

LAWYER WELL-BEING:

Changing the Climate of
Wisconsin's Legal Profession

DECEMBER 2021

A report by:



STATE BAR
OF WISCONSIN

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Comments from Hon. Todd W. Bjerke, Chair of the Task Force on Wisconsin Lawyer Well-Being

I am pleased to present this report on behalf of the Task Force on Wisconsin Lawyer Well-Being (TFWLW). The TFWLW was convened in July 2020 to develop recommendations to improve the overall well-being of the legal profession in Wisconsin. The TFWLW reviewed the recommendations of the National Task Force on Lawyer Well-Being (NTF) and found many of the NTF recommendations are practical and likely easy to implement in Wisconsin. Other NTF recommendations are already being followed in Wisconsin, but could easily be enhanced. Many other NTF recommendations were found to be common sense, realistic goals to pursue. The TFWLW aspires to change the work climate of the legal profession in Wisconsin. If the recommendations in this report are implemented successfully, that work climate will become less stressful due to overall improved personal and institutional well-being. If legal professionals' stressors are reduced, the quality of their work will improve. Wisconsin is doing many things well, but there is always room for improvement. The TFWLW is committed to raising awareness about the importance of lawyer well-being and recommending steps to achieve positive change.

The work of the TFWLW is based on a report published by the NTF in 2017 entitled *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (NTF Report). With the support of the Wisconsin Supreme Court, the State Bar of Wisconsin convened a diverse group of stakeholders to review the recommendations published by the NTF. The TFWLW and its seven subcommittees are united by their shared conviction that a focus on enhanced well-being is a foundational element of the long-term success of lawyers, both individually and as a profession. The TFWLW utilized the NTF recommendations as a starting point for discussion, but also considered the specific needs of lawyers practicing in Wisconsin. All TFWLW meetings were virtual due to the COVID-19 pandemic. While the stress and upheaval resulting from the pandemic were prevalent topics during some discussions, the TFWLW focused on a broader view of the lawyer well-being landscape. TFWLW members discussed the causes and consequences of high rates of addiction and mental illness among lawyers, as well as the general diminished professional climate.

Well-being can be a difficult concept to quantify and explain. The TFWLW adopted the definition used in the NTF Report wherein "well-being" is defined as "a continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others."¹ According to the NTF,

"well-being" is not defined solely by an absence of dysfunction; but nor is it limited to feeling "happy" or filled with positive emotions. The concept of well-being in social science research is multi-dimensional and includes, for example, engagement in interesting activities, having close relationships and a sense of belonging, developing confidence through mastery, achieving goals that matter to us, meaning and purpose, a sense of autonomy and control, self-acceptance, and personal growth.

It requires that we maintain good mental health in the context of complete health.²

¹ National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (Aug. 2017), at 9, <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf> [hereinafter NTF Report].

² *Id.* at 10.

As critical as it is to prioritize the attainment of lawyer well-being, the TFWLW recognizes that this will only happen gradually. Committing to the long-term process of improving lawyer well-being will help the profession and its institutions be stronger and more sustainable, and allow individual lawyers to feel not only supported and empowered, but also capable of becoming more dedicated to the legal profession. The practice of law is stressful and challenging. However, there are steps we can take to:

1. Make it less stressful and more fulfilling to serve as a lawyer or judge.
2. Change the environment so that individuals feel comfortable being who they are and able to ask for help.
3. Make sure that help and support are available when individuals are ready to reach out.
4. Reduce stressors wherever attorneys practice law to minimize toxicity and promote supportive environments within which to work. Too much damage can result when the well-being of individual lawyers and the stressors they face are ignored.

This report would not have been possible but for the commitment of the TFWLW members who brought their vision, insight, and creativity to the many meetings they participated in. The broad range of their experiences has been blended into the foundation of the recommendations in this report. The TFWLW appreciates the support and participation of the Wisconsin Supreme Court and representatives of the Wisconsin judiciary, and the leadership of the State Bar of Wisconsin. The State Bar's Wisconsin Lawyers Assistance Program (WisLAP) staff have exceeded all expectations with their outstanding support to the TFWLW and therefore deserve special recognition. This report would not have been achieved without their dedication. Attorney Rita Knauss is to be commended for her research and participation in this complicated report. Attorney Kristi Lemanski is also to be commended for the final edits she performed that put this report into a publishable document. I appreciate the opportunity to have served as the Chair of the Task Force on Wisconsin Lawyer Well-Being. Thank you for your time and attention.

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The Goals of the TFWLW

- Develop a Wisconsin-specific well-being task force with representatives from all sectors of the legal profession to consider how to create and maintain a culture of lawyer well-being.
- Review the recommendations put forth by the NTF to guide the assessment of the state of lawyer well-being in Wisconsin.
- Identify action items achievable over the short and long terms, potential barriers to achieving those items, and steps to alleviate the barriers.
- Raise awareness about the importance of lawyer well-being as a topic of concern for all legal professionals, not just lawyers and judges.
- Educate legal professionals in Wisconsin about why well-being is an important focus for individuals, firms, and legal organizations.
- Recommend strategies for all stakeholders in the legal profession to play roles in the transformational process aimed at developing a thriving legal profession.
- Establish a climate within which individuals know that it is safe to ask for help, there is confidential help available, they will be listened to and respected, and their needs will not be discounted.
- Recognize that challenges to lawyer well-being begin at the law-school level and therefore initiatives designed to improve well-being within the profession must begin at the state's law schools.

Introduction

“The health of lawyers reflects the health of the profession[.]”³

The State Bar of Wisconsin and the Wisconsin Supreme Court convened the TFWLW because too many lawyers and judges are struggling in their practices and the profession's overall well-being climate should be improved. Upsetting articles have been published in the national media about the tragic outcomes that can befall lawyers who progress into active impairment (see, for example, Eilene Zimmerman's article *The Lawyer, The Addict*, published in *The New York Times* in July 2017,⁴ as well as Joanna Litt's article about her husband's death by suicide due to job-related stress and anxiety, published in *The American Lawyer* in November 2018⁵). There are also national research studies of lawyers and law students that document alarming rates of mental health problems, suicidal thinking, and problematic alcohol and drug use, and show a prevalence of the misperception that if help is sought for any of these conditions confidentiality will not be maintained and a tarnished reputation will result.⁶

Lawyers are vulnerable to substance misuse and symptoms of mental illness, but not because they are deficient in character or morality, or unable to withstand the rigors of the profession. There are other factors, applicable to lawyers and non-lawyers alike, that underlie substance misuse and mental illness, including genetics, the stress-inducing problems of daily life, and the fatigue that comes from attending to the demands of work, among others. Other reasons lawyers struggle may include undiagnosed, untreated, or undertreated pre-existing disorders or medical conditions.

The Colorado Supreme Court's Task Force on Lawyer Well-Being summed up lawyer stress as follows:

Anyone who practices law knows that life in this profession is stressful. Let's face it: billable hours, client demands, deadlines, long hours, and pervasive conflict make our jobs hard. And the same work ethic that enabled

³ Cheryl Ann Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, 71 S.C. L. Rev. 203, 244 (2019).

⁴ Eilene Zimmerman, *The Lawyer, the Addict*, N.Y. Times, July 15, 2017, <https://www.nytimes.com/2017/07/15/business/lawyers-addiction-mental-health.html>.

⁵ Joanna Litt, 'Big Law Killed My Husband': An Open Letter from a Sidley Partner's Widow, Am. Law., Nov. 12, 2018, <https://www.law.com/americanlawyer/2018/11/12/big-law-killed-my-husband-an-open-letter-from-a-sidley-partners-widow/>.

⁶ Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. Addiction Med. 46 (2016), https://journals.lww.com/journaladdictionmedicine/fulltext/2016/02000/the_prevalence_of_substance_use_and_other_mental.8.aspx; Jerome M. Organ et al., *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), <https://jle.aals.org/home/vol66/iss1/13/>.

us to survive law school and weather the bar exam can cause us to drive ourselves into the ground, particularly when the culture of our profession tends to reward and glorify workaholism and demand perfection. The stresses of the profession are taking a toll on our wellbeing. Left unaddressed, that toll has consequences for us, our clients, our communities, and the future of our profession.⁷

A significant cost to the legal profession and those it serves arises when practicing attorneys, or those who trained to enter the profession, seek employment in non-legal fields because of an unwillingness to make or continue to make the personal sacrifices the profession demands. The November 2017 ABA National Summit on Achieving Long-Term Careers for Women in Law included comments of Iris Bohnet, co-director of the Women and Public Policy Program at Harvard Kennedy School, characterizing the women leaving the legal profession as those “who suffer ‘success fatigue’ and who leave the profession because of a work culture that forces them to minimize important parts of their lives.”⁸

The TFWLW affirms the existence of happy and fulfilled lawyers and acknowledges that much can be learned from the many positive experiences they cite. But although the legal profession provides benefits, fulfillment, and satisfaction to many lawyers, it also poses risks that must be considered. In the absence of proper and ongoing support, the occupational hazards of the legal profession can lead to dissatisfaction, feelings of alienation and distress, and diminished quality of life. Even lawyers whose mental or physical challenges do not rise to the level of impairment, or who have never been negatively affected by stress or anxiety, can be impacted by the negative climate of the legal profession, which includes the realities of deadlines and billable hour requirements. All lawyers, judges, and law students must remain aware of the need for ongoing self-care and engage in well-being practices to thrive during a long legal career.

Lawyers can take steps to ensure that they are engaged in healthy self-care practices that lead to greater well-being. To the extent they can, lawyers need to take responsibility for maintaining their own well-being practices. These practices are personal choices that individuals must make for themselves, based on individual circumstances, priorities, beliefs, and resources. Until very recently, there has

been no organized effort to include well-being topics in law school education, continuing education presentations, or journal articles. The pursuit of well-being has been seen as optional, not necessary.

There is a continuum of well-being, with mental health crises on one end and optimal well-being on the other. The TFWLW encourages individuals to make personal progress toward health and well-being without delaying until a diagnosis or a crisis prompts them to do so. Prevention and early intervention are valuable.

The TFWLW hopes that by promoting the well-being of legal professionals, the current climate of the legal profession will change for the better, and this, in turn, will set a foundation for the continuing betterment of all legal professionals and others. As legal professionals address personal well-being and the professional climate changes, others in need of assistance can be pulled into the new climate, relationships between legal professionals and their families and friends will improve, and clients will be better served. The TFWLW intends that:

- Lawyers will thrive instead of just survive. Well-being strategies will not address all the issues that can affect lawyers, but such strategies will help lawyers to work through issues in a healthy manner.
- Potential harm to the public and the profession from the actions of impaired lawyers will be prevented by early interventions.
- Rather than only reacting to problems that arise after impairment has occurred, legal professionals will focus on proactive strategies and best practices to maximize well-being and thereby prevent or lessen impairment.
- The legal profession will work toward the elimination of stigmas and other barriers that prevent individuals from accessing well-being resources. Help-seeking behavior should be encouraged.
- Legal professionals will open their eyes to see the needs of others who may be struggling and reach out to assist them in moving toward improved well-being.

⁷ Monica M. Marquez & Jonathan White, *Call to Action: The Colorado Supreme Court's Task Force on Lawyer Well-Being*, 96 Denv. L. Rev. 247, 248 (2018), http://static1.1.sqspcdn.com/static/f/276323/28088341/1551423412037/Vol96_Issue2_MarquezWhite_FINAL.pdf?token=iD0WngX5rr5XkF3g%2B429cGXeH1%3D.

⁸ A.B.A., *ABA Summit Searches for Solutions to Ensure Career Longevity for Women in Law* (Nov. 13, 2017), https://www.americanbar.org/news/abanews/aba-news-archives/2017/11/aba_summit_searches/.

What Does Lawyer Well-Being Have to Do With Me?

Two members of the TFWLW offer the following responses to this question:

Legal professionals worldwide are suffering from diminished mental health and well-being.

This report is not a warning about a potential crisis that may or may not occur in the future. Problems with mental and physical health and well-being that are impacting legal professionals and their families are happening *now*. The crisis is unfolding all around you.

The TFWLW hopes you have heard this message before and are already taking steps to keep yourself physically and mentally well. Lawyer well-being advocates have raised the alarm every way they know how: in person, on the phone, on social media, in articles, in continuing legal education presentations. The message, however, is not being fully internalized. The topic is too critical to put aside for another time because people's lives and livelihoods are impacted every day by a lack of personal and professional well-being.

Linda Albert, in her tenure as WisLAP Manager, was convinced that providing current quantitative facts would persuade the legal community to understand the depth of the well-being crisis. Data about high rates of depression, anxiety, and substance abuse has been widely disseminated but few solutions have been suggested, much less implemented. The initial sense of urgency has not been sustained. Actions to remediate this crisis have been debated as impractical, antithetical to the traditional practice of law, or too uncomfortable to merit further discussion. It has been easiest for the profession to dismiss the lawyer well-being crisis as a) exaggerated; b) a problem suffered only by very few lawyers; or c) a legitimate problem, but one that should be handled by the lawyer assistance community.

The lawyer assistance community can connect people with individual remedies for their very real ailments. Mental health counseling, medication, sobriety, gratitude and spiritual practices, and social support are all things that can help get people back to a state of wellness, and none should be disregarded. However, if you bandage up a soldier and then send the soldier back onto the same battlefield, you cannot be surprised when the soldier gets hurt again. The legal community's resistance to changing the climate and culture of legal practice is a problem. This is especially true in light

of the pandemic and its many challenges and hardships. An ongoing obsession with productivity no matter the cost can be toxic. Even when the goal is noble—to protect the legal rights and constitutional freedoms of others—the humanity of lawyers and judges is often diminished. The legal community does not have to succumb to illness. Solutions, which can be found in this report, can be implemented so that legal professionals can be well while helping others.

Mary Spranger

Former WisLAP Manager, State Bar of Wisconsin

Since the onset of the lawyer well-being movement and the creation of well-being initiatives throughout the profession at national, state, and local levels, one of the most frequently asked questions is: “What does this have to do with me?” Ours is a profession that includes many independent, self-confident achievers who take pride in having built professional careers on individual accomplishments using the hard work and personal sacrifice many were taught as the path to success.

The well-being movement seeks to add to those beliefs an understanding that, as averred in the introduction to the NTF Report, “[t]o be a good lawyer, one has to be a healthy lawyer.”⁹ Having attorneys recognize the importance of self-care without regarding personal concern as a sign of weakness is a driving consideration.

Whether an attorney is a solo practitioner, a member of a small firm, employed by a government agency, or a team member at a large firm, the pressures to succeed, though different in detail, are constant. The methods of protecting well-being are as varied as the areas of practice in which attorneys engage.

What is consistent is the importance—to clients, to the profession itself, and to individual attorneys—of recognizing and then responding to the need to examine the welfare of those preparing for the profession, those entering it, those providing services to it, and those practicing at all levels of the legal profession, and of taking those steps necessary to protect the well-being of each member.

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⁹ NTF Report, *supra* note 1, at 1.

Reasons to Take Action

“Lawyers learn stress early. They stress through three years of law school, they stress preparing for and taking the bar exam, and they stress at highly competitive jobs in law firms, corporations, and government. Stress is often part of the legal profession’s culture.”¹⁰

The NTF Report set forth three reasons to take action:

First, lawyer well-being contributes to organizational success—in law firms, corporations, and government entities. If cognitive functioning is impaired . . . legal professionals will be unable to do their best work. For law firms and corporations, lawyer health is an important form of human capital that can provide a competitive advantage.

...

Second, lawyer well-being influences ethics and professionalism. Rule 1.1 of the ABA’s Model Rules of Professional Conduct requires lawyers to “provide competent representation.” Rule 1.3 requires diligence in client representation, and Rules 4.1 through 4.4 regulate working with people other than clients. Minimum competence is critical to protecting clients and allows lawyers to avoid discipline. But it will not enable them to live up to the aspirational goal articulated in the Preamble to the ABA’s Model Rules of Professional Conduct, which calls lawyers to “strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession’s ideals of public service.”

...

Third, from a humanitarian perspective, promoting well-being is the right thing to do. Untreated mental health and substance use disorders ruin lives and careers. They affect too many of our colleagues. Though our profession prioritizes individualism and self-sufficiency, we all contribute to, and are affected by, the collective legal

culture. Whether that culture is toxic or sustaining is up to us. Our interdependence creates a joint responsibility for solutions.¹¹

As it considered reasons for prioritizing lawyer well-being, the TFWLW debated about which of these NTF arguments would prove most compelling to the Wisconsin legal community. TFWLW members who have been longtime educators on and advocates for lawyer well-being are hopeful that at least one of these three arguments will move the profession to action on this topic of critical importance. However, barriers to widespread implementation of well-being initiatives persist.

Notwithstanding the existence and the profession’s knowledge of the widespread prevalence of lawyer mental health and addiction issues, as well as some obvious costs associated with them, law firms (and the profession at large) have ignored the pleas for change. These pleas, largely resting on moral grounds, have gone unheeded largely for two reasons: (1) firms have cared primarily about their bottom lines; and (2) the stigma associated with mental health and addiction issues, as well as other barriers to treatment.¹²

The overarching goal of the TFWLW has been to shed light on these barriers and other topics of concern and to propose solutions that will have lasting impacts.

Legal professionals must begin to incorporate self-care practices into their lives or risk burnout, secondary traumatic stress, resorting to self-medicating with alcohol or other substances, jeopardizing relationships with friends and loved ones, and providing diminished or inadequate services to clients. Some individuals may characterize these self-care practices and priorities as soft skills and as less important than substantive law topics. They are necessary, though, because failing to maintain a positive state of personal well-being will ultimately result in the potential for diminished physical and mental health, alienation from others, and, eventually, serious ethical violations.

Well-being concepts and principles apply to all lawyers, regardless of where or what they practice, because all lawyers face pressures. For instance, lawyers in large firms may face significant billable-hour requirements, and governmental

¹⁰ Bob Carlson, *Passing the Bar: Mobilizing Lawyers to Create a Healthier Profession*, Counselor Mag., Dec. 1, 2018, <https://www.counselormagazine.com/en/columns/2018/columns/opinion-dec-2018/>.

¹¹ NTF Report, *supra* note 1, at 8–9.

¹² Jarrod F. Reich, *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*, 65 Vill. L. Rev. 361, 388–89 (2020).

lawyers may have crushing caseloads with constant deadlines or handle types of cases that cause vicarious trauma. For any lawyer, inexperience or lack of preparation will result in increased stressors. No one in the legal profession is immune. Everyone must be cognizant of the need to increase personal well-being, and set an example to those they work with to encourage them to likewise address their own personal well-being so as to avoid the unwanted effects that can result when it is ignored.

We need to ask not only what each individual will do to prioritize his or her own well-being, but what employers and legal organizations are willing to do to support lawyer well-being. When we assess lawyer well-being, it is often with a focus on steps an individual lawyer can take to address his or her own health, fitness, and work-life balance. However, without systemic change to the way lawyers practice, individual efforts to increase well-being may be overshadowed by the need to meet the demands of the legal workplace as well as the marketplace. Lawyers may incorporate a focus on well-being in their personal lives yet see their efforts compromised by a stressful work atmosphere. Just as employers are compelled to consider how to provide physically safe work environments, so too should they consider how to provide mentally healthy work environments.

