

UNDERSTANDING MENTAL HEALTH, BURNOUT AND SUBSTANCE ABUSE AMONG
LEGAL PROFESSIONALS IN CANADA

By

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ABSTRACT

Mental health, burnout, and substance abuse in the workplace have come into focus yet only certain occupations have been studied regarding these concepts. The legal profession in Canada lacks behind in combating mental health, burnout, and substance abuse issues and requires further attention to help create a healthier and happier profession. This research delved into these topics to get a better understanding of its prevalence, as well as to discover what is currently being done to address it, and what needs to be done to address it better in the future. There is little research about these topics and lawyers in the Canadian context. This project aimed to contribute to the literature. Using primary and secondary data collection methods, this research sought answers using thematic and exploratory analysis, and integrative literature review methods. The literature and survey data show that lawyers experience an increase in mental health, burnout, and substance abuse issues yet little is being done about it to aid in preventing or educating lawyers about prevention or intervention strategies. Participants in the study reported unique and meaningful answers about how to improve the current standards by the Law Society in their respective province in Canada, as well as the current stressors that they are experiencing which can be minimized. This research is integral to a healthier and happier future for legal professionals in Canada and it is important to acknowledge the importance of addressing these issues through prevention and education initiatives before they become detrimental to the lawyers, the profession, and their clients.

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How does Mental Health, Burnout, and Substance Abuse affect Legal Professionals in Canada?

Mental health, burnout, and substance abuse awareness is becoming more prominent in our society today. In professions across Canada, acknowledging mental health, burnout, and substance abuse has become less stigmatized which has resulted in the creation of support programs for individuals in the workplace. Mental health, burnout, and substance abuse are especially important concepts in the criminal justice professions. Yet despite the increasing awareness and de-stigmatization of mental health and substance abuse among other professionals, individuals who are employed within the Canadian criminal justice system face a variety of unique complications that differ from other careers. The uniqueness of their experiences such as burnout and vicarious trauma, as a result of repeated exposure to traumatic material, and the unspoken and spoken belief that professionals must be emotionally “tough” may contribute to the ongoing stigmatization that is still present within the criminal justice field.

Stigmatization is defined as “the act of treating someone or something unfairly by publicly disapproving of them” (Cambridge University Press, n.d., para. 1). In the legal profession it is not uncommon for the issues of mental health, burnout, and substance abuse to exist in a stigmatization cloud among its employees due to the culture and environment of law firms. There is a lack of research regarding the stigmatization of these topics among the legal profession, yet there is some discussion regarding the stigma associated with mental health among lawyers in Australia. As argued by Ozcan & Ceylan (2021) “lawyers with nonjudgmental attitudes towards mental illnesses can help eradicate all forms of prejudice and discrimination against people with mental illnesses” (p. 2). Therefore it is with a hopeful attitude that the introduction of educational and preventative programs within the legal profession, such as in law school curriculums or the hiring process, would be beneficial to address the stigma associated

with mental health, burnout, and substance abuse among this population. Further research is required to determine the levels of stigmatization among lawyers across Canada as well as the possible ways in which individuals can be proactive about this issue. But this project was a starting point.

Lawyers experience work related stressors in an immensely different manner than others. Due to a lawyer's position they are exposed to vulnerable people (clients or victims), and they must read immense amounts of material, cases, and reports that detail violence and victimization. They work in a justice system that has constraints and sometimes does not produce the justice it seeks to serve. These situations present a variety of potential triggers for mental health and substance abuse that can be found in the everyday lives of lawyers across Canada. The most common potential trigger is stress, as stress is the most prevalent occupational hazard of the legal profession (Otey, 2015). Stress can come from a poor work-life balance, working 60+ hours each week, carrying the burden of a client's freedom in their hands, arguing their case in front of a judge, and more. Since stress is a contributing factor to developing further issues such as substance abuse problems, it is integral that the legal profession starts a proactive approach to deal with this trigger before it may exacerbate future and potentially more detrimental problems. There are plenty of other potential triggers for mental health and substance abuse problems such as occupational and environmental issues (i.e., difficult coworkers, large caseload, long hours, etc.), physiological (i.e., lack of sleep, medical conditions, poor diet, etc.), biological (i.e., previous family history, genetic dispositions, etc.), and psychological (i.e., stress, lack of healthy coping mechanisms, etc.). These triggers are further discussed in the latter part of this paper.

According to Morgillo (2015), lawyers can experience a form of secondary trauma resulting from being exposed to traumatic material either through verbal communication or

reading case material. In the words of Dr. Charles Figley, the pioneer of vicarious trauma, vicarious trauma can be described as “behaviours and emotions resulting from representing a traumatized client should not be viewed as pathological, rather they are the natural and universal reaction from knowing a person’s trauma or suffering and wanting to help” (as cited in Figley, 2002, p. 1435). A substantial concern for lawyers when working with clients is a form of secondary trauma, also referred to as vicarious trauma, which may contribute to the possibility of developing mental health and substance abuse problems. Vicarious trauma refers to the “affective and cognitive changes that occur when working with individuals who experienced trauma and includes alterations in professionals’ self-identity, worldview, and mental health” (Cummings et al., 2021, p. 5305).

Although there is some research data on the effects of the duties that rest upon lawyers, there is an absence of empirical data on the impacts of their work when their mental health is affected or how that contributes towards the potential for substance abuse issues. Most information regarding lawyers and burnout, mental health, and substance abuse are mainly focused on the substance abuse component. In a study from the United States by Listokin and Noonan (2021) they discovered “lawyers experience depression and substance abuse at higher rates than the general population” (p. 5). Their study used the National Health Information Survey (NHIS) to gather data from the randomly selected population, picked out approximately 1,000 lawyers in the population from NHIS data from 2010-2017, and divided them into subgroups based on how many years of experience they had in the field as well as their gender. They also discovered that “male lawyers consume excess alcohol much more frequently than male non-lawyers with similar education levels...[and] female lawyers report greater rates of excess alcohol consumption than do female non-lawyers” (Listokin & Noonan, 2021, pp. 30-31).

Morgillo (2015) states that lawyers “can find themselves using drugs or alcohol to distract themselves, both from a job’s expectations and from internal messages, which can develop into an addiction” (p. 459). A potential reason for the use and abuse of alcohol and drugs could be due to the results of vicarious trauma such as “psychological distress, cognitive shifts, and emotional difficulties” (Morgillo, 2015, p. 458). Further research is required to explore these causes, as well as the correlation between job stressors and mental health issues unique to this profession and what can be done to mitigate the harm. Further research is also required to determine how to help address these issues within the legal profession and provide recommendations for policies in the Law Society associations across Canada.

It is apparent how mental health, burnout, and substance abuse are heavily under researched topics about lawyers. The legal profession is not immune to these issues and further research is required to determine which factors play in the potential deterioration of positive mental health. The research on substance abuse and lawyers is limited, including research that combines substance abuse with mental health and burnout. These issues are deserving of further study to discover the correlations and detrimental impacts these issues may have on the individuals such as license suspensions, loss of employment, loss of well-being, fines, damage to reputation, and more.

The purpose of my research was to ask and discover what lawyers experience in their work, the uniqueness of their work, and its connection to mental health, burnout, and substance abuse prevention, education, and stigmas. I also sought to ask about what is being done in the legal profession to address these issues and if there are recommendations for addressing these issues that should be implemented.

This paper delved into the topics of mental health, burnout, and substance abuse among lawyers in and outside of Alberta, Canada, to bring further awareness and attention to these issues. This paper used literature to discuss topics such as vicarious trauma, ethical issues and considerations, and current programs and education about mental health, burnout, and substance abuse for lawyers because they are integral components in understanding the ways the legal profession must experience a paradigm shift toward a healthier and more satisfied group of professionals.

This project also included empirical data derived from surveys completed by lawyers in and outside of Alberta. The survey was designed to assess the prevalence of mental health, burnout, and substance abuse education, acknowledgement, and understanding among lawyers including where they can access help or services for these issues.

This topic was worth studying because it may inspire further action to prevent mental health, burnout, and substance abuse issues among lawyers, provide insight into possible programs to implement for treatment and prevention, as well as to challenge stigmas surrounding these concepts.

Methodology

This was an exploratory study using a combination of qualitative and quantitative data collection methods. This included a survey, statistical analysis, reviewing case examples, law society pages, and a robust literature review. The objectives of my study was to see how lawyers understand mental health, burnout, and substance abuse, explore how the Law Societies in Canada address mental health, burnout, and substance abuse, look for themes and commonalities among respondents, and to understand lawyers' views and experiences about stressors that influence mental health, burnout, and substance abuse. The analysis of the literature also contributed to a better understanding of self-care, vicarious trauma, current programs and education about mental health, burnout, and substance abuse, as well as the ethical considerations for issues of these three concepts in the legal profession.

Research Question

The overarching research question that guided my study was: ***How does mental health, burnout, and substance abuse affect and influence the lives and experiences of Lawyers in Canada?***

To find answers to that question, this research project used primary and secondary data collection methods and a literature review as outlined below.

Primary Data

The primary data collection portion of this research included a structured survey that had open and closed-ended questions. The survey was sent to 60 potential participants contacted through their publicly available email addresses from their practice or professional pages, or their LinkedIn digital profiles. Recruited participants were lawyers across Canada who are at least 18 years of age, have at least one year of experience working as a licensed lawyer, and no specific area of law practice required. This study used a purposive sample as potential participants were

all lawyers who were contacted through my supervisor Dr. D. Scharie Tavcer from her network of contacts who she believed would be willing to participate in my study. All invited lawyers were encouraged to participate and most of them had specialty in either criminal, business, or family law.

