



COLORADO TASK FORCE ON LAWYER WELL-BEING

MEETING MINUTES

February 6, 2019, 1:00-3:00 p.m.

Warwick Hotel

Millennium Ballroom

1776 Grant Street

Denver, Colorado 80203

I. Welcome and Introduction (Justice Márquez)

Justice Márquez welcomed members to the meeting and thanked them for participating, particularly given the inclement weather. She reviewed the agenda, and she asked members to forward to Mr. White the minutes of individual working group meetings.

II. Promoting Well-Being in the Medical Profession

Justice Márquez introduced guests Dr. Doris Gundersen and Dr. Michael Gendel. Dr. Gundersen is the chair of the Colorado Medical Society's Commission on Physician Well-Being and a member of the Attorney Regulation Committee. Dr. Gundersen is also the Medical Director of the Colorado Physician Health Program (CPHP). Dr. Gendel is the Medical Director Emeritus of CPHP. He has authored articles on physician health and wellness. He has worked with the Tenth Circuit on its "JHealth" program for judicial offers.

Dr. Gendel began the presentation. He said health is one part of well-being, which is a multi-faceted concept. Through CPHP, he has worked to address stress, burnout, psychiatric disorders, addictive disorders, primary medical disorders, behavior problems, and a variety of other psychosocial problems medical professionals experience. He has found earlier interventions are more likely to prevent impairment issues.

Dr. Gendel discussed the toxicity of stress, noting that it is a large cause of medical errors. Burnout syndrome is the most extreme impact of stress. Burnout involves emotional exhaustion, a diminished sense of personal accomplishment, and detachment. People who are stressed have a greater propensity to feel discouraged, overburdened, isolated, and are more prone to sickness and making mistakes. Dr. Gendel said stress builds on a platform that includes high mental workload, a lack of autonomy in one's work, an individual's biological vulnerability, and various social factors such as one's relative newness to practice, gender bias, and the presence or absence of social support networks. He commented on blood pressure studies showing that older attending physicians have lower blood pressure readings on the job than medical interns. Overall, depression

is more common among physicians than the general population, a trend that mirrors itself when it comes to suicide.

Dr. Gendel reviewed personality traits of physicians. Often they are compulsive, and they tend to feel guilty when work is not done well or on time. They are also intolerant of imperfection. He observed there is a correlation between burnout and less patient satisfaction, as well as a decrease in a physician finding meaning in his or her work. It can impair a physician's ability to empathize with patients.

Returning to the definition of well-being, Dr. Gendel said well-being is more than the absence of distress. It relates to quality of life broadly. Its various dimensions include health, social support, emotional balance, and environmental, financial, occupational, and intellectual wellness.

Dr. Gundersen reviewed data on lawyer and law student well-being. She said when students enter law school, they expect long hours with their studies and a career that involves personal sacrifice. The same can be said for medical students. However, there are unanticipated demands such as unhealthy workplace competition and competition for modest employment opportunities. At times, lawyers experience conflict between personal values and economic values, and the associated pressure to bill hours. Dr. Gundersen discussed the National Task Force on Lawyer Well-Being's Report from 2017 and its recommendations, which include combating stigma. She suggested a model for the legal profession can be found in athletics where skilled athletes now focus on their mental health in addition to their physical health. Dr. Gundersen referenced the "Dimensions" toolkit for the medical profession, which is a product of CPHP, COPIC, and the University of Colorado School of Medicine. This toolkit provides a variety of exercises to assess physician well-being.

Dr. Gendel reviewed apps and websites that promote well-being. He discussed the Tenth Circuit's work on judicial officer well-being. He emphasized isolation tends to be a unique problem facing the judiciary. Judicial officers' code of conduct, the singular nature of their work, physical threats, and an "invisible wall" that forms once a person steps on to the bench as regards former colleagues, can breed isolation. Isolation creates a negative feedback loop with stress and depression.

