

CHANGING YOUR MIND: Why the ABA, Ethics Boards, and Corporate Law Departments are Supporting Mindfulness Training for Lawyers

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OVERVIEW

- Epidemic of substance abuse and mental health issues, including depression among lawyers
- Recommendations from the National Task Force on Lawyer Well-Being
- Using mindfulness as a tool to increase and support ethical behavior and communication

Johns Hopkins Study

- Attorneys are **three times** more likely to suffer from depression than the general public
- Suicide is the **third leading cause of death** for attorneys (after cancer and heart disease)
- Suicide rate is **six times** the rate of the general population

Additional Relevant Statistics

- Attorneys are twice as likely to be chemically dependent as the general population
- Alcoholism is a factor in about 30% of attorney suicides
- 50% of disciplinary cases involve chemical dependency

More (and More) Statistics

- 2016 Study of 12,825 Attorneys across the United States
 - 21% - 36% of licensed, employed attorneys qualify as problem drinkers
 - 28% diagnosed with depression
 - 19% have experienced anxiety disorder
 - 23% have some form of stress disorder

WHAT CAN WE DO ABOUT THIS??



National Task Force on Lawyer Well-Being

- 2017 Task Force consisted of entities and stakeholders within and outside the ABA
- Acknowledged problems and statistics, and made practical suggestions for change
- 2018 Tool Box

HOW CAN MINDFULNESS HELP US?

Mindfulness as a Tool

- Observe physical, emotional and mental experiences with deliberate and open attention
- Learn to choose where to place attention
- Substitute curiosity for judgment





Why We Should be Mindful

- Mindfulness has been shown to measurably increase productivity.
- Mindfulness can increase your attention span and memory.
- Mindfulness clarifies decision-making.
- Mindfulness helps attorneys comply with ethical rules.



Rules of Professional Conduct

- Rule 1.1 (Competence)
- Rule 1.2 (Scope of Representation)
- Rule 1.4 (Communication)
- Rule 2.1 (Professional Judgment)
- Rule 4.1 (Truthfulness)



Rule 1.1 (Competence)

- Lawyer must provide competent representation
- Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation

Rule 1.2 (Scope of Representation)

- Lawyer must abide by a client's decisions concerning the objectives of representation
- Lawyer must consult with the client as to the means by which those objectives are to be pursued



Rule 1.4 (Communication)

- Lawyers must (1) inform client; (2) consult with client; and (3) comply with requests for information from the client . . .
- . . . and to “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

Rule 2.1 (Professional Judgment)

- Lawyer must exercise independent professional judgment and render candid advice
- Client is entitled to straightforward advice expressing the lawyer's honest assessment
- Lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client

Rule 4.1 (Truthfulness)

- Lawyer cannot knowingly make a false statement of material fact or law to a third person or fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client



How to be Mindful

- Actively observe one thing at a time.
- Be curious about everything.
- Avoid becoming judgmental.
- Be kind to yourself.
- Listen constructively.
- Communicate consciously.

How to Communicate Mindfully

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- Concisely articulate issues/problems.
- Understand the audience.
- Be willing to deliver “difficult” messages in a constructive manner.
- Consciously act in an ethical way.



How to Enable Mindful Response

- Be aware of the speaker's motivation.
- Use silence as a tool.
- Ask questions to clarify and assist.
- Encourage factual (as opposed to emotional) discourse.
- Be fully prepared to listen without argument.

How Does Mindfulness Help?

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- Keeps us in the present moment
- Puts things in perspective in a practical way
- Allows us to save mental energy





Ethical/Mindful Communication

Mindfulness allows us to navigate communication more effectively, and to manage our own behavior by being more aware of what we say and how we say it, allowing us to act effectively and ethically in the process.

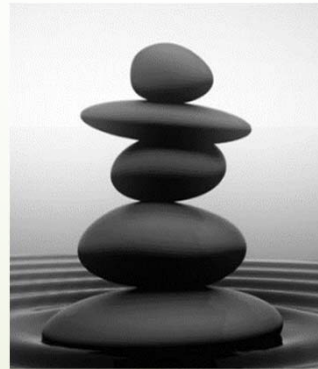


How Can we Do This?

- Consider your communication style.
- Now consider that style with the addition of mindfulness criteria.
- How does mindful communication help us to be more ethical lawyers?

How Can We Remember to
be Mindful?

*Imagine a world
Where your every move matters.
Welcome to that world.*





Here Are Some Resources:

- Mindful/meditation apps:
 - Headspace
 - 10% Happier
 - Calm
- www.legallymindful.com
- <https://warriorone.com/>