



Federal Bar Association

Seventh Annual Ethics, Competence, and Elimination of Bias All-Day MCLE Event

**January 26, 2021
9:00 a.m. to 3:35 p.m.**

11:15am-12:15pm

*Lawyers, Substance Use Disorders
and Wellbeing (Competence)*

Greg Dorst

The Other Bar



Competency



Lawyers, Substance
Use Disorders and
Wellbeing

Rule 1.1 Competence (Rule Approved by the Supreme Court, Effective November 1, 2018)

(a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.

(b) For purposes of this rule, "competence" in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service.....

Competency: SUD and Wellbeing

Lawyer Vulnerability

How problems arise

Solutions

Tools

Resources

Greg Dorst JD, CADC II

Covid 19 Collateral Damage

- Health Risks
- Uncertainty
- Stress
- Anxiety
- Depression
- Alcohol/Drug Abuse
- Loneliness
- Suicide

The American Bar Association & Hazelden-Betty Ford Foundation Study

Pool: 12,825 licensed, employed attorneys & judges

- Males = 53.4% Females = 46.5%
- Transgender = .1%
- Asian 1.2%
- Black/African American 2.5%
- Caucasian/White 90.9%
- Latino/Hispanic 2.6%
- Native American .3%
- Other .7%

Substance use in the past 12 months

- Alcohol 10,874 (84.1)
- Tobacco 2,163 (16.9)
- Sedatives 2,015 (15.7)
- Marijuana 1,307 (10.2)
- Opioids 722 (5.6)
- Stimulants 612 (4.8)
- Cocaine 107 (0.8)

The Study - the most comprehensive national research to date - reported that:

- **21%** of licensed, employed lawyers qualify as problem drinkers;
- **28%** struggle with some level of depression;
- **19%** demonstrate symptoms of anxiety.

The Study also found:

Attorneys in the first 10 years of practice exhibit the highest incidence of these problems (**31%**).

As longevity in the practice of law increases, dependency numbers go down.

Conclusions:

Attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders at a higher rate than other professional populations.



How Problems Arise:

Sometimes Slowly, Sometimes Quickly

Personality Type

Unavoidable Stress

Too Much Time "At The Office"

Nature of the Job

Culture

Here are some signs and symptoms to watch for:

- A person's behavior changes, they start coming in late to the office or leaving early;
- Work product changes; decreased production or the quality of work suffers;
- They isolate, stop attending work-related functions or communicating with colleagues;
- They have noticeable mood changes with irritability or apathy;

- Appearance changes; weight gain or loss;
- Lack of attention to clothing and hygiene needs;
- In later stages of problems with alcohol they may come to work smelling of alcohol;
- When asked if there are problems, they avoid the question or insist nothing has changed;

- Not prepared for hearings or trials;
- Always need continuances;
- Late for appointments;
- Calling in sick;
- Not returning phone calls;
- Lying about completing work;
- Client complaints;
- Bar complaints.



Codependency

Codependency is characterized by a person belonging to a dysfunctional, one-sided relationship where one person relies on the other for meeting nearly all of their emotional and self-esteem needs. ***It also describes a relationship that enables another person to maintain their irresponsible, addictive, or underachieving behavior.***

Some Definitions:

Alcoholism: Continuing to drink alcohol despite adverse consequences around drinking.

Drug Addiction: Continuing to use drugs, prescription or street, despite adverse consequences around their use.

Compulsive Gambling: continuing to gamble despite adverse consequences around gambling.

Here are some questions to ask yourself:

1. Have you ever felt you needed to **C**ut down on your drinking?
2. Have people **A**nnoyed you by criticizing your drinking?
3. Have you ever felt **G**uilty about drinking?
4. Have you ever felt you needed a drink first thing in the morning - **E**ye-opener- to steady your nerves or to get rid of a hangover?

Addiction is a complex but treatable disease that affects brain function and behavior.



