



Colorado's Stamp on the Lawyer Well-Being Movement

The Colorado Supreme Court Task Force on Lawyer Well-Being

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In November 2021, the Colorado Supreme Court Task Force on Lawyer Well-Being (task force) released its final report, concluding three years of work by a dedicated group of nearly 60 Colorado lawyers, judges, and law students.¹ We are excited to highlight the task force's recommendations and innovations, which aim to improve the well-being of Colorado's legal community.

Worrisome Statistics for the Profession

In recent years, the incidence of stress, depression, anxiety, and substance use disorders in

the legal profession has received considerable attention. Several surveys of lawyers and law students conducted in the last decade have revealed a troubling lack of well-being in our profession.² For example, a national survey of over 3,000 law students released in 2016 found that over one-third of responding students reported experiencing mild, moderate, or severe anxiety.³ Another survey released the same year of over 12,800 lawyers (sponsored by the American Bar Association's Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation) revealed that 61.1% reported having had mental health concerns pertaining

to anxiety.⁴ Further, 45.7% had experienced depression, and 11.5% had experienced suicidal thoughts at some point in their career.⁵ This survey also showed that 20.6% of responding lawyers engaged in "problematic drinking" indicative of possible alcohol dependence based on criteria established by the World Health Organization.⁶

A national survey of judicial officers reported in the *Journal of the Professional Lawyer* in 2020 added to this discussion.⁷ Responding judges identified key sources of stress while serving on the bench, including heavy caseloads, unprepared attorneys, self-represented litigants, and the impact of their decisions.⁸ Judges reported suffering fatigue and low energy, sleep disturbance, and poor concentration.⁹

The troubling data from the lawyer and law student surveys spurred the creation of the National Task Force on Lawyer Well-Being in 2016, which was co-chaired by Colorado's former Attorney Regulation Counsel James Coyle.¹⁰ In 2017, the national task force released a significant report with numerous recommendations for addressing these issues.¹¹ This report also encouraged the formation of state-level task forces to develop initiatives to enhance lawyer well-being at the local level.¹²

The Colorado Task Force on Lawyer Well-Being

The Colorado task force launched its work in September 2018, with Justice Monica Márquez serving as chair.¹³ Its core objective was to explore ways to enhance well-being in the Colorado legal community.¹⁴ The full task force met between September 2018 and February 2020, hearing from a number of experts.¹⁵ The task force formed five committees: the Business Case Committee, the Judicial Committee, the Law Student Committee, the Resources Committee, and the Data Gathering Committee.¹⁶ Each generated its own set of recommendations pertinent to that interest area.

Unlike many state-level task forces around the country, the Colorado task force did not have to start from scratch; it was able to build on existing strong foundations established over the last decade by the Colorado Lawyer Assistance Program (COLAP) and the Colorado Attorney Mentoring Program (CAMP).¹⁷ Both COLAP and CAMP ably serve Colorado lawyers by helping them better navigate the practice of law.¹⁸ The task force was thus able to focus on ways to elevate well-being in the Colorado legal profession to the next level.

Key Themes

As the task force committees explored recommendations, key themes emerged. First, task force members viewed lawyer, judge, and law student well-being as integral to succeeding and thriving in this demanding profession. The task force began to think about lawyer well-being from a “peak performance” perspective, one that encourages lawyers to recognize that well-being practices promoting health, rest, and resiliency are integral to being the best attorneys and judges (and spouses and parents and human beings) we can be, every day.¹⁹

A second key theme that emerged was the need to normalize discussions around well-being. The culture of our legal profession exalts overwork and abhors weakness; the resulting stigma associated with asking for help unfortunately silences and harms too many of our colleagues.²⁰ Our reluctance to take time off because of how others might perceive it, including those in positions of

power, is ultimately counterproductive to peak performance. In short, seeking help and taking needed time off should not be taboo. Relatedly, we need to publicize and promote existing well-being resources available to lawyers, judges, and law students.

Third, the task force recognized and explored the connection between well-being and diversity, equity, and inclusion in the practice of law and on the bench.²¹ We wrote in the *Denver Law Review* in 2019 that “practices that promote well-being tend to foster more inclusive work spaces that are collegial, supportive, and sustaining for lawyers of all backgrounds,” an insight shared by many task force members.²² Several task force recommendations highlight resources and tools for diverse lawyers and law students, and offer suggestions for employers and law schools to create more inclusive environments.

