



# What Legal Professionals Ask About Accessing Mental Health Care

**In this Q&A between WisLAP staff and a WisLAP Committee member, the authors explore some of the questions legal professionals ask about accessing mental health care.**

JESSA L. VICTOR & AMBER AULT

Lawyers, judges, and law students regularly experience anxiety, depression, relationship issues, suicidal thoughts, posttraumatic stress disorder (PTSD), ADHD, moral injury, burnout, and a range of other concerns that can be addressed with competent care. Unfortunately, legal professionals often avoid seeking help that could alleviate their suffering. Some leave the law because of their suffering, rather than seeking assistance; the uncertainty, fear, shame, self-judgment, and stigma around the mental health issues caused by stress, trauma, and overwork become a barrier to addressing the issues directly.

When lawyers do desire help, they may be unaware of resources and strategies available to lawyers who need and deserve relief, support, and balance in their practice. They often also fear that consulting a therapist or entering treatment will compromise their careers and reputations.

The State Bar of Wisconsin's Wisconsin Lawyers Assistance Program (WisLAP) holds the view that lawyers, in exercising their ethical duty to vigorously represent clients, must develop strategies for protecting their own mental health and well-being. When the mental health of attorneys and judges is compromised, they face greater challenges in delivering high-quality representation and rulings. In this article, structured as a Q&A, WisLAP manager Amber Ault and WisLAP Committee member Jessa Victor, a partner at Hawks Quindel, explore some of the questions legal professionals ask about accessing mental health care. See below to learn more about mental health and substance use care for lawyers and judges.

**WisLAP:** Sometimes, lawyers avoid seeking help for mental health or substance use concerns because they are uncertain if they must report this kind of care to the Office of Lawyer Regulation (OLR) or their employers. How valid is that concern?

**Member:** In most circumstances, there is no duty on the part of the lawyer to report mental health or substance use treatment to the OLR or their employers. The only potential exception arises when a lawyer's condition results in attorney conduct that violates the ethics rules (for example, neglect of a client matter, dishonesty, misappropriation of funds, and so on).



Receiving treatment, especially voluntarily and proactively, is almost always viewed positively as a demonstration of responsibility, not as a liability. This is precisely why programs like WisLAP exist – to offer help before a crisis jeopardizes a lawyer's license, career, or client responsibilities.

**WisLAP:** Many lawyers worry about protecting the confidentiality of their clients while seeking help for themselves in therapy as a result of traumatic exposure in their professional experience. What do lawyers need to know about the lines between which information can be disclosed and which must be kept confidential?

**Member:** Lawyers have a duty of confidentiality under SCR 20:1.6 (Wisconsin's version of ABA Model Rule 1.6), which prohibits revealing "information relating to the representation of a client" without the client's informed consent, unless an exception applies. This duty extends beyond formal attorney-client privilege and covers nearly all information gained during representation. Moreover, this duty applies even in situations in which lawyer communications with a third party are confidential, such as during therapy. That said, lawyers can still seek professional help for themselves. While lawyers can discuss

their emotional reactions and experiences related to work, it's essential to do so in a way that does not compromise client confidentiality or privilege by divulging client-identifiable facts. For example, it is acceptable for lawyers to talk with their therapists about how a case is affecting them emotionally, the impact of chronic secondary exposure to trauma or injustice, and the fact that they work with traumatic subject matter or difficult clients.

**WisLAP:** A major concern among many legal professionals is that if they disclose some kind of struggle to a mental health therapist or physician or start to take a medication designed to alleviate depression, anxiety, or ADHD symptoms, the "word will get out" to someone who could harm their careers. What should Wisconsin lawyers know about this?

**Member:** In Wisconsin (as in all U.S. states), federal and state laws protect the confidentiality of medical and mental health records, including whether a person is receiving treatment or taking medications. This means that unless you explicitly authorize it in writing, your mental health provider cannot disclose your diagnosis, treatment, or medications to your employer, the Wisconsin OLR, or anyone else.

**WisLAP:** Many lawyers are not aware that they can seek accommodations in their workplaces, including court systems, under the terms of the Americans with Disabilities Act (ADA). What kinds of workplace accommodations might benefit lawyers struggling with ADHD, depression, anxiety, or PTSD?

**Member:** Seeking accommodations is your right, not a favor on the part of your employer – and doing so can prevent career burnout, disciplinary issues, and ethical problems that arise when unmanaged mental health struggles impact work. Under the ADA, accommodations must be reasonable and should not pose an undue hardship on the employer. They are tailored to the individual and

the individual's specific job duties, so for lawyers, accommodations can include adjustments in case management, scheduling, communication practices, workspace environment, and court-related activities. Examples may include flexible scheduling, breaks during depositions or lengthy court proceedings, access to a private or low-distraction work environment, reduced volume of triggering case work, implementing trigger warnings, and so on. In firms that have a more robust team of administrative staff, a lawyer might seek, as an accommodation, the assistance of a paralegal or legal assistant with certain case management tasks.

**WisLAP:** We often encourage lawyers to have candid conversations with their therapists about treatment and medical records and diagnostic categories. What other strategies can legal professionals use when in treatment or therapy to protect their privacy to the greatest degree possible?

**Member:** Beyond the legal and ethical protections already in place (for example, HIPAA), there are very practical, proactive strategies legal professionals can use when engaging in therapy to protect their privacy while still getting meaningful care.

You might want to ask your therapist to minimize details, limit use of diagnostic labels, or exclude job-specific identifiers in their records. If financially possible, you might also consider private pay for therapy; this offers greater confidentiality by avoiding the need for diagnostic codes or records to be shared with an employer's insurer.