Many lawyers are well aware of the need to set boundaries and expectations for addressing their personal well-being. Unfortunately, these lawyers sometimes report pushback from their employers and others when they set limits on their availability and work time and prioritize their needs to address their mental and physical well-being. People should be encouraged to model good behavior and healthy habits without being mischaracterized as uncommitted to their jobs or unproductive. People practicing smart self-care must be supported while the profession waits for the culture to catch up. This extends to judges who hold elective offices, who may face criticism for not being committed enough to their jobs or have their attempts at work-life balance mischaracterized as insufficient commitment to their positions. Changing the culture of the profession will take time, but it is worth having the conversation about which parts of the culture can be improved and supporting those who are making efforts to prioritize well-being now.

Leaders in the legal profession and seasoned lawyers and judges have a responsibility to set the tone for change, particularly with regard to mentorship of young and struggling professionals, but even more so with regard to those who display attributes of poor well-being. While experienced

professionals may feel confident in their own successes, they must have the courage to critically examine their own well-being and identify changes they can make that might benefit not only themselves but others as well. Law schools are working hard to set the tone for new lawyers entering the profession. Those who have been in the profession also need to change and encourage the development of a new climate of well-being for all.

The TFWLW's recommendations serve as an entry point for the conversation about how these goals can be accomplished. This report is not designed to find every flaw or right every wrong, but rather to promote a discussion about ways to make the practice of law less stressful and the legal profession more proactive in the pursuit of lawyer well-being. Through this report, the TFWLW intends to provide a broad overview of the topics of most concern, explain why lawyer well-being matters to all lawyers individually and to the profession as a whole, and establish a framework to continue the conversation on an ongoing basis. Some of the TFWLW's recommendations can be implemented relatively quickly. Some are aspirational and may require funding, staffing, or organizational buy-in. Some will require a generation to change. But change is necessary. Change is crucial to the legal profession achieving its maximum potential: enhanced quality of service to clients as a result of the improved well-being of all lawyers and judges.

A Note of Caution

Lawyers can have diagnosed mental and physical ailments and there is rarely if ever a reason to question a lawyer's fitness to practice law based upon diagnoses alone. As the profession considers incorporating well-being initiatives into more of its programming and institutional policies, it must be vigilant not to violate the rights of the disabled nor ignore the ethical considerations that can arise despite the best intentions.

Nicholas D. Lawson, J.D., author of *"To Be a Good Lawyer, One Has to Be a Healthy Lawyer": Lawyer Well-Being, Discrimination, and Discretionary Systems of Discipline*,¹³ is highly critical of the research cited in the NTF Report, many of the organizations involved in the lawyer well-being movement, lawyer-assistance programs in general, and many of the suggested lawyer well-being recommendations. He contends that "lawyer well-being policies and communications are likely to result in biased appraisals of lawyers under [certain model rules of professional conduct], and act as a subterfuge for violating the Americans with Disabilities

¹³ Nicholas D. Lawson, "To Be a Good Lawyer, One Has to Be a Healthy Lawyer": *Lawyer Well-Being, Discrimination, and Discretionary Systems of Discipline*, 34 Geo. J. Legal Ethics 65 (2021).

Act.”¹⁴ He makes important points in his article about the risks of tying well-being to competence, noting that:

- There is a “potential for well-being policies to create and sustain hierarchy, and result in discretionary systems of discipline and social control over the private conduct of legal employees.”
- “‘Well-being,’ a term used interchangeably with ‘wellness,’ loosely refers to health. Redefining lawyer competence to depend on well-being would focus appraisals of lawyers’ abilities not on their performance but on their health. . . . The authors [of the NTF Report] seem to acknowledge the illogic of equating poor health with incompetence.”
- While “[t]his Article does not argue that mental health is not important . . . it argues that making the mental health of law students and legal employees the business of school administrators, employers, or their various agents—EAPs, LAPs, PHPs, wellness programs, well-being advocates, and peers—will cause discrimination.”¹⁵

Similarly, in her article, *What’s Bad about Wellness? What the Disability Rights Perspective Offers About the Limitations of Wellness*,¹⁶ Carrie Griffin Basas argues that:

- “[W]ellness programs institutionalize disability bias and a false perception of health attainability. People with substantial physical or mental impairments will not be able to control many aspects of their health, even with concerted efforts. Embedded in this approach is the notion of responsibility for and control over all aspects of one’s health, including disability.”
- “With great interest, employers in the United States are using wellness programs to reduce insurance costs and monitor the health of their employees. While these programs are often embraced as benign in their assessments and positive in their outcomes, this perspective fails to consider the discriminatory effects on people with disabilities.” This is especially critical in light of our profession’s ongoing reckoning with diversity and inclusion issues.
- “Wellness-oriented definitions of health also legitimize discrimination based on disability because these definitions are heralded as generally accepted standards of what it takes to be a valued member of society.”

Nicholas Lawson further states in his article that:

It is appropriate to encourage peer reporting of legal employees actually engaging in serious professional misconduct. But it is not appropriate to selectively target legal employees with mental health disorders and disabilities for extra disciplinary scrutiny without placing nondisabled employees within the same punitive context.¹⁷

Workplace wellness programs that provide benefits to people who achieve certain health goals are not equivalent to the objectives of the lawyer well-being movement. Despite the concerns of these authors, it is important to note that maintaining good well-being should support each legal professional working at his or her maximum abilities. Problems occur when legal professionals allow their personal well-being to become compromised, thereby resulting in possible mental health degradation, increased likelihood of self-medicating, and likely diminished performance. By not addressing these concerns, the affected legal professional may ultimately be subject to loss of license or other sanctions. The TFWLW’s goals are to promote awareness of these issues, and to change the climate of the legal profession by encouraging self-maintenance of personal well-being and promoting a profession-wide move toward positive well-being for all.

Defining Lawyer Well-Being

The NTF defines *lawyer well-being* as:

a continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others. Lawyer well-being is part of a lawyer’s ethical duty of competence. It includes lawyers’ ability to make healthy, positive work/life choices to assure not only a quality of life within their families and communities, but also to help them make responsible decisions for their clients. It includes maintaining their own long term well-being. This definition highlights that complete health is not defined solely by

¹⁴ *Id.* at 65.

¹⁵ *Id.* at 65–66, 77, 78, & 115 [footnote omitted].

¹⁶ Carrie Griffin Basas, *What’s Bad About Wellness? What the Disability Rights Perspective Offers About the Limitations of Wellness*, 39 J. Health Pols., Pol’y & L. 1035 (2014).

¹⁷ Lawson, *supra* note 13, at 120–21.

the absence of illness; it includes a positive state of wellness.¹⁸

not synonymous with feeling happy or experiencing positive emotions. It is much broader.¹⁹

The NTF notes that:

[S]ocial science research [... emphasizes] that well-being is not limited to: (1) an absence of illness, (2) feeling happy all the time, or (3) intra-individual processes—context matters.

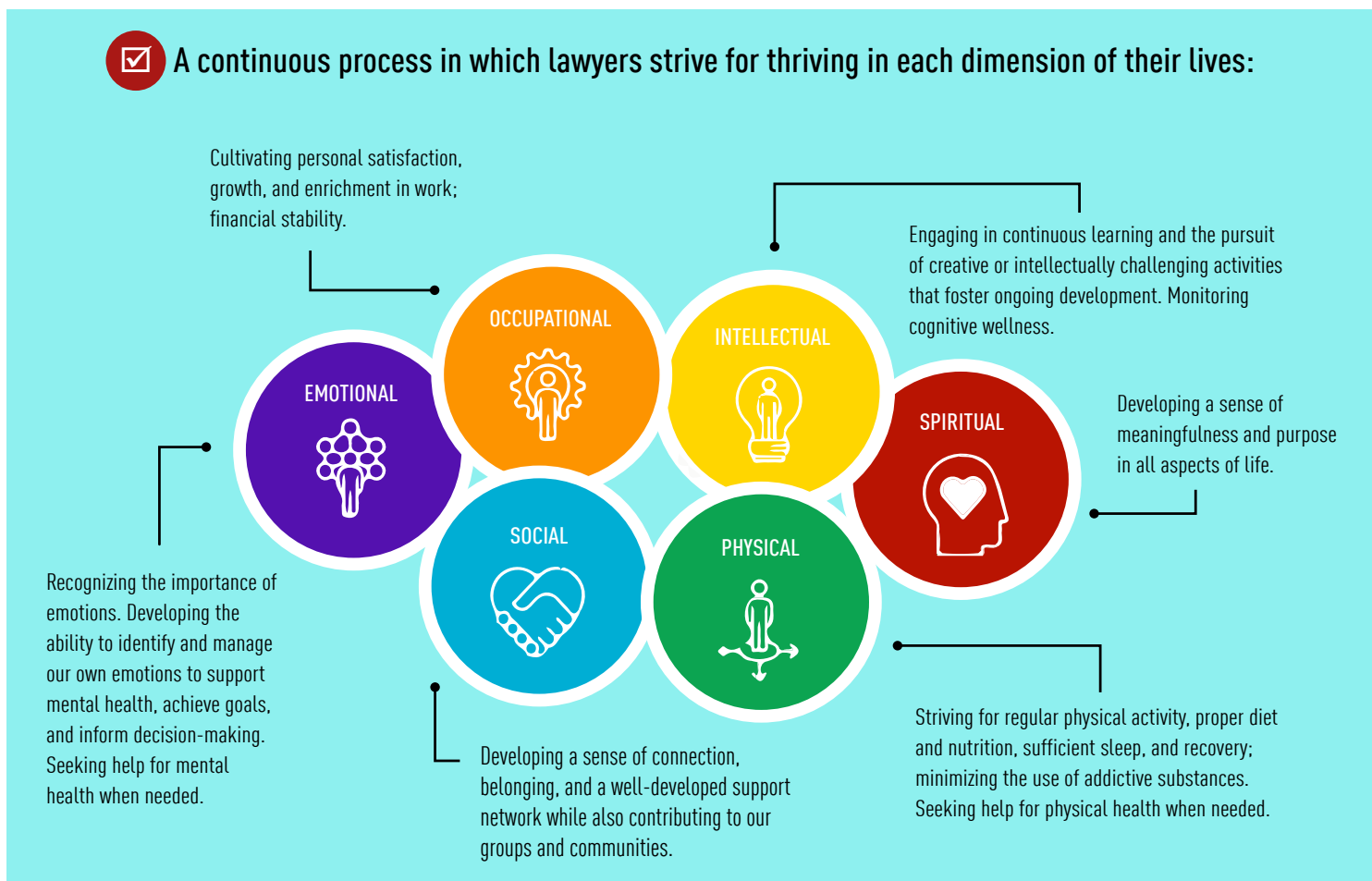
...

The concept of well-being in social science research is multi-dimensional and includes, for example, engagement in interesting activities, having close relationships and a sense of belonging, developing confidence through mastery, achieving goals that matter to us, meaning and purpose, a sense of autonomy and control, self-acceptance, and personal growth. This multi-dimensional approach underscores that a positive state of well-being is

Dimensions of Well-Being

The NTF included the following diagram in its report, which illustrates the various dimensions of life in which individuals strive for well-being.²⁰ Each dimension depicted in the diagram, though distinct, has clear implications for each of the others. If an individual is financially stressed, that will take a toll on the individual's psychological well-being. When an individual struggles with physical experiences, relationships or work might suffer. If a person feels isolated or at odds with his or her community, that will almost certainly weigh on the person's emotional health and, in turn, affect other areas of the person's life.

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



¹⁸ NTF Report, *supra* note 1, at 9–10.

¹⁹ *Id.* at 10.

²⁰ *Id.* at 9.

Recommendations of the TFWLW Subcommittees

Seven TFWLW subcommittees were established: 1) The All Stakeholders Subcommittee, chaired by Attorney Julie Bonasso; 2) The Judicial Subcommittee, chaired by Judge Michael Bohren; 3) The Regulators Subcommittee, chaired by Attorney Cheryl Furstace Daniels; 4) The Law Schools Subcommittee, chaired by Judge Todd Bjerke; 5) The Making-the-Business-Case Subcommittee, chaired by Attorney Emily Stedman; 6) The Bar Associations and Lawyer Assistance Programs Subcommittee, chaired by Attorney Jim Frisch; and 7) The Diversity and Inclusion Subcommittee, chaired by Attorney Bryant Park. The recommendations and comments from each subcommittee follow, in turn.

1. Recommendations of the All Stakeholders Subcommittee

a. General Recommendations

“... If we say our health is important to us, we’d better act accordingly. Integrity is a two-part test: It’s not enough to say our well-being is important, we must prove it with our actions.”²¹

The recommendations of the All Stakeholders Subcommittee are appropriate for all legal professionals throughout the state, at all levels, from law students to senior and emeritus lawyers.

This set of general recommendations is targeted at changing the culture of the legal profession:

1. Establish education about the importance of lawyer well-being and the availability of well-being resources.
2. Advocate for the prioritization of well-being issues.
 - a. The TFWLW would like to foster change to the legal professional climate that makes Wisconsin a better, healthier, and more attractive place to practice law.
 - b. All sectors of the legal profession should become aligned in supporting the well-being of lawyers,

and implementation oversight teams should be established to evaluate processes and procedures designed to accomplish the goal of prioritizing lawyer well-being.

3. Fight stigmas. The American Psychiatric Association refers to several types of stigmas, including public stigma and self-stigma. *Public stigma* “involves the negative or discriminatory attitudes that others have about mental illness.” *Self-stigma* “refers to the negative attitudes, including internalized shame, that people with mental illness have about their own condition.”²² Lawyers are faced with both types of stigmas and this keeps them from being able to access help. Eliminating or reducing such stigmas will allow those who need assistance of any kind to access necessary help earlier.

Mental health stigma is still a major challenge in the workplace. Just over half of workers say they are at least somewhat comfortable discussing mental health openly with coworkers and supervisors; however, only about one in five are completely comfortable. Younger workers are much more likely to feel they can discuss their mental health—millennials are almost twice as likely as baby boomers to be comfortable (62% vs. 32%).²³

4. Normalize mental health issues that affect the legal profession, including anxiety, depression, burnout, vulnerability, fear, and compassion fatigue, and promote an understanding that lawyers can still effectively practice law despite these issues.
 - a. Legal professionals need to know that they can seek help when they need it, and they should be able to expect that resources will be readily available and that employers and other legal professionals in Wisconsin will genuinely support self-care efforts.
 - b. Colleagues in trouble need help, and can be referred to assistance programs and providers that will provide confidential assistance, such as employee assistance programs and mental health providers. The State Bar of Wisconsin’s WisLAP, Ethics Hotline, and Practice411 all qualify as confidential lawyers’

²¹ Lin Eleoff, *Who’s Responsible for Lawyer Well-Being?*, Law Practice Today (Feb. 12, 2021), https://www.lawpracticetoday.org/article/whos-responsible-for-lawyer-well-being/?utm_source=Feb21&utm_medium=email&utm_campaign=Feb21LPTemail.

²² Am. Psychiatric Ass’n, *Stigma, Prejudice and Discrimination Against People with Mental Illness*, <https://www.psychiatry.org/patients-families/stigma-and-discrimination> (last visited Jan. 10, 2022).

²³ *About Half of Workers Are Concerned About Discussing Mental Health Issues in the Workplace; A Third Worry About Consequences if They Seek Help*, (American Psychiatric Ass’n, San Francisco, CA), May 20, 2019, <https://www.psychiatry.org/newsroom/news-releases/about-half-of-workers-are-concerned-about-discussing-mental-health-issues-in-the-workplace-a-third-worry-about-consequences-if-they-seek-help>.

assistance programs under Wisconsin Supreme Court Rule 20:8.3.²⁴

- c. The Center for Workplace Mental Health recommends that “organizations strive to ‘create a culture in which mention of depression, anxiety, post-trauma, and other common illnesses become as mentionable as diabetes, hypertension, and migraines.’”²⁵
5. Increase the focus on systemic and organizational actions to improve the overall culture of the legal profession in Wisconsin. Consider the role that organizational and cultural climates play in the well-being of individual lawyers. There has been a lot of focus on the actions individual lawyers should take to increase their personal well-being. Individual lawyers, stretched to the breaking point by the demands of their jobs, cultural factors, and other stressors, might view these exhortations for self-care with a degree of skepticism if there is little or no concurrent action by organizations and employers.
6. Develop a proactive approach, rather than a reactive one, toward improving lawyer well-being. It is often too late to repair the harm that results from the actions of a lawyer who suffers from mental health and/or substance abuse issues that developed out of the lawyer’s inability to maintain good personal well-being. Proactive measures could include developing programs to reduce or eliminate stigmas, raising awareness and support for well-being education and initiatives, providing individuals with the support they need to face well-being challenges, and shaping organizational policies and procedures to align with best practices for the development of supportive workplaces.
7. Address the entrenched social and cultural norms surrounding alcohol use, both in the legal profession, in general, and in Wisconsin, in particular. Permissiveness around alcohol use, even excessive alcohol use, is prevalent in Wisconsin and in the legal profession.²⁶ Many believe that a discussion about the use of alcohol, which is a legal drug, is out of bounds and that choices about alcohol use are personal. The TFWLW does not seek to create divisiveness regarding this issue. However, the TFWLW recognizes that lawyers frequently rely on substance use as a way to de-stress, and therefore believes it is logical to

consider other, safer ways for lawyers reduce their overall stress levels. A recent study by Anker and Krill recommends “additional and sustained efforts to emancipate the practice of law from a pervasive expectation of alcohol use.”²⁷

The TFWLW wants to encourage activities that provide a sense of community without alcohol being the focus of those activities. Building social and professional events around the use of alcohol can be problematic, and not just for people who do not drink because they are in recovery. People may choose not to drink alcohol for many reasons, including for health reasons, during pregnancy, and for religious reasons, among others. The legal profession should take the lead to promote inclusivity by establishing networking and social activities that do not center on alcohol.

To this end, the TFWLW recommends the following measures:

- a. Educate firms on how alcohol abuse can increase errors and cost firms money.
 - b. Encourage lawyers and employers to re-consider personal and institutional relationships with alcohol.
 - c. Explore the rise of the sober-curious movement, possibly creating an affinity group to inform and build community around the movement.
 - d. Create a well-being portal to share lived experiences of those with sobriety stories, statistics, alternative coping skills, and education.
 - e. Consider the following recommendations: provide cash bars in lieu of free alcohol at events, limit free drinks at conferences, reduce the window for serving alcohol during social hours, promote mocktails in lieu of cocktails or other alcoholic beverages, and encourage morning and afternoon meetings as alternatives to evening events so alcohol is less likely to be a focus of events.
 - f. Consider specific recommendations for law schools that are intended to curb alcohol consumption at school-sponsored events, including the following: limit the amount of alcohol at school-sponsored events, provide significant alternatives to alcohol, and encourage events at which alcohol is not the primary focus.
8. Guide and support the transitions of older lawyers. The State Bar of Wisconsin’s Senior Lawyers Division,

²⁴ SCR 20:8.3 Wis. cmt.

²⁵ Am. Psychiatric Ass’n, *supra* note 22.