Introducing your Brain



Brain Chemistry

- We have the ability to feel good naturally via our brain's pleasure center
- Down-Regulation
- Over time the brain will up-regulate and create new pathways for what we want to experience

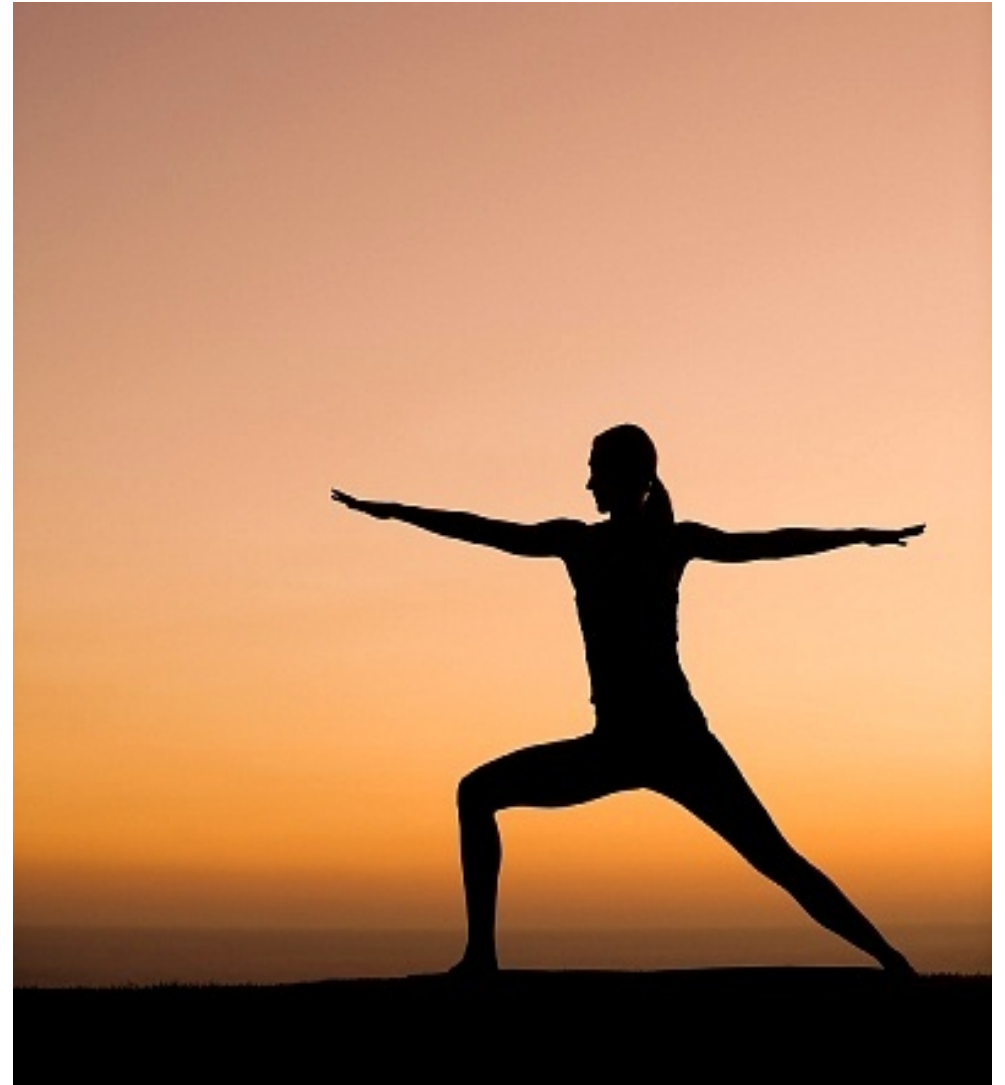
Recovery from Addiction is:

- Physical
- Emotional/Psychological
- Social
- Spiritual



Physical Healing

- Medically Supervised Withdrawal
- Brain Health
- Attention to diet and exercise



Emotional/Psychological Healing

Treating Cause - Adjusting Thinking

12-Step Model

Therapeutic Approach

- Behavioral therapy
- Cognitive therapy
- Humanistic therapy
- Integrative or holistic therapy



Changing Socialization Techniques

Where you spend your time

With whom you spend your time

Relationships

Community

Accountability



Spiritual Practice

Do what you are supposed to do

Be where you are supposed to be

Be honest

Have an open mind

Be willing

Meditation, visualization, mindfulness



Creating Community

- The Other Bar
- Alcoholics Anonymous/Narcotics Anonymous
- Rational Recovery
- Religious Institutions
- Meet Ups



Lawyer Assistance Program Services:

The State Bar of California

Assessment

Monitoring

Support

Contact: Want to know more? Your call or email is confidential.

