



NJSBA report digs deep into mental health

Recommends path to ease areas of stress in the legal profession

A wide-ranging report by the New Jersey State Bar Association (NJSBA) uncovered a troubling decline in mental health and wellness among New Jersey's legal practitioners, while identifying the primary drivers of stress for attorneys and recommending an action plan to improve well-being.

The report—the largest and most comprehensive assessment ever produced on attorney well-being in the state—is the work of more than 50 attorneys in the NJSBA's Putting Lawyers First Task Force. Members of the group spanned a wide array of practice areas, who worked diligently over the course of a year with the goal of making an attorney's life in the profession better and providing the tools needed to survive and thrive in the ever-changing legal landscape.

Central to the effort, the task force circulated wellness surveys among the state's legal community, while also analyzing the sources of stress for attorneys in state's ethics and fee arbitration systems. The findings of the report are sobering, said NJSBA President Jeralyn L. Lawrence. The Association is committed to not just shining a light on the issue, but looking for meaningful ways to help the entire legal community.

"When the NJSBA mobilizes and

puts its weight behind a challenge, it can be an impressive force. There is much work to do, and the work of the Putting Lawyers First Task Force sets forth a roadmap to lead our profession in a much better and healthier direction," Lawrence said. "I am certain that working together, the Association can play an important role in helping put lawyers first moving forward."

At the heart of the report are the results of a 90-question survey, developed with assistance from the University of Utah, to gauge the current health and well-being of New Jersey's legal population. The survey generated 1,643 responses from New Jersey attorneys, judges, paralegals and other legal practitioners, while many shared their own personal stories.

"Ours is a hard and demanding profession. We have all read the statistics about the incredible number of attorneys who are depressed, anxious and suicidal. Too many of us have friends and colleagues who face these very real challenges every day," Lawrence said. "While we are all aware of the national headlines of the decline in attorneys' health and well-being, our investigation has confirmed that New Jersey lawyers are also suffering. We are a profession in crisis."

The results further revealed that while 51% of New Jersey lawyers feel enthusiastic about being a lawyer:

- 68% reported feeling anxious in the past two weeks;
- 56% reported a high prevalence of alcohol misuse;
- 49% reported feelings of isolation;
- 28% of attorneys considered leaving the profession because of mental health, burnout or stress; and
- 23% reported a high prevalence of depressive symptoms;
- 10% reported thoughts of suicidal ideation.

"Nationally, there is evidence to support a conclusion that attorneys are suffering due to a variety of factors, including mental illness, substance use, financial stress—and in many instances a combination of all three. It is a logical conclusion that if

attorneys are not operating at their best, the legal system cannot function at its best," according to Robin C. Bogan and Matheu D. Nunn, who co-chaired the NJSBA task force. "The public's access to justice and to our judicial system depends on attorneys and judges, court staff, sheriff officers, and all of the people that are involved in making our system run effectively and efficiently. A deficit in the performance of any one of those groups detrimentally impacts the legal system as a whole. In turn, the public suffers."

A path forward

To combat the troubling statistics, the report recommended immediate and long-term strategies to help.

Key among the recommendations was the idea to create an ongoing working group of the Judiciary and organized bar to promote wellness efforts through education, training and pipeline programs. The report recommends removing Question 12B from the New Jersey Character and Fitness application, which seeks information on an applicant's mental health conditions or impairments, rather than conduct. Doing so would join New Jersey with 26 other states that have either eliminated, substantially modified or never used mental health status on their bar applications. The question, according to the report, deters applicants from seeking mental health assistance.

In addition, the Association will examine ways to help the profession, including looking for opportunities to partner with other bar associations, law schools and firms to work collaboratively and encourage a statewide conversation about well-being. It will also promote ways for attorneys to get assistance with outreach and educational resources with a wide range of partners in the legal community as well as organizations like health insurance companies and mental health agencies.

