

Connecting the Dots

BY ROBYNN MORAITES

The ABA Task Force on Lawyer Well-Being (“Task Force”) was created in 2017 in response to the findings of the 2016 ABA Hazelden Study documenting the prevalence of impairment in our profession. The Task Force included the ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Well-being Committee; National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; National Conference of Chief Justices; National Conference of Bar Examiners; and ABA Commission on Lawyer Assistance Programs. Together they created and published, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change from the National Task Force on Lawyer Well-Being* (“Report”).

The Report’s recommendations focus on five central themes: (1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession, (2) eliminating the stigma associated with help-seeking behaviors, (3) emphasizing that well-being is an indispensable part of a lawyer’s duty of competence, (4) educating lawyers, judges, and law students on lawyer well-being issues, and (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.

Most of these recommendations focus on structural changes like fully funding a lawyer assistance program, adopting a mandatory mental health CLE requirement, and adopting a secured leave rule. Across almost every measure, North Carolina leads the way, and has for years. And yet...

The volume of cases continues to rise, and the types of cases we see involve more serious and complex mental health issues

than ever before. And we still have an astronomical lawyer suicide rate. Moreover, the latest research shows that lawyers who die by suicide are 91% more likely to have job problems that contributed to their death.

To quote Archbishop Desmond Tutu, “There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they’re falling in.”

You may be surprised to learn that in over 40 years of LAP operations, we have had less than five suicide deaths amongst active LAP clients or volunteers. That is because LAP clients and volunteers learn to prioritize their well-being above all else to maintain their equilibrium.

An overwhelming majority of the suicide deaths happen to lawyers with whom LAP has never had contact. We learn of these deaths after the fact, when we receive calls and emails from lawyers who practiced in the same district.

Because job-related factors are so prevalent in these cases, over the years as I listen to the stories, repeated patterns emerge. I have heard red flag after red flag involving lack of boundaries and self-care. I hope to use these tragic deaths, and the patterns they reveal, to connect the dots—to demonstrate why lawyer self-care and well-being practices are essential for not only a lawyer’s health, but also lawyer competence, protection of the public (i.e., a lawyer’s clients), and professionalism in general.

To begin, the single largest, universal issue for lawyers that wreaks havoc is lack of boundaries. I am using the term “boundaries” universally here as an all-encompassing term because no one ever teaches us how to discern our own personal boundaries (emotional limits) from the kinds of obstacles we encounter in our cases (legal limits). Until they understand the difference, most lawyers approach their own personal boundaries/emotional limits the same way they



approach the legal limits encountered in their work life.

As my yoga teacher says, “How we do one thing is how we do everything.” Unfortunately, what makes us good at practicing law can have terrible implications for us personally. We must learn to establish—then honor—our own personal boundaries and differentiate how we approach them from how we approach boundaries we encounter in our cases. It is not an innate skill, and unfortunately, no one ever acknowledges the dichotomy, much less teaches us how to do this.

Instead, the practice of law teaches us quite well how to bust boundaries. We are trained to figure out how to get a client from point A to point B. In that journey, we will encounter myriad obstacles. Obstacles might include certain facts, the law or how you interpret the law, who is going to be included as a party, where something is filed (state versus federal court... If federal, Eastern versus Western District), and that’s just the front end. There are so many strategic inflection points, so many potential obstacles or boundaries to overcome. The list is seemingly endless.

At each inflection point, a lawyer must figure out a way over, under, around, or through that boundary. Or as was the case

when I was a first-year associate, a senior partner showed me how to interpret a statute such that the boundary did not, in fact, exist for the client in that fact-specific situation. I exclaimed, “OMG! We totally got around the law!” Without missing a beat, he raised his index finger, tilted his head as if in a Norman Rockwell painting and replied, “We *complied* with the law.”

We come by this boundary-busting skillset honestly. For most of us, law school provides a prolonged, intensive, boot-camp-like indoctrination in the skilled arts of self-abandonment and first ignoring, then pushing past, our own endurance limits. To succeed, usually without explicitly articulating the process, we are also trained to detach from or set aside our own personal values (another form of self-abandonment) to best represent the interests of a client. We all rise to the occasion beautifully. It is no wonder that studies consistently show that law students enter law school with the same (or even lower) rates of alcoholism, depression, and suicidal ideation as the general public, but graduate at rates that mirror those seen in the profession, which are three to four times higher than those seen upon admission.

