
2020

Missouri Roundtable on Lawyer Well-Being

Report

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OPENING REMARKS

Hon. George W. Draper, III, *Chief Justice of the Supreme Court of Missouri*
John R. Gunn, *President of The Missouri Bar*

INITIAL ROUNDTABLE MEETING (October 26, 2020)

The Honorable George W. Draper, III, Chief Justice of the Supreme Court of Missouri, and John R. Gunn, President of The Missouri Bar, convened a Roundtable on Lawyer Well-Being in Missouri on October 26, 2020, bringing together stakeholders from across the state to discuss the state of lawyer well-being in Missouri and brainstorm recommendations as to how our legal community can address the critical need for improving the health and well-being of lawyers and law students.

The report of the National Task Force on Lawyer Well-Being¹ documents that we can no longer continue to ignore the disproportionate impact of substance abuse, addiction and mental health difficulties in our profession compared to the rest of the U.S. population. A 2016 study by the American Bar Association (ABA) Commission on Lawyers Assistance Programs, in conjunction with Hazelden Betty Ford Foundation, reveals (among other similar conclusions) that, as a profession, lawyers qualify as problem consumers of alcohol at nearly twice the national average and experience depression at nearly three times the national average.² Despite these numbers, many lawyers fear acknowledging their problems and seeking assistance.

Similarly, the 2016 Survey of Law Student Well-Being³, involving 15 law schools and over 3,300 law students, revealed that 25% were at risk for alcohol-use disorder, that 17% screened positive for depression and 36% for anxiety. While almost half of law students recognized that they needed help, only half of them sought assistance. They feared that admitting a need for help would adversely impact their career.

The reality reflected in these statistics must galvanize efforts to improve lawyer well-being and to create real, systematic change. Both the Court and The Missouri Bar hope that the candid conversations of the Roundtable are simply the initial step on the journey to assuage our profession's excessive experience with mental health and substance abuse disorder and improve all lawyers' experience so that they find greater satisfaction and thrive across all life dimensions.

The session began with opening remarks from Chief Justice Draper and Missouri Bar President Gunn. Following their remarks, the Roundtable participants were asked to provide a grade for lawyer well-being in Missouri along with two accomplishments they would like to see in the near future.

¹ The National Task Force on Lawyer Well-Being was initiated by the ABA Commission on Lawyer Assistance Programs, the National Organization of Bar Counsel, and the Association of Professional Responsibility Lawyers and is comprised of entities within and outside the ABA, including the Conference of Chief Justices and the National Conference of Bar Examiners.

² 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).

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).

GRADE

While participants gave grades ranging from B- to D- for lawyer well-being in Missouri, most participants rated Missouri in the range of C- to C. Most participants felt Missouri was making good progress but still had more work to do.

DESIRED ACCOMPLISHMENTS

President John Gunn identified a number of objectives for this initiative:

- The development of tools and resources that can be used in the State of Missouri for the benefit of its lawyers, law students and judges;
- The identification of the best way to address well-being issues within the infrastructure of The Missouri Bar;
- The establishment of wellness as a permanent fixture and long-term initiative; and
- The Missouri Bar focusing on programs that are likely to have the greatest impact.

STAKEHOLDER GROUPS

The members of the Roundtable were divided into four stakeholder groups, each one addressing a different aspect of lawyer wellness in Missouri:

1. Regulators
2. Law Schools
3. Legal Employers
4. Bar and Bar Associations

Ultimately, the recommendations of the Roundtable came down to three broad categories:

- **Recommendation One:** Information about wellness and well-being must be made available to the entirety of the legal community, from the most powerful partner in the most prestigious firm to first year law students.
- **Recommendation Two:** The stigmatization of recognizing the need for help and the accessing of resources and services must be minimized, if not ended.
- **Recommendation Three:** New policies, procedures and programs must be instituted that allow individuals to get help and the profession to find a way to move toward wellness.

Each group met briefly to identify strategies for advancing attorney well-being.

Regulators

In some instances, regulators are the first to see signs that a lawyer may be experiencing difficulties. They can serve as a source of essential information. This group was convened to explore the role that regulators can play in safeguarding the wellness of attorneys.

Recommendations:

- Add a Comment to Rule 4-1.1 on competence to include well-being, allowing wellness to be featured more prominently in legal ethics teaching, advising, and writing.
- A program should be developed that would allow attorneys to seek help, including rehabilitation, without reprisal or threat to their practice.
- The Model Policy approved by The Missouri Bar Board of Governors should be made available on a widespread basis throughout the entire legal community of the state.
- Continuing Legal Education should be developed and presented by regulators on well-being.
- Proactive management-based regulation (PMBR) should be developed to create a resource-based framework and to improve practice management.
- Centralized grievance intake and diversion programs should be created.

