

# Substance Abuse Concerns for Lawyers

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According to the ABA

- Drug dependence, also known as addiction, is a chronic disease. It is progressive, and occurs when the body becomes physically dependant upon a drug. Drug addiction in any form – from cocaine to methamphetamine to prescription pain relievers and stimulants -changes the brain. Individuals who are dependent upon drugs may not be able to control how much they use and continue to use drugs despite serious consequences.

What is Drug Abuse?

- Drug abuse occurs when a person is not physically dependent upon a drug, but does exhibit problems with a particular drug. Someone who abuses drugs may use too frequently and experience problems due to drug use.

\*It is possible to recover from drug dependence and there are many resources available for help

Why Attorneys?

- According to the ABA many lawyers and judges are overachievers who carry an enormous workload, the tendency to escape from daily problems though the use of use of drugs and alcohol is prevalent in the legal community.
- People who work 50+ hours a week are 3x more likely to abuse alcohol
  - Attorneys work 60-80 hours a week

Lawyer's and Substance Abuse

- Statistics
  - Lawyers are at roughly twice the risk of becoming addicted to drugs or alcohol as people in other professions (ABA)
  - 18 - 20% of Lawyers Abuse Drugs
  - 25% of lawyers facing disciplinary action are found to be abusing drugs or suffering from a mental disorder
  - They also have higher incidence of depression, anxiety, suicide and other mental health issues than the general population.
  - Problem Starts Early

- On the first day of law school, studies show that the average law student is “normal” in terms of their happiness, mental health and wellness. Within the first six months, early signs of psychiatric problems, such as depression, anxiety, hostility and paranoia, can be detected. After the first year of law school, as many as 40 percent of law students suffer from depression.

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- Impacts everyone

- Common Myths

- Not all substances abusers started as addicts, or
- Parents as addicts
- Live on the streets
- Doesn't come out of nowhere. It's a progression.

- Lawyers Assistance Program

- Symptoms

- Bloodshot eyes or pupils that are larger or smaller than usual.
- Changes in appetite or sleep patterns. Sudden weight loss or weight gain.
- Deterioration of physical appearance and personal grooming habits.
- Unusual smells on breath, body, or clothing.
- Tremors, slurred speech, or impaired coordination.
- Drop in attendance and performance at work or school.
- Unexplained need for money or financial problems. May borrow or steal to get it.
- Engaging in secretive or suspicious behaviors.
- Sudden change in friends, favorite hangouts, and hobbies.
- Frequently getting into trouble (fights, accidents, illegal activities).
- Unexplained change in personality or attitude.
- Sudden mood swings, irritability, or angry outbursts.
- Periods of unusual hyperactivity, agitation, or giddiness.
- Lack of motivation; appears lethargic or “spaced out.”
- Appears fearful, anxious, or paranoid, with no reason.

- Causes

- Risk Factors

- biology
- stress
- environment
- development

- genetic predisposition - still need environmental factor to bring it on.
- Compilations
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- Treatment - it's a disease- Abstinence is the only cure
  - Alcoholics Anonymous, narcotics anonymous, Al-Anon Anonymous.
    - Faith based approach.
  - Drug Rehabilitation
  - Bar Association
  - Lawyers assistance program
- Prevention
  - Work/Life Balance
  - Take care of yourself
  - Meditation
- Detection
  - Red Flags (totality of circumstances.)
    - poor work performance
    - tardiness
    - long lunch
    - irritability
    - personality changes
    - depression
    - don't like things they used to like.
    - relationship problems.
    - mental and Physical Changes
      - headaches, blackouts.

Applicable ABA Model Rules

**- Rule 1.3 Diligence**

- A lawyer shall act with reasonable diligence and promptness in representing a client.

***Maintaining The Integrity Of The Profession***

- **Rule 8.4 Misconduct**

- It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules

**Rule 5.1 Responsibilities Of Partners,Managers, And Supervisory Lawyers**

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Rule 1.16

**Rule 1.16: Declining or Terminating Representation**

MENTAL ILLNESS

- Depression
- Suicide

Lawyers Abuse Help Line by State

[https://www.americanbar.org/groups/lawyer\\_assistance/resources/lap\\_programs\\_by\\_state.html](https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state.html)