The survey consisted of seventeen questions including short answers, multiple choice, and check boxes that covered topics such as defining mental wellness, defining mental illness, defining burnout, defining substance abuse, current impacts on mental health in their profession, how the law society in their province handles these issues, and anything further they believed would be beneficial to this study (see Appendix D). All data was collected anonymously through Google Forms, an online survey tool, and was analyzed manually after data collection was complete. The survey took participants approximately 10-20 minutes to complete with no financial costs or compensation offered. The Human Research Ethics Board at Mount Royal University approved of this study and all participants were provided informed consent prior to accessing the survey (see Appendix A and B).

A mix of exploratory data analysis and thematic analysis methods were used to analyze the survey data. Exploratory data analysis and thematic analysis were the best choices for this study. Exploratory projects use the data to establish relationships which were previously unknown as well as discover and form new connections for defining future studies or answering questions pertaining to future studies. Thematic analysis involves skilled ordering of the data into categories or themes in which most of the main elements of the results can be presented (Maxfield & Babbie, 2016).

Despite the small sample size, the data produced themes, ideas, and experiences that are valuable even if they cannot be generalized to all lawyers in Canada. The study's design allowed

for manual analysis to explore any themes or commonalities among this sample of lawyers in Canada. Exploratory data analysis offered the opportunity to refrain from definitive answers but provide insight into the topic for further research, while thematic analysis allowed the determination of recurring themes among the participants in the sample to provide insight in answering the research question.

Secondary Data and the Literature Review

The literature review portion of this project focused mainly on qualitative studies but also found inspiration in quantitative studies as well. As the literature review provided most of the information for this project, it was conducted using an integrative literature review method. An integrative review “usually has a different purpose, with the aim to assess, critique and synthesize the literature on a research topic in a way that enables new theoretical frameworks and perspectives” (Snyder, 2019, p. 335). Integrative reviews also include “all studies that address related or identical hypotheses or research problems” in a manner that helps conceptualize the key words and provide potential answers toward the research question (Labaree, 2019, at para. 3). This was the best choice for this project because it allowed for synthesizing a topic that is heavily under researched in Canada, as well as deriving answers from studies in other countries and contexts that could assist in extrapolating answers into Canadian research.

Integrative literature reviews also “puts more responsibility on and requires more skill of the researchers, as there are even fewer standards and guidelines on which to rely for developing a strategy” which allows for the analysis to generate new ideas based on the information collected (Snyder, 2019, p. 336). It also gives academic freedom in analyzing the data to discover relationships and new information on an under researched topic.

The scholarly sources used in the literature review included law society pages and reports across Canada, and CanLII legal case documents that involved a lawyer's conduct from Alberta, British Columbia, Ontario, Manitoba, and Nova Scotia. The provinces Alberta, British Columbia, Manitoba, Nova Scotia, and Ontario were chosen to provide a wider span of provinces across the country rather than focusing on the eastern or western halves. This was done with the belief that a selection of different political and social ideals found in these provinces might reveal that the Law Societies provide differing programming and services.

Academic research studies were accessed on Google Scholar, the Mount Royal University library repository and criminal justice databases, as well as books and textbooks accessed through library databases.

The search strategies I used were an organized structure of the key terms into a search database. The key terms for this research were mental health, mental illness, mental wellness, burnout, vicarious trauma, substance abuse, and lawyers.

Conceptualization

Various terms are used in this project that require understanding before analyzing lawyers' experiences.

Mental Health

Mental health is mostly referred to as cognitive, behavioural, and emotional well-being as it includes the way humans think, behave, and feel (Government of Canada, 2021). According to Manderscheid et al. (2010), mental wellness "refers to the degree to which one feels positive and enthusiastic about oneself and life, whereas illness refers to the presence of disease" (p. 1).

Mental wellness can also be thought of in terms of how an individual "feels, thinks and acts in ways that help [them] enjoy life and cope with its challenges" (Government of Canada, 2021).

Mental health was traditionally defined in terms of the absence of a mental illness, yet with the growing acknowledgement of understanding of mental health the World Health Organization now defines it as “a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community” (World Health Organization, 2018, at para. 1). The most substantial change to this definition of mental health is the key word “well-being” in that mental health is something that can affect all areas of an individual’s life and affects their unique perspective of their daily life.

Mental Illness

From the opposite perspective, mental illness “refers to conditions that affect cognition, emotion, and behaviour” (Manderscheid et al., 2010, p. 2). It is important to understand that mental wellness and mental illness are the integral components in determining whether someone has a positive or negative mental health, but the lack of mental distress does not mean the individual has a positive and healthy mental health overall. Mental wellness and mental illness can be “positively or negatively influenced by life experiences, relationships with others, work or school environment, physical health, or type of community,” and can fluctuate over time (Government of Canada, 2021). According to Barlow et al. (2018) mental illness is a legal concept. They argue that mental illness typically means “severe emotional or thought disturbances that negatively affect an individual’s health and safety,” but also argue that it has different meanings across Canadian provincial jurisdictions (p. 541). Finally, the DSM-5 defines mental illness as a mental disorder. It defines mental disorders as “a syndrome characterized by clinically significant disturbance in an individual’s cognition, emotion regulation, or behaviour

that reflects a dysfunction in the psychological, biological, or development processes underlying mental functioning” (as cited in Stein et al., 2021, at para 4).

Burnout

Burnout is one of the most common phenomena experienced by workers across various professions in Canada, especially those in the criminal justice professions. It was first researched in the context of health and human services but has become more prominently recognized among other professions as well (Otey, 2015). In all professions burnout can become an issue that the individual experiences that can lead to further or new health related problems, loss of job, or even dire consequences such as addiction, depression, or suicide.

Burnout can be defined as “an affective reaction to ongoing stress whose core content is emotional exhaustion, depersonalization, and reduced personal accomplishment” (Fernet et al., 2010, p. 1163). Emotional exhaustion refers to “the depletion of one's emotional resources” while depersonalization refers to “a negative, cynical, and detached attitude toward other people or the job itself” and reduced personal accomplishment refers to “a decrease in feelings of job competence and productivity” (Fernet et al., 2010, p. 1163). Burnout can also be defined as “natural consequent behaviours and emotions resulting from knowing about a traumatizing event experienced by a significant other [or] stress resulting from helping or wanting to help a traumatized or suffering person” (Morgillo, 2015, p. 457).

The symptoms of burnout manifest in three possible ways: physical, behavioural, and psychological. Physical symptoms may include exhaustion, insomnia, headaches, increased susceptibility to illness, somatization, and hypochondria. Behavioural symptoms may include increased use of alcohol and drugs, anger and irritability, avoidance of problems in personal relationships, compromised care for clients, and depleted parenting skills. Psychological

symptoms may include depression, anxiety, guilt, diminished sense of enjoyment in career, depersonalization and numbness, intrusive imagery, insensitivity to emotional material, and difficulty separating personal and professional lives (Morgillo, 2015).

Substance Abuse

Substance abuse may just be the most stigmatized concept in society and among professionals. It encompasses a variety of concepts on a continuum such as substance use, substance abuse, and substance dependency, and these can manifest in an individual's life at different stages or in different levels of severity.

Substance use refers to the “ingestion of psychoactive substances in moderate amounts that do not significantly interfere with social, education, or occupational functioning” (Barlow et al., 2018, p. 370). Substances can enter the body through four mediums: ingestion, inhalation, absorption, or injection. After a substance enters the body it causes intoxication, which is defined as “our physiological reaction to ingested substances and is experienced as impaired judgment, mood changes, and lowered motor ability” (Barlow et al., 2018, p. 370). It is not uncommon for individuals to engage in substance use in the duration of their life such as going out drinking with friends or taking prescription medications after major surgery. Yet when substance use becomes more prevalent and troublesome, it may turn into substance abuse.

Substance abuse is “the medical term used to describe a pattern of using a substance (drug) that causes significant problems or distress” (John Hopkins Medicine, 2022, at para. 1). There is a variety of medical terminology used to diagnose an individual with a substance abuse disorder, and the DSM-5 defines a substance use disorder “in terms of how significantly the use interferes with the users life...if substances disrupt your education, job, or relationships with others, and puts you in physically dangerous situations, [then] you would be considered to have a

disorder” (as cited in Barlow et al., 2018, p. 370). Substance abuse can affect various aspects of an individual’s life including work, personal life, and interpersonal relationships. It is a brain disorder that many consider to be unacceptable in society that further drives the stigmatization of people suffering with it.

Substance dependence is the “medical term used to describe abuse of drugs or alcohol that continues even when significant problems related to their use have developed” (John Hopkins Medicine, 2022, at para. 2). Dependency is a key indicator to assess whether substance use can turn into a substance abuse disorder, but it may also be present without the full development of a disorder. John Hopkins Medicine (2022) details the signs of substance dependency to include:

tolerance to or need for increased amounts of the drug to get an effect, withdrawal symptoms that happen if you decrease or stop using the drug that you find difficult to cut down or quit, spending a lot of time to get, use and recover from the effects of using the drugs, withdrawal from social and recreational activities, [and] continued use of the drug even though you are aware of the physical, psychological, and family or social problems that are caused by your ongoing drug abuse. (para. 2)

Vicarious Trauma

Vicarious trauma has traditionally been a focus in mental health and medical professionals with very little to no attention towards legal professionals (Maguire & Byrne, 2017). Vicarious trauma was first identified in the early 1990’s by Dr. Charles Figley but was originally defined as ‘compassion fatigue’ (Otey, 2015). Figley (2002) thought of compassion fatigue as “the very act of being compassionate and empathic [that] extracts a cost under most

circumstances. In our effort to view the world from the perspective of the suffering we suffer...the meaning of compassion is to bear suffering” (p. 1434).