Taking advantage of telemedicine therapy might offer added privacy because you can attend therapy sessions from a secure, private office, home, or other controlled space and thereby avoid being seen publicly entering a therapist's office.

It's important to know that while talk therapy often proves beneficial for a wide range of mental health concerns,



VICTOR

**Jessa L. Victor**, U.W. 2016, is a shareholder at Hawks Quindel S.C., Madison, and a member of the firm's disability and employee benefit practice. She is a member of the State Bar of Wisconsin's Wisconsin Lawyers Assistance Program Committee and Young Lawyers Division.

[jvictor@hq-law.com](mailto:jvictor@hq-law.com)



AULT

**Amber Ault**, Ph.D., MSW, manages the Wisconsin Lawyers Assistance Program (WisLAP), which offers confidential well-being support to the legal community. Access the digital article at [www.wisbar.org/wl](http://www.wisbar.org/wl).

[aault@wisbar.org](mailto:aault@wisbar.org)



not all therapies focus on talking about the experiences that brought on the symptoms. For example, eye movement desensitization and reprocessing (EMDR) – a trauma treatment long used to alleviate posttraumatic stress symptoms in first responders, veterans, and assault and accident survivors – can be conducted without extended discussion of the client's traumatic experience. Other modalities, such as equine gestalt therapy and art therapy, allow lawyers to experience relief without engaging in a conventional clinical talk therapy process. WisLAP staff can work with lawyers to explore a range of options for symptom reduction and healing tailored to the person's needs and comfort levels.

**WisLAP:** Some lawyers know they need support and want to work with a counselor but also withhold information in therapy from fear of eventual exposure of their confidential, HIPAA-protected conversations. What would you say about that strategy, both legally and from a recovery mindset?

**Member:** Legally, those fears are largely misplaced because licensed mental health providers are bound by strict confidentiality laws, and disclosures are limited to narrow, well-defined exceptions such as imminent risk of harm. Moreover, from a recovery mindset, withholding crucial thoughts or experiences undermines the very purpose of therapy. Healing, resilience, and effective coping come from honest, unfiltered conversations in a space designed to be judgment-free and secure. Lawyers who cautiously edit themselves in therapy risk prolonging their distress and missing opportunities to fully address the deeper impacts of trauma, anxiety, or burnout.

**WisLAP:** How do you advise lawyers struggling with mental health or substance concerns to discuss their needs with people in their workplaces (human resources (HR), partners, support staff, and others)?

**Member:** Under the ADA and equivalent Wisconsin laws, lawyers have a right to request reasonable accommodations for health-related needs without being forced to disclose a specific diagnosis.

When you do decide to speak with a partner or someone in HR, you should 1) focus on how the issue affects your ability to work sustainably (if applicable); 2) emphasize your proactive steps to manage the issue (therapy, medical care, support groups, and so on); and 3) suggest concrete, temporary accommodations that could be helpful in allowing you to work more sustainably (adjusted deadlines, remote work, modified caseload, or a brief leave of absence). You should also be prepared to provide medical support for the requested accommodation, such as a letter from your treatment provider.

**WisLAP:** Often, when lawyers recognize that they must step back from practicing temporarily for an emotional health reason, they fight doing so because they hate the idea of harming clients by withdrawing from cases. They can be uncertain about how much information to share with judges when they decide they must withdraw for personal reasons. What guidance do you offer lawyers in such situations?

**Member:** The instinct to stay in a case out of duty to clients despite being emotionally unwell is understandable, but ultimately, a lawyer in this position is at far greater risk of unintentionally harming the client. If you recognize that you cannot continue to ethically or effectively represent a client, it's your duty to withdraw as counsel. Remember that stepping back is a sign of professional intelligence and responsibility, not of failure.

When it comes time to notify the court, judges generally do not require or expect detailed disclosures of personal health matters in motions to withdraw. It is entirely appropriate to cite "personal reasons affecting counsel's ability to continue representation" or "health

reasons requiring temporary leave from practice" without elaborating. Judges, especially in Wisconsin, are increasingly sensitive to lawyer well-being and typically respect such requests, especially when client protection measures are in place.

Democracy depends on the work of lawyers, judges, and other legal professionals. In the exercise of their duties, lawyers and judges and other legal professionals require emotional balance, good judgment, and the capacity for humanity in their interactions with others. Unfortunately, this work often subjects people to levels of trauma and moral injury that make anxiety, depression, substance abuse, and ADHD symptoms worse, or induces emotional distress and burnout. These problems can be addressed and symptoms alleviated through competent therapeutic care that allows lawyers and judges to recover from the emotional and moral strain of the work and continue to practice law with dedication and diligence. **WL**

## WisLAP Can Help

[WWW.WISBAR.ORG/WISLAP](http://WWW.WISBAR.ORG/WISLAP)

The Wisconsin Lawyers Assistance Program (WisLAP) offers confidential support to lawyers, judges, law students, and other legal professionals as a benefit of State Bar membership. WisLAP staff can answer questions about mental health and substance use, provide guidance on well-being practices, and match members with attorneys trained in peer support.

**To contact WisLAP staff:**

Call (800) 543-2625 or email [callwislap@wisbar.org](mailto:callwislap@wisbar.org).

**Suicide & Crisis Lifeline: 988.**

Call or text 988 if you or someone you know may be going through a crisis or contemplating suicide. For more information, visit the 988 website at <https://988lifeline.org>.