Law Schools

This is where it all starts, from learning to love the law to laying the foundation of a career. For some law students, admitting any weakness jeopardizes this future. This group was convened to identify ways to ensure that law students can establish a foundation of well-being.

Recommendations:

- Programs should be developed that bring law students together with individuals from the regulatory agencies, so they can learn that seeking help is not necessarily detrimental to their careers.
- Questions on character and fitness need to be refined to encourage law students to come forward and seek help.
- It should be repeatedly emphasized to law students that seeking treatment for problems is not a detriment to their career.
- The outstanding work done by the Missouri Lawyers Assistance Program (MOLAP) should be continued and expanded, perhaps with student liaisons to MOLAP at each school.
- Since so many people have extraordinary stories of bringing themselves back from the brink and finding success, a program should be developed that shares those stories with current students.
- Law student peer counselors are an essential part of law student well-being.
- Courses should be offered at each law school on wellness featuring a broader perspective on success, which would be offered at no cost to students.

Legal Employers

No matter how much an attorney wants to get assistance, the path toward wellness will be blocked if the fear of formal or informal punishment at work outweighs the desire to seek help. This group was convened to identify strategies to encourage law firms to support the movement in favor of lawyer wellness.

Recommendations:

- Engineer a culture shift in the practice of law, with new policies and practices incorporating lawyer well-being.
- All law firms must be educated on the necessity to support those lawyers struggling with problems who seek help without punishment.
- Have leadership emphasize the importance of lawyer well-being and help people understand that better work will come from people who are more balanced.
- Lawyer well-being should be emphasized during new attorney orientation.
- The message of lawyer well-being and the tools to make it a reality must be brought to Solo/Small Practitioners.
- The confidentiality requirement of Rule 16 must be made known on a much broader scale to all legal employers.

Bar Associations

Bar Associations are an essential source of information, support, and resources for attorneys. This is most definitely the case with the issue of wellness. This group was convened to explore actions bar associations can take to advance the cause of lawyer well-being.

Recommendations:

- A CLE requirement for programming specific to well-being should be implemented.
- There should be a deemphasis of alcohol at Bar events and increased focus on more human connection, including implementation of more family-oriented functions and incorporation of other aspects of life beyond the law.
- Substance abuse programs should be developed to address the likely increase in cannabis consumption in Missouri with the advent of limited legality.
- Programs should be developed to assist with lawyers dealing with difficult family situations (e.g., dementia in family members; acute/chronic health care issues; substance abuse; mental illness).
- There should be increased collaboration between local, specialty, state, and national bar associations to mitigate duplication of efforts, to open communication, to share resources and programs, as well as address reporting issues.
- There should be a focus on unique wellness issues experienced by traditionally marginalized constituencies among members (e.g., LGBTQ+, Black, Asian, Latinx, indigenous groups) and development of programming to address these distinct problems.
- A toolkit of best practices should be developed for bar associations to address wellness issues internally and for members.
- Leaders in the legal community should be solicited to share their own stories of personal and/or professional distress and how they were addressed.
- Well-being queries should be included in surveys conducted by The Missouri Bar.

- Bar staff and members should be trained on how to identify lawyers in distress and how to respond with MOLAP and the Intervention Committee.
- Medical studies, resources and information should be provided to educate membership.

CONCLUSION

Appointment of a special committee of The Missouri Bar is within the purview of President Gunn's authority as president. He would like to keep the group of Roundtable participants loosely intact so that the group can reconvene, look at which items have been put in place, and identify the basic progress that has been made. He asked Roundtable attendees for their commitment to stay involved in the future when necessary and to take advantage of the opportunity to provide their input. He also advised that whatever report and recommendations come out of the Roundtable will likely be published in the *Journal of The Missouri Bar*.

Ms. Buchanan suggested that one-year to 18 months after the special committee is in place, the Roundtable group should reconvene, review the notes from the initial Roundtable session, consider updates as to what has occurred since the Roundtable, and provide a grade as to the state of lawyer well-being in Missouri again.

President Gunn expressed great appreciation to Ms. Buchanan for facilitating the Roundtable and for all her suggestions and guidance in this process. He also thanked all Roundtable participants for their time and involvement.