One of the most pervasive issues in the profession—and a pattern we see for lawyers who die by suicide as well as new, incoming LAP clients—is an inability to say no. We effectively abandon this skill in law school when we learn to push past our own endurance limits. The profession itself creates an environment that reinforces and rewards this behavior. At larger firms, senior associates dishing out advice to incoming associates regularly advise them to avoid saying no at all costs; to sacrifice whatever is needed in order to say yes to a request. Many lawyers new to LAP report fear of being fired if they say no. The issue is so common that we regularly have this as a topic of discussion at our LAP support group meetings, and it was the recent focus of a *Pathways to Well-being* column. (See bit.ly/3xSxNEP.)

Lawyers who never say no; who ignore—then push past—their own endurance limits; and consistently, day after day, year after year, put client needs or the billable hour goal above their own well-being and welfare, succeed mightily in the practice of law... until they don't. Lawyers who never say no end up stretched too thin. Often, by the time they get to LAP, these lawyers have neglected

their families, their children, and their own mental, physical, and financial health with far reaching consequences.

These lawyers are also prime candidates for burnout. The prolonged or chronic stress created results in emotional and physical exhaustion, cynicism, and reduced professional efficacy. Depression, apathy, anger, irritability, lethargy, and feelings of hopelessness can then follow. It creates a vicious cycle of struggling to meet never-ending demands while feeling a continuous sense of failure, inadequacy, and ineptitude.

We need to learn that there are limits to our mental, intellectual, and emotional endurance—not because we are ineffective losers who can't hack it, but because we are human.

Boundaries are often misunderstood as limits we place on other people. We can tell someone to not call past 10 PM, but we have no control over that individual. They may, in common parlance, “cross our boundary” by calling at 11 PM. But demanding another person do (or not do) something is not actually setting a boundary. Boundaries are limits we set within and for ourselves. Putting our phone on “do-not-disturb” so that it does not ring after 10 PM ensures that we will not receive calls after 10 PM.

As this example illustrates, what we have control over is our own behavior. We teach people how to treat us. If we respond to emails all evening, guess what our clients and partners grow to expect? Just like the phone call example, we can stop checking emails at a reasonable time and respond to them first thing in the morning. There are so many examples of ways in which we can learn to set healthy boundaries and engage in better self-care.

Years ago, I was having dinner with the then-current State Bar president the evening before a district bar meeting. We were chatting about all sorts of things, none of which had to do with LAP or boundaries. She offered up a story that I have since shared over the years. She said, “When I was a young attorney, I might have had a three-day weekend planned. A client would call on Thursday afternoon with some ‘emergency.’ I would immediately drop everything, cancel my plans, and see them on Friday morning. Today, if the same thing happens, I tell them I am unavailable Friday, but I can meet them first thing the following week. I ask them if they prefer Monday or Tuesday. They go right along without any

pushback and tell me what day they prefer to meet. I wish I could go back and tell my younger self not to be so panicked and to not cancel my plans.”

Simple enough, right? For some of us it is. But for some of us, it is more of a challenge.

Once working with LAP, what most lawyers quickly discover is how difficult it is for unrecovered people pleasers/approval seekers to set effective boundaries. It feels almost unbearably uncomfortable the first time we say no after a lifetime of saying yes. That's why we need people who understand the journey, and who can share their experience, root for us, and affirm us and our decisions.

Lawyers who attend our LAP support groups eventually become black belts in boundary setting. They call each other out when they spot a need for boundaries, like someone straying into murky waters of chronic overextension, whether emotional, financial, or even geographic. For example, one lawyer we heard about who died by suicide never said no to a case, and was regularly stretched across five or six large judicial districts. I even heard about a case that he took across the state on a flat fee arrangement. With the drive time alone, he probably wasn't even netting minimum wage.

Another way lawyers, especially in solo/small practice settings, overextend themselves is by not charging enough for their services. *Pro bono* or reduced-fee work is wonderful, but not at the cost of your own well-being. *Pro bono* work has its place, certainly; however, one cannot sustain a career on nothing but *pro bono* and reduced-fee work. Understanding our own personal worth as well as professional value not only plays a crucial role in determining how much we charge for services, but also impacts our ability to say no and set other kinds of boundaries for our own well-being.

In yet another example of failed or ignored boundaries—sometimes with far-ranging emotional and financial consequences—we have had many lawyers report “knowing in their gut” they should not take a case/a client, but they ignored that intuition, could not/would not say no, and wound up in a mess. The tendency is to want to blame others or our circumstances. Sometimes cases go sideways due to no fault of our own. But that's not the pattern I am identifying here.