Dr. Gendel fielded audience questions regarding the cost of poor well-being among medical professionals. He explained depression ranks with heart disease as the world's greatest cause of disability. He noted, too, that substance abuse can trigger depression. He suggested this demonstrates the economic import of the issue, and he stressed the strong correlation between stress and physician errors as a reason why this issue matters economically.

Also in response to audience questions, Dr. Gundersen explained physicians and lawyers require sophisticated treatment for mental health and substance use disorders, which can create some obstacles to treatment.

When asked about what has been successful in the medical community, Dr. Gundersen said the external pressures on the medical community to deal with these issues have led to progress. Dr. Gendel said his experience is that the community of physicians has embraced well-being but progress is slower at the organizational and institutional level. He said buy-in is a critical first step, but once buy-in occurs, the second step is even more challenging: effecting change. He equated the process to turning an aircraft carrier. Both he and Dr. Gundersen said educating people and talking openly about the issues is crucial. They highlighted the need to explain the confidentiality protections afforded those seeking help. Dr. Gundersen said there is a generational difference in the perception of these issues and willingness to talk about them. Her experience is younger physicians are often more receptive to discussing well-being concerns. Dr. Gendel further commented that having buy-in at a management level is essential to creating change.

III. Working Group Reports

Law Schools

Ms. Myers said this working group is exploring several discrete initiatives. One is creating a menu of options for law schools to consider to advance the issue. Another involves making an effort to speak with faculty about the importance of law student well-being. She said this could lead to having information about the Colorado Lawyer Assistance Program (COLAP) on a course syllabus, for example. Ms. Myers introduced Chip Glaze. Mr. Glaze is the new deputy director of COLAP. He spoke briefly to the group and mentioned it is important to have expectations set by those charged with leading the profession. This can bring about change.

Ms. Myers and Justice Márquez asked those in this working group to identify a leader or co-leaders.

Data Gathering

Dr. Wood and Ms. Funk said measuring where the profession stands is important to immediately assess problems and so that through time, there is a way to evaluate progress. This group is looking at developing an instrument to survey lawyer well-being. It would measure three distinct matters, among other things: burnout, depression/suicidal ideation, and substance use. The goal, too, is to have an instrument that can be used repeatedly. There may be a cost associated with developing this survey instrument.

Business Case

Mr. Fogg introduced the committee members and their backgrounds. He detailed the group's extensive work to gather information on topics ranging from the impact of diversity on well-being and retention, to generational shifts in work-life balance expectations, to existing data on the economics of associate attrition. He has reached out to COLAP, as well as ALPS Corporation (a professional liability carrier), and the Institute for the Advancement of the American Legal System (IAALS) for guidance. This group is looking at a "recognition program" law firms could use to attract and retain talent and that has criteria to be met that pertain to well-being.

Pledge to Lawyer Well-Being

Mr. Stark reported this group will study the ABA Working Group to Advance Well-Being in the Legal Profession's "pledge" to well-being. This pledge has received a number of national law firm signatories. The group will explore ways to adapt the pledge for solo and small firm lawyers. A pledge will require both implementation and reporting from firms. One way to generate momentum behind a pledge may be to create a logo that law firms that have taken the pledge can post.

Connecting Lawyers to Resources to Support Well-Being

Mr. White and Ms. Runnerstrom are co-leaders of this working group. Mr. White reported the group identified several areas of interest and further study at their meeting on January 25. These include finding a way to make low-cost therapy available to lawyers who do not seek help because of financial constraints. The group is also looking at perhaps developing a toolkit that can be used by leaders in the legal community that identifies well-being resources such as COLAP or the Colorado Attorney Mentoring Program.

Judicial Officers

Ms. Holm reported this group's efforts so far have focused on identifying resources currently available to judicial officers. This will inform any recommendations for the development of additional programs or resources for the judiciary. A priority for this group is finding ways to alleviate the isolation unique to the bench and that Dr. Gendel spoke of in his presentation.

IV. Next Meeting

The next Task Force meeting is from 1:00 to 3:00 p.m. on March 27, 2019, in Conference Room 1D in the Ralph Carr Building at 1300 Broadway.