Finally, a key takeaway was that the ongoing pandemic has heightened the urgency of this national and state-level discussion about well-being in the legal profession. When the task force held its final scheduled meeting in early February 2020 and was preparing to release its report, the pandemic had not yet arrived in Colorado. However, rapidly unfolding national and world events had an immediate and dramatic impact on the well-being of the legal community. It quickly became clear that the pandemic was changing the profession, perhaps in permanent ways. On the one hand, it forced legal employers to explore work-from-home solutions that have revolutionized our views about the need to be physically present in an office on a daily basis. At the same time, the pandemic exacerbated existing challenges to well-being, including isolation, disconnection, and anxiety.

The remainder of 2020 also brought widespread social upheaval and racial reckoning that followed George Floyd’s murder. These and other ongoing challenges only underscore the well-being and inclusivity challenges in our society and profession. Confronted with these developments, the task force paused the release of the final report and regrouped to explore the impact of these events. Its committees revisited the recommendations proposed and

updated them to reflect our (still-changing) environment before releasing the final report in November 2021.

Innovations and Recommendations

Although we highlight certain recommendations and innovations here, we encourage readers to download and review the full report at https://www.coloradosupremecourt.com/PDF/AboutUs/WellBeing/Well-Being_Report_Nov2021_Release_Final.pdf.

Business Case Committee and Colorado Supreme Court Recognition Program for Legal Employers Pilot Program

Under the leadership of former CBA President Mark Fogg, the Business Case Committee explored how to engage legal employers in promoting well-being in the legal profession.²³ Looking to the Colorado Supreme Court’s Pro Bono Commitment and Recognition Program as a model,²⁴ this committee proposed a recognition program for Colorado legal employers who take measurable steps toward enhancing the well-being of their employees.²⁵ The committee generated ideas for concrete, specific actions employers could take so that organizations had a starting point.²⁶ The committee also identified six goal areas for these actions:

1. creating a culture of well-being through leadership, accountability, and buy-in;
2. fostering competence by developing and supporting programs on substantive development and mentoring;
3. developing work-life integration and flexible work schedules;
4. promoting diversity, inclusion, and equity to increase organizational success and well-being;
5. assessing compensation metrics to promote well-being; and
6. making clients part of the conversation about well-being.²⁷

To propel this vision, CAMP Executive Director Ryann Peyton led a one-year pilot recognition program beginning in July 2020 to study the feasibility of the concept.²⁸ The 26 participating employers included large and small law firms, solo practitioners, government employers, in-house legal departments, and

nonprofit legal service providers.²⁹ After refining the recommended criteria and steps coming out of the Business Case Committee,³⁰ the pilot program's final report recommended that the Colorado Supreme Court establish a standing program consisting of (1) an annual pledge to well-being for legal employers, (2) a peer-to-peer or group mentoring program to exchange ideas for implementing well-being initiatives, and (3) formal recognition from the Colorado Supreme Court for employers participating in such a program.³¹ In September 2021, the Colorado Supreme Court authorized the creation of an implementation committee to explore the feasibility of creating a statewide recognition program.³² That work will continue through 2022.

Judicial Committee

Under the leadership of Judge Jonathan Shamis and Magistrate Judge Nina Wang, the Judicial Committee envisioned a new website for Colorado judicial officers featuring well-being programs and resources.³³ The Colorado Judicial Well-Being website is now a reality. Although the website focuses on the needs of judicial officers, it is full of resources useful to judicial branch employees, as well as lawyers and law students generally.³⁴ The regularly updated website contains articles and links to information on topics ranging from judicial peer-to-peer coaching, to exercise and nutrition, coping with aging parents, and opportunities for connection. It may be viewed at <https://judicialwellbeing.colorado.gov>.