When we are not setting and honoring our own boundaries, we don't realize that we

are doing it to ourselves. As a result, we often feel victimized by those around us: our law partners, our clients, our children, our spouses. It can feel like everyone is ungrateful, at best; taking advantage of us, at worst. Healing begins by identifying and acknowledging the ways in which we have abandoned ourselves.

How does all of this play out on the competence and professionalism stage? When we push past our own endurance limits and don't tend to our physical health—let's say the need for good, restorative sleep—then our calm, rational, frontal cortex goes off-line (due to glucose deficiency). Our amygdala gets fired up, begins to perceive threats everywhere, and we “flip our lid.”¹ We overreact and behave badly when faced with routine, day-to-day life and work scenarios. We behave unprofessionally. We lash out at opposing counsel. Because our frontal cortex is off-line and we are not thinking clearly or rationally, we may even lash out at a judge. It happens. We can even make catastrophic, permanent decisions or take catastrophic, permanent actions (like suicide) based on temporary, flared-up emotions.

Conversely, the more we set and honor our own boundaries, the easier it is to recognize and honor others' boundaries, including non-negotiable boundaries like the prohibition on misuse of entrusted client funds. Do you see how the thinking pattern that would lead an already-overextended lawyer to think he could juggle still more plates in the air could carry over into thinking he can “rob Peter to pay Paul” (use entrusted client funds for operating expenses) with the rationalization that he will eventually restore those entrusted funds/figure it out later? How we do one thing is how we do everything.

When we examine the broader societal context, the pandemic dramatically magnified the “flipped lid” effect. Engaging/enraging in debate on social media also magnifies it. Our brains can only take so much. This heightened level of anxiety causes us to remain on high alert, lose more sleep, etc. We cannot maintain this heightened stress response without crashing. Depression and other mental health issues result.

Anxiety and depression are rife within the profession. And what happens with depression? We withdraw, we go apathetic, we lose energy to engage in anything. We stop returning client calls. We miss filing deadlines because we cannot complete the

work. I have even seen cases where lawyers summoned what little energy they had left to show up in court, but stopped the administrative back-end work, including not billing clients for a year or two, and were in total financial ruin by the time they reached out for help.

Our brains are not wired to make us happy; they are wired to help us survive. Our brains basically shut down and go off-line to minimize stimuli and protect us. Eventually, many lawyers and judges begin to self-medicate with alcohol as a way of coping or use other drugs as a way of regulating internal chemistry (cannabis products for sleep; Adderall or cocaine for energy and focus—a dangerous combination that can lead to psychosis²).

But it does not have to get to this breaking point. We can all start doing some of these well-being practices and learning how to better regulate our nervous system and its response so that we don't end up in a situation where we need the relief, or better living through chemistry, that results in harm to ourselves and eventually our clients. There are dozens of scientifically-validated ways to improve well-being. We cover loads of well-being practices in our new CLE, *Calm in the Midst of Chaos*.

For example, exercise specifically calms our nervous systems and counteracts the “flipped lid” effect. A simple 20-to-30-minute exercise routine that elevates our heart rate serves to calm the amygdala and restore the neurotransmitter and hormonal imbalance that builds up throughout our day. In neuroscience it is called, “completing the stress cycle” because it releases pent-up stress and restores our brains to a state of “homeostasis.” That is just one example.

In these pandemic-residual-effect, social-media-dominated days, it takes extra effort to really focus on self-care. So do a quick well-being inventory check:

- Are you getting enough quality sleep?
- How is your diet?
- Are you getting exercise?
- Have you said yes when you want to say no?
- If so, how often?
- Where do you specifically feel overextended?
- Is that a temporary or chronic situation?
- Does something on social media really trigger you?
- Can you unfollow/block that triggering

source?

- What self-care boundaries can you put in place today?
- Do you have someone who can encourage you to honor those boundaries over the long haul?

We are not all going to be stellar in all these areas. That is an unrealistic expectation. But we have to move the needle and start somewhere. Some of the practices that we cover in our well-being CLE programming might seem like common sense and easy to implement, while others might seem totally out of reach. Start where you can with the practices that are easiest for you to implement. They do not have to be time-consuming. You just have to be intentional about doing them.

Lawyers are not happy campers when they arrive at LAP's doorstep, but if they follow our suggestions and stick with it, they become some of the happiest, most balanced, friendliest lawyers I know. That is because recovery from any kind of mental health issue forces us to learn how to establish and honor mental, emotional, financial, and other self-care boundaries. We must learn how to stop abandoning ourselves. It takes mindful awareness, committed intention, repeated practice, and plenty of encouragement from people who have been down that road. That's why LAP's peer support model is so important.