The Association will present a free virtual program during Well-Being in the Law Week next month. The program will be offered, along with several others from the New Jersey Legal

Assistance Program, during the national observance. The NJSBA program will marry an examination of well-being and how that concept interplays with the RPCs. Registration for "Improving Well-Being in the Workplace and Complying with Ethical Obligations" is available at njsba.com.

Ethics and fee arbitration systems examined

The report also examined the state's ethics and fee arbitration systems. After gathering information from a wide range of people who have had experience with the systems, the report highlighted many successful aspects of the system, including the dedicated efforts of staff and attorney volunteers at the state Office of Attorney Ethics. It also examined areas of concern where improvements could be made to help attorneys and members of the public who encounter the systems. The central recommendation was that the Judiciary should establish a commission, with wide representation among the Judiciary, bar and public, to conduct a comprehensive study of both the ethics and fee arbitration systems. Among the other recommendations, the report urged the Judiciary to curb frivolous actions, permit attorneys to enter diversionary programs at any stage of the process if appropriate and limit the number of random audits a single attorney could face to once every five years.

The NJSBA task force examined several other important issues, including malpractice concerns, ways to help and support solo and small-firm attorneys, dealing ethically with online reviews and addressing appropriate ways to relieve attorneys as counsel. It will further study these areas and will continue to share information with the Judiciary, county and affinity bar organizations and law firm leaders with the aim of improving the lives of attorneys and their clients.

To review the Putting Lawyers First Task Force findings and recommendations, visit njsba.com.

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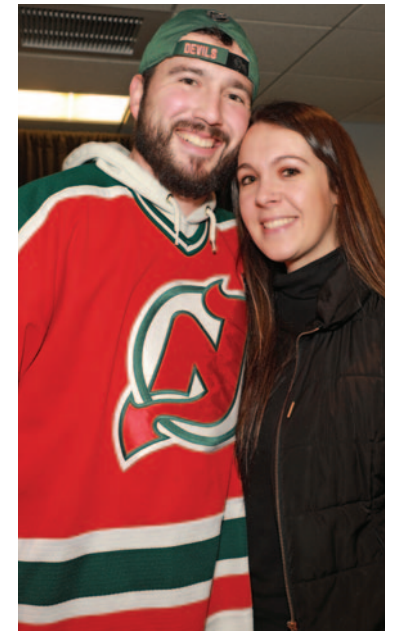
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Information in the *Bar Report* is compiled by the New Jersey State Bar Association, which welcomes tips and story ideas from its readers and members. Contact Tom Nobile at tnobile@njsba.com or 732-937-7527.

NJSBA members network as hockey rivals face off at Prudential Center

Nearly 50 New Jersey State Bar Association members and friends joined New Jersey Devils and New York Rangers fans for an evening of networking and hockey at Prudential Center in Newark. Fans cheered for their teams in a tight game while making connections with colleagues. Photos by Amanda Brown



NJSBA urges adoption of its parenting coordinator proposal; weighs in on other proposed court rules

The New Jersey State Bar Association urged adoption of a rule it proposed that would address the appointment of parenting coordinators in Family Part matters, as recommended by the state Supreme Court's Family Practice Committee. In comments on the 2023 Rules Reports issued by various Supreme Court committees, the Association backed implementation of the new rule to provide uniformity in the use of parenting coordinators and to help avoid unnecessary litigation. The NJSBA asked for further clarifications, however, including the incorporation of a proposed administrative directive and parenting coordinator order as an appendix to the Court Rules, and some additional language to more clearly define the role and authority of parenting coordinators.

The NJSBA also supported the majority of other recommendations made by the Family Practice Committee, which include a clarification that that no background checks or social security numbers are required when processing a co-parent adoption, and a proposed amendment to permit the issuance of a warrant in juvenile matters when the juvenile is not in custody.