The term ‘vicarious trauma’ was coined by researchers McCann and Pearlman in the late 1990’s and defined it as both a term and condition that “reflects the painful psychological effects that results from engaging with traumatic material and engaging that material into one’s cognitive schemas, disrupting beliefs about trust, safety, control, esteem, and intimacy” (Burton & Paton, 2021, p. 94). More modern definitions of vicarious trauma define it as “the affective and cognitive changes that occur when working with individuals who experienced trauma and includes alterations in professional’s self-identity, worldview, and mental health” (Cummings et al., 2021, p. 5305).

It is common to use the terms burnout, compassion fatigue, and vicarious trauma interchangeably yet each term has its own meaning and definition that requires distinction (Iverson & Robertson, 2021). Vicarious trauma can be debilitating to the individual affected yet there is no proper diagnosis that encompasses the symptoms. Typically, counselling is the prescribed treatment. Maguire and Byrne (2017) argue that symptoms of vicarious trauma “resemble those of post-traumatic stress disorder and while symptoms may not meet all the criteria for a diagnosis of PTSD, they are nonetheless distressing and impairing for the individual” (p. 233).

It is also essential to differentiate between stress and vicarious trauma. In order to distinguish trauma from stress, it is integral to understand how a “traumatic event is one which is so overwhelming that it diminishes a person’s capacity to cope, as it elicits intense feelings of fear, terror, helplessness, hopelessness, and despair often subjectively experienced as a threat to the person’s survival,” while stress is a triggering factor to develop problems such as burnout,

which may in turn exacerbate the chances of experiencing vicarious trauma (James, 2020, p. 276). Norton et al. (2016) further expands upon this concept, arguing that vicarious trauma “causes or worsens many emotional symptoms as well...[such as] chronic fear and anxiety, inexplicable guilt and shame, self-doubt, withdrawal and isolation, feeling overwhelmed by small challenges, irritability and anger, powerlessness, [and] numbness” (p. 989).

It can be argued that vicarious trauma is interconnected with mental illness and burnout, as all three of these concepts can develop due to stress or other extenuating factors in one’s profession. These connections and correlations require further research and discussion.

Literature Review

Understanding Stress

The legal profession is a career that involves high levels of stress, egregious pressure for perfection, and a variety of traumatic events on behalf of clients that may contribute to the development of poor mental health. In a 1990 John Hopkins research study it was found that “practicing lawyers ranked highest in major depressive disorder among 104 occupational groups” (Krieger, 2002, pp. 114-115). In a self-report study done by Krill (2016) on mental health among lawyers in the United States, it was discovered that 61% of respondents reported having experienced anxiety at some time during their legal career, 46% reported concerns with depression, 11.5% reported suicidal thoughts, 2.9% reported self-injurious behaviours, and 0.7% reported having at least one suicide attempt in the previous year. In continuation of the findings of Krill (2016), Howerton (2004) discovered that “many lawyers in these studies reported suicide ideation...in one study 11% of the lawyers reported suicidal ideation at least three times during the past year” (p. 25).

In a study from Australia done by Drew et al. (2015) with 592 practitioners working for the state and government and 544 practitioners working for internal counsel, it was reported that “the legal profession faces serious challenges due to high levels of psychological distress, depression and substance abuse” and further argues that “mental illness is a critical issue because the legal profession demonstrates [such] disproportionately high rates of psychological distress and depression” (p. 289, p. 293).

Mental health and wellness are important for those in the legal profession as it proves to be detrimental not only to a lawyer’s performance or their client’s experience, but to their entire well-being and lives. More empirical research is needed, especially in Canada, as mental health

affects all aspects of an individual's life and is necessary for the positive well-being and positive lives of legal professionals.

Mental Health Stressors

There are many reasons for the mental health of lawyers to be affected both positively and negatively. As stated earlier, mental health can be affected by life experiences, relationships with others, work or school environments, physical health, or the type of community one lives in (Government of Canada, 2021). In the context of the legal profession there are an additional set of unique factors that have the possibility to affect mental health. According to Otey (2015), the most common occupational hazard for the legal profession is stress. As said by Norton et al. (2016), "several factors lead to stress symptoms in lawyers including self-reliance to the exclusion of collaboration, lack of multidisciplinary work models, lack of education about the effects of working with disenfranchised and traumatized populations, and the immediate requirement of confidentiality" (p. 993). Furthermore, in a study done by Howerton (2004) lawyers stress is related to a variety of factors such as:

the societal demise of respect for lawyers with a simultaneous lessening of a sense of self-worth, technological advances which have quickened the pace of the practice, the increased lack of civility among lawyers, and the increased competition to be the best and brightest associates. (p. 49)

With these stressors present it comes as no surprise that many lawyers suffer from poor mental health. Coupled with a profession that does not acknowledge it or provide support to combat it, lawyers are at risk of burnout, vicarious trauma, and more. Drew et al. (2015) supports this thought by arguing that "while the nature of legal work is challenging and rewarding, it can threaten to invade and conquer the lives of individuals" (p. 288).

Although there are few studies in the Canadian context about the mental health of lawyers, in a historical American study done by Krieger (2002) it was discovered that “one’s motivational style and the content of one’s goals and values predict positive or negative mental health and well-being” (p. 120). This offers an insight into the stressors that influence mental health and possible mitigating factors, but further research is required to determine how these stressors affect mental health directly and how these stressors can be minimized.

Understanding Burnout

Stress is a major contributor to the development of burnout and the legal profession has a high prevalence of it. As stated earlier, stress is the most common occupational hazard in the legal profession. The legal profession is “full of expectations, both spoken and silent, of one being able to work extended hours, meet surmounting deadlines, and maintain the appearance of continually being able to perform at a high level” (Otey, 2015, p. 163). The pressures and duties that rest upon a legal professional can produce elevated stress levels and therefore increase the likelihood of experiencing burnout at some point in their career. An American study found that “compared to mental health providers and social service workers, attorney’s surveyed had significantly higher levels of secondary traumatic stress and burnout...this can be attributed to the neutral characteristics usually found in attorneys as well as a lack of training” (Otey, 2015, p. 169). These neutral characteristics include being “more logical, unemotional, rational and objective in making decisions and perhaps less interpersonally oriented than the general population” (p. 169).

There is a severe lack of education for lawyers to understand and prevent burnout in their careers, how to handle these issues in their career, and protective factors that buffer them from long term effects of this phenomenon.

An integral factor to the development of burnout is well-being. For an individual to deter the risk of experiencing burnout in their career they must acquire a strong sense of self-awareness to fulfill their well-being. As argued by Fernet et al. (2010) “employees with low self-determined work determination/motivation would be more likely to experience burnout symptoms, regardless of other factors” (p. 1166). They also discussed possible ideas for combating burnout in the legal profession. Some examples of protective factors are maintaining high quality relationships with coworkers and bosses, strengthening social bonds with personal relationships, developing and sustaining optimal work motivation, and engaging in the job for the “right reasons” (Fernet et al., 2010). Otey (2015) also argues that “without the proper balance of stress and relief established in the life of an attorney, many negative side effects can develop including loss of sleep, loss of time with one’s family, illness, distorted self-perception, and depression” (p. 160).

Burnout Stressors

There are a variety of factors that may produce or exacerbate burnout in legal professionals. These factors may include “self-reliance to the exclusion of collaboration, lack of multidisciplinary work models, lack of education about the effects of working with disenfranchised and traumatized populations, and the immediate requirement of confidentiality” (Norton et al., 2016, p. 993). Burnout stressors can be divided into four separate categories that work concurrently to contribute to the possibility of experiencing burnout. The four categories are individual characteristics, occupational variables, societal variables, and technological variables.

Individual characteristics are “unique and inherent to a specific person” (Salmons, 2017, p. 54). These include personality characteristics that have been commonly found among those

who work in the legal profession such as perfectionism and the intense desire for achievement. “As a result, lawyers may struggle with setting appropriate and healthy boundaries with their clients, colleagues and bosses” that may further exacerbate the underlying stress they experience (Salmons, 2017, p. 54). Although it is known that lawyers are highly skilled communicators, studies have found that lawyers have trouble communicating their own emotional experiences, needs or desires. It is common for lawyers to “detach from their emotions and develop an impenetrable exterior,” yet this coping mechanism only continues to worsen the problem as “social support and relationships have been proven to counteract the negative effects of workplace stress and burnout” (Salmons, 2017, p. 54).

Occupational variables are those that are unique to the different areas of legal practice, but in the broader context there is a collection of occupational variables that are true for all lawyers. These include stressors “in which the lawyer must put his or her values aside to represent a client of whom he or she would otherwise disapprove” (Salmons, 2017, p. 55). These stressors can be especially challenging because lawyers have a legal obligation to serve their client’s needs whether they align with the attorney’s personal moral compass, beliefs, and values or not. Salmons (2017) argues that the most important stressor is the “common knowledge that lawyers often have to practice within an adversarial context, which leads to additional aggression and stress” (p. 55). This high-demand and low-control work environment can result in the increasing chance of developing burnout in the legal profession. Further research is required to distinguish the unique occupational stressors present within each practicing area of law, as each area of legal expertise has different occupational demands that contribute to the potential of experiencing burnout and consequently would have different prevention and intervention solutions.

