pressing (though those are excellent sources of stress relief and endorphin release). Exercise—in a less traditional sense—can mean exercising one’s body, brain and spirit. Reading a book, completing a puzzle, practicing mindful breathing, playing with your children, taking a walk and socializing with friends all fall within this definition. While lawyers spend many hours a day working (or thinking about work), it is pivotal to prioritize other activities and hobbies to ensure adequate time is carved out for meaningful personal relationships.
5. Help. At the end of the day, sometimes all of the above are not enough to avoid a serious attorney wellness issue. If you find yourself facing addiction, physical health problems, depression, anxiety or other mental health issues, or any other hurdle which is negatively impacting your ability to practice

law or to take care of yourself, please seek help. There are many resources throughout the profession, oftentimes confidential, which can point you in the right direction. Likewise, members of this profession should be looking out for one another and should be willing to step up and offer help or resources to colleagues who may need it. At the end of the day, if you are not your best self you are not the best attorney for your clients, and for both ethical and personal reasons, you should feel comfortable in getting the help you need.



---

*Dana A. Gittleman, Esq. is a shareholder in the Professional Liability Department at Marshall Dennehey. Resident in the firm’s Philadelphia office, she focuses her practice on the defense of claims and lawsuits brought against insurance agents and brokers, real estate professionals, attorneys, directors and officers, and large product manufacturers. Dana may be reached at [dagittleman@mdwccg.com](mailto:dagittleman@mdwccg.com).*

*Alesia S. Sulock is a member of the Professional Liability Department where she focuses her practice on the defense of attorneys in legal malpractice claims, wrongful use of civil proceedings claims, abuse of process claims and disciplinary matters. Alesia also handles a wide variety of real estate matters, including defending real estate agents, appraisers and title agents in litigation and disciplinary matters, and advising corporate clients on real estate and property matters. Additionally, she defends other professionals, including accountants, non-profit organizations and directors and officers, and provides representation in commercial litigation matters. She may be reached at [assulock@mdwccg.com](mailto:assulock@mdwccg.com).*