Michelle Harmon

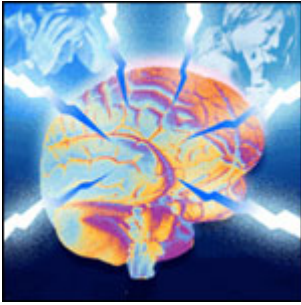
Lawyer Assistance Program

877-LAP-4HELP / 877-527-4435

Email: LAP@calbar.ca.gov

Resources

- www.otherbar.org/resources/
 - click on resources
- <https://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program>
- www.publichealth.org/resources/addiction/
- www.samhsa.gov/find-help/national-helpline
- www.samhsa.gov/find-treatment
- www.drugabuse.gov/
- www.nami.org
- www.aa.org



Introducing... Your Brain

The brain is the command center of your body. It weighs about three pounds, and has different centers or systems that process different kinds of information.

The brain stem is the most primitive structure at the base of your brain. The brain stem controls your heart rate, breathing, and sleeping; it does the things you never think about.

Various parts or lobes of the brain process information from your sense organs: the occipital lobe receives information from your eyes, for example. And the cerebral cortex, on top of the whole brain, is the "thinking" part of you. That's where you store and process language, math, and strategies: It's the thinking center. Buried deep within the cerebral cortex is the limbic system, which is responsible for survival: It remembers and creates an appetite for the things that keep you alive, such as good food and the company of other human beings. [1], [2]

The cerebellum is responsible for things you learn once and never have to think about, such as balance when walking or how to throw a ball.

How Does Your Brain Communicate?

The brain's job is to process information. Brain cells called neurons receive and send messages to and from other neurons. There are billions of neurons in the human brain, each with as many as a thousand threadlike branches that reach out to other neurons.

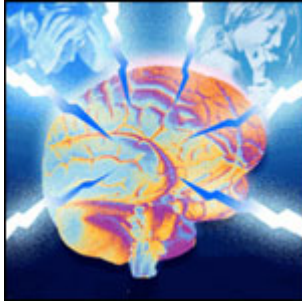
In a neuron, a message is an electrical impulse. The electrical message travels along the sending branch, or axon, of the neuron. When the message reaches the end of the axon, it causes the release of a chemical called a neurotransmitter. The chemical travels across a tiny gap, or synapse, to other neurons.

Specialized molecules called receptors on the receiving neuron pick up the chemical. The branches on the receiving end of a neuron are called dendrites. Receptors there have special shapes so they can only collect one kind of neurotransmitter.

In the dendrite, the neurotransmitter starts an electrical impulse. Its work done, the chemical is released back into the synapse. The neurotransmitter then is broken down or is reabsorbed into the sending neuron. [1], [2]

Neurons in your brain release many different neurotransmitters as you go about your day thinking, feeling, reacting, breathing, and digesting. When you learn new information or

a new skill, your brain builds more axons and dendrites first, as a tree grows roots and branches. With more branches, neurons can communicate and send their messages more efficiently. [1]



What Do Drugs Do to the Brain?

Some drugs work in the brain because they have a similar size and shape as natural neurotransmitters. In the brain in the right amount or dose, these drugs lock into receptors and start an unnatural chain reaction of electrical charges, causing neurons to release large amounts of their own neurotransmitter.

Some drugs lock onto the neuron and act like a pump, so the neuron releases more neurotransmitter. Other drugs block reabsorption or reuptake and cause unnatural floods of neurotransmitter. [1]

All drugs of abuse, such as nicotine, cocaine, and marijuana, primarily affect the brain's limbic system. Scientists call this the "reward" system. Normally, the limbic system responds to pleasurable experiences by releasing the neurotransmitter dopamine, which creates feelings of pleasure.