Societal variables include those that are rooted in perspectives outside of the legal profession such as the public's opinion of lawyers. There is a low public opinion of defense lawyers in society that includes "many negative jokes about lawyers and a common view that lawyers cause problems rather than fix them" (Salmons, 2017, p. 55). Society tends to view lawyers in a negative manner, and this creates the misconception that lawyers are self-centered professionals that tend to act in unethical ways for the benefit of their clients and their pocketbooks. These societal factors can contribute to the lack of job satisfaction, continued stress, and unhappiness in lawyers, resulting in the further exacerbation of the potential to experience burnout (Salmons, 2017).

Technological variables are the issues rooted in technology in society. In the growing age of technological advances, it may be difficult for lawyers to keep up with the development of the internet and technological devices. Salmons (2017) argues that "lawyers who already have a difficult time with setting appropriate boundaries or turning down work are constantly bombarded with requests from clients and partners outside of working hours, through email, text messages, and calls to personal cell phones" (p. 56). Furthermore, lawyers are consistently challenged to accommodate the growing access of databases available online. If lawyers struggle with the balance between work and personal life, as well as struggle with the constant pressure to be available for work at all hours of the day, the prevalence of burnout will increase (Salmons, 2017).

These four categories intertwine and co-exist among and contribute to burnout in the legal profession and demand that further attention should be given to this problem in Canadian society.

Understanding Substance Abuse

Substance use, abuse, and dependency can include a variety of substances both illicit and legal. The most abused substances include alcohol, marijuana, prescription medicine such as pain pills, stimulants or anxiety pills, methamphetamine, cocaine, opiates, hallucinogens, and inhalants (John Hopkins Medicine, 2022). Although there are a variety of substances that people can use and abuse, the most abused drug in Canada is alcohol (Statistics Canada, 2019).

For legal professionals (and the public), alcohol is a common drug of choice primarily because it is legal and socially acceptable, but studies have found that “lawyers experience depression and substance abuse at higher rates than the general population” (Listokin & Noonan, 2021, p. 5). The rate of alcohol abuse among lawyers “has grown considerably worse over the last decade, with today’s rate of problematic drinking more than 50 percent above the rates reported in the mid- 2000’s” (Listokin & Noonan, 2021, p. 32). In a study done by Krill (2016) it was discovered that 21% of participants scored at a level that was consistent with problematic drinking levels with 32% of lawyers thirty years of age or younger having levels of problematic drinking and 28% of those with ten or fewer years of experience having levels of problematic drinking. For clarification, the Centers for Disease Control and Prevention (CDC) defines problematic drinking as having five or more drinks on twelve or more days in a year (Listokin & Noonan, 2021). Health Canada also defines problematic drinking as having five or more drinks on one occasion, 12 or more times over the past year (Statistics Canada, 2008).

Other studies have discovered that 70% of lawyers are highly likely to experience alcohol related problems at some point in their lifetime and career (Howerton, 2004). When variables such as gender, years of experience, and age are accounted for, there are unique results. In an American study done by Listokin & Noonan (2021) they reported that “male lawyers consume excess alcohol much more frequently than male non-lawyers...[and] female lawyers report

greater rates of excess alcohol consumption than do female non-lawyers” (pp. 30-31). In another American study done by Krill (2016) it was discovered that “males had higher levels of problematic drinking (25%) than females (16%)” (p. 51). These differences account for gender as well as lawyer versus non-lawyer counterparts, with male lawyers having a higher prevalence of alcohol use compared to their female counterparts. Howerton (2004) also discovered that “female lawyers, especially those who are younger, were less likely than male lawyers to suffer from alcohol problems” (p. 51). Regarding age, Listokin & Noonan (2021) argue that “differences in excess alcohol consumption by age among non-lawyers, while significant, are about a third as large as between young and old lawyers” (p. 24). The rates of problematic drinking among younger associates are far greater than those more experienced due to possibly the culture shock and peer pressure when entering the legal profession, the demands to succeed, and the stress that the legal profession demands.

It comes as no surprise that stress can play a major role in the development of substance abuse. Despite the discrepancies between age, gender, and years of experience, alcohol use and abuse by lawyers is a consistently growing issue. Further research is required to determine the rates of alcohol use and abuse in the Canadian context, as well as any other substances that lawyers may use and refrain from disclosing such as stimulants, methamphetamines, or pharmaceuticals because of the illicit nature and disciplinary consequences associated with using these forms of drugs.

Substance Abuse Stressors

Since stress is commonly experienced by legal professionals, unsurprisingly, stress plays a major role in the development of substance use and substance abuse disorders. As argued by Howerton (2004) “limited research has identified perceived stress as a correlate of depression

and alcohol abuse in lawyers” (p. 8). The connections between mental health and alcohol abuse are present within the legal profession but there are few empirical studies that provide evidence towards this claim. The most compelling evidence in the literature supporting this claim is that stress is an integral factor to the development of mental health concerns, which in turn may result in the development of substance use or substance abuse disorders. Also argued by Howerton (2004), “empirical studies have also shown that drinking to cope with distress strengthens the link between depressive symptoms and alcohol consumption and drinking problems” (p. 53). There is a possible correlation between using substances as a coping mechanism for stress experienced by those in the legal profession, yet there is a dire need for further research to confirm or deny this claim and consider next steps.

Another factor that may contribute to substance use in lawyers is the environment of the legal profession. Characterized by high levels of professionalism and perfectionism, stressful situations, great responsibility for precision, and the competitive nature of the field, lawyers may abuse substances to cope with the environment of the job itself. The concept of happiness is one that appears frequently in literature about the health of lawyers during their practicing career as a deterrent from engaging in substance use. In a study done by Krill (2016) on the happiness rates of student lawyers, it was discovered that “those who engage in work that is interesting, engaging, and personally meaningful are happier than those who seek good grades, prestige, and affluence” (p. 55). If there is a substantial change in the mindset of the practicing lawyer, this can deter the individual from engaging in substance use by forming healthier coping mechanisms such as meditation, having hobbies, or seeking therapy.

In the legal profession it is commonly found that seeking help for issues such as substance abuse is seen as extremely stigmatizing. As argued by Krill (2016) on the prevalence

of substance abuse and mental health concerns among American attorneys, he found that “lawyers don’t seek help for their behavioural health problems because they fear someone will find out and it will discredit them and possibly affect their licence” (p. 54). This fear of discreditation or negative consequences may prevent the lawyer from seeking help for their issues which could further exacerbate the problem. The issues regarding disbarment and consequences for lawyers that are caught with substance abuse problems is discussed in the latter half of this paper.

Overall, the literature confirms that stress is the most common factor that exacerbates or creates substance abuse problems within the legal profession. As stress may lead to mental health concerns, mental health concerns can then turn into substance abuse concerns as well. It is integral for the legal profession to begin to address these issues at the forefront with mental health being the first component to prevent further issues from being developed. The environment of the legal profession presents various possible challenges and may require serious shifts in ideology to ease the amount of stress, perfectionism, and adversarial nature that is expected of lawyers.

Understanding Vicarious Trauma

Since vicarious trauma has traditionally focused on mental health and medical professionals there is scant literature to assess the presence of vicarious trauma among legal professionals in Canada and other parts of the world. One of the only studies done on vicarious trauma among the legal profession was conducted in England in 2017 by Maguire & Byrne, in which they compared a group of mental health professionals to legal professionals on vicarious trauma. They discovered that lawyers scored significantly higher on the vicarious trauma scale than the mental health professionals (Maguire & Byrne, 2017). Corroborating with similar findings, Burton & Paton’s (2021) study revealed that “legal professionals are at a heightened

risk of vicarious trauma compared to other helping professionals such as mental health workers” (p. 94). Another study on the presence of vicarious trauma among the legal profession in America by Iversen & Robertson (2021) discovered “criminal lawyers reported significantly higher secondary trauma scores than non-criminal lawyers” (p. 13). When analyzing lawyers from all areas of expertise, they also reported “the prevalence rate of one or more symptoms of secondary trauma ranged from 63% to 83.6%” and “when using PTSD screening tools 11% of lawyers met the criteria for PTSD,” a substantial score that clearly shows the prevalence of this issue among the legal profession (p. 13).

Several scholars have brought this into consideration, arguing that education is an integral part for addressing vicarious trauma and necessary to integrate education and training for new attorneys into the mainstream of the field (Bakhshi et al., 2021). Bakhshi et al. (2021) argues:

due to the lack of exposure to advanced training, and very often, unavailability of adequate knowledge regarding vicarious trauma, trainees who are exposed to such horrific accounts of trauma survivors, or perpetrators of trauma, may not be prepared to effectively work through with such clients. (p. 35)

Hodge & Williams (2021) also suggest potential prevention measures to help address vicarious trauma in lawyers, such as trauma informed training for lawyers. They argue that “trauma informed training can help legal professionals to understand traumatized individuals better and learn how to treat them in a way that is less likely to trigger emotional reactions, limit re-traumatization, and promote therapeutic jurisprudence” (p. 62). It appears that education and specialized training can be strong preventative measures that law schools and law firms can easily implement to address vicarious trauma in the legal profession. Although these potential measures can help to delay or demolish the potential to experience vicarious trauma, there are

still a variety of factors that may contribute to a lawyer experiencing vicarious trauma within their career that must be acknowledged.