²⁶ Justin Anker & Patrick R. Krill, *Stress, Drink, Leave: An Examination of Gender-specific Risk Factors for Mental Health Problems and Attrition Among Licensed Attorneys*, PLoS ONE 16(5): e0250563 (2021), <https://doi.org/10.1371/journal.pone.0250563>.

²⁷ *Id.*

the State Bar, and the State Bar's WisLAP Committee are responding to the growing demand for services and programming to support senior lawyers in transitions from practice, succession planning, addressing cognitive impairment, and with other issues associated with age and retirement. See *infra* app. C.

9. Begin a dialogue about suicide prevention. This Subcommittee does not know how many lawyers in Wisconsin die by suicide each year, but it recognizes that even one is too many. There are many qualified organizations with which to partner to address and hopefully prevent suicide within the legal profession, including the following:
 - Mental Health America of Wisconsin: http://www.mhawisconsin.org/suicide_prevention.aspx
 - Prevent Suicide Wisconsin: <https://www.prevent-suicidewi.org/zero-suicide>
 - Wisconsin Department of Health Services: <https://www.dhs.wisconsin.gov/prevent-suicide/index.htm>
 - National Alliance on Mental Illness (NAMI) Wisconsin: <https://namiwisconsin.org/>

b. Recommendations for Immediate Consideration

The second set of recommendations by the All Stakeholders Subcommittee are those that should be addressed immediately:

1. The State Bar of Wisconsin should establish an implementation oversight team and designate bar members to serve on that team. The team should:
 - a. Prioritize TFWLW recommendations and identify stakeholders who can assist with implementation of the recommendations.
 - b. Detail implementation steps, develop action plans, and assist with messaging and communication strategies.
 - c. Maintain an ongoing awareness of the need to prioritize well-being.
 - d. Assist with oversight and provide status reports to State Bar leadership and other interested parties.
 - e. Continue to identify “whether the crisis among lawyers reflects more broadly a crisis of the legal profession and, if so, how definite trends in the profession itself may be harming the ideals of the profession and identity of the professional.”²⁸

If the proposed implementation oversight team pursues additional inquiries or research into the causes of the lawyer well-being crisis, additional recommendations may become apparent.

2. Create three well-being information portals or websites to serve as repositories for well-being information.
 - a. The first portal or website should be geared to the needs of lawyers, the second should emphasize the needs of judges and the judiciary, and the third should emphasize well-being through a diversity, equity, and inclusion lens. The portals or websites should be easily accessible and useful on an individual level. Resources can include those generally applicable to all legal professionals and those specifically targeted to solo/small-firm practitioners, government lawyers, lawyers practicing in mid-size and large law firms, and other relevant groups.
 - b. Information available through the well-being portal or websites should include:
 - i. General mental health resources, such as fact sheets and toolkits.
 - ii. Information about support groups and helplines.
 - iii. Popular and scholarly articles of interest.
 - iv. Information about stress management, distress tolerance, and development of coping skills.
 - v. Information on nutrition and physical fitness.Moreover, materials might take the form of articles, podcasts, checklists, videos, and more.
 - c. The lawyer well-being information portal or website could be accessed through the State Bar of Wisconsin website. Alternatively, funds could be raised to support the development of the portal on an independent website. The judicial well-being information portal or website could be supported through the Office of State Courts. The proposed implementation oversight team, after further assessment, should make recommendations as to the preferred approach to establish these portals or websites.
- For additional discussion of these proposed portals, see Appendix A, *infra*.
3. Emphasize the importance of mentorship in supporting well-being.²⁹ Mentorship fosters inclusiveness and respectful engagement. It can aid career progression, especially for women and diverse professionals. Coaching, which different from mentorship, is also critical to enhancing the legal profession.

²⁸ Krause & Chong, *supra* note 3.

²⁹ Jayne Reardon, *Can Improving Attorney Well-Being Solve Law's Diversity Problem?*, 2Civility (July 11, 2018), <https://www.2civility.org/attorney-well-being-solve-diversity-problem/>.

- a. Establish the means by which legal professionals can access the help they seek and get matched with an appropriate mentor or coach.
- b. Define the roles of coaches and mentors.
- c. Find ways to recruit mentors and coaches. Mid-career lawyers may be difficult to recruit as mentors or coaches due to ongoing family, work, and other commitments, yet this group has a lot to offer to junior lawyers.
- d. Determine the effectiveness of the State Bar of Wisconsin’s lawyer-to-lawyer mentoring program “Ready. Set. Practice.” It may be appropriate to enhance this program to make it more robust.
- e. Encourage the use of other mentoring programs, such as those offered by county bar services, affinity bars, specialty bars, and NAMI, as well as the State Bar of Wisconsin’s mentoring programs and private mentoring options.³⁰ Increase awareness of these options through various means. Determine whether these options are sufficient to meet lawyers’ current needs and whether these options are inclusive of lawyers from all backgrounds and income levels.
- f. The proposed implementation oversight team should administer these programs and seek appropriate funding to support them.
- g. Require training for mentors and coaches, including training that incorporates well-being concepts.

A discussion of the benefits of mentoring, including those that are outside the usual and expected benefits, can be found at: <https://idaabbott.com/wp-content/uploads/High-quality-mentoringdiversity.pdf>.

4. Continue the ongoing and evolving conversation about how to create and maintain a culture of lawyer well-being in Wisconsin under the direction of the implementation oversight team. Factors necessary to change the climate of lawyer well-being in Wisconsin include:
 - a. Commitment to increasing civility and education about the difference between zealous advocacy and hostility. Civility is a rather low bar, and collegiality is a step up from that. The profession should commit to civility but strive for collegiality. In all actions, whether with peers, clients, or courts, lawyers should seek to have positive impacts.
 - b. Application of recognized well-being and civility

principles. The proposed implementation oversight team should review the resources and articles available at <https://www.civilitycenterforlaw.org/resources>, and apply them to the needs of the Wisconsin legal profession.

The data on lawyers’ need for relatedness to others confirms what we know from personal experience: Relationships are crucial to lawyers’ mental health, as they are to most human beings. In recent years this basic point has begun to generate explicit interest in the issue of lawyer wellbeing from within the movement to improve civility within the profession. The connection is intuitive and well-supported by the data. The breakdown of professional decorum and the deterioration of lawyers’ mental and physical health have been traced to common sources of stress and pressure. There is also a causal dynamic at play: An uncivil work environment can be expected to harm lawyers’ wellbeing, and conversely, unwellness may negatively affect lawyers’ conduct in a way that contributes to an uncivil environment.³¹

- c. Training, raising awareness, and providing education and resources. Specific recommendations include the following: sponsor trainings on mental health, encourage lawyers to not internalize client issues, develop healthy coping mechanisms and educate lawyers on how to adopt them, and explore other ways to increase civility between lawyers and the courts. Law schools should teach law students how to present their points of view with civility and without hostile manners, and generally to always avoid hostility and strive to be civil. Trainings on well-being and civility should include instructive examples that lawyers can refer to and explanations about the relationship between civility and well-being. In addition, presentations on these issues, as well as articles in the State Bar of Wisconsin’s publications *Wiscon-*

³⁰ Examples of such mentoring programs include the State Bar of Wisconsin’s Diversity Clerkship Program, <https://www.wisbar.org/aboutUs/Diversity/Pages/Diversity.aspx>, and its lawyer-to-lawyer mentoring program, Ready. Set. Practice., <https://www.wisbar.org/formembers/membershipandbenefits/pages/ready-set-practice.aspx>.

³¹ Krause & Chong, *supra* note 3, at 231–32.

- sin Lawyer* and *InsideTrack*, should be sought.
- d. Promote civility in the legal workplace and add a civility expectation to the Rules of Professional Conduct for Attorneys. This Subcommittee believes lawyers should be able to advocate without threats and intimidation from other lawyers or judges. Lack of civility within the profession has a negative effect on lawyer well-being. Civility should be shown not just inside the courtroom but in all aspects of a lawyer's work. Lawyers who practice uncivil behavior may believe it is worth acting in a negative manner to gain a perceived advantage, and workplace and ethical expectations should be designed to combat this perception. "Civil litigation should not be an oxymoron. Whatever its form, incivility among lawyers and judges undermines the very premise of our collective identity as professionals committed to ensuring fairness, respect and accountability in the face of injustice and abuse of power."³²
 - e. The proposed implementation oversight team should explore what may be the cause of declining civility. Possibilities may include: poor mental health, lack of boundaries (i.e., trying too hard to advocate for the client and over-identifying with the client's anger), and lack of understanding of what constitutes an "offensive personality" and "zealous advocacy."
5. Design all well-being initiatives with a focus on how diversity and inclusion might be impacted.
 6. Support a lawyer well-being index to measure the profession's progress. The 2016 studies identified issues that need to be addressed.³³ Another survey should be conducted to collect data for the proposed implementation oversight team to analyze.
 7. Establish a pilot program with a larger law firm that agrees to champion well-being concepts. Study the selected firm for what it is doing well and allow the firm to serve as a positive example to other firms. If the identified firm is willing to share its positive experiences, the data generated could be helpful to convince other firms that a focus on well-being is the

way to go. This program could be expanded by also recruiting a District Attorney's Office, a State Public Defenders Office, the Attorney General's Office, and additional law firms of various sizes.

8. Ensure that lawyers have access to the available tools that will allow them to succeed in the legal profession in Wisconsin, which include but are not limited to: availability of fair leave policies, the ability to take sick and vacation time as needed, and opportunities to request assistance without being stigmatized.
9. The proposed implementation oversight team must consider the particular needs of solo and small-firm practitioners. The potential barriers these lawyers face need to be understood and addressed so that these lawyers can better dedicate time and attention to an enhanced focus on personal well-being. Large-firm attorneys may be able to hand off their cases to others while they are away from the office for personal reasons. Solo practitioners may not be able to do this and, further, typically do not get paid when they are not working on their cases. This concern might be addressed by enhancing practice management training and resources, starting at the law school level, to assist solo practitioners in being able to take time off without fear of losing income or neglecting cases.³⁴
10. Any full-day program or conference where continuing legal education (CLE) credits are offered should include a lawyer awareness and understanding (LAU) credit.

2. Recommendations of the Judicial Subcommittee

Judges may suffer from: all types of physical ills: the normal spectrum of psychological issues, addiction to alcohol and other substances, marital and family issues, and physical and cognitive limitations associated with aging. In addition, being a judge brings peculiar stresses. For example, a judge often

³² *Id.* at 235. For a further exploration of the problem and suggestions for potential solutions, see Siobhan A. Cullen, *Civility in the Practice of Law*, A.B.A. (May 22, 2018), <https://www.americanbar.org/groups/litigation/committees/products-liability/practice/2018/civility-in-the-practice-of-law/>.

³³ See Krill et al., *supra* note 6; Organ et al., *supra* note 6.

³⁴ The State Bar of Wisconsin offers a Law Office Management Assistance Program (Practice411) that: assists lawyers in improving their efficiency and effectiveness in the delivery of legal services and in implementing systems and controls to reduce risk and improve client relations. It offers resources to help lawyers manage the business aspects of their practices, including the use of technology; business and financial planning; and personnel, facilities, and operations management. The program is geared to assist all State Bar members but is of particular interest to solo and small-firm practitioners who may not have the time or resources to acquire practice management information or best practices. State Bar of Wis., Practice411—The State Bar of Wisconsin's Law Office Management Assistance Program, <https://www.wisbar.org/forMembers/PracticeManagement/Pages/Practice411-LOMAP.aspx> (last visited Jan. 10, 2022). This program may provide solo/small-firm practitioners with an opportunity to engage in a wide range of activities not connected to the daily operational aspects of their businesses, including well-being pursuits.

feels great responsibility in making decisions; the public nature of the judge's work invites criticism to which the judge cannot respond; in every controversy the judge's decision disappoints or angers someone; the judge must be constantly aware of persistent and unexpected security risks to him/herself and to his/her family; the judge witnesses individual and societal dysfunctions that the judge cannot directly address due to ethical and other restraints; the judge must sometime rule contrary to personal feelings and beliefs; and the judge controls neither the workload nor the resources necessary to address too-heavy workloads.

...

In addition, the very qualities that draw judges to the bench—analytical abilities, willingness to work hard, desire to produce a high quality product, and commitment to public service—often cause judges to overwork, ignore, or hide personal weaknesses and confuse professional and personal identities.³⁵

A study recently published by the American Bar Association Center for Professional Responsibility, *Stress and Resiliency in the U.S. Judiciary*, contains a comprehensive list of recommendations suitable for all levels of the judiciary. The study “was undertaken to identify: (1) stressors unique to the judiciary, (2) how those stressors affect individual judges, and (3) strategies that judges have used to mitigate these stressors.”³⁶ These recommendations will be useful for future study by the TFWLW's Judicial Subcommittee, which, unless converted to an implementation oversight team, will continue to meet every six months to further address the well-being needs of the Wisconsin judiciary.

In 2011, the Judicial Health and Assistance Committee (JHAC) of the U.S. Court of Appeals for the Tenth Circuit submitted a report and recommendations on judicial health issues to the Tenth Circuit Judicial Council. Among the JHAC's findings were the following:

Unrecognized and untreated health issues can lead to mental or physical disability or

result in judicial misconduct complaints, which can undermine public confidence in the judicial process. But formal statutorily created disability retirement and misconduct/disability processes primarily serve a regulatory function and are effective in addressing only the most severe problems. In addition, regulation focuses on past conduct and does not inherently address treatment of health issues. Judicial performance and judicial health are frequently interrelated. Unraveling the nature, cause, and treatment of a particular performance or health problem often requires medical expertise. . . .

Due to the public role of the judge, the job's insular nature, natural fear of criticism or embarrassment, and a host of other reasons, judges with difficulties often are reluctant to recognize or seek the help needed. Chief judges, judicial colleagues, concerned family, and court staff are also at a loss as to when and how to address a judge's health or performance problem. . . .³⁷

Judicial concerns:

1. Judges are healthier and make better decisions when they attend to their well-being. To gain widespread support for judicial well-being, the need for such well-being must be shown to be evidence-based. Overall, judges will require well-being education geared specifically toward them; this will help with judicial buy-in and effectiveness.
2. The judicial system should be improved to overcome the current state of systematic denigration and degradation of personal well-being.
3. Judges face intensified public scrutiny, which adds a degree of complexity to well-being issues, and which needs to be addressed through judicial training sessions.

Recommendations of the Judicial Subcommittee:³⁸

1. Implement a revitalized Judicial Assistance Program. There should be a judicial well-being program, staffed by WisLAP, and supported under the auspices

³⁵Marcia S. Krieger et al., *JHEALTH: How the Tenth Circuit Is Improving the Health and Performance of Federal Judges*, 102 *Judicature* 50, 50–51 (2018), <https://judicature.duke.edu/wp-content/uploads/2019/12/JUDICATURE102.1-JHEALTH.pdf> (footnotes omitted).

³⁶David Swenson et al., *Stress and Resiliency in the U.S. Judiciary*, 2020 *J. Pro. Law.*, 2020, at 2, https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/journal-of-the-professional-lawyer-2020.pdf.

³⁷Krieger et al., *supra* note 35, at 51–52.

³⁸For additional information see Swenson et al., *supra* note 36, at 27–32.

of an appropriate entity, such as the Director of State Courts or the State Bar of Wisconsin.

2. Create a written policy for assisting judges, and train judges to help others with well-being related issues. The current policy for assisting impaired judges is unwritten and unclear. The Wisconsin District Court Administrators and Administrator of State Courts need to be included in discussions on these and other judicial well-being matters. Efforts need to be made to ensure that there are WisLAP-trained judges in each judicial district. In addition, chief judges may benefit from training on how to help judges in their districts with well-being related issues.
3. Develop a model rule on judicial well-being. The Wisconsin Supreme Court Rules should include this model rule for judges.
4. Establish support to make it easier for judges to take leave for whatever reason they need to do so, especially in counties with only one judge.
5. Include those providing services to the courts, including the Director of State Courts and the Office of Judicial Education, in planning efforts and discussions for implementing judicial well-being initiatives and training.
6. Develop an online portal or website devoted to judicial well-being and make it part of the Wisconsin Supreme Court website. This portal or website should include links to WisLAP and other resources available to members of the judiciary. It should be separate from any well-being portal or website for lawyers, and should be located on the judicial dashboard and CourtNet. This portal or website must be confidential and not identify anyone who accesses it, short of a forensic computer analysis.
7. Include training and education on well-being issues at all judicial education sessions. Education activities that detail the importance of lawyer well-being to all participants in the legal system, including clients, the public, attorneys, and members of the judiciary, must continue. The potential impact of heightened stress experienced by members of the judiciary on physical and mental health, which may result in anxiety, trauma, depression, and/or addiction, are important factors to examine. The appropriate forums for institutionalizing well-being education efforts should be identified, including New Judges Orientation, the Judicial Conferences, and all judicial education seminars. The District Court Administrators and chief judges should have these well-being issues on their agendas to assure that continued support of related education initiatives are being met. Judges in gener-

al, and chief judges in particular, need to be educated on achieving judicial well-being and maintaining awareness of well-being issues that face court staff and counsel. Overall, to help with both effectiveness and judicial buy-in, judges will require well-being education geared toward them specifically.

8. Establish procedures to help lawyers and judges recognize signs of possible impairment in themselves and others. Develop procedures for addressing suspicions of possible impairment in others. A procedure for referring or requesting intervention on behalf of a member of the judiciary should be formalized statewide with particular attention paid to procedures in less-populated districts. Efforts should be made to make appropriate referral procedures known to all those in positions to observe concerning behaviors, including fellow members of the judiciary, attorneys, litigants, family members, and jurors.
9. Develop a specific and confidential procedure for handling issues with judges who are facing well-being concerns. The employee assistance program (EAP) portion of Court Operations could be tasked with developing such a procedure. The chief judges need to be a part of any procedure for intervening with judges who display behaviors that give rise to well-being concerns. The chief judge of the district in which an affected judge sits should speak to the affected judge and make recommendations to that judge as to how the concerns can be appropriately addressed.
10. Measure the health of the judiciary. Virginia and Colorado have conducted statewide surveys on judicial well-being. These surveys should be reviewed and adapted for administration to the Wisconsin judiciary. Any survey conducted in Wisconsin should assess the climate of judicial well-being in Wisconsin and may identify further issues that should be addressed.
11. Publicize existing available resources. WisLAP is increasing efforts to publicize well-being resources for the Wisconsin legal profession, and could be asked to increase outreach to the judiciary and to create pages of resources specifically for judges.
12. Enhance the relationship between WisLAP and members of the judiciary, and institutionalize WisLAP training for members of the judiciary. Develop a well-being curriculum for the judiciary and revitalize efforts to identify and train judicial participants in WisLAP programming, including regular recruitment of judges willing to participate in this training. Develop initiatives to keep the trained resources active (for instance, local speaking and training programs

on well-being topics and webinar presentations). Emphasize the importance of well-being as a means of preventing negative mental and physical health and career consequences.

13. Aspirational language regarding judicial well-being should be put into the Wisconsin Supreme Court Rules.

3. Recommendations of the Regulators Subcommittee

In Wisconsin, both the Office of Lawyer Regulation (OLR) and the Board of Bar Examiners (BBE) are attuned to the importance of lawyer well-being. These agencies are not meant to operate in therapeutic roles, but nonetheless need to understand and address concerns related to the well-being of Wisconsin bar members and bar applicants.