What Happens if Someone Keeps Using Drugs?

Think about how you feel when something good happens-maybe your team wins a game, you're praised for something you've done well, or you drink a cold lemonade on a hot day-that's your limbic system at work. Because natural pleasures in our lives are necessary for survival, the limbic system creates an appetite that drives you to seek those things.

The first time someone uses a drug of abuse, he or she experiences unnaturally intense feelings of pleasure. The limbic system is flooded with dopamine. Of course, drugs have other effects, too; a first-time smoker may also cough and feel nauseous from toxic chemicals in a tobacco or marijuana cigarette. [1]

But the brain starts changing right away as a result of the unnatural flood of neurotransmitters. Because they sense more than enough dopamine, for example, neurons begin to reduce the number of dopamine receptors. Neurons may also make less dopamine. The result is less dopamine in the brain: This is called down regulation. Because some drugs are toxic, some neurons may also die. [1] [3]

How Many Times Does Someone Have To Take a Drug To Become an Addict?

No one knows how many times a person can use a drug without changing his or her brain and becoming addicted.

A person's genetic makeup probably plays a role. But after enough doses, an addicted teen's limbic system craves the drug as it craves food, water, or friends. Drug craving is made worse because of down regulation.

Without a dose of the drug, dopamine levels in the drug abuser's brain are low. The abuser feels flat, lifeless, depressed. Without drugs, an abuser's life seems joyless. Now the abuser needs drugs just to bring dopamine levels up to normal levels. Larger amounts of the drug are needed to create a dopamine flood or high, an effect known as tolerance.

By abusing drugs, the addicted teen has changed the way his or her brain works. Drug abuse and addiction lead to long-term changes in the brain. These changes cause addicted drug users to lose the ability to control their drug use. Drug addiction is a disease. [1]

If Drug Addiction Is a Disease, Is There a Cure?

There is no cure for drug addiction, but it is a treatable disease; drug addicts can recover. Drug addiction therapy is a program of behavior change or modification that slowly retrains the brain. Like people with diabetes or heart disease, people in treatment for drug addiction learn behavioral changes and often take medications as part of their treatment regimen. [4]

References

1. National Institute on Drug Abuse.
[The Brain: Understanding Neurobiology Through the Study of Addiction \(http://science-education.nih.gov/Customers.nsf/highschool.htm\)](http://science-education.nih.gov/Customers.nsf/highschool.htm):
NIH Pub. No. 00-4871.
2. National Institute on Drug Abuse.
[Brain Power! The NIDA Junior Scientists Program \(http://www.nida.nih.gov/JSP/JSP.html\)](http://www.nida.nih.gov/JSP/JSP.html):
NIH Pub. No. 01-4575. Bethesda, MD: NIDA, NIH, DHHS. 2000.
3. National Institute on Drug Abuse.
[Mind Over Matter: The Brain's Response to Drugs Teacher's Guide \(http://teens.drugabuse.gov/mom/tg_intro.php\)](http://teens.drugabuse.gov/mom/tg_intro.php):

NIH Pub. No. 020-3592. Bethesda, MD: NIDA, NIH, DHHS. Printed 1997. Reprinted 1998, 2002. Revised 2000.

4. National Institute on Drug Abuse.

[NIDA InfoFacts: Drug Addiction Treatment Methods](http://www.drugabuse.gov/infofax/treatmeth.html)

(<http://www.drugabuse.gov/infofax/treatmeth.html>):

Bethesda, MD: NIDA, NIH, DHHS. Retrieved June 2003.