Vicarious Trauma Stressors

The legal profession has a variety of stressors that can increase the likelihood for lawyers to experience vicarious trauma in their careers. Scholars have argued that the legal profession encompasses a heightened risk of vicarious trauma compared to other helping professions and this is due to the amount of traumatic material lawyers are exposed to daily (Burton & Paton, 2021). Lawyers may be required to engage with clients and others “who have been directly injured and traumatized, listen to graphic descriptions of violence, engage at length with traumatized people and analyze details of abuse and injuries for legal purposes” (James, 2020, p. 275). Some of the traumatic material that lawyers are exposed to isn’t exclusive to client testimony or reading emotionally charged case files. Lawyers also encounter additional sources of information on the nature of the traumatization such as “re-enactment of the trauma, photographs, medical records and media accounts” (Maguire & Byrne, 2017, p. 233). James (2020) further argues that it is not uncommon for lawyers to “draft affidavits, analyze reports and closely examine forensic evidence including photos, recordings and physical items in addition” which is consistent with the findings of Maguire & Byrne (p. 276). Continuously, Iversen & Robertson (2021) also argue that secondary exposure to traumatic material among lawyers implies “contact with traumatogenic material such as graphic, injurious photographic evidence or witness accounts and narratives of traumatic events, accompanied by heightened levels of emotions and distress from clients” (p. 1). Despite the variety of areas of legal expertise, these are some common stressors that apply to all individuals within the legal profession.

The most promising research regarding vicarious trauma among the legal profession is focused on the personality traits of lawyers and the organizational environment. Burton & Paton (2021) discovered that “resilient personality traits enable a greater capacity to center on the positive rather than the negative, and are thus advantageous to trauma professionals including lawyers” (p. 96). In a study done by Bakhshi et al. (2021) they reported “a positive relationship has been demonstrated between extraversion, openness and conscientiousness, and positive post-trauma perceptions when it is mediated by appropriate coping styles” (p. 38). Furthermore, several other studies report a relationship between high scores on the personality trait neuroticism and the development of negative trauma reactions and PTSD (Bakhshi et al. 2021, Maguire & Byrne, 2017). It appears that personality traits are a substantial factor to consider in the possibility of experiencing vicarious trauma. This coincides with the statements that personality traits can also be correlated with the levels of stress experienced by those in the legal profession, as coping with stress is an integral consideration for a lawyers' well-being.

From a different perspective, Burton & Paton (2021) argue that “the vulnerability of lawyers to vicarious trauma could be better explained by organizational factors rather than personality traits” (p. 96). It comes as no surprise that the environment of the legal profession itself is a contributing factor in the experience of vicarious trauma in a lawyer’s career. Hodge & Williams (2021) argue that other stress generators that contribute to vicarious trauma in the legal profession include “having large caseloads, being overburdened with work, being in conflict with clients after-hours or offering other help of a non-legal nature, or having a history of personal trauma or mental health problems” (p. 61).

There is debate within the literature as to whether personal trauma and history of mental illness contributes to the likelihood of experiencing vicarious trauma. Cummings et al. (2021)

argues that “individuals with a history of at least one trauma, have low social support and/or have a higher number of years of experience are at a high risk of developing vicarious trauma” (p. 5305), while Burton & Paton (2021) suggest that “time practicing within the profession and previous trauma history are not strong predictors of whether professionals will experience vicarious trauma” (p. 96). Further research could address these discrepancies.

Combining the personality traits and organizational environment perspectives, Maguire & Byrne (2017) argue that “an individual's vulnerability or resilience to vicarious trauma is expected to arise through an interaction of the personal characteristics of the individual and the characteristics of the work environment” (p. 234). The work characteristics that can contribute to vicarious trauma include “having a heavy caseload of traumatized clients, a lack of support within the work environment, or a lack of formal trauma training” (Maguire & Byrne, 2017, p. 234). The lack of formal training is a continuous variable found within all areas of this research, and vicarious trauma is not immune to it. James (2020) further argues that “lawyers have little opportunity for education on the possible effects of trauma or professional training on learning how to manage their exposure to clients’ trauma in daily practice” (p. 276). This claim is supported by the claims made by Maguire & Byrne (2017), as they argue:

interventions can be aimed at better preparing lawyers for the risk of vicarious trauma and educating students and professionals on signs and symptoms...[and] these strategies can be applied to the law school curriculum or within the professional organization in order to prepare lawyers for exposure to traumatic material at work. (p. 240)

It is integral for the legal profession to take proactive measures in addressing vicarious trauma to protect its attorneys from suffering the adverse impacts this devastating condition can wreak upon their well-being and career. Education for law students and legal professionals on the

symptoms and preventions for vicarious trauma, can help to deplete stigmatization attached to mental health, burnout, and substance abuse as discussed in the former.

Ethical Issues and Considerations for Lawyers

Ethical standards may just be the most important part of being a practicing lawyer. As lawyers are members of the public who also serve the public, it is integral that lawyers are held to a high standard of ethical guidelines and accountability. The guidelines that govern individual lawyers within their jurisdictions are called Professional Codes of Conduct which “contain many of the central obligations of lawyers to their clients and to the legal system” (Dodek & Woolley, 2016, p. 5). These codes of conduct have various rules and regulations to guide lawyers in what is expected of them in their career due to their status of power, as well as the importance of maintaining a harmonious relationship with society.

Ethical Standards

Beginning in the late nineteenth century, concerns of ethical character came into question among public concern when many professional groups began implementing more rigorous entry standards (Josselyn, 2007). Salyzyn (2017) notes that Christopher Moore confirms “the idea that a law society was or should be a policing body rooting out crooked lawyers on behalf of vulnerable clients was almost unknown for most of the nineteenth century” (p. 496). It was clear that society was beginning to demand a more competent and accountable legal profession and thus the Code of Professional Conduct was born. The Canadian Bar Association created the Code of Professional Conduct in 1974 which “accepted the American view that a lawyer has an ethical duty to render competent service” (Hurlburt, 1980, p. 145). The historical legislature holds lawyers and their respective societies accountable for the actions and decisions of practicing lawyers in Canada, therefore increasing the level of expectations and consequences should a lawyer violate or disregard any of its rules and regulations.

Studies from America and England have found that the level of confidence and trust in the legal profession over the last couple decades is at a steady decrease (Slayton, 2007). This is an issue that must be addressed to keep the integrity of the profession intact, as ethical standards should be monitored within provincial law societies across Canada to continuously and vigorously assess and maintain public confidence. Craig (2018) agrees:

law societies in Canada are charged with protecting the public. That is their mandate - to regulate lawyers in the interests of the public. The responsibility to do so includes creating policies and processes that sanction lawyers who threaten the administration of justice by distorting the trial process through the use of baseless (and discriminatory) stereotypes or humiliation and intimidation tactics. (p. 131)

The legal profession is held to these high standards due to the level of consequences that could result from a lawyer violating the rules and regulations that may cause harm to the public, may render a client incarcerated, and may damage the reputation of lawyers across the country.

An important question to consider is the responsibility of lawyers to report misconduct on behalf of colleagues or fellow counsel. Martin (2021) argues that “this reporting duty is poorly understood and largely absent from the Canadian legal literature and case law” (p. 660). The Model Code of Professional Conduct of the Federation of Law Societies of Canada was introduced in 2009 and requires a lawyer to report the misconduct of fellow lawyers, “unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer must report to the society” (Martin, 2021, pp. 661-662), and to include:

- a) The misappropriation or misapplication of trust monies;
- b) The abandonment of law practice;
- c) Participation in criminal activity related to a lawyer’s practice;

- d) Conduct that raises a substantial question as to another lawyer's honesty, trustworthiness, or competency as a lawyer;
- e) Conduct that raises a substantial question about the lawyer's capacity to provide professional services; and
- f) Any situation in which a lawyer's clients are likely to be materially prejudiced.

The importance of reporting lawyer misconduct cannot be ignored in the context of ethical standards, for without proper monitoring and acknowledgement of unethical practices the public opinion of legal services will continue to decrease and clients and the public could be harmed. Research regarding the responsibility of lawyer misconduct reporting within the Canadian context is severely lacking, and this requires further attention to aid in increasing the public confidence in the legal profession.

Lawyer Competency

The Cambridge University Press (n.d.) defines competency as “an important skill that is needed to do a job” (at para. 1). Epstein and Hundert (2002) define professional competence as “the habitual and judicious use of communication, knowledge, technical skills, clinical reasoning, emotions, values, and reflection in daily practice for the benefit of the individual and community being served” (as cited in Salyzyn, 2017, p. 494). The question of lawyer competency is related to ethical standards because a lawyer must be deemed competent to perform the services required in accordance with the professional codes of conduct. A lawyer is deemed competent when they can provide legal services with sound mind and ethical action. A lawyer is also competent to undertake a legal service if the individual “is capable of providing a quality of service which satisfies the appropriate standard; and that standard is what would be

considered satisfactory by lawyers generally” (Hurlburt, 1980, p. 148). In the case of an investigation into lawyer competency in Canada, “competence will be established or refuted by evidence of the quality of services actually rendered or by evidence of ability to render services as determined by examination” (Hurlburt, 1980, p. 147).

The question of whether law societies have the legal authority to deal with the competence of their members was first acknowledged in the mid-1970’s, but the Code of Professional Conduct by the Canadian Bar Association was not introduced until 2009 (Salyzyn, 2017). The Code of Professional Conduct includes a rule on “Competence and Quality of Service” that describes ethical duties (Salyzyn, 2017, p. 498):

- a) The lawyer owes a duty to his client to be competent and perform any legal services which the lawyer undertakes on his behalf; and
- b) The lawyer should serve his client in a conscientious, diligent and efficient manner and he should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation.