The Regulators Subcommittee deems the following recommendations necessary to accomplish changes to improve the well-being of lawyers and the legal profession in Wisconsin:

1. Take actions to meaningfully communicate to legal professionals that well-being is a priority.
2. Adopt regulatory objectives that prioritize lawyer well-being.
3. Petition the Supreme Court to amend the Rules of Professional Conduct for Attorneys so that those Rules endorse well-being as part of a lawyers' duty of competence. Two amendments, specifically, are recommended.
 - a. Add the following Wisconsin Committee Comment to SCR 20:1.1 Competence:
"A lawyer's mental, emotional, and physical well-being impacts the lawyer's ability to represent clients and to make choices consistent with the lawyer's duty to provide competent representation. A lawyer should develop and maintain the mental, emotional, and physical well-being necessary for the representation of clients. See also SCR 20:1.16(a)(2)."
 - b. Amend SCR 10.05(4)(m)1, which establishes assistance programs, to include the following underlined language:
"(m) 1. Establishment. The board of governors may provide assistance programs, including, but not limited to assistance for lawyers with questions regarding law office management; programs that encourage and assist judges, lawyers, and law students in developing and maintaining mental, emotional, and physical well-being;

assistance for judges, lawyers, law students, and their families in coping with alcoholism and other addictions, mental illness, physical disability, and other problems related to or affecting the practice of law; and assistance for both lawyers and the public regarding lawyer referrals. The board may establish committees, hire staff, and obtain volunteers as reasonably necessary to provide assistance. The board shall establish policies consistent with the purposes of the state bar and in furtherance of the public interest in the competence and integrity of the legal profession."

4. Expand CLE requirements to include education on well-being topics.
This has been accomplished, to a degree, as of July 1, 2017. Under Wisconsin Supreme Court Rule 31.02(3) and (4), during each reporting period, a lawyer may attend up to six hours of CLE relating to LAU, which includes CLE "on subjects designed to enhance a lawyer's awareness and understanding of substance abuse/dependence disorders, mental illness, stress management, and work/life balance related to the practice of law," and up to six hours of CLE on law practice management (LPM) topics. There is a need to publicize the availability and purpose of LAU credits and how important the LAU topics are for functioning as a lawyer. An LAU awareness and education campaign could be useful.
WisLAP-branded presentations are often stigmatized due to the perception that WisLAP exists only to assist attorneys who suffer from mental health or substance abuse issues. This perception must be addressed. WisLAP needs to be rebranded to promote the proactive well-being resources it offers. In addition, stigmas may exist around earning LAU credits, whether those credits are offered through WisLAP or other providers. Some lawyers may decline to attend programming that they believe is designed for those who are impaired or low-functioning. Well-being presentations, however, are available from many providers and include information on methods for facing the stress and adversity inherent in practicing law, coping skills, the importance of learning about resiliency and developing a growth mindset, and other well-being related topics. Lawyers need to be educated as to why it is important to attend such well-being presentations, whether provided by WisLAP or other groups.
5. Require law schools, as an accreditation requirement, to create well-being education for students. This recommendation will require further study and

may be an eventual rather than a near-term goal. Offering well-being education during law school sends the message to students that well-being is a valuable component of a legal education and career. Both the University of Wisconsin Law School and Marquette University Law School provide wellness orientations at multiple junctures. Additional recommendations for law schools are available in the section of this report, *infra*, that discusses the recommendations of the Law Schools Subcommittee.

6. Adjust the law school admissions process to support law student well-being.
7. Reevaluate bar application inquiries concerning individuals' mental health histories. See the concerns raised in the *Report of the Board of Bar Examiners Regarding Rule Petition 17-10*.³⁹
8. Adopt essential eligibility admission requirements.
9. Adopt a rule for conditional admission to practice law in Wisconsin under specific requirements and conditions.

This was accomplished ten years ago by Wisconsin Supreme Court Rule 40.075 governing conditional bar admission. Under that rule, the fact that an individual is conditionally admitted and the terms of the conditional admission agreement are confidential. Conditional admission status does not appear on a lawyer's license, and there is no need for a lawyer to inform employers.

Related, law schools should be cognizant of students they admit who, based on their record or histories, will probably not be admitted to a bar. Law schools may wish to consider whether these students should be admitted to law school in the first place. Although this concern likely does not arise often, it is worth consideration.

10. Publish data reflecting the low rate of denied bar admissions due to mental health disorders and substance abuse. This percentage is believed to be very low, i.e., less than one percent. This data should be collected and disseminated. The BBE publishes data about the number of applications it receives and the conditional admissions it makes each year. The BBE also publishes data about the number of admission applications it denies, which is only a few each year, but it is unknown if the BBE publishes any explanations for those denials. The BBE should review the data it publishes and make sure this information is available to potential lawyers who are living with mental health or substance abuse issues.

11. Adjust lawyer regulations to support well-being.
12. Implement proactive management-based programs (PMBPs) that include lawyer well-being components. The Wisconsin Law Firm Self-Assessment, available at: <https://www.wisbar.org/formembers/practicem-agement/pages/law-firm-self-assessment.aspx>, is one such program. The OLR worked with the State Bar of Wisconsin's Practice411 program to create the self-assessment. Lawyers use this tool to think about their practices and identify areas they may need to address. There are ten modules in the assessment, including a module on wellness and inclusion. This tool, which also provides links to articles and practice management resources, was marketed through the State Bar with articles, has been discussed in CLE presentations, and can be accessed online through the State Bar website. It can be used in OLR diversion cases for lawyers to complete certain modules that are focused on identified concerns. This Subcommittee recommends that the title of this self-assessment be changed to use a term other than "law firm," as some lawyers, such as government lawyers or solo practitioners, may think that the tool does not apply to their situations. Furthermore, additional marketing is necessary to increase awareness of this valuable tool. Finally, it is worth exploring how lawyers could obtain CLE credit for completing the modules in the self-assessment. CLE credit is not currently available because the modules are offered in self-study format. However, there may be a way to allow for CLE credit if the tool is broken down into workshops for explanation and completion of the modules.
13. Adopt a centralized grievance-intake system to help with promptly identifying well-being concerns among lawyers. A centralized grievance-intake system has existed since 2001; it could be used to identify well-being concerns among lawyers, if it is not already.
14. Modify confidentiality rules to allow one-way sharing of lawyer well-being information from regulators to LAPs. Wisconsin Supreme Court Rule 21.03(9) already authorizes the OLR to make referrals to WisLAP.
15. Adopt diversion programs and other alternatives to discipline that have been proven to be successful in promoting well-being. Since 2010 there has been a mechanism to refer wellness concerns to WisLAP. The Wisconsin Supreme Court Rules address confidentiality related to such referrals and permit the

³⁹ Wis. Sup. Ct., *Report of the Board of Bar Examiners Regarding Rule Petition 17-10* (2018).

OLR to make confidential voluntary referrals to WisLAP. Other options include court-imposed conditions and diversion programs. WisLAP accepts diversion referrals from the OLR. See WI SCR 21.03(9)(a).

4. Recommendations of the Law Schools Subcommittee

Well-being habits should be built in law school. While habits can be changed later, learning to practice healthy well-being habits during school is a good time to start.

Conflict and struggle are inherent in the practice of law. Neither the process of becoming a lawyer nor the practice of law is for the faint of heart. With these premises in mind, this Subcommittee considered 1) ways to prepare law students for the reality of practicing law while also teaching them to navigate the system and manage well-being risks, 2) how law school culture could evolve and how it could acknowledge the root causes of the well-being issues that law students face, and 3) how law schools can accomplish these things while maintaining academic rigor and preparing students for the challenges inherent to the practice of law.

So much of what happens in law schools depends on the outlook, beliefs, and curricular needs of school administration. Individual professors may be more interested in their own research or prestige than the needs of their students. Faculty plays a huge role in culture change. Law schools must consider how to get faculty buy-in on teaching students well-being practices, especially given the wide range of teaching styles, varying beliefs about whether to include well-being practices in curricula, and the realities of academic freedom. In addition, faculty would benefit from training on how to teach adult learners, classroom techniques, how to interact with students, inclusivity, and implicit bias.

Some law students will have special concerns or needs. Every available resource will not necessarily benefit every student. Law schools need to try to be as inclusive as possible.

This Subcommittee recommends that law schools do the following:

1. Provide students and faculty with information and services that contribute to well-being. Specifically:
 - a. Ensure that students can easily access information, resources, and services related to substance abuse and counseling with minimal obstacles. Anonymous information regarding treatment resources for substance abuse and

mental health issues should be provided as needed and be readily available.

- b. Train student leaders to guide peers in need of assistance to appropriate resources.
 - c. Encourage well-being related instruction throughout the legal curriculum, including during student orientations, throughout professional responsibility and ethics courses, and in other courses as appropriate. Schools should further encourage instructors to explore and identify aspects of legal education that could be revised to better support student well-being, and to affirmatively seek ways to incorporate appropriate well-being information in their curricula.
 - d. Provide opportunities for students to engage in well-being focused fellowship and mentorship with practicing attorneys and members of the judiciary.
 - e. Provide law school faculty and staff with educational opportunities and resources on common mental health and well-being issues, and recognize the impact of stress on both faculty and students.
 - f. Emphasize the impact of tracking student attendance and reaching out to potentially at-risk students, and provide models for responding to students who exhibit concerning behaviors or signals.
 - g. Provide resources that allow faculty members to explore and implement formative assessments in their courses.
2. Develop a culture in which all who are associated with the law school accept responsibility for student well-being. Specifically:
 - a. Increase opportunities for student self-determination and autonomy during law school.
 - b. Curb alcohol consumption at school-sponsored events by limiting the amount of alcohol available at those events, providing significant alternatives to alcohol if alcohol is available, and encouraging events at which alcohol is not the primary focus.
 3. In collaboration with legal professionals and employers, and taking advantage of the willingness of the OLR to assist, provide targeted career and academic advising and programming to mitigate student catastrophizing over grades and career opportunities. In addition, demystify the character and fitness portion of the bar application process through collaborative programming hosted by the law schools and the BBE.
 4. Continue to monitor and adjust to emerging best

practices in the area of well-being, periodically revising well-being guidelines.

5. Recommendations of the Making-the-Business-Case Subcommittee

The Making-the-Business-Case Subcommittee developed recommendations that emphasize how critical lawyer well-being is for the future success of the legal profession.⁴⁰

Research and reports⁴¹ show that lawyers struggle with alcohol abuse, substance abuse, and mental health issues “at levels substantially higher than the general population and other highly educated professionals.”⁴² The American Bar Association’s *Profile of the Legal Profession 2021* recognizes the need to focus on reducing high levels of stress and depression amongst lawyers for the benefit of individual lawyers and the profession.⁴³ The recommendations of this Subcommittee apply across all aspects of the profession, including to solo- and traditional-firm practitioners, government and public interest attorneys, and in-house counsel.

This Subcommittee recognizes that addressing the importance of lawyer well-being with all legal stakeholders could be a difficult challenge as many of these stakeholders are currently focused on surviving the COVID-19 pandemic and on improving revenue streams in order to ensure the continued viability of their law firms or practices. This Subcommittee also recognizes that individual lawyers have many different pressures and stresses that impact their daily lives. Lawyers who take the time to concentrate on well-being initiatives may fall behind in other competing areas of their lives, including on their family, work, and community commitments. Further, this Subcommittee recognizes that techniques and strategies for developing lawyer well-being will be different for senior lawyers, young lawyers, large law firms, small law firms, sole practitioners, in-house counsel, and government attorneys.

This Subcommittee explored a number of considerations as it engaged in discussions about the best and most effective strategies for persuading lawyers, law firms, and others to recognize the importance of lawyer well-being and the importance of individual employee mental and physical health. Everyone faces personal stressors differently. Each person faces challenges based upon that person’s unique education, training, and experiences. While facing stressors, lawyers

also strive to advocate in every way possible for their clients. It is hard to convince lawyers of any age that maintaining individual well-being is just as important as achieving financial success and success on behalf of clients.

Other considerations that must be addressed include the glamorization of overworking and the addiction to being accessible 24/7. The COVID-19 pandemic presented an opportunity to address these issues to some degree, and many firms changed how they conduct business. Conducting business remotely is changing the practice of law in ways that cannot yet be fully understood. Further, despite the changes brought about by the pandemic, many lawyers are now attempting to return to work as if the pandemic never happened, resulting in a continuation of high stress levels among lawyers.

To properly address lawyer well-being, the student loan debt crisis must be addressed. For lawyers, this crisis directly impacts stress, mental health, time devoted to work, job choice within the profession, and even willingness and desire to join the legal profession.

Ultimately, research shows that an increased focus on lawyer well-being increases a firm’s bottom line. With increased lawyer well-being comes more engagement, increased trust, a greater sense of autonomy, and less burnout for individual attorneys, and less turnover and, ultimately, higher profits, for firms.

Recognizing all these concerns, the Making-the-Business-Case Subcommittee submits the following recommendations:

1. The State Bar of Wisconsin should consider creating a well-being committee, either within WisLAP or within the larger organization, to pursue further discussion and implementation of the TFWLW’s recommendations. The committee’s members should include stakeholders from all sizes and types of legal departments and offices.
2. The State Bar should consider a climate survey of all its members and Wisconsin law students to gather data on the current state of and attitude toward lawyer well-being.
3. The State Bar should create a well-being portal. This online hub should provide access for all members—and all types of firms and legal departments—to well-being surveys and self-assessments, tools for implementing well-being programs, and other

⁴⁰ This Subcommittee’s discussions and recommendations were inspired by an article by Jarrod F. Reich, *supra* note 12, and other research and secondary sources.

⁴¹ See, e.g., Krill et al., *supra* note 6; Anker & Krill, *supra* note 26.

⁴² A.B.A., *Profile of the Legal Profession 2021*, at 96, <https://www.americanbar.org/content/dam/aba/administrative/news/2021/0721/polp.pdf>.

⁴³ *Id.*

resources related to lawyer well-being. The portal should include online forums in which practitioners can discuss various aspects of well-being with others, with the goals of creating community, providing a safe space for the vulnerable, and providing opportunities to share well-being related experiences.

4. The State Bar should consider the creation of a task-force to address the student loan debt crisis.
5. The State Bar should add a well-being component to its existing mentorship programs. This might include expanding mentoring relationships to include coaching on well-being and creating a two-way mentoring process to encourage reciprocal guidance across generations.
6. In lieu of mandatory well-being CLE, the State Bar should:
 - a. Ensure that members understand the connection between well-being and ethical and competence obligations.
 - b. Encourage CLE programming that incorporates lawyer well-being topics, with a particular focus on incorporating well-being topics into ethics programming.
 - c. Encourage State Bar sections and divisions to support well-being programming and to incentivize participation in that programming. For example, the State Bar might consider allowing a discount on annual dues if a member completes a certain number of LAU credits each reporting period.
 - d. Encourage participation from the State Bar, law firms, and State Bar sections and divisions in a lawyer well-being week.
 - e. Increase well-being programming (and access to qualified presenters), and expand outreach and marketing efforts for well-being programs. In particular, the State Bar should increase promotion of LAU credits and programming. The State Bar should also consider increasing the maximum number of LAU credits that a lawyer can report during each reporting period.
 - f. Consider asking the BBE to broaden its definition of “well-being” as it relates to CLE requirements and to acknowledge the connection between competence and well-being.
7. The State Bar should address the impact of the billable hour on well-being.⁴⁴ This may include forming a special committee within the TFWLW or WisLAP to continue investigating and addressing this topic. That committee should include senior and junior law-

yers, and stakeholders across all types of firms that use billable hours. The tasks of this special committee should include:

- a. Studying the impact of the billable hour on lawyer well-being and providing data regarding the Wisconsin experience.
- b. Interviewing practitioners from all types of firms and practices on how the billable hour is used to evaluate the success of individual lawyers.
- c. Survey the State Bar’s Young Lawyers Division for information on how the billable hour impacts young lawyers.
- d. Create and provide educational materials on the topics of billable hours and alternatives to the use of billable hours.
- e. Develop marketing and presentation strategies to present findings on how to address issues related to billable hours to all State Bar members.
- f. Contemplate recommended alternative approaches for practitioners to consider in lieu of using billable hours.

For additional discussion on addressing the impact of the billable hour on lawyer well-being, see Appendix B, *infra*.

8. The State Bar should identify specific areas of firm culture that contribute to burnout and stress and provide resources to improve lawyer well-being.

6. Recommendations of the Bar Association and Lawyer Assistance Program Subcommittee

The leadership of the State Bar of Wisconsin has shown a commitment to lawyer well-being through its continuing support of WisLAP. However, there are areas in which improvements can be made. The Bar Association and Lawyer Assistance Program Subcommittee’s review produced various ideas and suggestions for promoting a culture of lawyer well-being.

In general terms, some goals include: work to increase civility within the profession; develop policies and practices to encourage legal professionals to ask for help when they need it; reduce the stigmas associated with seeking help; encourage colleagues to provide assistance to each other; provide lawyers with the tools they need to succeed; at all times, and in all activities, be proactive and strive in a positive way to improve the overall culture of lawyer well-being; and, rather than only reacting after impairment

⁴⁴ For information on this topic, see Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 Geo. Wash. L. Rev. 554 (2015), <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1093&context=articles>.

has occurred, also focus on proactive strategies and best practices to maximize mental, physical, and emotional wellness. With this context, the Bar Association and Lawyer Assistance Program Subcommittee makes the following recommendations:

1. The State Bar of Wisconsin should continue to prioritize health and well-being through all available channels, including but not limited to: social media, marketing, communications, and programming at conferences. It is recommended that programming at bar-sponsored events include alcohol-free activities, as well as healthy options and activities such as 5K runs/walks, cycling, yoga, and meditation and mindfulness exercises.
2. The State Bar should facilitate or continue to facilitate initiatives that support the following: mentorship; diversity, inclusion, and equity; assistance for rural lawyers; and legislation to ameliorate the student loan debt crisis. The State Bar should also continue its other existing or planned initiatives that support lawyer well-being.
3. The State Bar should revise its Guiding Principles to add support for well-being initiatives.⁴⁵ State Bar President Cheryl Furstace Daniels, who is the Chair of the TFWLW's Regulatory Subcommittee, supports this recommendation, and this is a shared recommendation with the Regulatory Subcommittee. Note that any revisions to the State Bar Guiding Principles or Statement of Purpose requires approval of the Board of Governors.
4. Physical health and exercise:
 - a. The State Bar and WisLAP should include additional information about potential physical health problems in assessments of the overall occupational risks of being a lawyer. As an example, see the Virginia State Bar's report, *The Occupational Risks of the Practice of Law*.⁴⁶
 - b. Facilitate support for and connection among lawyers who are interested in physical health and fitness (e.g., affinity groups for different hobbies such as running, cycling, etc.). This could be accomplished through the proposed well-being portal.
 - c. Enlist local bar associations and affinity bars to help develop physical fitness campaigns among their members. The State Bar's internal Professionalism & Engagement Department is a logical partner to assist with this initiative and to find ways to incentivize more members to join local and affinity bars. This could be accomplished virtually and on a statewide basis.
- d. The State Bar should partner with local health organizations, programs, and services to obtain discounted health-related services for lawyers. The State Bar's Insurance and Member Benefits Committee could be consulted about creating these types of partnerships.
5. The State Bar should establish an implementation oversight team, similar in scope to the TFWLW, with subcommittees for each of the principal areas discussed in this report. This implementation oversight team should be tasked with reviewing this report and should work to implement the recommendations of this report. The process would undoubtedly uncover additional well-being related needs of the Wisconsin legal profession. The work of this implementation oversight team will be crucial to achieving the changes necessary to improve the well-being climate of the Wisconsin legal profession.
6. Consider creating a well-being committee. Both this Subcommittee and the Making-the-Business-Case Subcommittee recommend creating a new well-being committee that will proactively focus on lawyer well-being in Wisconsin. However, in light of existing State Bar budget realities, WisLAP will focus on how to support well-being initiatives using its existing staff and resources. The proposed implementation oversight team can request additional funding from the State Bar and its Strategic Planning Committee for the creation of a well-being committee in the future as needs dictate and resources allow. For now, the responsibilities and objectives of the proposed well-being committee can be handled by WisLAP.
7. Recommendations for WisLAP:

In the past, lawyer well-being has largely rested in the hands of lawyer assistance programs (LAPs). Despite ongoing efforts by paid staff and volunteers, LAPs do not have the capacity, nor do they have the cultural influence, to meet the well-being needs of Wisconsin lawyers. For decades, WisLAP has been Wisconsin's most identifiable agency for supporting troubled lawyers. WisLAP will continue its mission, but with an added focus on early identification and prevention of mental health and addiction problems. This Subcommittee recommends the following for WisLAP:

⁴⁵ State Bar of Wisconsin, *Guiding Principles* (2016), <https://www.wisbar.org/aboutus/overview/Documents/Guiding-Principles-4-29-16.pdf>.

