

Keeping it All Together: Navigating Mental Health Issues in the Legal Profession

VBA Mid-Year Meeting

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Introductions and Outline

- How do we identify a mental illness in ourselves or in others?
- What do the Rules say?
- How do we muster the courage? Reinforce the conversation?
- How do we welcome somebody back?

Role Clarification

- We are lawyers, not clinicians. It is not our job to diagnose mental illness. It is our job to be compassionate to our colleagues.

Definitions

- Any mental illness: is defined as a mental, behavioral, or emotional disorder.
- Serious mental illness: is defined as a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.

Hazelden Study

- 21 % of lawyers are problem drinkers
- 21% of lawyers deal with severe anxiety
- 28% of lawyers struggle with depression

- Higher rates than general population
- Younger lawyers are the most at risk.

Rates of Substance Abuse/Mental Health Issues

- In the general population, Vermonters experience these at rates higher than the national rates.
 - Substance Abuse & Mental Health Services Administration, 2015 National Survey on Drug Use & Health, <https://www.samhsa.gov/data/sites/default/files/NSDUHsaeStateTabs2015B/NSDUHsaeSpecificStates2015.htm#tab101>
- All slides reflect % of population age 26 & older

Alcohol Use – Past Month

- Vermont: 63.8%
- National: 56.04%

Alcohol Dependence – Past Year

- Vermont: 3.59%
- National: 2.84%

Alcohol Abuse Disorder – Past Year

- Vermont: 5.89%
- National: 5.64%

Any Mental Illness – Past Year

- Vermont: 19.73%
- National: 17.52%

Serious Thoughts of Suicide– Past Year

Vermont: 4.01%

National: 3.34%

Serious Mental Illness – Past Year

- Vermont: 4.89%
- National: 3.91%

Major Depressive Episode – Past Year

- Vermont: 7.49%
- National: 6.11%
- (Major depressive episode (MDE) is defined in the 4th edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), which specifies a period of at least 2 weeks when an individual experienced a depressed mood or loss of interest or pleasure in daily activities and had a majority of specified depression symptoms.)

Illicit Drug Use – Past Year

- Vermont: 16%
- National: 10.5%
- Can't all be explained by marijuana
- Vermont higher than national in use of cocaine, crack, heroin, and opioids.

Logic

- We know that lawyers live with mental health and substance use challenges at higher rates than nonlawyers
- We know that Vermonters live with mental health and substance use challenges at higher rates than the national average
- We can conclude that Vermont lawyers live with mental health and substance use challenges at higher rates than Vermont's nonlawyers

Disability Inactive Status

- By rule, the Court transfers a lawyer to disability inactive status whenever a lawyer suffers from a physical or mental condition that adversely affects the lawyer's ability to practice law.
- Administrative Order 9, Rule 19

Transfers to Disability Inactive
or
Interim Suspension for Disability Reasons

- January 2000- August 2016: 10
- September 2016 - present: 5

- 17 years vs. 11 months

Vermont Rule of Professional Responsibility 8.3

- (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate professional authority.
- (b) same for judges
- (c) Lawyers' assistance program employees exempted.

So what to do?

- Report to the Board of Professional Responsibility?
- The Virginia State Bar issued a draft ethics opinion interpreting Rule 5.1 to require partners and supervisory lawyers in a law firm to “take remedial measures” when they believe another lawyer may suffer from a significant impairment that poses risk to client or the general public.

So What to Do?

- Wouldn't it be nice if we felt empowered to intervene before we knew of harm (Rule 8.3)
- Or suspected harm to a client or the general public? (Rule 5.1).

How About Honesty?

- Easy to write, but hard to really practice, right?
- Look at the Depression self-test on the next slide.

Depression Self-Test

- 1. I am unable to do the things I used to do.
 - 2. I feel hopeless about the future.
 - 3. I can't make decisions.
 - 4. I feel sluggish or restless.
 - 5. I am gaining or losing weight.
 - 6. I get tired for no reason.
 - 7. I am sleeping too much, or too little.
 - 8. I feel unhappy.
 - 9. I become irritable or anxious.
 - 10. I think about dying or killing myself.
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- If you answered yes to 5 or more of these questions, and you have felt this way every day for several weeks, there is a good chance you are suffering from depression and should see a licensed mental health professional.* If you answered yes to question 10, you should seek help immediately, regardless of your answer to any other questions.

Resources for Struggling Lawyers

- [Vermont Lawyers Assistance Program](#)
 - <http://lapvt.org/>
 - Provides confidential meaningful assistance to lawyers, judges, law students and their families.
 - Website has whole host of self-tests, and signs and symptoms sheets.

Social Service Resources

- Vermont Center on Independent Living
 - <http://www.vcil.org/>
- Vermont Department of Mental Health
 - <http://mentalhealth.vermont.gov/how-get-help>
- Vermont Crisis Text Line
 - Text VT to 74141
- NAMI (National Alliance on Mental Illness)
 - <https://www.nami.org>

Social Justice/ Advocacy Resources

- Vermont Psychiatric Survivors:
 - <http://www.vermontpsychiatricsurvivors.org/>
- Disability Rights Vermont:
 - <http://www.disabilityrightsvt.org/>