There is little ambiguity as to the expectations that lawyers must practice competently and ethically. Statistics from reported discipline decisions in Alberta, British Columbia, and Ontario reveal that of 264 reported cases in 2015, only 18 (6.8%) dealt with allegations relating to a violation of the competence rule (Salyzyn, 2017). Furthermore, Salyzyn (2017) confirms that several studies reveal that cases with lawyers who disproportionately experience mental health and substance abuse issues are connected to lawyer incompetence issues. The question then becomes whether lawyer’s mental health and substance abuse issues are causal factors related to misconduct and incompetence issues or if there is an unknown correlation. Lawyer competency

also stretches into whether mental health or substance abuse issues impact a lawyer's ability to perform the appropriate services in accordance with the Code of Professional Conduct. In order to assess these questions, analysis of lawyer's misconduct cases is necessary.

Lawyer Misconduct Cases

The guidelines established in the Canadian Code of Professional Conduct (2009) provides the ethical and unethical practices a lawyer is bound for the duration of their career. There are times when the actions of a practicing lawyer may be questioned regarding their level of professionalism or the satisfactory execution of legal services, which may result in the lawyer being a subject to a misconduct investigation. Cambridge University Press (n.d.) defines misconduct as "unacceptable or bad behaviour by someone in a position of authority or responsibility" (at para. 1) whereas the Code of Professional Conduct defines misconduct in terms of any irresponsible conduct that hinders the personal or professional life of the practitioner (Federation of Law Societies Canada, 2017).

Lawyer misconduct can be found in a variety of legal environments and may include actions such as stealing money from clients, lying to clients, criminal activity while practicing, being unfit to perform satisfactory legal services, and more (Martin, 2021). An important piece in understanding and assessing the ethical standards of the legal profession is by acknowledging misconduct cases in Canada. For the purposes of this research the cases are focused on misconduct where mental health, burnout, and substance abuse were involved to provide a sample scope of the issue as well as how these cases were dealt with by disciplinary boards.

Law Society of Upper Canada v Mark William Kushner (2006)

Mark William Kushner was a corporate lawyer in Ontario who was accused of professional misconduct regarding a failure to serve clients conscientiously and diligently. This included excessive alcohol consumption, misleading clients, failing to act with integrity and

good faith, and failing to fulfill undertakings to lawyers (*Law Society of Upper Canada v Mark William Kushner*, 2006 ONLSHP 30 at para. 1). The Law Society alleged that Kushner engaged in professional misconduct as follows:

1. After consuming alcohol, he attended a case conference in a state in which he was unable to properly represent his clients, such that the presiding judge had to adjourn the case conference.
2. He provided his clients with a false explanation for the adjournment of the case conference.
3. He engaged in sharp practice and/or failed to act in good faith toward a fellow solicitor, when he released proceeds from the sale of his clients' business to one of his other clients, contrary to Rules 6.03(1) and (3) of the *Rules of Professional Conduct*. (*Law Society of Upper Canada v Mark William Kushner*, 2006 ONLSHP 30 at para. 1)

Kushner acknowledged that he drank a few beers the night before the case conference and had only slept a couple hours before calling a taxi to take him to and from the conference (*Ibid*). Kushner reported that he felt fine while he was there but fellow members at the conference said they smelled beer on him. The hearing panel on his case decided that based on the member's admissions "the member's conduct constituted professional misconduct with respect to all three of the particulars alleged" (*Law Society of Upper Canada v Mark William Kushner*, 2006 ONLSHP 30 at para. 2). Kushner was suspended for one month and was ordered to pay costs in the amount of \$1500 to the Law Society. There is no question as to whether the actions of Mark William Kushner constituted lawyer misconduct. Not only did Kushner appear at the conference in a supposedly intoxicated state, he also misled clients and lied to fellow

solicitors at the conference. Whether his substance abuse had an impact on the other matters of this case remains in question.

Joesbury (Re) (2009)

In the latter years of his practice, Graeme Joesbury suffered from significant personal difficulties including depression, alcoholism, and other drug addictions (*Joesbury (Re)*, 2009 LSBC 15 at para. 3). Joesbury was a criminal lawyer from British Columbia.

Following a pending disposition of a citation that was issued on November 8, 2004, Joesbury provided an undertaking to the Law Society to cease the practice of law (*Ibid*). After ceasing to practice law, Joesbury continued with drug, alcohol, and depression problems. Eventually he was able to seek treatment and reported that he has “been sober since June 5, 2006” (*Ibid* at para. 4). This case is regarding his request to be reinstated as a practicing lawyer.

At the time of the case, he had taken treatment for his substance dependencies and depression and received assistance from the Lawyers Assistance Program (*Ibid* at para. 6). For Joesbury to be successful in resuming legal practice there was a set of conditions that must be met. The approval of reinstatement conditions was as follows:

- a) abstain from alcohol and cocaine and any other illicit substances;
- b) attend regularly at AA, maintaining regular contact with your AA sponsor;
- c) take anti-depressant medication as directed by your family physician or psychiatrist;
- d) for the first 12 months after reinstatement, attend upon your family physician once each month and authorize him/her to communicate promptly to the Law Society and to the Lawyers Assistance Program any slip in substance abuse or apparent depression;

- e) advise the Law Society promptly of the identity and contact information for your new family physician should you change doctors;
- f) enter into a monitoring agreement at your expense;
- g) do not engage in any area of legal practice other than criminal law, except with the permission of the Credentials Committee;
- h) arrange for five lawyers who carry an active practice in criminal law within the same geographic area in which you practise who will commit in writing to notify the Credentials Committee if your behaviour raises any concerns for them related to:
 - i) your professional conduct
 - ii) any apparent depression or substance abuse. (*Joesbury (Re)*, 2009 LBSC 15 at appendix A)

Should Joesbury violate any of these conditions upon his approval for reinstatement, his licence will be suspended and another investigation will occur.

Graeme Joesbury was seeking to be reinstated after combating his mental health and substance abuse issues. The conditions set out in Joesbury's case had a combined focus on both his mental health as well as substance abuse issues, with specific provisions relating to each one. Some of the sanctions required were AA meetings, mandated medication for depression, regular physician visits, abstinence from alcohol and other illicit substances, monitoring of his practice, restriction to practice criminal law exclusively, and allow for a breach in confidentiality should he manifest signs of a worsening condition. All these conditions are unique to the individual but are not unique to the issues of mental health and substance abuse. Joesbury was required to report not only to the Law Society of British Columbia but to the Lawyers Assistance Program as

well. The question remains as to whether the Lawyers Assistance Program could provide the proper services in aiding a lawyer who is struggling with mental health or substance abuse.

Law Society of Alberta v Torske (2015)

David Torske was a criminal lawyer in Alberta who developed an addiction to opioid painkillers after injuring his knee and receiving surgery (*Law Society of Alberta v Torske*, 2015 ABLs 13). Torske noticed that he was suffering from an addiction and sought help from his doctor who decided to abruptly taper him off the medications over a one-week period. Not long after Torske was taken off the opioid medication he was stabbed and beaten while defending a break-in to his garage by two men. He underwent further surgery and was put on the medication again (*Ibid* at para. 1). The doctor abruptly tapered Torske off the medication again following the second surgery but Torske found himself craving the drugs and created a false prescription pad to forge his doctor's signature and obtain more opioid medication. He forged approximately 40-50 prescriptions and obtained thousands of pills illegally (*Ibid* at para. 2). His doctor found out and threatened him to stop forging prescriptions. Torske did cease the illegal activity for a short period of time only. Again the doctor found out and called the police in June of 2011 (*Ibid* at para. 3).

In response to the severity of his actions Torske called the Alberta Lawyers' Assistance Program (ASSIST), a voluntary and confidential assistance program for lawyers, to seek help for his addiction issues (*Law Society of Alberta v Torske*, 2015 ABLs 13 at para. 4). His employer, the Crown Prosecution Service of Alberta under the Solicitor General, filed a complaint with the Law Society of Alberta in July of 2011 and criminal charges were laid in April of 2012 (*Ibid* at para. 5). Torske was convicted of one count of uttering a forged document under section 368.1 of

the Criminal Code of Canada and was given a conditional discharge with one year of probation. The Crown appealed this sentence.

In addition to his criminal conviction, the Law Society of Alberta's disciplinary hearing resulted in the following consequence to Torske:

after full deliberation and full consideration of the evidence and the submissions of counsel of sanctions, we decided that Mr. Torske will not be subject to disbarment but that he will instead be suspended for 18 months, commencing July 8, and will pay actual costs. (*Law Society of Alberta v Torske*, 2015 ABLS 13 at para. 10)

Following the Crown's appeal, on April 16, 2013, the Alberta Court of Appeal substituted a nine-month conditional sentence for the conditional discharge (*Law Society of Alberta v Torske*, 2015 ABLS 13 at para. 5).

David Torske paid the price for violating the ethical code of conduct and for his criminal conduct all because of his addiction to opioid painkillers. Torske's addiction led him to violate the Code of Professional Conduct while he was still suffering from his addiction and handling criminal cases. As a result of his misconduct, he was suspended from practicing and required to pay a fine. These sanctions are not uncommon among cases with substance abuse as the importance of preserving the legal profession from unethical lawyers is a priority.

