

# **PROFESSIONALISM & SELF CARE:**

## **Self Care As A Professional Responsibility**

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# PART I: Mental Health & The Legal Profession

Lawyers (and law students) are notoriously vulnerable to adverse mental health experiences:

- **20% of entire legal profession suffers from clinically significant levels of substance abuse, depression, anxiety or some other form of psychopathology**
- **Rates of MDD 3.5x higher than the general population**
- **6x more likely to commit suicide than non-lawyers**

# Causes

- Pessimism, low decision latitude, win-lose

# And Responses

- Individual treatment and system level interventions
- Law school mental health programming, curricular changes
- Law Society of Upper Canada - Mental Health Strategy Task Force
- Member Assistance Program

# Why do we care about self care?

- Positive mental health initiatives, **self care**, make us happier, healthier human beings,
- But, as lawyers, understanding scope & impacts of poor mental health and having grasp of the tools & interventions to deal with it are also a **professional obligation**

# **PART II: Regulatory Framework**

- **Rules of Professional Conduct**
- **Law Society Act**
- **LSUC Mental Health Strategy Task Force Final Report to Convocation, April 28, 2016**

## Rules of Professional Conduct

**Section 3.1-1** In this rule, “**competent lawyer**” means a lawyer who has and applies relevant knowledge, skills and attributes in a manner appropriate to each matter undertaken on behalf of a client including

**(f) applying intellectual capacity, judgment, and deliberation** to all functions ...

**(h) recognizing limitations in one's ability** to handle a matter or some aspect of it, and taking steps accordingly to ensure the client is appropriately served; ...

# Rules of Professional Conduct

**Section 7.1-3** Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer shall report to the Law Society,

(d) **conduct that raises a substantial question as to another licensee's** honest, trustworthiness, or ***competency*** as a licensee;

(e) **conduct that raises a substantial question as to another licensee's *capacity*** to provide professional services; and

(f) any situation where a licensee's clients are likely to be severely prejudiced.

## **Rules of Professional Conduct Commentary to Section 7.1-3**

***Instances of conduct described in this rule can arise from a variety of stressors, physical, mental or emotional conditions, disorders, or addictions.*** Lawyers who face such challenges should be encouraged by other lawyers to seek assistance as early as possible. The Law Society supports Homewood Human Solutions (HHS) and similar support services that are committed to the provision of confidential counselling for licensees. ...

## Law Society Act

**Section 37 (1):** A licensee is *incapacitated* for the purposes of this Act if, by reason of **physical or mental illness, other infirmity or addiction to or excessive use of alcohol or drugs**, he or she is incapable of meeting any of his or her obligations as a licensee.

# LSUC Mental Health Strategy Task Force Final Report to Convocation, April 28, 2016

*Initiatives to Enhance Competency in Addressing Mental Health & Addictions Issues, s.19*

“Both lawyer and paralegal entry-level competencies include understanding the reporting of one's own or another licensee's **mental instability** when clients are likely to be materially prejudiced...”

## **PART III: Professional Obligations RE: Mental Health In Practice**

You are working on a claim on behalf of a Plaintiff. You made a request for material disclosure in accordance with Rules of Procedure. Opposing counsel failed to comply with this request. You have prepared a motion for summary judgment on this basis. As a professional courtesy you attend their office to serve them with a copy of the motion seeking summary judgment.

When you arrive at her office you notice stacks of unopened mail on her desk, piles of apparently disorganized papers throughout the office including confidential client materials, and she appears markedly disheveled in contrast to previous interactions with her.

You make a casual comment inquiring about “Is everything ok?”, and she responds that she and her spouse have split up and “there has just been a lot going on”, but then indicates “I really don't want to get into that right now”.

## **Question #1: Discuss**

**How do you, as counsel with professional obligations to your client's best interests, and in accordance with Rules of Professional Conduct re: reporting the incompetence or incapacity of other counsel, deal with this situation?**

## **Question #2: Reflect**

**How would you deal with this situation if you were the lawyer with “a lot going on right now”?**

**What are your professional obligations in this situation?**

**How should the Law Society deal with lawyers in this position?**

## PART IV: Self Assessment, Self Care & Self Determination

- Professional obligation to perform competently, which translates into a **professional obligation** to maintain your mental health
- Professional obligation to be aware when your competency or capacity (and that of your colleagues) may be adversely impacted by mental health experiences

# Learning How to Self Assess

- What is your baseline?
- **Warning signs:** marked & prolonged deviations from YOUR appropriate standard of wellness
- Identify **emotions, thoughts, behaviors & physical symptoms**

# Some examples of warning signs

**Emotions:** Hopelessness, Trapped, Pervasive low mood, Anxiousness, Numb, Guilt or Shame

**Thoughts:** Poor self image, Negative internal dialogue, Grandiosity, Catastrophic projections, All or nothing thinking

**Behaviors:** Irritability, Missing deadlines, Deteriorating quality of work, Frequent absences, Avoidance, Conflict, Unhealthy stress reduction behaviors

**Physical:** Poor sleep, Ulcers, Chronic headaches or physical pain, Exhaustion

# The “Antidote”: Self Care

**Fact:** There are structural features in the practice of law that are bad for our mental health

**Fact:** The negative outcomes from these features are not universal nor out of our control

- Self care bolsters our “emotional immune system”
- Robust, resilient and resistant to unhealthy aspects of legal practice

# Strategies of Self Care: Connection, Perspective, Self Compassion

## Connection:

- Meaningfully connecting with others around us  
Colleagues, Friends, Family, Professional Support
- Isolation exacerbates negative impacts of stress & vicarious trauma
- Being present: Not “leaving it at the office”, but being present where we are

## Perspective:

- Balance
- Work-life balance
- Balanced mindset - The reality of terrible events is not complete, good things are part of reality too

## Self Compassion:

- Understand your entitlement to well-being
- Suffering is not a finite resource
- Tools: Eat well (research!), Exercise (more research!), Sleep (even more research!), Physical health, Counselling, Meditation, Spirituality, Leisure, Time with friends and family

# A Final Note on Autonomy & Choice

- Structural factors do change
- Be agents of change: **Attitudes** (de-stigmatize mental health), **Behaviors** (Prioritize self-care, Constructive engagement with colleagues, clients, yourself)
- Old people teach, Young people make change

- Work “outside the box”
- Dominant portrait is true, but not as true as we think it is.
- Lawyers in Ontario working in firms: 82.7% work in firms of less than 10 lawyers (including sole practitioners.)
- Lawyers in Ontario working outside of any firm environment: 38.2% (includes education, government, in-house, legal aid clinics, etc.)

## Bottom line:

- Practice of law (as it currently stands) is not your healthiest career option
- BUT, there is nothing inevitable about this if you make choices reflective of your professional obligation to tend to your own well-being