When Everything Changes and We Need Help

Greg Dorst JD, CADC II

All of a sudden, we can't go to the office because we work in crowded buildings and courthouses. Being around other people is unsafe for each of us personally and as it turns out, for those we love. As we temporarily work from home, if lucky enough to do so, we wonder if things will ever return to the way they were before the "disease". How long we can last without new income being generated through new clients? Will there be a need for the type of work that we do? How will the wheels of justice turn in the future and will I financially survive? Living in the grip of uncertainty is nothing less than torture. The brain is constantly creating and updating a set of rules that can predict how your world works and now it is impossible to predict what will happen to us. Scientists and politicians are trying to bring us a sense of safety by recommending community guidelines and precautions but it is clear that none of them can predict what will happen. There are no answers that we can rely upon causing a feeling of a lack of control that is downright debilitating.

Everything about our personal and professional lives has changed. There is no denying that most of us are feeling anxious and are suffering for it, right now. There have been some measurable consequences connected to these uncertain times. Alcohol and drug usage amongst lawyers is skyrocketing and depression has hobbled the ability of many to complete tasks and interact with others. Unhealthy relief from emotional and psychological stress and anxiety ranges from drinking too much and abusing illicit and prescription drugs to pulling the covers up over our heads and refusing to get out of bed. Isolation is a trigger for this kind of behavior which might be exacerbated by cancelled medical and psychological appointments. Suicide and violent behavior is on the rise. Paradoxically, when companionship is most necessary and appropriate for improved mental health and healing, people pull away and isolate.

As a professional who responds specifically to lawyers with these kinds of issues, I have noticed a pronounced increase in requests for help. You, or someone you know may be suffering and are not sure what to do. It is helpful to understand why this is happening, what to look for and what can be done to make career and life saving changes.

On March 16, 2020, Patrick Krill published a timely article at law.com entitled, "In a Year Full of Worry and Division, How to Protect Your Mental Health". The article sets forth [solutions](#) for lawyers experiencing high levels of isolation and loneliness during these uncertain times. As a lawyer and therapist Krill advises:

"Fighting isolation and loneliness amid a broad public health concern might seem more challenging, but the best way to do it is generally the same as in the absence of an outbreak: with intention and commitment. Schedule time to check in (by phone or video) with family and friends and keep the appointment. Even if you're tired, make the calls and give yourself permission to be fully present for the conversations. In a time of increased stress, a sense of connection can be transformative and, for some, lifesaving."

Coincidentally, "Lawyer Well-Being Week", began in early May and was designed to highlight the kinds of skills that are necessary to get through even the toughest of times. The concept that

lawyers may need strategies for successful living that include emotional, intellectual, occupational, physical, spiritual and social toolkits is one that has gained a lot of traction nationally. There is now a [National Task Force on Lawyer Well-Being](#) that takes a holistic approach to lawyer wellness. These strategies may prevent troubling behaviors before they become problematic, but for some lawyers out of control behaviors have already taken hold. For some, the pandemic has exacerbated behaviors that used to be somewhat controllable, but now the drinking, drugging and/or depression is having its way. Asking for help to make the necessary changes may be the hardest thing that a lawyer ever has to do. For those who find themselves gripped by alcohol, drugs and/or depression, it is important to know that you don't have to live that way anymore, there is confidential help available. The [Other Bar](#) is a good place to get started on a new path. It is a private nonprofit corporation that helps lawyers, judges and law students to find freedom from addictive disorders and mental health concerns so that they might practice law competently and productively. The organization provides a confidential statewide community of recovering legal minds who help each other to accomplish their goals in a sober and sane way. It is, quite simply a free resource for the legal profession that has helped thousands of struggling lawyers to change their lives for the better.

In addition to the Other Bar, here are some resources that may be instructive and helpful in creating life-saving and career-saving changes to meet the new challenges that all of us are facing during this unprecedented time:

<http://calbar.ca.gov/lap>

www.drugabuse.gov

www.nami.org

www.aa.org

www.samhsa.gov/find-treatment

www.samhsa.gov/find-help/national-helpline

Note: The author is a former attorney and practicing Addiction Specialist and consultant to the Other Bar, working specifically with lawyers, judges and law students who are facing alcohol, drug and mental health issues. Resources are just a phone call or email away: 1(800) 222-0767 or Gdorst2@gmail.com **All communications are confidential.**