⁴⁶ Va. State Bar President's Special Comm. on Law. Well-Being, *The Occupational Risks of the Practice of Law* (May 2019), https://www.vsb.org/docs/VSB_wellness_report.pdf.

- a. The State Bar should continue to prioritize and fund WisLAP within available resource limits. WisLAP currently has two full-time clinical staff and a part-time administrative coordinator. This staffing should not be decreased if the program is to meet its stated goals and requirements. If anything, staffing should be increased.
 - b. The State Bar should issue a statement in support of WisLAP's continued collaboration with non-State Bar agencies to advance well-being initiatives. For example, the TFWLW's Judicial Subcommittee recommends that WisLAP collaborate with Wisconsin court agencies and offices on programming and services.
 - c. As resources permit, WisLAP can assist with the development of the proposed well-being portals, which will house an expanded collection of available resources (e.g., lists of local practitioners, resources that are culturally specific, etc.) on the State Bar website or another portal for State Bar members who do not want to contact WisLAP directly but need support and resources.
 - d. WisLAP should continue to recruit diverse volunteers (with consideration to factors such as race, ethnicity, culture, geographic location, and practice area) to expand its volunteer roster. This is included in WisLAP's fiscal year 2022 strategic plan but will require ongoing efforts past fiscal year 2022.
 - e. The State Bar should support changes to the Wisconsin Supreme Court Rules to incorporate aspirational well-being measures intended to increase civility within and the fitness of the bar.
 - f. WisLAP would benefit from an education and outreach coordinator, with a job description to include:
 - i. Coordinating with private entities, state agencies, and others to develop and promote educational content and programs for judges, law students, and legal professionals regarding general health and well-being initiatives and substance use and mental health disorders.
 - ii. Helping to coordinate, produce, and execute programming on topics and issues that are specific to certain groups and organizations of lawyers, and developing a mechanism to take proposal requests from lawyers (as to interests, needs, and CLE topics).
 - g. While there is currently no funding that exists or is anticipated to fulfill this request for an education and outreach coordinator, it is worthwhile to identify this as a position of need in the event future resources are identified and made available to WisLAP.
- Implicit bias training has been recommended by this Subcommittee. This training could be done in conjunction with other State Bar programming and should not be exclusively the responsibility of WisLAP.

WisLAP is already satisfying the following recommendations from the NTF Report, and has these programs and mechanisms in place:

1. Recommendation 44: Lawyer assistance programs should be appropriately organized and funded.⁴⁷ WisLAP has two full-time clinicians on staff and utilizes volunteers as appropriate and requested. Professional staff serve certain organizational, clinical, and administrative functions.
2. Recommendation 44.1: Pursue stable, adequate funding.⁴⁸ WisLAP is funded as a member service of the State Bar.
3. Recommendation 44.2: Emphasize confidentiality.⁴⁹ WisLAP is confidential pursuant to Wisconsin Supreme Court Rule 10:10.05(4)(m)(3).
4. Recommendation 44.3: Develop high-quality well-being programming.⁵⁰ WisLAP develops such programming on an ongoing basis.
5. Recommendation 44.4: Lawyer assistance programs' foundational elements.⁵¹ WisLAP includes each of the following foundational elements identified in the NTF Report as fundamental to providing effective leadership and services to lawyers, judges, and law students:
 - A program director with an understanding of the legal profession and experience addressing mental health conditions, substance use disorders, and well-being issues for professionals;
 - A well-defined program mission and operating policies and procedures;
 - Regular educational activities to increase awareness and understanding of mental health and substance use disorders;

⁴⁷ NTF Report, *supra* note 1, at 5, 45.

⁴⁸ *Id.* at 6, 45.

⁴⁹ *Id.*

⁵⁰ *Id.* at 6, 45–46.

⁵¹ *Id.* at 6, 46.

- Volunteers trained in crisis intervention and assistance;
- Services to assist impaired members of the legal profession to begin and continue recovery;
- Participation in the creation and delivery of interventions;
- Consultation, aftercare services, voluntary and diversion monitoring services, referrals to other professionals, and treatment facilities; and
- A helpline for individuals with concern about themselves or others.⁵²

7. Recommendations of the Diversity and Inclusion Subcommittee

“Well-being is a combination of feeling good as well as actually having meaning, good relationships, and accomplishment.”⁵³

Lawyer well-being is a continuous process in which lawyers endeavor to thrive in each dimension of their lives. As each lawyer is unique, so too is each lawyer’s process for achieving well-being. The narrative of well-being and mental health is often narrowly associated with substance abuse issues, and follows the pattern of struggle, recovery, and overcoming. This is not always the case, however, specifically as it concerns well-being.

There is a tremendous need to de-stigmatize and accommodate for the wide array of challenges to well-being that often account for the perceived differences among individuals. The continuous process of promoting lawyer well-being requires consistent, accessible, supportive structures integrated into the culture of the profession that allow for open dialogue on all issues lawyers face regarding their well-being. Moreover, growth in this area of the profession can only stem from acknowledging both lawyer successes and troubles. Embracing lawyers with different backgrounds, skills, and abilities is a prerequisite to a thriving bar whose membership reflects the multitude of experiences, needs, and perspectives of the public whom those members serve.

The Diversity and Inclusion Subcommittee of the TFWLW makes the following recommendations in hopes of improving the well-being of lawyers in Wisconsin:

1. Create a diversity, equity, and inclusion (DEI) well-being committee:
The DEI well-being committee should consist of members from diverse groups whose concerns have

not regularly been seen or heard by the majority of the legal profession. Representation from such entities as the Wisconsin affinity bar associations, WisLAP, and the Wisconsin Association of Legal Administrators (WALA) should also be included. This DEI well-being committee is intended to give a voice to the issues faced by people of color, women, diverse religious affiliates, LGBTQ lawyers, and others with backgrounds or needs generally unknown to the legal profession as a whole. Not only could the needs of these professionals be made known to the rest of the profession, but by making those needs known the well-being of these professionals could be enhanced and the needs of clients from similar backgrounds could also be better understood. The goals of the proposed DEI well-being committee would be as follows:

- a. Work in association with the State Bar of Wisconsin’s Diversity and Inclusion Oversight Committee.
 - b. Administer well-being tools to legal organizations, shareholders, firm administrators, managers, managing partners, executives, and others.
 - c. Provide oversight, implementation, and expansion of the recommendations of this Diversity and Inclusion Subcommittee.
 - d. Establish best practices for organizational infrastructure for law firms to replicate, create, and promote DEI well-being. Include standards, incentives, and avenues for giving feedback on well-being efforts. Emphasize a service-centered mission.
 - e. Develop strategies to enable a multi-pronged well-being effort that will both educate the shareholders of the profession and support the needs of those affected.
 - f. Create best practices and model examples for policies and practices to support lawyer well-being with standards, aligned incentives, and avenues for feedback.
2. Recognition and acknowledgment:
Recognize and acknowledge that there are challenges and stressors that uniquely affect the well-being of diverse lawyers and law students, in addition to those that generally arise within the profession and during the practice of law.
 - a. Encourage regulators to establish policies and practices that regularly monitor the systemic policing practices that impact admission to the bar and discipline of attorneys.

⁵² *Id.* at 46.

⁵³ Martin Seligman, *What Is Well-Being?*, University of Pennsylvania: Authentic Happiness (April 2011), <https://www.authentichappiness.sas.upenn.edu/learn/wellbeing>.

- b. Investigate organizational practices that may contribute to the problems law students and attorneys are facing.
 - c. Encourage training on implicit bias, disability, and equity.
 - d. Educate institutions and employers about how to recognize signs of stress, and foster the creation of a professional culture and workplace environments that minimize barriers to maintaining lawyer and law student well-being.
 - e. Acknowledge the need for and assess how to make durable structural changes to the profession to support participants of different backgrounds and abilities.
3. DEI well-being web portal:
Create a DEI well-being web portal with access to resources and platforms such as:
- a. Mentoring program resources: Resources to facilitate the participation of underserved attorneys in mentoring efforts, both as mentors and mentees.
 - b. Annual Wisconsin well-being index reports (see recommendation 5, *infra*, for further discussion of index reports).
 - c. A glossary of terms.
 - d. Inclusion narratives.
 - e. A document library or database containing samples of policies, leadership plans, and well-being education, such as the Human Rights Campaign Corporate Equality Index, <https://www.hrc.org/resources/corporate-equality-index>.
 - f. A leadership program database for legal organizations to access for aid in creating a culture of relationship-building as opposed to an adversarial workplace environment.
 - g. A list of outside business partners or vendors to assist legal organizations in developing values that focus on well-being and communicating the means by which to achieve well-being.
 - h. Tools for DEI well-being education and implicit bias and equity training.
 - i. Forums or communities for idea sharing on activities to encourage lawyer well-being.
 - j. A directory of healthcare professionals, including healthcare professionals of diverse backgrounds.
 - k. Contact information for well-being support institutions such as the Institute for Well-Being in Law and WisLAP.
4. Education:
Encourage and provide training and education on well-being topics that frequently affect attorneys from diverse backgrounds. This could include the following:
- a. Educating legal organizations on how to create and implement policies and best practices to encourage development of an equitable culture for DEI well-being.
 - b. Educating employers, shareholders, and legal organizations on how to recognize, provide support for, and accommodate employees struggling to maintain appropriate boundaries with regard to work addiction and self-care, for any reason.
 - c. Encouraging law school DEI training for students, faculty, and staff.
 - d. Working with the BBE to implement DEI CLE requirements.
 - e. Providing well-being education for diverse attorney communities.
 - f. Coordinating education programs with WisLAP and affinity bar associations.
 - g. Providing well-being education and a guide to resources for new lawyers on issues such as how to combat social isolation and promote interconnectivity.
5. WisLAP:
Bolster resources available within WisLAP to meet DEI needs. Specifically and additionally:
- a. Assure that any WisLAP program manager has an understanding of the legal profession, experience addressing diversity and inclusion equity, and training in mental health concerns, substance use disorders, and well-being issues among professionals.
 - b. WisLAP and the proposed DEI well-being committee should jointly create well-being kits for employers and new hires that include guidance on potential well-being issues and information on where to find other well-being resources.
 - c. Conduct and make accessible an annual well-being index of the State Bar's membership that measures the profession's progress on well-being issues. Collect data when lawyer impairment is a contributing factor to law student or attorney discipline and/or to Wisconsin Lawyers' Fund for Client Protection claims.
 - i. Work in conjunction with lawyers' professional liability insurance carriers on tracking when substance abuse, stress, depression, or mental health is suspected to be a contributing factor to an underlying claim.
 - ii. Sponsor empirical research on lawyer well-being as part of the annual well-being index reports.
6. Create a robust reporting system and support network:

Create a more defined reporting system and support network for lawyers to access when mental health issues have arisen and conversations with employers about those issues have proven unproductive. This system should be non-adversarial and should provide for neutral mediators or other mechanisms to help affected lawyers and their employers connect and work on well-being issues.

- a. Appoint a staff person within the State Bar or WisLAP as the point of contact for this system or determine appropriate personnel or volunteers to begin crafting and implementing this system.
- b. Gauge interest in subject-specific support groups, such as groups for issues surrounding race, gender and sexuality, mental health, substance use disorders, depression, ADHD, etc.
- c. Provide guidance and access to outside resources on how to engage employers in discussions about seeking accommodations in the workplace.

Conclusion

It is clear that Wisconsin is in need of positive changes within the legal profession to enhance the well-being of its members and, thereby, the quality of services that those members render to their clients. This report is not likely to be read by every member of the legal profession in Wisconsin, but the TFWLW hopes that it will be reviewed by those capable of initiating the changes that the profession needs to pursue. The TFWLW further hopes that once the recommendations in this report are adopted, in whole or in part, and the process of implementing change begins, the effects sought will begin to be realized.

APPENDIX A: Well-Being Portals

The TFWLW subcommittees have recommended creating three well-being websites or portals: one for lawyers, one for judges, and one for diversity, equity, and inclusion.

The portals could appear on the State Bar of Wisconsin website or as free-standing websites on separate platforms. Regardless of where they appear, the portals should be easily accessible and useful on an individual level.

The portals are intended to provide information, build community, and enhance well-being. It is the TFWLW's hope that as individual lawyers and judges use the portals, the concept will gain momentum, the legal community will buy in to the concept, and firms and legal organizations will then be motivated to contribute to the portals.

The portals could provide access to any or all of the following:

- Inventories and checklists.
- Action steps and links for both attorneys and firms.
- Data related to lawyer well-being.
- On-demand content.
- Well-being resources.
- Sections tailored to firms of different sizes, governmental entities, and individuals.
- Worksheets and other tools for individuals and employers.
- Organizational tools.
- A calendar of events or daily calendars with specific well-being suggestions.
- Opportunities for State Bar members with shared well-being interests to connect with each other.
- Self-assessment tools.
- Take-aways, such as exercise ideas, videos, activities, etc.
- A forum for anonymous online chatting or blogging designed to allow members to comfortably discuss issues or provide them with a sounding board.

The proposed implementation oversight team(s) will need to consider the following unresolved issues related to these portals:

- How to create, market, and publicize the portals.
- How to make the portals accessible to people who are uncomfortable using technology and as user-friendly as possible.
- How to make the portals accessible to those who are not State Bar members (e.g., family members of judges and lawyers, legal staff, and others).
- How to make the portals accessible from multiple points (i.e., not only from the portals' main pages, but also from websites such as the e-filing website, since many attorneys use that routinely, CourtNet, the judicial dashboard, and other locations).
- How to distinguish the portals from WisLAP and the services WisLAP provides, and promote them in such a way that members know they are not only places to find recovery tools but—and more importantly—places to find preventative tools. That said, WisLAP should promote these portals, too.

APPENDIX B: Addressing the Impact of the Billable Hour on Well-Being

The Making-the-Business-Case Subcommittee has recommended that the State Bar of Wisconsin address the impact of the billable hour on lawyer well-being. It is particularly important to assess what impact billable-hour requirements have on lawyer mental health.

Although an inquiry into the impact of billable-hour requirements on lawyer mental health might seem to be focused on midsize- and large-firm lawyers, solo and small-firm lawyers who are concerned about receipts and the need to generate sufficient monthly income from their practices face the same potential negative mental health impact. Similarly, there is often a heavy focus on billable-hour requirements for younger lawyers, but the impact that billable-hour requirements have on individual mental health is a concern that impacts lawyers at all levels of experience.

Billable-hour requirements and meeting billable-hour goals are typically critical components of annual attorney compensation decisions. Many firms use formulas to determine attorney compensation. Those formulas may take into account only billable hours, or they may compare the number of hours an attorney bills in a year to the attorney's receipts for the year. Other models might take into account other metrics, such as whether an attorney's monthly receipts are sufficient to contribute to the cost of operating the law office and also to provide for some level of compensation for the owners of the firm. Compensation and performance models such as these create pressures for individual attorneys. Some of these pressures are considered to be part of the way that law firms do business, and are therefore treated as part of the normal considerations for whether or not a law firm is financially successful.

There has been much talk in the legal industry over the years of law firms considering alternatives to billable hours as means for establishing charges to clients. Despite these discussions, there has been very little movement in the industry away from using billable hours and rates based on those hours. It is such an entrenched process in the legal industry that it is difficult to change, even as clients are asking for different methodologies for paying for legal services rendered.

The use of billable hours and concern over receipts are big factors in lawyer well-being. This issue is really the proverbial elephant in the room when it comes to lawyer well-being. Lawyers certainly recognize that billable-hour requirements impact well-being, yet this issue is not being addressed. Law firms continue to use billable-hour and receipts goals as the primary, if not only, means of analyzing and addressing attorney performance.

Changing the billable-hour approach will be quite an ambitious process. Significant work is needed to find a suitable replacement for billable hours and receipts as the means of assessing lawyer performance. The success of the Making-the-Business-Case Subcommittee's recommendation to change the billable-hour approach could, perhaps, be measured by the number of individuals accessing information about suitable alternatives on the proposed well-being portals and the number of presentations about those alternatives that are made over time to lawyers and law firms throughout the state.

For further discussion on the impact of billable hour requirements on lawyer well-being, see the following:

- Stephen Embry, *Is the Billable Hour Impacting Our Mental Health?*, Law Prac. Today, Oct. 15, 2019, <https://www.lawpracticetoday.org/article/billable-hour-impacting-mental-health/>.
- Tim Batdorf, *The Billable Hour and Lawyer Wellness*, 90 Mich. Bar J. 48, Mar. 2011, <http://www.michbar.org/file/barjournal/article/documents/pdf4article1834.pdf>.

APPENDIX C: NTF Recommendations for Guiding and Supporting the Transitions of Older Lawyers

The following material has been quoted directly from Appendix C of the NTF Report.⁵⁴

Appendix to Recommendation 9: Guide and Support The Transition of Older Lawyers.