Another concrete result of the Judicial Committee's work has been the Chief Justice's creation of the Judicial Well-Being (JWB) Standing Committee.³⁵ The JWB Standing Committee has members from each of the state's judicial districts and is charged with creating and maintaining well-being initiatives for Colorado state judicial officers.³⁶ It will ensure that well-being efforts in the state judicial branch continue beyond the sunset of the larger task force, and will include educational programming, retention support, improvements to the senior judge program, among other initiatives.³⁷ The JWB Standing Committee will also complement ongoing efforts to bolster well-being and promote diversity and

inclusion through the state judicial Peer-to-Peer Coaching Program and the Judicial Diversity Outreach Program headed by Sumi Lee.³⁸

Law School Committee

The Law School Committee, chaired by Dr. Debra Austin and Patty Powell, brought together a group of lawyers, law students, and law professors and deans to collaborate on ways to advance well-being at both the University of Colorado Law School and the University of Denver Sturm College of Law.³⁹ The Law School Committee generated a host of permanent recommendations to bolster law student well-being, as well as several specific recommendations for supporting law student well-being during the pandemic.⁴⁰ The permanent recommendations include reserving one class period for a guest lecture by COLAP in each legal ethics or professionalism course curriculum, and incorporating information on well-being resources offered by the law school and university as a part of each course's syllabus.⁴¹ The committee recommended de-emphasizing alcohol at law school social functions.⁴² It also recommended that law schools offer loan repayment counseling and programming, given the extensive challenges student loan debt places on many law graduates.⁴³ Recommendations specific to the pandemic include implementing virtual support groups and expanding student remote counseling options.⁴⁴

The Law School Committee also made several recommendations to support law students from diverse backgrounds, including collaboration with specialty bar associations to develop programming to address issues that adversely impact the well-being of such students.⁴⁵ In a similar vein, the committee recommended unconscious bias training for law students, staff, and faculty, as well as ally training, and called for strong, sustained funding for offices of diversity, equity, and inclusion at both law schools.⁴⁶

Resources Committee

As noted, Colorado's legal community already benefits greatly from the confidential support offered by COLAP and the professional development offered by CAMP and its volunteer

mentors.⁴⁷ The Resources Committee, chaired by Lys Runnerstrom and Jonathan White, explored options to expand on these foundational programs.⁴⁸ The committee developed a brochure that publicizes well-being resources available to Colorado lawyers and discusses building a professional support structure along with simple self-care techniques.⁴⁹ The committee also recommended a possible rule change allowing Colorado lawyers to voluntarily designate time off through the filing of a "notice of absence" with trial courts.⁵⁰ As models, the committee looked to rules from Georgia and North Carolina establishing procedures for designating periods of absence.⁵¹ Finally, the committee made several recommendations for promoting lawyer well-being among lawyers practicing outside the Front Range metro area, such as offering CLE seminars in nontraditional classroom settings, including outdoor seminars, as well as having activity-based gatherings hosted by local bar associations.⁵²

Data Gathering Committee

Evidence, statistics, and data drive the legal profession. The Data Gathering Committee, co-chaired by Chief Deputy Regulation Counsel Margaret Funk and Dr. Eve A. Wood, explored what data might advance the well-being discussion.⁵³ The committee was interested in collecting forward-looking information on the well-being services Colorado lawyers use, Colorado lawyers' awareness of court-supported resources and services offered by the Colorado Bar Association, and what additional services Colorado lawyers think would advance lawyer well-being.⁵⁴ It also proposed conducting a survey to explore the coping mechanisms Colorado lawyers rely on for their well-being.⁵⁵ The committee put forward several survey options for gathering and analyzing such information.⁵⁶

Systemic Solutions to Incivility

Several committees cited incivility as contributing to the stress and burnout prevalent in the profession.⁵⁷ These committees recognized that lawyers who exhibit civility are more effective and have better reputations, and that civil workspaces enhance employee satisfaction.⁵⁸ The task force recommended that the Supreme

Court explore development of a center for civility in the Colorado legal community within CAMP.³⁹ This recommendation suggests building on CAMP's well-recognized leadership in attorney mentoring through added programming in focus areas of social responsibility, communication, and professional identity.⁶⁰

The Path Forward

The task force's final report emphasizes that there is no single solution to lawyer, judge, and law student well-being struggles. Changing our profession's culture requires continued engagement and work toward creating an environment that is more sustaining, inclusive, and healthy. The profession's demands are unlikely to change, but the good news is the conversation regarding well-being is shifting. The robust final report offers new initiatives and creative approaches. With the prioritization of this issue at the national and state level, and with the talent and energy invested by the lawyers, judges, and law students who served on the task force and its committees, we see a brighter future for our profession.