Committee on Diversity, Inclusion, and Community Engagement

The Association generally supported the recommendations from DICE, which are aimed at facilitating "the administration of equal justice through equitable and bias-free courts." The NJSBA provided additional comments as follows:

- Recommendation 2023:01 deals with the recommendation to convene a group to address the effect and relevance of true poverty calculations to the courts and consider replacing exclusive reliance on the federal poverty level (FPL) with the true poverty level (TPL). The Association recommended determining

what poverty looks like now and how it can be addressed in the day-to-day work of the courts. It also suggested including practitioners who work with populations of



CAPITOL REPORT

people who are impoverished, such as the Office of the Public Defender or Legal Services of New Jersey. The Association further commends the committee for recommending changes in language, including the use of the word "indigent" to "ability to pay."

- Recommendation 2023:02 and 03 deal with identifying those court proceedings where participation can be accomplished remotely. In addition to the recommendation, the Association suggested a focus on efforts to bridge the technology gap that exists for certain participants in court proceedings. This may include consideration of partnering with public libraries and other local and state organizations to further assist court participants.
- Recommendation 2023:06 involves name change court filings related to the enhancement of confidentiality protections for applicants. The NJSBA lauded the additional protections, noting in its letter to the Court, "By designating name change hearings closed and confidential, the Judiciary will be closing an important gap in the current procedures and furthering the goals of addressing the previously raised and documented safety and privacy concerns of people who are transgender, gender non-conforming and non-binary."
- Recommendation 2023:07, 08 and 09 involve efforts to increase the number of law clerks with diverse

backgrounds. While supportive of the collection of additional demographic data to better understand the composition of the applicant pool and effectiveness of outreach

recruitment efforts, the Association further recommended demographic data collection be expanded to include additional groups and characteristics including gender identity, sexual orientation, and differing ability.

Other recommendations included continued outreach to affinity bars, expansion to regional law schools outside the two in New Jersey, assigning a Court representative specifically tasked with recruitment of law clerks from diverse backgrounds, the collection and analysis of data to evaluate why a larger percentage of law students from diverse backgrounds are not becoming law clerks, a timeline for law clerk diversity initiatives, and recognition of the connection between a Judiciary that is diverse and a diverse population of law clerks to ensure a diverse and inclusive Judiciary.

Criminal Practice Committee

The Association supported the recommendations issued by the Supreme Court's Criminal Practice Committee. Two rules recommended for adoption focus on expungements and one regarding firearms.

With regard to expungements, the committee recommended rules to confirm with an earlier Supreme Court order that relaxed and supplemented the Part III court rules regarding the Judiciary's eCourts Expungement System. Proposed R. 3:30-1 address the pretrial aspects of filing for an

expungement of records and proposed R. 3:30-2 encompass expungements with special requirements, specifically for marijuana and hashish offenses, Recovery Court, dismissals and acquittals and Clean Slate expungements.

A third rule proposal would address the Supreme Court's referral of *State v. Jose Carrion*, 249 N.J. 253 (2021) dealing with the right to confrontation in the context of the admission of an affidavit that a search of a state firearm registry revealed no lawful permit for the individual's possession of a handgun. The new rule, a Notice of Intention to Proffer Affidavit Regarding Search of Firearm Permit Database, would create a notice requirement by which a defendant must inform the court and the state of a demand to have the state produce an appropriate witness to protect the defendant's right to confrontation. If there is no demand, the defendant waives the confrontation right.

Also recommended is a rule amendment to refer to the Drug Court as the New Jersey Statewide Recovery Court. "The purpose of this name change was to reflect the philosophy of helping 'change lives through a road to recovery,'" said the committee in its report.

A full copy of NJSBA's letter can be found at njsba.com. A full copy of the Supreme Court reports can be found at njcourts.org.

This is a status report provided by the New Jersey State Bar Association on recently passed and pending legislation, regulations, gubernatorial nominations and/or appointments of interest to lawyers, as well as the involvement of the NJSBA as amicus in appellate court matters. To learn more, visit njsba.com.

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