Recommendation 9 advised stakeholders to create programs for detecting and addressing cognitive decline in lawyers, develop succession plans for aging lawyers, and develop reorientation programs to support lawyers facing retirement. Such initiatives and programs may include the following:

- Gathering demographic information about the lawyer population, including years in practice, the nature of the practice, the size of the firm in which the lawyer’s practice is conducted, and whether the lawyer has engaged in any formal transition or succession planning for the lawyer’s practice;
- Working with medical professionals to develop educational programs, checklists, and other tools to identify lawyers who may be experiencing incapacity issues;
- Developing and implementing educational programs to inform lawyers and their staff members about incapacity issues, steps to take when concerns about a lawyer’s incapacity are evident, and the importance of planning for unexpected practice interruptions or the cessation of practice;
- Developing succession or transition planning manuals and checklists, or planning ahead guidelines for lawyers to use to prepare for an unexpected interruption or cessation of practice;
- Enacting rules requiring lawyers to engage in succession planning;
- Providing a place on each lawyer’s annual license renewal statement for the lawyer to identify whether the lawyer has engaged in succession and transition planning and, if so, identifying the person, persons or firm designated to serve as a successor;
- Enacting rules that allow senior lawyers to continue to practice in a reduced or limited license or emeritus capacity, including in pro bono and other public service representation;
- Enacting disability inactive status and permanent retirement rules for lawyers whose incapacity does not warrant discipline, but who, nevertheless, should not be allowed to practice law;
- Developing a formal, working plan to partner with Judges and Lawyer Assistance Programs to identify, intervene, and assist lawyers demonstrating age-related or other incapacity or impairment.
- Developing “re-orientation” programs to proactively engage lawyers in transition planning with topics to include:
 - financial planning;
 - pursuing “bridge” or second careers;
 - identity transformation;
 - developing purpose in life;
 - cognitive flexibility;
 - goal-setting;
 - interpersonal connection;
 - physical health;
 - self-efficacy;
 - perceived control, mastery, and optimism.

Here in Wisconsin, some of the above recommendations are already being addressed. It may be appropriate for the State Bar of Wisconsin’s Senior Lawyers Division to take on some of the other recommendations. The implementation oversight team proposed by the TFWLW should consider all of these recommendations in an effort to enhance the ability of senior lawyers to retire or otherwise leave their practices while ensuring that the needs of their clients are properly met during and after the lawyers’ transitions.

⁵⁴ NTF Report, *supra* note 1, at 58 (footnotes omitted).

APPENDIX D: Wisconsin-Specific Issues for the Proposed Implementation Oversight Team

The implementation oversight team proposed by the TFWLW should address, at minimum, the following Wisconsin-specific issues:

1. The well-being needs of lawyers and judges in rural counties. These lawyers and judges face isolation and, potentially, diminished access to counseling and other resources such as broadband, a community of other practicing lawyers or judges, and needed support. Other elements of the culture of rural law practice that affect well-being should also be addressed.
2. The well-being needs of solo and small-firm lawyers. The vast majority of Wisconsin lawyers are solo or small-firm practitioners, and the proposed implementation oversight team must address their unique needs and make suggestions relevant to them. The team must consider how barriers that prevent these lawyers from dedicating time and attention to enhanced well-being can be overcome. The team should invite the State Bar of Wisconsin's Solo, Small Firm & General Practice Section to discuss these issues. Perhaps the Section could participate in a pilot program designed to address the issues faced by this population. The Section could also solicit practical, workable ideas from its members about how to improve the well-being climate for solo and small-firm practitioners.
3. The use of alcohol by Wisconsin legal professionals. The proposed implementation oversight team should discuss and implement a campaign to deemphasize the role of alcohol within the Wisconsin legal profession. This is a significant issue. A 2021 study by Anker and Krill discussed an attitude of “permissiveness toward alcohol in the workplace.” The study “identif[ied] work-related factors predictive of three key challenges currently facing the legal profession: stress, substance abuse, and attrition.” The study found that over half of the surveyed lawyers screened positive for risky drinking, and nearly thirty percent screened positive for high-risk hazardous drinking. It found that “workplace attitudes and permissiveness towards alcohol significantly influence the likelihood of problematic drinking among attorneys.”⁵⁵

The TFWLW hopes that, in addition to addressing these Wisconsin-specific concerns, the proposed implementation oversight team will carefully review, with the aim to address, all of the recommendations made within this report.

⁵⁵ Anker & Krill, *supra* note 26, at 1, 2, 7, & 15.

APPENDIX E: History of the National Lawyer Well-Being Movement and Creation of the Task Force on Wisconsin Lawyer Well-Being

During the last five years, there has been an intensifying campaign to educate the legal profession about the need to improve the health and well-being of lawyers, judges, and law students. This movement coalesced in response to the publication of two research studies. The American Bar Association (ABA) Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation conducted a national study of nearly 13,000 practicing lawyers that was published in 2016.⁵⁶ It found that between 20% and 36% of the study participants screened positive for problematic drinking, and that approximately 28% had mild or higher levels of depression, 19% had mild or higher levels of anxiety, and 23% had mild or higher levels of stress.⁵⁷ Notably, the study found that lawyers in their first ten years of practice and those working in private firms experienced the highest rates of problem drinking and depression.⁵⁸ This budding impairment within the future generation of lawyers should be alarming to everyone. Too many young lawyers face less productive, less satisfying, and more troubled career paths.

Additionally, 15 law schools and approximately 3,300 law students participated in a Survey of Law Student Well-Being, the results of which were released in 2016.⁵⁹ That survey found that 17% of the study participants screened positive for some level of depression, 14% screened positive for severe anxiety, 23% screened positive for mild or moderate anxiety, and 6% reported serious thoughts about suicide in the past year.⁶⁰ As to alcohol use, 43% reported having engaged in binge drinking at least once in the prior two weeks, and nearly one-quarter (22%) reported having engaged in binge-drinking two or more times during that period.⁶¹ One-quarter fell into the category of those who should be evaluated further due to being at risk for alcoholism.⁶²

Members of several professional groups collaborated and

formed the National Task Force on Lawyer Well-Being (NTF). The ultimate goal of the NTF was to improve the legal profession's culture and support lawyers' full well-being. The NTF published a report entitled *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (NTF Report)⁶³. The NTF Report is comprehensive in scope and provides a nuanced explanation of the causes and consequences of lawyer distress and dissatisfaction. It includes 44 detailed recommendations for improving the legal profession's culture and supporting lawyers' full well-being. Because an absence of illness is not the same as being fully well, the NTF Report focuses on promoting health and happiness as well as preventing and treating impairment.

The NTF Report contains the following credits in connection with the creation of the NTF and the authorship of the reports of the two studies discussed above:

The [NTF] was conceptualized and initiated by the ABA Commission on Lawyer Assistance Programs (CoLAP), the National Organization of Bar Counsel (NOBC), and the Association of Professional Responsibility Lawyers (APRL). It is a collection of entities within and outside the ABA that was created in August 2016. Its participating entities currently include the following: ABA CoLAP; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Wellbeing Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; National Conference of Chief Justices; and National Conference of Bar Examiners. Additionally, CoLAP was a co-author of the 2016 ABA CoLAP and Hazelden Betty Ford Foundation's study of mental health and substance use disorders among lawyers and of the 2016 Survey of Law Student Well-Being.⁶⁴

⁵⁶ Krill et al., *supra* note 6, at 46, 47.

⁵⁷ *Id.* at 51.

⁵⁸ *Id.* at 48, 51.

⁵⁹ Organ et al., *supra* note 6, at 116, 123–24.

⁶⁰ *Id.* at 136, 137, 139.

⁶¹ *Id.* at 128–29.

⁶² *Id.* at 131.

⁶³ NTF Report, *supra* note 1.

⁶⁴ *Id.* at 1.

The NTF Report encouraged all stakeholders to engage in an examination of the ways their own systems, agencies, employers, and associations can more effectively support lawyer well-being. The ABA has adopted its Resolution 105, which “supports the goal of . . . improving the well-being of lawyers, judges and law students . . .”⁶⁵ Likewise, the Conference of Chief Justices has adopted its Resolution 6, which “recommends that each jurisdiction consider[] the recommendations of the Report of the National Task Force on Lawyer Well-Being.”⁶⁶ Thus, the State Bar of Wisconsin, with the participation and support of the Wisconsin Supreme Court, undertook to convene a group of diverse stakeholders to meet this charge. The Task Force on Wisconsin Lawyer Well-Being was created and tasked with reviewing the recommendations of the NTF and developing recommendations to promote lawyer well-being within the Wisconsin legal community.

⁶⁵ A.B.A. Res. 105 (Feb. 2018), https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_2018_hod_midyear_105.pdf.

⁶⁶ Conf. of Chief Justs. Res. 6 (Aug. 2017), https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_conference_of_chief_justices_resolution_6.authcheckdam.pdf.

APPENDIX F: Full List of National Task Force Recommendations

The NTF described the recommendations in its NTF Report as follows:

This 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.⁶⁷

The NTF made 44 recommendations, which are listed below.⁶⁸ The TFWLW's progress toward implementing each recommendation is noted, as appropriate.

Recommendations for All Stakeholders

1. Acknowledge the Problems and Take Responsibility.

By and through its organization and the issuance of this report, the TFWLW has acknowledged that problems exist and has assumed responsibility for doing more to support lawyer well-being in Wisconsin.

Accomplished.

2. Use the NTF Report as a Launch Pad for a Profession-Wide Action Plan.

The NTF Report was a foundational document for the work of the TFWLW, which included efforts to create a well-being action plan for the legal profession in Wisconsin.

Accomplished.

3. Leaders Should Demonstrate a Personal Commitment to Well-Being.

Many Wisconsin legal leaders participated in the TFWLW, which demonstrates personal commitment to well-being on their part. The members of the TFWLW encourage their colleagues to join them in a commitment to increasing the well-being of Wisconsin lawyers.

Partially accomplished.

4. Facilitate, Destigmatize, and Encourage Help-Seeking Behaviors.

The TFWLW has made recommendations for accomplishing this objective. However, further accomplishment of this objective will require ongoing commitment by the Wisconsin legal community.

Partially accomplished.

5. Build Relationships with Lawyer Well-Being Experts.

5.1 Partner with Lawyer Assistance Programs.

The TFWLW is working with WisLAP, which has been instrumental in the TFWLW's organization and ongoing work.

Accomplished.

- 5.2 Consult Lawyer Well-Being Committees and Other Types of Well-Being Experts.

The TFWLW has consulted with organizations such as the NTF, the Institute for Well-Being in Law (IWIL), and the American Bar Association Commission on Lawyer Assistance Programs (ABA CoLAP). Additionally, WisLAP actively participates in ABA CoLAP committees, continuing education opportunities, and events. It also actively participates in IWIL continuing education opportunities and initiatives such as Well-Being Week in Law.

Accomplished.

6. Foster Collegiality and Respectful Engagement Throughout the Profession.

⁶⁷ NTF Report, *supra* note 1, at 2.

⁶⁸ For a complete list of the recommendations only, see the NTF Report, *supra* note 1, at 4–6.

The relationships between an impaired lawyer and that lawyer's coworkers and clients may be negatively affected by the lawyer's behavior and demeanor. WisLAP provides education on assessing and responding to behaviors that may indicate impairment. In addition, WisLAP has assisted with interventions for attorneys with anger and other behavioral issues or those who are impaired in their ability to practice.

The TFWLW believes that civility within the Wisconsin legal profession is in need of reformation. The stresses associated with the practice of law and the need for improved lawyer well-being have given professionals license to display poor civility to clients, support persons, other lawyers, the courts, and their families. This lack of civility is a clear indicator of the current state of well-being within the legal profession.

Needs further work by the proposed implementation oversight team.

6.1 Promote Diversity & Inclusivity.

The TFWLW's Diversity and Inclusion Subcommittee has made recommendations for promoting diversity and inclusivity within the legal profession in Wisconsin.

Needs further work by the proposed implementation oversight team.

6.2 Create Meaningful Mentoring and Sponsorship Programs.

The TFWLW has recommended enhancing and expanding mentoring and coaching programs in Wisconsin.

Needs further work by the proposed implementation oversight team.

7. Enhance Lawyers' Sense of Control.

The TFWLW has recommended that lawyers receive continuing education on various topics which will, over time, improve their personal well-being and thereby increase their sense of self-control. To achieve this, however, will require long-term intensive cultural change from within the legal profession.

Needs further work by the proposed implementation oversight team.

8. Provide High-Quality Educational Programs About Lawyer Distress and Well-Being.

Most of the TFWLW subcommittees have recommended that CLEs incorporate well-being topics, especially CLEs on ethics issues, so that lawyer well-being is explained, promoted, and connected to the ethical practice of law. The TFWLW has also made a number of other recommendations related to providing education on the topic of lawyer well-being and expanding the number of well-being related CLE credits that lawyers can report during each reporting period.

Needs further work by the proposed implementation oversight team.

9. Guide and Support the Transition of Older Lawyers.

The recommendations of the TFWLW's All Stakeholders Subcommittee address support for the transitions of senior lawyers. *See also supra* app. C.

Needs further work by the proposed implementation oversight team.

10. De-emphasize Alcohol at Social Events.

The TFWLW has emphasized the need to contend with entrenched social and cultural norms around this issue in Wisconsin and within the profession.

Needs further work by the implementation oversight team.

11. Use Monitoring to Support Recovery from Substance Use Disorders.

WisLAP offers a professional monitoring program for impaired attorneys, judges, law students, bar applicants, and suspended or disbarred attorneys. Participants are referred by regulatory agencies, law firms, and also may voluntarily seek services. The TFWLW recommends that the State Bar of Wisconsin continue to support WisLAP in continuing this program.

Accomplished.

12. Begin a Dialogue About Suicide Prevention.

The TFWLW is not aware of any current data on the rate of suicide among Wisconsin law students, lawyers, and judges. However, research indicates that "suicide is the third leading cause of death among attorneys, though it is the tenth leading cause among

the general population; according to the Centers for Disease Control and Prevention, from 1999 to 2007, lawyers were 54% more likely to commit suicide than people in other professions.”⁶⁹ The TFWLW’s All Stakeholders Subcommittee has recommended starting a dialogue about suicide prevention in Wisconsin, and partnering with agencies that specialize in suicide prevention to increase prevention efforts among Wisconsin lawyers.

Needs further work by the proposed implementation oversight team.

13. Support a Lawyer Well-Being Index to Measure the Profession’s Progress.

Several TFWLW subcommittees have recommended implementing an annual well-being index in Wisconsin to measure progress and identify additional needs of Wisconsin lawyers. The data collected through such indexes will be invaluable in determining what might enhance the Wisconsin legal profession.

Needs further work by the proposed implementation oversight team.

Specific Stakeholder Recommendations:

Recommendations for Judges

14. Communicate that Well-Being Is a Priority.

Needs further work by the proposed implementation oversight team.

15. Develop Policies for Impaired Judges.

Needs further work by the proposed implementation oversight team.

16. Reduce Stigma of Mental Health and Substance Use Disorders.

Needs further work by the proposed implementation oversight team.

17. Conduct Judicial Well-Being Surveys.

Needs further work by the proposed implementation oversight team.

18. Provide Well-Being Programming for Judges and Staff.

Partially accomplished.

19. Monitor for Impaired Lawyers and Partner with Lawyer Assistance Programs.

Needs further work by the proposed implementation oversight team.

Judges are positioned to serve as leaders in the lawyer well-being movement. They are often the first to see signs that a lawyer might be struggling. Judges also face challenges and stressors that are specific to their role as judges, and they are at risk of burnout and impairment because they often lack proper support. WisLAP maintains a judicial assistance program and attends Office of Judicial Education events. In the past, with the guidance of Hon. Richard Brown (Ret.), WisLAP has conducted wellness roundtables at the Wisconsin Judicial College and at other judicial meetings. In addition, WisLAP receives referrals from judges who have concerns about impaired lawyers, but not all Wisconsin judges are aware of WisLAP. Finally, the TFWLW has made recommendations for supporting judges’ well-being and for providing training and resources for judges to help them identify and assist attorneys and other judges who appear to be struggling with well-being.

Recommendations for Regulators

20. Take Actions to Meaningfully Communicate That Lawyer Well-Being is a Priority.

Needs further work by the proposed implementation oversight team.

- 20.1 Adopt Regulatory Objectives That Prioritize Lawyer Well-Being.

Needs further work by the proposed implementation oversight team.

- 20.2 Modify the Rules of Professional Responsibility to Endorse Well-Being as Part of a Lawyer’s Duty of Competence.

Needs further work by the proposed implementation oversight team.

- 20.3 Expand Continuing Education Requirements to Include Well-Being Topics.

This was accomplished in Wisconsin as of July 1, 2017. See SCR 31.02 (3) & (4).

Accomplished.

⁶⁹ Krause & Chong, *supra* note 3, at 207 (footnotes omitted).

- 20.4 Require Law Schools to Create Well-Being Education for Students as an Accreditation Requirement.

Needs further work by the proposed implementation oversight team.

21. Adjust the Admissions Process to Support Law Student Well-Being.

Needs further work by the proposed implementation oversight team.

- 21.1 Re-Evaluate Bar Application Inquiries About Mental Health History.

See Wis. Sup. Ct., Report of the Board of Bar Examiners Regarding Rule Petition 17-10 (2018).

Accomplished.

- 21.2 Adopt Essential Eligibility Admission Requirements.

Needs further work by the proposed implementation oversight team.

- 21.3 Adopt a Rule for Conditional Admission to Practice Law with Specific Requirements and Conditions.

See SCR 40.075 (conditional bar admission).

Accomplished.

- 21.4 Publish Data Reflecting Low Rate of Denied Admissions Due to Mental Health Disorders and Substance Use.

Needs further work by the proposed implementation oversight team.

22. Adjust Lawyer Regulations to Support Well-Being.

Needs further work by the proposed implementation oversight team.

- 22.1 Implement Proactive Management-Based Programs (PMBP) That Include Lawyer Well-Being Components.

Needs further work by the proposed implementation oversight team.

- 22.2 Adopt a Centralized Grievance Intake System to Promptly Identify Well-Being Concerns.

Needs further work by the proposed implementation oversight team.

- 22.3 Modify Confidentiality Rules to Allow One-Way Sharing of Lawyer Well-Being Related Information from Regulators to Lawyer Assistance Programs.

WisLAP receives such referrals from OLR. See SCR 21.03(9).

Accomplished.

- 22.4 Adopt Diversion Programs and Other Alternatives to Discipline That Are Proven Successful in Promoting Well-Being.

WisLAP accepts diversion referrals from OLR. See SCR 21.03(9)(a).

Accomplished.

23. Add Well-Being-Related Questions to the Multistate Professional Responsibility Exam.

WisLAP appreciates the collegial relationship that exists with the Wisconsin Office of Lawyer Regulation and the Wisconsin Board of Bar Examiners. This relationship should help achieve this NTF recommendation with further work by the implementation oversight team.

Needs further work by the proposed implementation oversight team.

Recommendations for Legal Employers

24. Establish Organizational Infrastructure to Promote Well-Being.

Needs further work by the proposed implementation oversight team.

- 24.1 Form a Lawyer Well-Being Committee.

Needs further work by the proposed implementation oversight team.

- 24.2 Assess Lawyers' Well-Being.

Needs further work by the proposed implementation oversight team.

25. Establish Policies and Practices to Support Lawyer Well-Being.

Needs further work by the proposed implementation oversight team.

25.1 Monitor for Signs of Work Addiction and Poor Self-Care.

Needs further work by the proposed implementation oversight team.

25.2 Actively Combat Social Isolation and Encourage Interconnectivity.

Needs further work by the proposed implementation oversight team.