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NOTES

1. See Colorado Supreme Court Task Force on Lawyer Well-Being Report at app. 7 (Nov. 2021), https://www.coloradosupremecourt.com/PDF/AboutUs/WellBeing/Well-Being_Report_Nov2021_Release_Final.pdf (hereinafter, Final Report). See also Márquez and White, "Call to Action: The Colorado Supreme Court's Task Force on Lawyer Well-Being," 96 *Den. L. Rev.* 247, 248, 259-65 (2019).
 2. 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); Krill et al., "The Prevalence

of Substance Use and Other Mental Health Concerns Among American Attorneys," 10 *J. Addiction Med.* 46 (2016).
 3. Organ et al., *supra* note 2 at 123-24, 137.
 4. Krill et al., *supra* note 2 at 46-47, 50.
 5. *Id.* at 50.
 6. *Id.* at 47-48.
 7. Swensen et al., "Stress and Resilience in the U.S. Judiciary," *J. of the Prof'l Law.* (2020), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/journal-of-the-professional-lawyer-2020.pdf.
 8. *Id.* at 10-11.
 9. *Id.* at 12-13.
 10. Buchanan et al., The Path to Lawyer Well-Being: Practical Recommendations for Positive Change, National Task Force on Lawyer Well-Being Report at 7 (Aug. 14, 2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.
 11. *Id.* at 7-47.
 12. *Id.* at 42, 47, app. A.
 13. Márquez and White, *supra* note 1 at 248; Final Report at 4.
 14. Márquez and White, *supra* note 1 at 248.
 15. See Colorado Task Force on Lawyer Well-Being, Minutes and Materials, <https://www.coloradosupremecourt.com/Current%20Lawyers/TaskForceWellBeing2.asp>.
 16. Final Report at 7.
 17. See CRCP 254 and 255. See also COLAP, About COLAP, at <https://coloradolap.org/home/home-2>; CAMP 2016 Annual Rep. (2017), <https://coloradomentoring.org/wp-content/uploads/2018/03/2016-Colorado-Attorney-Mentoring-Program-Annual-Report-Final.pdf>.
 18. See CRCP Pmbl., Chs. 18-20.
 19. Final Report at 3.
 20. See Krill et al., *supra* note 2 at 50.
 21. See Reardon and Buchanan, "Lawyer Well-Being: An Uncharted Path to Increasing Diversity and Inclusion," ABA Litigation Section (Feb. 19, 2018), <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2018/winter2018-lawyer-well-being-alcoholism-self-help>.
 22. Márquez and White, *supra* note 1 at 251.
 23. Final Report at 8-13.
 24. *Id.* at 9.
 25. *Id.* at 9-11.
 26. *Id.* at 34-49.
 27. *Id.* at 10-11.
 28. *Id.* at 12; Colorado Well-Being Recognition Program for Legal Employers: Pilot Program Report and Recommendations at 3-6 (2021), <https://coloradolawyerwellbeing.org/final-report>.
 29. *Id.* at 9-10.
 30. See *id.* at 3-12.
 31. *Id.* at 28-29.
 32. Press Release, Colo. Judicial Dep't, Task Force Submits Final Report to Colorado Supreme Court on Pilot Project for Well-Being

Recognition Program for Legal Employers (Sept. 30, 2021), www.coloradosupremecourt.com/PDF/AboutUs/WellBeing/Recognition%20Program%20Press%20Release.pdf.
 33. Final Report at 24, 26, 60.
 34. *Id.* at 60.
 35. *Id.* at 24, 60.
 36. *Id.*
 37. See *id.* at 24, 60-71.
 38. *Id.* at 24, 60-62.
 39. *Id.* at 19.
 40. *Id.* at 20-22.
 41. *Id.* at 20-21.
 42. *Id.* at 21.
 43. *Id.* at 21.
 44. *Id.* at 20.
 45. *Id.* at 21.
 46. *Id.* at 22.
 47. *Id.* at 14-15.
 48. *Id.* at 16-17.
 49. *Id.* at 16 and app. 4.
 50. *Id.* at 16 and app. 2.
 51. *Id.* at app. 2.
 52. *Id.* at app. 3.
 53. *Id.* at 27-28.
 54. *Id.* at 28.
 55. *Id.* at 28.
 56. *Id.* at 28 and app. 6.
 57. See generally Buchanan et al., *supra* note 10 at 15.
 58. Final Report at 30.
 59. *Id.* at 30-33.
 60. *Id.* at 32-33.