It can seem a non sequitur to have LAP, a program that deals with lawyer “impairment,” discuss boundaries, financial health, exercise, healthy eating, and good sleep habits. But if you connect the dots, it makes perfect sense. LAP volunteers become experts in well-being practices because their recovery—ultimately, their lives—depends on it. You may not be at a breaking point, but we are all on that continuum: somewhere from professional/top of our game all the way down to unprofessional/unfit to practice.³ Well-being techniques help us move further up the continuum to the top of our game.

LAP often interfaces with lawyers who have entered the discipline and grievance process. Some become LAP clients, but some do not. A lawyer who did not work with us at the time recently emailed me. I have included this with his permission.

I shared with [a therapist I know] my personal search for a mental health diagnosis that fits the criteria for what I had experienced during that time in my life [when a

grievance was filed against the lawyer]. The self-diagnosis was Prolonged Stress Disorder. The symptoms mirror PTSD, but instead of there being one major event causing the disorder, there is persistent stress over time. I did not research any further once I was satisfied that I had not just become a bad person. I realize I was always a good person, just one with clouded judgment from prolonged stress. And I had a lot of circumstances going on that demanded better judgment than I was able to exercise at that time in my life. So, I have a special appreciation for LAP, because you all see everyone as I was able to ultimately see myself.

That quote provides a real-world example of connecting the dots, illustrating how prolonged stress exposure impacted professional

competence and judgment.

What we have seen over the last 40+ years at LAP is that lawyers can engage in effective boundary-setting and self-care with a firm commitment to their own well-being, while also having thriving, successful practices. They do not have to sacrifice one for the other. So, start connecting the dots for yourself: focus on better boundaries and self-care. Not only will these well-being practices help your competence and professionalism, but you might also just find you enjoy life and law more than you ever have before. ■

Robynn Moraites is the director of the North Carolina Lawyer Assistance Program, a confidential program of assistance for all North Carolina lawyers, judges, and law students, which helps address problems of stress, depres-

sion, alcoholism, addiction, or other problems that may impair a lawyer's ability to practice. For more information, go to nclap.org or call: Cathy Killian (Charlotte/areas west) at 704-910-2310, or Nicole Ellington (Raleigh/down east) at 919-719-9267.

Endnotes

1. See a short two-minute video about how the brain works when we “flip our lid” at bit.ly/3xFP04h.
2. Adderall use combined with cannabis use (like Delta-8) can result in psychosis, which may become a permanent condition even after cessation of the substances. See *PSA: Adderall and Delta-8*, bit.ly/3Uob4JA.
3. See *A Framework for Lawyer Well-being* bit.ly/448CF55.

In Memoriam

Basil Agapion
Greensboro, NC

Carl Atkinson Jr.
Troy, NC

Kathy Atkinson
Santa Rosa Beach, FL

William Belcher
Bluffton, SC

Corey Buggs
Lexington, NC

Stafford Bullock
Raleigh, NC

Baccuhus Carver
Lillington, NC

Gary Chadwick
Wilmington, NC

Aaron Clinard
High Point, NC

Patrick Cook
Charlotte, NC

Comann Craver Jr.
Winston-Salem, NC

Jack Crawley Jr.
Raleigh, NC

Max Crohn Jr.
Chapel Hill, NC

David Dansby
Greensboro, NC

William Etheridge
Rocky Mount, NC

Woodard Farmer Jr.
Asheville, NC

Thomas Farr
Raleigh, NC

Brad Heath
Virginia Beach, VA

Benner Jones III
Fayetteville, NC

Rebecca Killian
Stanley, NC

Horace Kimel Jr.
Greensboro, NC

Howard Kohn
Raleigh, NC

Willie Lumpkin III
Morehead City, NC

John Martin
Raleigh, NC

John Miles
McLeansville, NC

Lucrecia Moore
Charlotte, NC

Deborah Nance
Charlotte, NC

Katherine Parker-Lowe
Ocracoke, NC

Robert Robinson
Asheville, NC

John Ross Jr.
Manteo, NC

Allan Russ
Durham, NC

Michael Schlosser
Greensboro, NC

Windell Smith Jr.
Charlotte, NC

Albert Sneed Jr.
Asheville, NC

Clyde Stanley Jr.
Supply, NC

Ned Stiles
Charlotte, NC

Odes Stroupe Jr.
Raleigh, NC

Brenda Unti
Phoenix, AZ

Charles Wannamaker III
Greensboro, NC