26. Provide Training and Education on Well-Being, Including During New Lawyer Orientation.

Needs further work by the proposed implementation oversight team.

26.1 Emphasize a Service-Centered Mission.

Needs further work by the proposed implementation oversight team.

26.2 Create Standards, Align Incentives, and Give Feedback.

Needs further work by the proposed implementation oversight team.

WisLAP can help law firms incorporate lawyer well-being strategies to assist their employees. WisLAP is collaborating with the Wisconsin Association of Legal Administrators (WALA) to increase support for law firm personnel. Additionally, WisLAP has reached out to the Wisconsin law firms who signed the ABA Workplace Well-Being Pledge (see *infra* app. K) to offer support with programming.⁷⁰

Recommendations for Law Schools

27. Create Best Practices for Detecting and Assisting Students Experiencing Psychological Distress.

Needs further work by the proposed implementation oversight team.

27.1 Provide Training to Faculty Members Relating to Student Mental Health and Substance Use Disorders.

Needs further work by the proposed implementation oversight team.

27.2 Adopt a Uniform Attendance Policy to Detect Early Warning Signs of Students in Crisis.

Needs further work by the proposed implementation oversight team.

27.3 Provide Mental Health and Substance Use Disorder Resources.

Accomplished.

28. Assess Law School Practices and Offer Faculty Education on Promoting Well-Being in the Classroom.

Needs further work by the proposed implementation oversight team.

29. Empower Students to Help Fellow Students in Need.

Needs further work by the proposed implementation oversight team.

30. Include Well-Being Topics in Courses on Professional Responsibility.

Accomplished.

31. Commit Resources for Onsite Professional Counselors.

Needs further work by the proposed implementation oversight team.

32. Facilitate a Confidential Recovery Network.

Needs further work by the proposed implementation oversight team.

33. Provide Education Opportunities on Well-Being Related Topics.

Needs further work by the proposed implementation oversight team.

33.1 Provide Well-Being Programming During the 1L Year.

Both the University of Wisconsin Law School and Marquette University Law School provide programming of this nature.

Accomplished.

⁷⁰ For more information about the ABA Workplace Well-Being Pledge, see A.B.A., *Well-Being in the Legal Profession*, https://www.americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession/ (last visited Jan. 10, 2022).

- 33.2 Create a Well-Being Course and Lecture Series for Students.

Needs further work by the proposed implementation oversight team.

34. Discourage Alcohol-Centered Social Events.

The University of Wisconsin's Law Student Wellness Coalition and the Marquette Law School's Organization for Student Well-Being are both active in developing and promoting alcohol-free events for students and their families. Leaders at both schools have expressed support for alternatives to alcohol-centered events.

Accomplished.

35. Conduct Anonymous Surveys Relating to Student Well-Being.

Partially accomplished.

Both the Marquette University Law School and the University of Wisconsin Law School have committed significant resources to supporting the well-being of their students. WisLAP has positive relationships with both institutions and shares their commitments to improving the culture of legal education and to educating students about the role of well-being as a part of professional responsibility. In addition, the TFWLW has made recommendations specific to law schools to further enhance the well-being of law students.

Recommendations for Bar Associations

36. Encourage Education on Well-Being Topics in Association with Lawyer Assistance Programs.

Needs further work by the proposed implementation oversight team.

- 36.1 Sponsor High-Quality CLE Programming on Well-Being-Related Topics.

The State Bar of Wisconsin sponsors such programming via its PINNACLE, WisLAP, and Member Services programs.

Partially accomplished.

- 36.2 Create Educational Materials to Support Individual Well-Being and "Best Practices" for Legal Organizations.

Needs further work by the proposed implementation oversight team.

- 36.3 Train Staff to Be Aware of Lawyer Assistance Program Resources and Refer Members.

WisLAP receives appropriate referrals from State Bar staff.

Partially accomplished.

37. Sponsor Empirical Research on Lawyer Well-Being as Part of Annual Member Surveys.

Needs further work by the proposed implementation oversight team.

38. Launch a Lawyer Well-Being Committee.

The State Bar's WisLAP Committee has adopted this assignment pending further review by the proposed TFWLW implementation oversight team.

Accomplished.

39. Serve as an Example of Best Practices Relating to Lawyer Well-Being at Bar Association Events.

The State Bar has offered yoga, runs, walks, healthy food, non-alcoholic beverage choices, and meditation/mindfulness sessions at its Annual Meeting and Conference. State Bar programming regularly incorporates lawyer well-being topics.

Accomplished.

Overall, the leadership of the State Bar of Wisconsin has demonstrated a commitment to improving lawyer well-being.

Recommendations for Lawyers Professional Liability Carriers

40. Actively Support Lawyer Assistance Programs.

Accomplished.

41. Emphasize Well-Being in Loss Prevention Programs.

Needs further work by the proposed implementation oversight team.

42. Incentivize Desired Behavior in Underwriting Law Firm Risk.

Needs further work by the proposed implementation oversight team.

43. Collect Data When Lawyer Impairment is a Contributing Factor to Claims Activity.

Needs further work by the proposed implementation oversight team.

The TFWLW was honored to have a professional liability carrier representative on its committee. The dialogue toward achieving the NTF recommendations relating to professional liability carriers has therefore already begun. The TFWLW's report recommends that liability carriers track when substance abuse, stress, depression, or other mental health issues are suspected or known to be a contributing factor to any underlying claim so that additional data can be compiled for the proposed implementation oversight team to use in addressing the recommendations pertaining to professional liability carriers.

Recommendations for Lawyers Assistance Programs

44. Lawyers Assistance Programs Should Be Appropriately Organized and Funded.

WisLAP is premised on the idea of lawyers helping lawyers and judges helping judges. As of November 30, 2018, WisLAP has two full-time clinicians on staff. Professional staff serve certain organizational, clinical, and administrative functions. WisLAP also utilizes volunteers as appropriate and requested.

Accomplished.

- 44.1 Pursue Stable, Adequate Funding.

WisLAP is funded as a member service of the State Bar of Wisconsin.

Accomplished.

- 44.2 Emphasize Confidentiality.

WisLAP maintains confidentiality in accordance with SCR 10:10.05(4)(m)(3).

Accomplished.

- 44.3 Develop High-Quality Well-Being Programming.

WisLAP develops high-quality well-being programming on an ongoing basis.

Accomplished.

- 44.4 Lawyer Assistance Programs' Foundational Elements.

WisLAP adheres to all of the foundational elements for lawyer assistance programs set forth by the NTF.⁷¹

Accomplished.

⁷¹ See NTF Report, *supra* note 1, at 46. For further discussion of how WisLAP adheres to these foundational elements, see the discussion in this report under the subheading "Recommendations of the Bar Association and Lawyer Assistance Program Subcommittee."

APPENDIX G: Items the TFWLW Was Unable to Address

The TFWLW was unable to address the following issues:

- Support for student loan reduction efforts.
- Secured leave for attorneys.
- Changes to court filing times.
- Placing WisLAP information on websites frequently used by lawyers and judges, such as Wisconsin Circuit Court Access (WCCA, also known as CCAP), Wisconsin Supreme Court and Court of Appeals Access (WSCCA), Wisconsin Law Enforcement Network (WILENT), etc.
- How WisLAP and the Wisconsin Board of Bar Examiners could collaborate on publicizing the low number of applicants who are denied admission to the Wisconsin Bar each year due to character and fitness concerns.
- Providing education about secondary traumatic stress and compassion fatigue, and investigating ways to mitigate the effects of each.
- Issues of particular concern to women and parents who are attorneys.⁷²

It is recommended that the proposed implementation oversight team address each of these important issues.

⁷² A recent article reported predictions of a major exodus of women lawyers from large law firms on the heels of the pandemic unless firms address concerns of special importance to women lawyers, which include childcare issues, flexible work conditions, fair compensation, equitable treatment of generation credits, and paths to partnership that include part-time practice. See Vivia Chen, *Are We on the Brink of a Female 'Exodus' from Big Law?*, Bloomberg Law, May 10, 2021, <https://news.bloomberglaw.com/us-law-week/are-we-on-the-brink-of-a-female-exodus-from-big-law>.

APPENDIX H: Well-Being Resource List and References for Further Reading

The National Task Force on Attorney Well-Being has evolved into the Institute for Well-Being in Law. Significant resources promoting and addressing lawyer well-being can be found on the Institute's website, <https://lawyerwellbeing.net>.

The implementation oversight team should include this resource on the proposed well-being portals.

APPENDIX I: American Bar Association Resolution 300A

American Bar Association Resolution 300A, which is reprinted below, was adopted by the American Bar Association House of Delegates in February 2021.⁷³ This resolution brings to the national stage the need to address lawyer well-being.

AMERICAN BAR ASSOCIATION
ADOPTED BY THE HOUSE OF DELEGATES
FEBRUARY 22, 2021

RESOLUTION

RESOLVED, That the American Bar Association encourages federal, state, local, territorial, and tribal courts, bar associations, legal employers, and law schools to develop, assemble, disseminate, promote, and to collaborate to make resources accessible that advance well-being in the entire legal profession, including but not limited to, educational programming, mental health providers, screening, employee assistance programs, referrals to community support groups and state and local lawyer assistance programs; and

FURTHER RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal courts, bar associations, legal employers, and law schools to adopt policies that encourage lawyers, judges, and law students to seek out these resources, taking into account the barriers of stigma, retribution, actual or perceived confidentiality challenges, and other negative effects on the reputation of legal professionals.

⁷³ The Resolution and accompanying Report are available at A.B.A. Res. 300A (Feb. 2021), <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2021/300a-midyear-2021.pdf>.

APPENDIX J: The Effects of the COVID-19 Pandemic on Lawyer Well-Being

The TFWLW conducted its meetings and work entirely during the COVID-19 pandemic. The stress and hardship caused by the pandemic intensified many of the stressors that the TFWLW members were already prepared to recognize and discuss. The TFWLW wishes to acknowledge the immense professional and personal turmoil experienced by everyone in the legal community, including lawyers, judges, support staff, and clientele, during the COVID-19 pandemic. The TFWLW feels that during these extraordinary times, it is more critical than ever to focus on improving well-being.

Various studies have captured some of the ways that the COVID-19 pandemic has brought lawyer well-being concerns into greater focus, and how it has affected lawyer well-being. For instance:

A recent ABA study, *Practicing Law in the Pandemic and Moving Forward*, disclosed that most of the lawyers surveyed do not want to return to the workplace policies that existed pre-pandemic. They are not thrilled with the five-day workweek in the office, and they understand that flexible schedules and working remotely do not diminish their work product. Those surveyed also attach increased importance to comprehensive sick and family leave policies, and they want greater emphasis on personal and professional well-being in the workplace. Simply stated, lawyers have survived the onslaught of the pandemic and their values have been redefined by it.⁷⁴

Another study conducted by the RAND Corporation and published in September 2020 suggests that the overall frequency of alcohol consumption by Americans increased by 14% since before the start of the pandemic, especially among women, whose heavy drinking episodes increased by 41% compared to 2019.⁷⁵ As the Harvard Law School Center on the Legal Profession summarized:

... COVID-19 has brought wellness debates to the forefront and, indeed, underscores the multidimensional nature of well-being itself. What are the interpersonal impacts of social distancing? How are communities maintaining bonds when gatherings are prohibited? How are colleagues, many working from home, working together, and how has the nature of their work changed? What are the psychological impacts of all this disruption and segmentation? What are the physical impacts, of both the virus and children who are not in school? And what about the millions of individuals who are losing income as businesses close? Questions like these drive to the heart of the interrelated nature of wellness debates—and the need for holistic understandings and interventions.⁷⁶

For more information on the effects of COVID-19 on the legal community see:

- Stephanie A. Scharf & Roberta D. Liebenberg, *Practicing Law in the Pandemic and Moving Forward: Results and Best Practices from a Nationwide Survey of the Legal Profession*, A.B.A. (2021), <https://www.americanbar.org/content/dam/aba/administrative/digital-engagement/practice-forward/practice-forward-survey.pdf>.
- *Recommendations for Legal Workplaces Post-Pandemic: A Statement by the Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being* (June 4, 2021), <https://static1.squarespace.com/static/5e6d105ff4b7d15cf766c1e1/t/60ba3b5fb-c40523aa8aa1aa9/1622817631652/Recommendations+for+Legal+Workplaces+Post-Pandemic+-28June+3%2C+2021%29.pdf>.
- Julia Bainbridge, *Reimagine Your Relationship to Alcohol*, N.Y. Times, Jan. 15, 2021, <https://www.nytimes.com/2021/01/15/well/alcoholism-pandemic-dry-january.html>.

⁷⁴ Susan Smith Blakely, *How to Handle Tough Conversations on Whether to Return to the Office*, A.B.A., May 26, 2021, <https://www.americanbar.org/groups/journal/articles/2021/how-to-handle-tough-conversations-on-whether-to-return-to-the-office/>.

⁷⁵ News Release, RAND Corp., *Alcohol Consumption Rises Sharply During Pandemic Shutdown; Heavy Drinking by Women Rises 41%* (Sept. 29, 2020), <https://www.rand.org/news/press/2020/09/29.html>.

⁷⁶ *Piecing It Together: How Organizations Can Begin to Conceptualize Well-Being*, The Practice, Mar./Apr. 2020, <https://thepractice.law.harvard.edu/article/piecing-it-together/>.

APPENDIX K: ABA Well-Being Pledge Campaign

In September 2018, the ABA Working Group to Advance Well-Being in the Legal Profession launched a pledge campaign for legal employers “to raise awareness, facilitate a reduction in the incidence of problematic substance-use and mental health distress and improve lawyer well-being.”⁷⁷

The pledge is as follows:

Recognizing that high levels of problematic substance use and mental health distress present a significant challenge for the legal profession, and acknowledging that more can and should be done to improve the health and well-being of lawyers, we the attorneys of _____ hereby pledge our support for this innovative campaign and will work to adopt and prioritize its seven-point framework for building a better future.⁷⁸

The seven-point framework includes these points:

1. Provide enhanced and robust education to attorneys and staff on topics related to well-being, mental health, and substance use disorders.
2. Disrupt the status quo of drinking based events: challenge the expectation that all events include alcohol; seek creative alternatives; ensure there are always appealing non-alcoholic alternatives when alcohol is served.
3. Develop visible partnerships with outside resources committed to reducing substance use disorders and mental health distress in the profession: healthcare insurers, lawyer assistance programs, EAPs, and experts in the field.
4. Provide confidential access to addiction and mental health experts and resources, including free, in-house, self-assessment tools.
5. Develop proactive policies and protocols to support assessment and treatment of substance use and mental health problems, including a defined back-to-work policy following treatment.
6. Actively and consistently demonstrate that help-seeking and self-care are core cultural values, by regularly supporting programs to improve physical, mental and emotional well-being.
7. Highlight the adoption of this well-being framework to attract and retain the best lawyers and staff.⁷⁹

⁷⁷ Press Release, A.B.A., *ABA Launches Pledge Campaign to Improve Mental Health and Well-Being of Lawyers* (Sept. 10, 2018), <https://www.americanbar.org/news/abanews/aba-news-archives/2018/09/aba-launches-pledge-campaign-to-improve-mental-health-and-well-b/>.

⁷⁸ A.B.A. Commission on Lawyer Assistance Programs PowerPoint Presentation About the A.B.A. Well-Being Campaign and Pledge, https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/lc_colap_working_group_pledge_and_campaign.pdf.

⁷⁹ *Id.*

APPENDIX L: Full List of TFWLW Recommendations

As the Task Force on Wisconsin Lawyer Well-Being (TFWLW) concludes its efforts of the past year, it respectfully makes the following recommendations, which represent practical and tangible ways to effect positive, powerful change. The recommendations listed here are explained more fully in the body of the TFWLW's full report.

Recommendations of the All Stakeholders Subcommittee

General Recommendations

1. Establish education about the importance of lawyer well-being and the availability of well-being resources.
2. Advocate for the prioritization of well-being issues.
3. Fight stigmas.
4. Normalize mental health issues that affect the legal profession, including anxiety, depression, burnout, vulnerability, fear, and compassion fatigue, and promote an understanding that lawyers can still effectively practice law despite these issues.
5. Increase the focus on systemic and organizational actions to improve the overall culture of the legal profession in Wisconsin.
6. Develop a proactive approach, rather than a reactive one, toward improving lawyer well-being.
7. Address the entrenched social and cultural norms surrounding alcohol use, both in the legal profession, in general, and in Wisconsin, in particular. To this end, the TFWLW recommends the following measures:
 - a. Educate firms on how alcohol abuse can increase errors and cost firms money.
 - b. Encourage lawyers and employers to re-consider personal and institutional relationships with alcohol.
 - c. Explore the rise of the sober-curious movement, possibly creating an affinity group to inform and build community around the movement.
 - d. Create a well-being portal to share lived experiences of those with sobriety stories, statistics, alternative coping skills, and education.

- e. Consider the following recommendations: provide cash bars in lieu of free alcohol at events, limit free drinks at conferences, reduce the window for serving alcohol during social hours, promote mocktails in lieu of cocktails or other alcoholic beverages, and encourage morning and afternoon meetings as alternatives to evening events so alcohol is less likely to be a focus of events.
 - f. Consider specific recommendations for law schools that are intended to curb alcohol consumption at school-sponsored events, including the following: limit the amount of alcohol at school-sponsored events, provide significant alternatives to alcohol, and encourage events at which alcohol is not the primary focus.
8. Guide and support the transitions of older lawyers.
 9. Begin a dialogue about suicide prevention.

Recommendations for Immediate Consideration

1. The State Bar of Wisconsin should establish an implementation oversight team and designate bar members to serve that team. The team should:
 - a. Prioritize TFWLW recommendations and identify stakeholders who can assist with implementation of those recommendations.
 - b. Detail implementation steps, develop action plans, and assist with messaging and communication strategies.
 - c. Maintain an ongoing awareness of the need to prioritize well-being.
 - d. Assist with oversight and provide status reports to State Bar leadership and other interested parties.
 - e. Continue to identify “whether the crisis among lawyers reflects more broadly a crisis of the legal profession and, if so, how definite trends in the profession itself may be harming the ideals of the profession and identity of the professional.”
2. Create three well-being information portals or websites to serve as repositories for well-being information.

