

1 **Lawyers In Need of Assistance: The Impact on the Person, Ethics and the Profession**

Hugh Grady
ILAP Executive Director

2 **Today's Outline**

- Some facts about the profession
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- What exactly is an impaired lawyer?
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- Correlations between lawyer impairment and disciplinary chaos
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- Balance – some materials provided by Linda Albert of WISLAP
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- Golden Rules

3 **Scope of The Impairment Problem**

Impact on the Person

4 **Some Data
(International Journal of Law and Psychiatry)**

1990 Sample of Washington Lawyers

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 - 19% suffered from depression compared to 3%-9% nationally
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 - 18% were problem drinkers, nearly double the national rate
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 - 26% reported cocaine use at some point in their lives
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 - Similar to results found in previous Arizona study

5 **SIGNS AND SYMPTOMS OF IMPAIRMENT**

6 **Lawyering: An "At Risk Profession"-Seems to imply that "it's hard"**

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 - 1990 Johns Hopkins study ranked lawyers first in experiencing depression
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 - 44% of lawyers feel they don't have enough time with families
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 - 54 % feel they don't have enough time for themselves
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 - 1990 study illustrated job dissatisfaction data doubled from 1984 data

7 **Attendance**

- Routinely arrives late or leaves early

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- Regularly returns late from or fails to return from lunch
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- Fails to keep scheduled appointments
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- Fails to appear at depositions or court hearings
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- Decreased productivity
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- Has frequent sick days and unexplained absences
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8 **Job Performance**

- - Procrastinates, pattern of missed deadlines
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 - Neglects prompt processing of mail or timely return of calls
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 - Decline of productivity
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 - Quality of work declines
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 - Overreacts to criticism, shifts blame to others, withdraws
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 - Smells of ETOH in office or during court appearances
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 - Client complaints
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 - Co-mingles or "borrows" client funds
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9 **Personal Behavior**

- Gradual deterioration of personal appearance/hygiene/health
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- Loses control at social gatherings or where professional decorum is expected
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- Distorts the truth, is dishonest
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- OMVI, public intoxication arrest or possession of illegal drug
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- Poor time management, failure to timely file tax payments
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- Pattern of family crisis
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- Pattern of mood swings



10  **IMPAIRMENT AND DISCIPLINE**

11  **Rule 32:1.3 Diligence**

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- A lawyers work must be controlled so that each matter can be handled competently.
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- Perhaps no professional shortcoming is more widely resented than procrastination.



12  **Rule 32:3.2 Expediting Litigation**

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- Reasonable efforts to expedite litigation
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- Consistent with interests of client
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- Dilatory practices bring the administration of justice into disrepute
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- Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client
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13  **Rule 32:3.3: Candor Toward The Tribunal**

- A lawyer shall not knowingly make a false statement of fact or law to a tribunal.
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- Or fail to correct a false statement of material fact or law previously made.

14  **Rule 32:5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers**



- Reasonable efforts to ensure compliance with Rules of Professional Conduct
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- Knowledge and ratification of specific conduct
-
- Failure to take remedial action

15  **Rule 32:8.3 Reporting Professional Misconduct**

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- Knowledge requires reporting when one lawyer has knowledge of another
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- Judges
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- Iowa Lawyers Assistance Program exception
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- Confidentiality

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Yes, lawyers do need balance.

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18 **LAWYERS ARE HUMAN BEINGS TOO**
SDT = Three Basic Human Needs for Well-Being

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- Competence (What I do I do well)
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- Good interpersonal relationships
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- Autonomy (I have control over what I do)
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- ▶ Ryan and Deci, 2000
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19 **Influence of the Work Environment on Quality of Life**

- Workload?
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- Balance of demands?
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- Responsibility versus authority?
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- Financial balance?
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- Is it "never enough"?
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- Civility versus adversarial?
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20 **Look/Feel Familiar?**

21 **Feeling out of control?**

22 **Hum...Law School-the Other Bar**
(after first semester grades come out)

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26 **Working Towards Acceptance**

Acceptance doesn't mean I like it, it means "I get it" and I move to put a plan in place for survival and even to thrive

27 **What Hurts More than Helps?**

- Alcohol or Drug abuse or dependence
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- Gambling or other addictions
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- Depression or other mental illness
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- General sense of imbalance which decreases intrinsic motivation-may lead to the above
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- Lack of purpose or connectedness

28 **Impact of Stress= Imbalance**

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- Georgetown Journal of Legal Ethics 2001 cited depression as a significant factor in lawyer discipline
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- Louisiana study found 80% of their Client Protection Fund cases involved addictions including gambling.

29 **Lawyer Know Thyself**

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- "It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is most adaptable to change".
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- Charles Darwin

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The 20 Golden Rules

Richard S. Massington, Miami Fl.

- 2 1. Behave yourself
2. Answer the phone
3. Return your phone calls
4. Pay your bills
5. Hands off clients money
6. Tell the truth
7. Admit ignorance

8. Be honorable
9. Defend the honor of your fellow attorneys
10. Be gracious and thoughtful
- 11.
- 11.
- 4 11. Value the time of your fellow attorneys
12. Give straight answers
13. Avoid the need to go to court
14. Think first
15. Define your goals
16. There is no such thing as billing 3000 hours a year
17. Tell your clients how to behave
18. Solve problems – don't become one
19. Have ideals you believe in
20. Call your mother