Law Society of Ontario v Stewart (2019)

Robert Bruce Gordon Stewart was a family lawyer in Ontario who was involved in an investigation regarding professional misconduct following several serious incidents that include non-payment of fees, charging an inappropriate fee of \$5,000 on a matrimonial file and withdrawing his fees from trust without sending out the account he prepared, misappropriated funds from clients, and more (*Law Society of Ontario v Stewart*, 2019 ONLSTH 118 at para. 65).

Stewart was suspended while the investigation was being conducted, and during that time he recognized that his mental illness and substance use had played a significant role in his behaviour (*Law Society of Ontario v Stewart*, 2019 ONLSTH 118 at para. 2).

In 2003 Stewart was diagnosed with depression and with bipolar disorder in 2006, which was revised to borderline personality disorder in 2018 (*Law Society of Ontario v Stewart*, 2019 ONLSTH 118 at para. 51). Stewart also suffered from concurrent alcohol and cocaine abuse disorders that were diagnosed in 2019. Prior to his assessment on January 14, 2019, Stewart had some pharmaceutical treatment for his psychiatric illnesses but had no consistent doctor and was inconsistent in taking his medications (*Ibid*). The doctor who assessed him argued that the combination of his mental illness and substance use disorders had rendered him incapacitated (*Ibid* at para. 52). Incapacitated means “to make someone unable to work or do things normally, or unable to do what they intended to do” (Cambridge Dictionary, n.d., at para. 1). Yet when assessing Stewart’s mental disorder apart from his substance use disorders, the doctor concluded that his borderline personality disorder did not render him incapable of meeting his obligations as a lawyer. It was in combination with one or more of his active substance use disorders that rendered Stewart incapable of meeting the obligations of his professional practice (*ibid* at para. 72).

In July 2017 the Law Society initiated an investigation into allegations of incapacity and professional misconduct and concluded to bring forward a motion for an interlocutory suspension in August 2017 (*Ibid* at para. 48). For clarification, an interlocutory suspension precedes conduct or disciplinary hearings when it is believed that there is a significant risk to the public that would be reduced by suspending the lawyers’ licence before the case is heard (Law Society Tribunal, 2022).

Stewart consented to the order and began his interlocutory suspension on November 22, 2017. On January 11, 2019, Stewart brought a motion to terminate the suspension and allow him to resume practice (*Ibid* at para. 49). The Law Society Tribunal Hearing Division concluded that Stewart may return to the practice of law subject to a variety of terms and conditions, and so long as he complies with the treatment plan and employment restrictions (*Law Society of Ontario v Stewart*, 2019 ONLSTH 118 at para. 79). The “treatment plan” was as follows:

- a) prior to a return to practice, two months of abstinence from illicit substances and non-prescribed medication, and identification to the Law Society of a treating psychiatrist and an addiction medicine physician;
- b) for five years, quarterly sessions with both specialists, compliance with their prescribed medications and recommended treatment, and participation in random drug screens for alcohol, illicit substances, and non-prescribed medication;
- c) suspension of the respondent’s licence for non-attendance or a positive screening result;
- d) participation in a dialectical behaviour therapy program; and
- e) the respondent’s consent to allow treating physicians to inform the Law Society of any non-compliance with treatment or deterioration in health status that could affect his capacity to meet his professional obligations. (*Ibid* at para. 81)

The second component of the terms and conditions “employment restrictions” were as follows:

- a) permission to practise only as an employee for at least one year, with any relaxation of this restriction after that to depend on negative drug screens;
- b) approval by the Law Society of Mr. Stewart’s supervisor and employer for at least the first year; and

c) monitoring and reporting by the employer, working in the same physical space as the respondent, of his health status, including any relapse in his condition. (*ibid* at para. 82) Should Stewart comply and maintain integrity throughout the process of reinstatement with these terms and conditions, his practice shall resume.

The sanctions in this case were much more extensive compared to the cases previously discussed due to the nature of the unethical violations. As Stewart struggled with both mental health and substance abuse issues it was apparent that a more rigorous and detailed process was imperative to allow him to resume law practice. Some of the sanctions included working under supervision, mandated psychological therapy for both substance abuse and mental health, consistent physician visits and prescribed medications, abstinence from all substances except prescribed medications, random drug screening, and suspension consequences in the case of a violation. The most important piece in the case of Robert Bruce Gordon Stewart is the fact the doctor acknowledged that his mental disorder did not render him incapable of performing his legal duties, yet despite this statement the court remained confident that Stewart required psychological help.

Knight (Re) (2021)

Jeremy Daniel Knight was admitted to the bar on May 4, 2015, and became a family lawyer in British Columbia. On January 1, 2018, when his membership ceased for non-payment of fees, he was no longer eligible to practice (*Knight (Re)*, 2021 LBSC 36 at para. 20). Knight struggled with substance abuse problems prior to his legal career as well as throughout his short legal career, and presumably his addiction contributed to his lapse in fee payment. This case involved Knight's application to renew his membership with the Law Society of British Columbia after a failure to renew his membership in 2017.

In assessing Knight for readmission to the bar and renewing his membership with the Law Society of British Columbia in 2017, the panel may consider the respondent's professional conduct record (PCR) in determining disciplinary action (*Knight (Re)*, 2021 LBSC 36 at para. 22). Over the course of the original assessment there were a variety of measures considered to determine whether Knight could return to practice such as:

- a) in January 2017, orders that:
 - (i) the Respondent obtain and provide a medical report by a doctor determining whether he was currently fit to practise and whether it was appropriate for him to be on a monitored recovery program at the time, as well as making treatment recommendations and setting out any conditions that should be imposed on his practising in the future;
- b) in April 2017, a recommendation that the Respondent attend for a full medical assessment with respect to his addiction issues;
- c) in June 2017, an order, by consent, that the Respondent cease practising law until he had provided a medical report satisfactory to the Practice Standards Committee, produced by a physician approved and instructed by the Practice Standards Committee, certifying that the Respondent was fit to practise either with or without specified conditions or restrictions; and
- d) in June 2017, a recommendation that the Respondent attend the combined trauma/addiction residential therapy program at the Homewood Health Centre facility at the first possible opportunity. (*Knight (Re)*, 2021 LBSC 36 at para. 23)

Despite the clear measures required by the panel for Knight to renew his membership, he failed to provide the Practice Standards Committee with any medical reports (*Ibid* at para. 24).

Consequently, Knight was given a citation on his PCR. It was argued “that but for his own recognition of his substance abuse issues, the PCR would not have existed” (*Ibid* at para. 26).

For Knight to successfully renew his license the panel ordered:

- a) the Respondent is suspended for a minimum of 16 months effective immediately and until he appears before a board of examiners appointed by the Panel of the Practice Standards Committee in order to satisfy the board of examiners that the respondent’s competence to practise law is not adversely affected by a dependency on alcohol or drugs; and
- b) the Respondent is subjected to the following conditions until relieved of them by the Discipline Committee;
 - i) the Respondent must practise in a firm setting with at least one other practitioner acceptable to the Law Society;
 - ii) the Respondent must practise under a supervision agreement on terms acceptable to the Law Society;
 - iii) the Respondent is prohibited from operating a trust account and from having any signing authority over a trust account; and
 - iv) the Respondent will enter into and comply with a medical monitoring agreement on terms satisfactory to the Law Society.

The panel also ordered a fixed cost of \$5219.63 without interest to be paid to the Law Society and Knight had 12 months from the date of the decision to pay these costs (*Knight (Re)*, 2021 LBSC 36 at para. 63).

Jeremy Daniel Knight is a unique case in which a previously practicing member of the Law Society of British Columbia was seeking to renew his license despite his substance abuse

issues and despite his adherence to the Society's recommendations. The hearing panel in this case was very clear on their provisions for Knight to complete to be readmitted to law practice, including a suspension, a fine, reporting to a supervisor, being under surveillance, as well as refraining from engaging in trust account activities (*Knight (Re)*, 2021 LBSC 36). Knight may obtain his membership renewal upon completion of the requirements.

To continue addressing the issue of mental health, burnout, and substance abuse among the legal profession in Canada it is necessary to examine the programs and education that is currently available for lawyers across the country.

Prevention Education and Support Programs for Lawyers Across Canada

There are some programs to assist lawyers with issues within their respective provinces. The Canadian Bar Association (2022) offers links to each provincial law society assistance program as each has unique programs or initiatives to combat the potential negative effects of mental health, burnout, substance abuse issues and more. To gain a full understanding of the issues regarding mental health, burnout, and substance abuse among the legal profession it is important to acknowledge the current efforts being made to address them. There are current programs and initiatives accessible to individuals within the legal profession but the validity and preventative quality of them remains unknown. This section reviews five provincial law society assistance programs to acknowledge the current efforts being made to address these issues, as well as to acknowledge possible gaps within these programs.

Alberta Lawyers' Assistance Society

The Alberta Lawyers' Assistance Society (ASSIST) is a program to assist and enhance both immediate and long-term well-being of Alberta lawyers, articling students, and law students and their dependent families through their four pillars of programming (Alberta Lawyers'

Assistance Society, 2022). Their four pillars of programming include confidential and non-judgmental psychological assistance, peer support, education, and community. ASSIST offers help for issues such as addictions and substance abuse, anxiety, stress and depression, career transition, cognitive decline, suicide prevention, isolation and loneliness, mental health issues, personal issues, and well-being. Services are accessible by phoning the help line on their official website, but the hours of operation are not listed.