- a. The first portal or website should be geared to the needs of lawyers, the second should emphasize the needs of judges and the judiciary, and the third should emphasize well-being through a diversity, equity, and inclusion lens.
 - b. Information available through the well-being portal or website should include:
 - i. General mental health resources, such as fact sheets and toolkits.
 - ii. Information about support groups and helplines.
 - iii. Popular and scholarly articles of interest.
 - iv. Information about stress management, distress tolerance, and development of coping skills.
 - v. Information on nutrition and physical fitness.
 - c. The lawyer well-being information portal or website could be accessed through the State Bar of Wisconsin website. The judicial well-being information portal or website could be supported through the Office of State Courts. The proposed implementation oversight team, after further assessment, should make recommendations as to the preferred approach to establish these portals or websites.
3. Emphasize the importance of mentorship in supporting well-being.
- a. Establish the means by which legal professionals can access the help they seek and get matched with an appropriate mentor or coach.
 - b. Define the roles of coaches and mentors.
 - c. Find ways to recruit mentors and coaches.
 - d. Determine the effectiveness of the State Bar of Wisconsin's lawyer-to-lawyer mentoring program "Ready. Set. Practice."
 - e. Encourage the use of other mentoring programs, such as those offered by county bar services, affinity bars, specialty bars, and the National Alliance on Mental Illness (NAMI), as well as the State Bar of Wisconsin's mentoring programs and private mentoring options. Increase awareness of these options through various means. Determine whether these options are sufficient to meet lawyers' current needs and whether these options are inclusive of lawyers from all backgrounds and income levels.
4. Continue the ongoing and evolving conversation about how to create and maintain a culture of lawyer well-being in Wisconsin under the direction of the proposed implementation oversight team, to include:
- a. Commitment to increasing civility and education about the difference between zealous advocacy and hostility.
 - b. Application of recognized well-being and civility principles.
 - c. Training, raising awareness, and providing education and resources.
 - d. Promote civility in the legal workplace and add a civility expectation to the Rules of Professional Conduct for Attorneys.
 - e. The proposed implementation oversight team should explore what may be the cause of declining civility.
5. Design all well-being initiatives with a focus on how diversity and inclusion might be impacted.
6. Support a lawyer well-being index to measure the profession's progress.
7. Establish a pilot program with a larger law firm that agrees to champion well-being concepts.
8. Ensure that lawyers have access to the available tools that will allow them to succeed in the legal profession in Wisconsin.
9. The proposed implementation oversight team must consider the particular needs of solo and small-firm practitioners.
10. Any full-day program or conference where continuing legal education (CLE) credits are offered should include a lawyer awareness and understanding (LAU) credit.

Recommendations of the Judicial Subcommittee

1. Implement a revitalized Judicial Assistance Program.
2. Create a written policy for assisting judges, and train judges to help others with well-being related issues.
3. Develop a model rule on judicial well-being.
4. Establish support to make it easier for judges to take leave for whatever reason they need to do so, especially in counties with only one judge.
5. Include those providing services to the courts, including the Director of State Courts and the Office of Judicial Education, in planning efforts and discussions for implementing judicial well-being initiatives and training.
6. Develop an online portal or website devoted to judicial well-being and make it a part of the Wisconsin Supreme Court website.
7. Include training and education on well-being issues at all judicial education sessions.
8. Establish procedures to help lawyers and judges recognize signs of possible impairment in themselves and others. Develop procedures for addressing suspicions of possible impairment in others. A procedure for referring or requesting intervention on behalf of a member of the judiciary should be formalized statewide with particular attention paid to procedures in less-populated districts. Efforts should be made to make appropriate referral procedures known to all those in positions to observe concerning behaviors, including fellow members of the judiciary, attorneys, litigants, family members, and jurors.
9. Develop a specific and confidential procedure for handling issues with judges who are facing well-being concerns.
10. Measure the health of the judiciary.
11. Publicize existing available resources.
12. Enhance the relationship between WisLAP and members of the judiciary, and institutionalize WisLAP training for members of the judiciary.
13. Aspirational language regarding judicial well-being should be put into the Wisconsin Supreme Court Rules.

Recommendations of the Regulators Subcommittee

1. Take actions to meaningfully communicate to legal professionals that well-being is a priority.
2. Adopt regulatory objectives that prioritize lawyer well-being.
3. Modify the Rules of Professional Conduct for Attorneys to endorse well-being as part of a lawyers' duty of competence.
4. Expand CLE requirements to include education on well-being topics.
5. Require law schools, as an accreditation requirement, to create well-being education for students.
6. Adjust the admissions process to support law student well-being.
7. Reevaluate bar application inquiries concerning individuals' mental health histories.
8. Adopt essential eligibility admission requirements.
9. Adopt a rule for conditional admission to practice law in Wisconsin under specific requirements and conditions.
10. Publish data reflecting the low rate of denied bar admissions due to mental health disorders and substance abuse.
11. Adjust lawyer regulations to support well-being.
12. Implement proactive management-based programs (PMBPs) that include lawyer well-being components.
13. Adopt a centralized grievance-intake system to promptly identify well-being concerns.
14. Modify confidentiality rules to allow one-way sharing of lawyer well-being information from regulators to lawyer assistance programs (LAPs).
15. Adopt diversion programs and other alternatives to discipline that have been proven to be successful in promoting well-being.

Recommendations of the Law Schools Subcommittee

1. Provide students and faculty with information and services that contribute to well-being. Specifically:
 - a. Ensure that students can easily access information, resources, and services related to substance abuse and counseling with minimal obstacles.

- b. Train student leaders to guide peers in need of assistance to appropriate resources.
 - c. Encourage well-being related instruction throughout the legal curriculum, including during student orientations, throughout professional responsibility and ethics courses, and in other courses as appropriate.
 - d. Provide opportunities for students to engage in well-being focused fellowship and mentorship with practicing attorneys and members of the judiciary.
 - e. Provide law school faculty and staff with educational opportunities and resources on common mental health and well-being issues, and recognize the impact of stress on both faculty and students.
 - f. Emphasize the impact of tracking student attendance and reaching out to potentially at-risk students, and provide models for responding to students who exhibit concerning behaviors or signals.
 - g. Provide resources for faculty members to explore and implement formative assessments in their courses.
2. Develop a culture in which all who are associated with the law school accept responsibility for student well-being. Specifically:
 - a. Increase opportunities for student self-determination and autonomy during law school.
 - b. Curb alcohol consumption at school-sponsored events by limiting the amount of alcohol available at those events, providing significant alternatives to alcohol if alcohol is available, and encouraging events at which alcohol is not the primary focus.
 3. In collaboration with legal professionals and employers, and taking advantage of the willingness of the Office of Lawyer Regulation (OLR) to assist, provide targeted career and academic advising and programming to mitigate student catastrophizing over grades and career opportunities. In addition, demystify the character and fitness application process through collaborative programming hosted by the law schools and the Board of Bar Examiners (BBE).

4. Continue to monitor and adjust to emerging best practices in the area of well-being, periodically revising well-being guidelines.

Recommendations of the Making-the-Business-Case Subcommittee

1. The State Bar of Wisconsin should consider creating a well-being committee, either within WisLAP or within the larger organization, to pursue further discussion and implementation of the TFWLW's recommendations.
2. The State Bar should consider a climate survey of all its members and Wisconsin law students to gather data on the current state of and attitude toward lawyer well-being.
3. The State Bar should create a well-being portal.
4. The State Bar should consider the creation of a task-force to address the student loan debt crisis.
5. The State Bar should add a well-being component to its existing mentorship programs.
6. In lieu of mandatory well-being CLE, the State Bar should:
 - a. Ensure that members understand the connection between well-being and ethical and competence obligations.
 - b. Encourage CLE programming that incorporates lawyer well-being topics, with a particular focus on incorporating well-being topics into ethics programming.
 - c. Encourage State Bar sections and divisions to support well-being programming and to incentivize participation in that programming.
 - d. Encourage participation from the State Bar, law firms, and State Bar sections and divisions in a lawyer well-being week.
 - e. Increase well-being programming (and access to qualified presenters), and expand outreach and marketing efforts for well-being programs. In particular, the State Bar should increase promotion of LAU credits and programming. The State Bar should also consider increasing the maximum number of LAU credits that a lawyer can report during each reporting period.

- f. Consider asking the BBE to broaden its definition of “well-being” as it relates to CLE requirements and to acknowledge the connection between competence and well-being.
7. The State Bar should address the impact of the billable hour on well-being. The issues to address should include:
 - a. Studying the impact of the billable hour on lawyer well-being and providing data regarding the Wisconsin experience.
 - b. Interviewing practitioners from all types of firms and practices on how the billable hour is used to evaluate the success of individual lawyers.
 - c. Survey the State Bar’s Young Lawyers Division for information on how the billable hour impacts young lawyers.
 - d. Create and provide educational materials on the topics of billable hours and alternatives to the use of billable hours.
 - e. Develop marketing and presentation strategies to present findings on how to address issues related to billable hours to all State Bar members.
 - f. Contemplate recommended alternative approaches for practitioners to consider in lieu of using billable hours.
 8. Identify specific areas of firm culture that contribute to burnout and stress and provide resources to improve lawyer well-being.

Recommendations of the Bar Association and Lawyer Assistance Program Subcommittee

1. The State Bar of Wisconsin should continue to prioritize health and well-being through all available channels, including but not limited to: social media, marketing, communications, and programming at conferences.
2. The State Bar should facilitate or continue to facilitate initiatives that support the following: mentorship; diversity, inclusion, and equity; assistance for rural lawyers; and legislation to ameliorate the student loan debt crisis. The State Bar should also continue its other existing or planned initiatives that support lawyer well-being.
3. The State Bar should revise its Guiding Principles to

add support for well-being initiatives.

4. Physical health and exercise:
 - a. The State Bar and WisLAP should include additional information about potential physical health problems in assessments of the overall occupational risks of being a lawyer.
 - b. Facilitate support for and connection among lawyers who are interested in physical health and fitness (e.g., affinity groups for different hobbies such as running, cycling, etc.).
 - c. Enlist local bar associations and affinity bars to help develop physical fitness campaigns among their members.
 - d. The State Bar should partner with local health organizations, programs, and services to obtain discounted health-related services for lawyers.
5. The State Bar should establish an implementation oversight team, similar in scope to the TFWLW, with subcommittees for each of the principal areas discussed in this report.
6. Consider creating a well-being committee.
7. Recommendations for WisLAP:
 - a. The State Bar should continue to prioritize and fund WisLAP within available resource limits.
 - b. The State Bar should issue a statement in support of WisLAP’s continued collaboration with non-State Bar agencies to advance well-being initiatives.
 - c. As resources permit, WisLAP can assist with the development of the proposed well-being portals, which will house an expanded collection of available resources (e.g., lists of local practitioners, resources that are culturally specific, etc.) on the State Bar website or another portal for State Bar members who do not want to contact WisLAP directly but need support and resources.
 - d. WisLAP should continue to recruit diverse volunteers (with consideration to factors such as race, ethnicity, culture, geographic location, and practice area) to expand its volunteer roster.
 - e. The State Bar should support changes to the Wisconsin Supreme Court Rules to incorporate aspirational well-being measures intended to

increase civility in and the fitness of the bar.

- f. WisLAP would benefit from an education and outreach coordinator, with a job description to include:
 - i. Coordinating with private entities, state agencies, and others to develop and promote educational content and programs for judges, law students, and legal professionals regarding general health and well-being initiatives and substance use and mental health disorders.
 - ii. Helping to coordinate, produce, and execute programming on topics and issues that are specific to certain groups and organizations of lawyers, and developing a mechanism to take proposal requests from lawyers (as to interests, needs, and CLE topics).
- g. Implicit bias training could be done in conjunction with other State Bar programming and should not be exclusively the responsibility of WisLAP.

Recommendations of the Diversity and Inclusion Subcommittee

1. Create a diversity, equity, and inclusion (DEI) well-being committee with goals as follows:
 - a. Work in association with the State Bar of Wisconsin's Diversity and Inclusion Oversight Committee.
 - b. Administer well-being tools to legal organizations, shareholders, firm administrators, managers, managing partners, executives, and others.
 - c. Provide oversight, implementation, and expansion of the recommendations of this Diversity and Inclusion Subcommittee.
 - d. Establish best practices for organizational infrastructure for law firms to replicate, create, and promote DEI well-being. Include standards, incentives, and avenues for giving feedback on well-being efforts. Emphasize a service-centered mission.
 - e. Develop strategies to enable a multi-pronged well-being effort that will both educate the shareholders of the profession and support the needs of those affected.

- f. Create best practices and model examples for policies and practices to support lawyer well-being with standards, aligned incentives, and avenues for giving feedback.
2. Recognize and acknowledge that there are challenges and stressors that uniquely affect the well-being of diverse lawyers and law students, in addition to those that generally arise within the profession and during the practice of law.
 - a. Encourage regulators to establish policies and practices that regularly monitor the systemic policing practices that impact admission to the bar and discipline of attorneys.
 - b. Investigate organizational practices that may contribute to the problems law students and attorneys are facing.
 - c. Encourage training on implicit bias, disability, and equity.
 - d. Educate institutions and employers about how to recognize signs of stress, and foster the creation of a professional culture and workplace environments that minimize barriers to maintaining lawyer and law student well-being.
 - e. Acknowledge the need for and assess how to make durable structural changes to the profession to support participants of different backgrounds and abilities.
 3. Create a DEI well-being web portal with access to resources and platforms such as:
 - a. Mentoring program resources.
 - b. Annual Wisconsin well-being index reports.
 - c. A glossary of terms.
 - d. Inclusion narratives.
 - e. A document library or database containing samples of policies, leadership plans, and well-being education.
 - f. A leadership program database for legal organizations to access for aid in creating a culture of relationship-building as opposed to an adversarial workplace environment.
 - g. A list of outside business partners or vendors to assist legal organizations in developing values

- that focus on well-being and communicating the means by which to achieve well-being.
- h. Tools for DEI well-being education and implicit bias and equity training.
 - i. Forums or communities for idea sharing on activities to encourage lawyer well-being.
 - j. A directory of healthcare professionals, including healthcare professionals of diverse backgrounds.
 - k. Contact information for well-being support institutions such as the Institute for Well-Being in Law and WisLAP.
4. Encourage and provide training and education on well-being topics that frequently affect attorneys from diverse backgrounds. This could include the following:
 - a. Educating legal organizations on how to create and implement policies and best practices to encourage development of an equitable culture for DEI well-being.
 - b. Educating employers, shareholders, and legal organizations on how to recognize, provide support for, and accommodate employees struggling to maintain appropriate boundaries with regard to work addiction and self-care, for any reason.
 - c. Encouraging law school DEI training for students, faculty, and staff.
 - d. Working with the BBE to implement DEI CLE requirements.
 - e. Providing well-being education for diverse attorney communities.
 - f. Coordinating education programs with WisLAP and affinity bar associations.
 - g. Providing well-being education and a guide to resources for new lawyers on issues such as how to combat social isolation and promote interconnectivity.
 5. Bolster resources available within WisLAP to meet DEI needs. Specifically and additionally:
 - a. Assure that any WisLAP program manager has an understanding of the legal profession, experience addressing diversity and inclusion equity, and training in mental health concerns, substance use disorders, and well-being issues for professionals.
 - b. WisLAP and the proposed DEI well-being committee should jointly create well-being kits for employers and new hires that include guidance on potential well-being issues and on where to find other well-being resources.
 - c. Conduct and make accessible an annual well-being index of the State Bar's membership that measures the profession's progress on well-being issues. Collect data when lawyer impairment is a contributing factor to law student or attorney discipline and/or to Wisconsin Lawyers' Fund for Client Protection claims.
 - i. Work in conjunction with lawyers' professional liability insurance carriers on tracking when substance abuse, stress, depression, or mental health is suspected to be a contributing factor to an underlying claim.
 - ii. Sponsor empirical research on lawyer well-being as part of the annual well-being index reports.
 6. Create a more defined reporting system and support network for lawyers to access when mental health issues have arisen and conversations with employers about those issues have proven unproductive.
 - a. Appoint a staff person within the State Bar or WisLAP as the point of contact for this system or determine appropriate personnel or volunteers to begin crafting and implementing this system.
 - b. Gauge interest in subject-specific support groups, such as groups for issues surrounding race, gender and sexuality, mental health, substance use disorder, depression, ADHD, etc.
 - c. Provide guidance and access to outside resources on how to engage employers in discussions about seeking accommodations in the workplace.

APPENDIX M: The Six Dimensions of Wellness

There are many ways to achieve a state of personal well-being. One suggestion for enhancing “wellness” comes, verbatim, from *A Profession at Risk: Report of the Committee on Lawyer Well-Being of the Supreme Court of Virginia*.⁸⁰

THE SIX DIMENSIONS OF WELLNESS

Wellness is commonly viewed as having six dimensions. Each dimension contributes to our own sense of wellness or quality of life, and each affects and overlaps the others. At times one may be more prominent than others, but neglect of any one dimension for any length of time has adverse effects on overall health.

Social Wellness is the ability to relate to and connect with other people in our world.

1. I am able to resolve conflicts in all areas of my life.
2. I am aware of the feelings of others and can respond appropriately.
3. I have at least three people with whom I have a close trusting relationship.
4. I am aware of and able to set and respect my own and others boundaries.
5. I have a sense of belonging/not being isolated.
6. I have satisfying social interaction with others.

Physical Wellness: involves implementing regular physical activity, maintaining a healthy diet, and rejuvenating our bodies through rest and sleep - all things that protect us from chronic diseases and improve our quality of life.

7. I exercise at least 3 times per week.
8. I eat a balanced nutritional diet.
9. I am generally free from illness.
10. I am a reasonable weight for my height.
11. I do not use alcohol or use in moderation, am a non-smoker, and avoid street drugs
12. I take proactive steps to avoid and prevent injury, illness and disease (including sexually transmitted diseases).

Emotional Wellness is the ability to manage emotions, have a realistic and mostly positive view of ourselves, others, and the circumstances in our lives.

13. Others would describe me as emotionally stable.
14. I can express all ranges of feelings including hurt, sadness, fear, anger, and joy and manage related behaviors in a healthy way.
15. I accept and appreciate my worth as a human being.
16. I manage stress and do some activity that elicits the “relaxation response” for at least 15 minutes each day.
17. I avoid blaming other people or situations for my feelings and behaviors.

⁸⁰ Va. Sup. Ct., *A Profession at Risk: Report of the Committee on Lawyer Well-Being of the Supreme Court of Virginia* (2018) app. ex. 2, https://www.vacourts.gov/programs/concluded/clw/2018_0921_final_report.pdf.

18. I can realistically assess my limitations and cope effectively with stress and ego.

Occupational Wellness is the ability to get personal fulfillment from our jobs or our chosen career fields while still maintaining balance in our lives. Being financially secure also contributes to occupational wellness.

19. I have chosen a job role that I enjoy and that matches my values and lifestyle.

20. I have developed marketable job skills and keep them current.

21. I balance work with play and other aspects of my life.

22. I earn enough money to meet my needs and save to provide economic stability for myself and/or family.

23. I use money positively, e.g., little or no gambling or excessive massing of goods.

24. My work benefits individuals and or society.

Intellectual Wellness involves a commitment to lifelong learning. We nurture our intellectual health when we engage in creative activities, learn new things, and expand our knowledge.

25. I have specific intellectual goals, e.g., learning a new skill, a specific major.

26. I pursue mentally stimulating interests or hobbies.

27. I am generally satisfied with my education plan/vocation.

28. I appreciate and explore the creative arts of theatre, dance, music and expressive art.

29. I commit time and energy to professional and self-development.

30. I would describe myself as a lifelong learner.

Spiritual Wellness is the ability to establish peace and harmony in our lives. It involves learning to be more forgiving, grateful, and compassionate, to be kinder and less judgmental.

31. Principles/ethics/morals provide guides for my life.

32. I trust others and am able to forgive others and myself and let go.

33. I have a sense of meaning and purpose in my life.

34. I have faith in a higher power.

35. I practice meditation, pray, or engage in some type of growth practice.

36. I have a general sense of serenity.



A report by:

