

Escambia-Santa Rosa Bar Association - Presentation Destigmatizing Substance Abuse and Mental Health Issues

Continuing Education Program

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I. Destigmatizing the request for help. (30 min)

1. The Florida Bar wants you to reach out for help. We all do.
The Florida Lawyers Assistance (FLA) program was created for you.

2. History of FLA.

1976 - The Florida Supreme Court (FSC) ruled that alcoholism is a disease, which may be taken into consideration when determining discipline.

The Florida Bar v. Blalock, 325 So. 2nd 101 (1976).

1979 - The FSC directed The Florida Bar to establish a commission to monitor and assist impaired attorneys, which led to the formation of The Special Committee on Alcohol and Drug Abuse.

1985 - The Florida Bar first given responsibility to monitor an impaired attorney. *The Florida Bar v. Headley*

1986 - FLA was created as a separate corporation. Bar rules amended to maintain separation, and confidentiality. Rules Regulating The Florida Bar, specifically, Rules 2-9.11 & 3-7.1(o).

2001 - The Legislature provided confidentiality and immunity. Ch. 397.482, F.S.

2018 - Judges acknowledged the need to not only recognize impairment in lawyers, but provided a confidential number to call for their own issues Florida Judicial Wellness Program (FJWP) created for judges, by judges.

3. What FLA Does

- Assists attorneys, judges, law students, and other legal professionals who may be impaired in their ability to function in a legal setting.
- Provides evaluation, assessment and referral services, peer support, aftercare programs, and monitoring services.
- Provides preventative services through educational outreach programs to the judiciary, law schools, law firms, bar associations, bar seminars, and other professional entities.
- Serves as a clearinghouse and referral source for problems associated with marital or financial difficulties, and other areas that might affect an attorney's ability to competently function in a legal setting.

FLA works independently of, but cooperatively with The Florida Bar, the Florida Board of Bar Examiners, the Judicial Qualifications Committee, local bar associations, and the bar at large.

- Shortly after FLA's creation, the Bar realized that it did not have the expertise or personnel to take on the monitoring duties assigned in *Headley* and similar cases
- Requested FLA to design a program to implement the probationary conditions imposed in discipline cases
- FLA accepted responsibility of monitoring and reporting only - specifically declined to act as representative or advocate for attorney.
- Perception of FLA as neutral party, by both clients and disciplinary agencies, is essential to the FLA's role (the "Hagan Doctrine") and took years to earn.

FLA's primary purposes remains helping legal professionals find and maintain program of recovery.

4. Classification of FLA Clients

- **Mandatory:** Bar/court probation or diversion; conditional admission; employer
- **Quasi-voluntary:** Pending grievance proceedings, law students/applicants
- **Voluntary:** No Bar, Bar Examiners, or law firm involvement; 3rd party intervention

5. The FLA Contract/Monitoring

- Attendance at 12 Step or other FLA approved abstinence based groups (religious organizations, Smart Start, etc.)
- Attendance at weekly attorney support meeting (chemical dependency and/or facilitated - not considered simply "12 Step meetings for lawyers")
- Monthly meeting with recovering attorney monitor/mentor
- Random drug and alcohol testing
- Monthly reports to the Bar, Bar Examiners, or employer

6. Responsibilities of FLA

1. Voluntary

- a) To compile documentation regarding recovery and report if authorized by client
- b) To act as 24/7 resource for questions, concerns

2. Non-voluntary

- a) To accurately report compliance or non-compliance with contract pursuant to probationary terms
- b) To act as consultant to the Bar in event of non-compliance

7. Non-Chemical Dependency Cases

- Psychological: depression, bi-polar, stress, burnout, avoidance, personality disorders
- Addictive disorders: gambling, sex, work
- Financial
- Family/Marital

Referral to appropriate therapist/treatment and/or to local facilitated FLA group.

II. Mental Health & Wellness, The Florida Bar's New Standing Committee. (30 min)

The Florida Bar has recognized the need to face Mental Health issues directly.

1. Stress. It's a part of the Profession:

Causes of Stress

- Conflict with personal values
- Lack of Time
- Lack of knowledge
- Financial pressures
- Incivility (clients and other attorneys)
- Unrealistic expectations (our own, judges, clients)
- Public perception
- Vicarious trauma

Effects of Stress

- Depression, Anxiety, burnout
- Damage to immune, circulatory, digestive systems
- Substance abuse
- Suicide
- Unprofessional behavior

2. Attorneys are Especially Vulnerable

- Adversarial nature (modern equivalent of trial by combat) fosters stress response
- Tremendous fear of being perceived as weak by others and of being taken advantage of due to such perception
- Increased competition creates stress
- Expectations of clients are unrealistic
- Decline of professionalism, collegiality: "dog eat dog" mentality
- Frustration of long, drawn out struggle with no clear victory
- Inability to separate professional from personal life

3. Burnout

Results when:

- Feeling of total loss of control over situation
- Expectation to meet impossible demands
- Perception of being unfairly treated
- Loss of financial or job status
- Lack of appreciation of contributions

4. Relationship between Lawyer Impairment and Errors in Judgment

1. 40% - 75% of discipline cases involve a substance abuse or

psychological issue (*Illinois Survey*)

2. 80% of Client Protection Fund cases involve chemical dependency or gambling component (*Louisiana Study*)
5. Mental Health and Lawyers
- Lawyers are 3.6 times as likely to suffer from depression as the rest of the population
 - Women - Report depression twice as frequently as men. Symptoms more congruent with sadness. More honest reporting.
 - Men - Less likely to admit to depression and less likely to be diagnosed. Cover up symptoms with work, alcohol, and drugs. Symptoms tend toward anger/irritability.

In 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation published their study of nearly 13,000 currently practicing lawyers

- It found that between 21 and 36 percent qualify as problem drinkers
- 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety and stress, respectively.

6. Depression Symptoms and Stages

1. While there are many symptoms for depression, it's important to recognize they occur in stages:

Persistent sadness→ Emptiness→ Hopelessness→ Helplessness→ Suicide

2. If the symptoms persist and are interfering with the person's ability to work, study, eat, or enjoy once pleasurable activities, the person may be experiencing a major depressive episode.

7. Common depression Symptoms:

- Feeling Sad or Empty
- Loss of Interest in Normally Pleasurable Activities
- Change in Appetite
- Sleep Disturbance
- Fatigued, Loss of Energy
- Difficulty Concentration, Remembering, Deciding

- Physical Pain(s)
- Wishing You Weren't Alive
- Thinking of Dying, Suicide

8. Risk Factors:

- Genetics
- Trauma: serious injury, major loss, assault, witnessing traumatic event
- History of Physical, Sexual, Emotional Abuse
- Chronic Stress
- Addiction
- Major Physical Illness

9. Other Mental Illnesses:

- Bipolar Disorder
- Anxiety Disorder
- Obsessive Compulsive Disorder
- ADHD
- Unresolved Grief
- Post-Traumatic Stress Disorder (PTSD)
- Alzheimer's Disease

Drugs, Alcohol and Depression intersect in the lives of lawyers, judges and law students in most painful ways. There is Discipline, or Reaching out. Reach out. We are here for you. Here's my cell number. Text me first so I'll know why I'm getting an unknown call. I'll answer every time. And, for complete confidentiality, call FLA at 1-800-282-8981.

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