

To Improve Lawyer Well-Being, Let's First Specify the Problem

The distinction between “symptoms” and the underlying “problem” is relevant to discussions taking place in the legal community about lawyer well-being.

By **Peter Lobl** | September 03, 2020

Suppose you came down with the following symptoms: sore throat, fever, chills, and swollen tonsils. To alleviate these symptoms and boost well-being, it might help to drink a lot of fluids, take Tylenol, and get some rest. But these measures, though helpful, don't target the “problem” causing these symptoms. Once you learn however that these symptoms are caused by the “problem” of strep throat, you have the information you need to take the right remedy: amoxicillin. This distinction between “symptoms” and the underlying “problem” is relevant to discussions taking place in the legal community about lawyer well-being.

In 2017, the ABA initiated an important conversation about the well-being of lawyers in the U.S. That year, the ABA published a report that included findings from a survey of nearly 13,000 practicing attorneys. The survey showed that roughly 20 to 30 percent of those surveyed reported problematic alcohol use and some level of depression, anxiety, and stress.

To promote well-being in the legal community, the ABA report put forward a definition of “lawyer well-being” and offered general and specific well-being recommendations for the consideration of legal employers, among many others. Some contributors to the report followed up later with toolkits for developing wellness programs and with a pledge drive to promote law firms' commitment to well-being. Since 2017, some legal employers have also engaged coaches and consultants to train their attorneys in mindfulness, better self-care, and more effective communication techniques.

Many of these ABA recommendations and ensuing initiatives are practical, detailed, and backed by research. If adopted within the applicable legal setting, many of them could help improve lawyer well-being. It also stands to reason that the findings of the ABA report reflect issues with lawyer well-being and that programs aimed at improving lawyer well-being would therefore help address those issues. This approach however omits an important step: specifying the problem producing these well-being issues. And without specifying the problem, how can legal employers know that their well-being initiatives are trained on the right target?

Both the ABA report and the ensuing initiatives referenced above make reference to factors that negatively impact well-being. For example, there is reference to the stigma of mental health; social isolation; rising incivility; overworking; the absence of control; and issues with diversity and inclusion. These factors may indeed contribute to well-being issues, but many of these factors (stigma, isolation, incivility, lack of control, lack of inclusion, etc.) are also broad constructs that defy easy definition.

In fact, these negative factors are too broad to be actionable, and the ABA report does not emphasize the importance of understanding the context-specific problem that produces these factors. Instead, the emphasis is on defining “lawyer well-being” and then on developing a process for getting from the here-and-now to this improved lawyer well-being state.

This prospective process omits to stress the importance of establishing a contemporaneous process for identifying the organization-specific dynamics (i.e. the problem) that contribute to stigma, isolation, incivility, lack of control, etc. And absent such identification, how can a legal employer develop a solution tailored to address these negative factors, including the findings on depression, anxiety, and alcohol use from the ABA report? To clarify my point further, I make reference to one of the pioneers of problem identification, Dr. Michael Balint.

Michael Balint was a physician and psychoanalyst who practiced in post war England. Many of his patients were entire families, and many of these families had been affected by the war time experiences of their family members, such as combat, food rationing, and shelling. These families would come to medical visits and complain of symptoms that defied diagnosis and that resisted medical treatments.

During the course of weekly seminars (seminars that would eventually evolve into today’s “Balint Group,” as it is known in some medical residencies), Dr. Balint and his colleagues would discuss cases and try to understand what was going on with these patients and families. This work culminated in the publication of Dr. Balint’s most well-known book: *The Doctor, His Patient and the Illness* (1957).

In his book, Balint wrote about the distinction between symptoms and the “real problem.” His patients, Balint realized, could identify and complain of their “symptoms” but many had not identified how societal and family conditions had converged to produce the “real” family problem which produced their symptoms. To illustrate the distinction between “symptoms” and the “real problem,” I use the following vignette in combination with a group dynamics perspective. Suppose a mother presents with guilt, hypersomnia, lethargy, and sadness and her kids have headaches, stomach aches, skip school, and act disrespectfully towards teachers.

During the initial medical visit, the father complains with restrained exasperation about his family’s symptoms. In time however, the doctor gets to know the family better, and he learns that the father was an infantry soldier on the front lines. The doctor learns that the father’s quiet, impassive presentation reflects his efforts to contain the emotional wounds of his combat experience—efforts that sometimes fail and show up in intermittent fits of rage.

Once the doctor learns of this, he has the information needed to know that the mother’s depression and the children’s acting out are not disconnected symptoms but emanate from lives lived in fear of the father’s next outburst.

Families and legal employers are of course very different. The former constitute a foundation to civilization’s social fabric and the latter are professional organizations operating in the market place. But principles of group dynamics—such as authority, control, structure, membership, and role – are

however operable in all groups, be they families or professional organizations—including global organizations.

Groups, such as families and professional organizations, also develop problematic dynamics that produce symptoms. But just treating the symptoms of the problematic dynamic is like drinking a lot of fluids, taking Tylenol and getting some rest when you have strep throat. Helpful? Yes. But not a remedy.

Just as it might be helpful for the mother in the above family to take an anti-depressant and for the children to learn skills to cope better with their behavioral issues, it might be helpful for lawyers within a legal setting to learn mindfulness, better self-care, and more effective communications skills. As recommended in the ABA report, it might also be helpful, on an organizational level for legal employers to form a well-being committee; to review law firm policies; to develop anonymous self-assessment tools; to monitor signs of “work addiction;” to combat social isolation; to improve training and education on well-being; and to reassess firm values. Missing from this approach however is an emphasis on developing a process that pinpoints the problem: the organizational dynamics causing issues with lawyer well-being.

The approach to lawyer well-being reflected in the ABA report and its ensuing initiatives are consistent with principles of positive psychology. If these principles inform the ABA report, that is a good thing as positive psychology possesses many advantages as a change oriented approach: it emphasizes and builds on individuals’ and communities’ inherent strengths, and it is prospective in its orientation. Put simply, its focus is trained on a better tomorrow. As a pathway for improving the present, one of its distinct advantages is that it does not pathologize and is thus less likely to elicit defensive reactions.

This distinct advantage is also one of its principal disadvantages: implicit in positive psychology is the tendency to minimize the importance of understanding the root problem. But in my experience, understanding the root problem is always essential. Moreover, the problem once understood clarifies a lot of data that at first seemed disconnected and confusing. Like understanding that a father’s effect on the household is contributing to depression in his wife and psychosomatic symptoms in his children.

To further lawyer well-being, legal employers should consider adopting a process for “problematizing” what ails their lawyers. With the problem identified, legal employers would then be armed with the knowledge they need to properly target the problem and deliver lasting, effective, well-being solutions for their workforce.

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