The professional counselling service is the most used service. ASSIST offers four free and confidential professional counselling sessions per person, per issue per year (Alberta Lawyers' Assistance Program, 2022). Some of the most common issues reported include psychological issues, anger management, anxiety, child behaviour problems, communication, depression, sexual abuse, stress, and substance abuse. Counselling is provided by registered psychologists or clinical social workers and is designed as a short-term counselling model based on the evaluation of the issue, provision of immediate help and strategies, as well as a referral to long term assistance if required (Alberta Lawyers' Assistance Program, 2022).

In 2019, ASSIST had over one thousand individual professional counselling cases, an increase of 27% from the previous year. They also saw a marked increase in the number of individuals seeking professional counselling for substance use issues in 2020 (Champion, 2021). ASSIST tracks addiction issues in four categories: alcohol, drugs, gambling, and sex addiction. Alcohol is the most prevalent category of addiction assistance for Albertan lawyers, accounting for just over three quarters of the cases reported (Champion, 2021). The lawyer 12 step communities for substance abuse issues are independent of ASSIST, but ASSIST can aid in connecting members to the external resources.

ASSIST also offers education and awareness activities to aid lawyers and future lawyers in the prevention of mental illness, burnout, and substance abuse issues during their careers. Their mission statement includes “forewarned is forearmed” to stress the importance of providing this prevention education for lawyers (Alberta Lawyers’ Assistance Society, 2022). The purpose of their education and awareness activities is to “reduce the incidence of addiction, mental illnesses and emotional distress among members of the legal profession in Alberta through preventative education and the provision of coping and professional counselling assistance” (Alberta Lawyers’ Assistance Society, 2022). Some of the activities offered are walks for wellness and hand to hand events. Hand to hand events are seminars held by court justices to discuss the implications and importance of maintaining positive mental, physical, and emotional health in order to combat the struggles that come with the legal profession. ASSIST also provides a resources page of external assistance services for lawyers such as suicide prevention should they require it.

There are a variety of services and educational initiatives offered by the Alberta Lawyers’ Assistance Society to help minimize the presence of mental health, burnout, and substance abuse issues among the legal profession in Alberta. The ASSIST program not only offers services for all three of these issues, but it also apparently provides educational initiatives to increase awareness and acknowledgment of them for lawyers, law students, articling students, and their immediate families. This acknowledges that the negative effects of mental health, burnout, and substance abuse affects not only the lawyer themselves, but their clients and families too. Offering these services to lawyers and articling students provides the preventative measures required for a superior educated and exceptionally prepared new generation of lawyers. The current programs and educational measures from the Law Society of Alberta provides the

necessary means to help create a healthier profession for those who are currently practicing in Alberta as well as those who are studying or articling to become a practicing lawyer.

Lawyers' Assistance Program of British Columbia

The Lawyers' Assistance Program of British Columbia offers a variety of assistance programs for lawyers, law students, articling students, and their respective families in the province of British Columbia. Their program offers help on issues such as back to work during COVID-19, mental health, addiction, stress, occupation, relationships, family, health, and purpose (Lawyers' Assistance Program of British Columbia, 2022). For most of their site all these issues are defined using official definitions and a list of symptoms for lawyers to get an understanding of what they might be having troubles with, but the website does not provide any specific links for assistance. They provide phone support that is available on 24-hours a day, 7 days a week basis, as well as specific email hours that lawyers can contact support people to access the programs. There was limited information on their website.

The Lawyers' Assistance Program offers minimal support. For the addictions category they offer some informational webpages that provide a list of warning signs, information about alcohol, drugs, eating disorders, gambling, screen addiction, and sexual compulsivity, but they do not go into detail about these topics or offer programming (Lawyers' Assistance Program of British Columbia, 2022). For the mental health category, they focus on providing information regarding anxiety, depression, stress, and mental illnesses. They also break down the stress component into further subcategories that includes symptoms and descriptions to identify possible issues. Although they provide information regarding the identification of these issues, their programs that address these issues are not accessible on the site. Despite these issues, they do provide a list of treatment facilities that are available within the province.

The Lawyer's Assistance Program of British Columbia offers some programs regarding mental health, burnout, and substance abuse but these programs are not specified nor explained on their website. They also do not have any initiatives for providing educational information for lawyers or law students. There seems to be a lack of important information and initiatives with the Law Society of British Columbia to address issues with mental health, burnout, and substance abuse among legal professionals in their province. It is important to note that there is some effort being made by the Law Society of British Columbia, but it is still an incomplete attempt to ensure a healthier future for legal professionals in Canada.

Member Assistance Program - Law Society of Ontario

The Member Assistance Program is a confidential service funded by yet fully independent from the Law Society of Ontario as it is run through an external organization called Homewood Health (Law Society of Ontario, 2022). They offer secure, single sign on or telephone access to counselling, coaching, online resources, and peer volunteers. The issues they focus on are addictions, mental or physical health, work-life balance, career, family, and more. Unfortunately, due to the limitations of the website being accessible only to members of the Law Society of Ontario, collecting information on their specific programs was limited. The pamphlet for the services shows some of the internal services that are offered but it does not provide detailed explanations, and it was the only piece of data that was publicly available for this program.

The pamphlet reports that the Member Assistance Program offers e-learning, interactive tools, health and wellness assessments, and a library of health, life balance, and workplace articles. The peer to peer support section was accessible and informed that users can receive confidential, non-judgmental support from fellow legal professionals or students who have gone

through similar experiences (Law Society of Ontario, 2022). Furthermore, the counselling program offers support regarding stress, anxiety, substance abuse, burnout, marital/family issues, and depression. All their services are available by phone, in person, or online.

The Member's Assistance Program for the Law Society of Ontario has great potential to be a suitable program for dealing with mental health, burnout, and substance abuse. It is one of the only lawyer assistance programs that explicitly states burnout in the list of issues they address and this is an important concept to include in these assistance programs. Due to the limitations of accessing their website, it is difficult to report any further information on the quality of their services or the prevalence of educational programs they may offer.

Employee Assistance Program - Law Society of Manitoba

Much like the Member's Assistance Program for the Law Society of Ontario, the Law Society of Manitoba has restricted access to the programs and services information. The services available are provided by the Manitoba Blue Cross as an independent association from the Law Society of Manitoba. The pamphlet that was accessible on the Law Society of Manitoba's main page included a list of services they provide but it lacked detailed descriptions. The pamphlet consisted of information such as offering counselling for issues such as addictions, emotional/behavioural disorders, family and parenting, psychological disorders, relationships, stress, and a peer support program (Law Society of Manitoba, 2022). These services are available not only to practicing members but their immediate family members as well. To access these services there is a phone number that lawyers can call 24 hours a day, 7 days a week. Aside from this information, there is no further data to report.

Due to the limited access of data for the Employee Assistance Program of the Law Society of Manitoba there is little to report about the prevalence of mental health, burnout, and

substance abuse support. Further research is required to determine whether the programs provided aid in these issues and how these issues are addressed and educated among the legal profession in Manitoba.

Nova Scotia Lawyers' Assistance Program

The Nova Scotia's Lawyers' Assistance Program (NSLAP) defines itself as “an informational, confidential referral and short-term counselling service for practicing members of the legal profession, their staff and families who may be experiencing health or personal problems” (Nova Scotia Lawyers' Assistance Program, 2022, at para. 1). The external provider is Homewood Health, a third-party wellness association that the Law Society of Nova Scotia signed a contract with. The services offered include counselling for issues such as financial concerns, family, child and elder care issues, communication problems, career development, health and fitness issues, psychological and emotional disorders, addiction, stress, depression, and trauma (NSLAP, 2022). They also offer wellness programs either personally or online. These wellness programs consist of a series of self-led health questionnaires and information that assists lawyers in developing a personal wellness plan to take charge of their health and well-being.

The NSLAP is available 24 hours a day, 7 days a week either by phone number or by submitting a request on their online forum (NSLAP, 2022). There is also an option offered in emergency cases where an individual seeking assistance can obtain face to face consultation within hours of the submission. Additional resources for further external assistance are provided on the site as well, including services such as the Nova Scotia Health Line (811).

There is little information regarding mental health, burnout, and substance abuse on the NSLAP website, but it appears that it is acknowledged in the services offered. The most unique

component of the NSLAP is that they offer emergency assistance in a timely fashion. There is no information as to whether these services are available as reported, yet it is hopeful to believe that this is true. The lack of information regarding burnout is something that must be acknowledged as well. It may be possible that burnout is included in counselling services regarding stress or psychological and emotional disorders, but this is unclear. There are also no educational preventative measures listed. Further research from inside sources is required in order to assess the program's effectiveness regarding these issues.

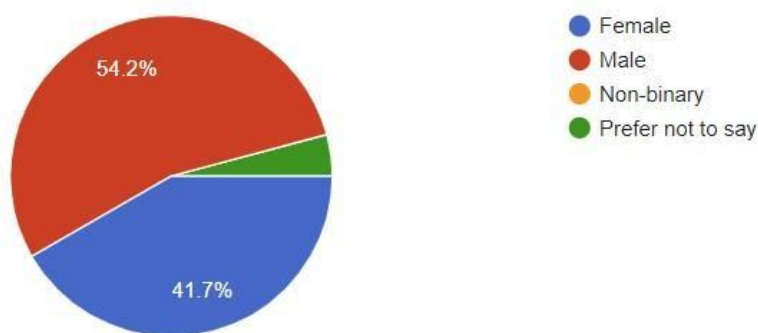
Findings

Demographic Data

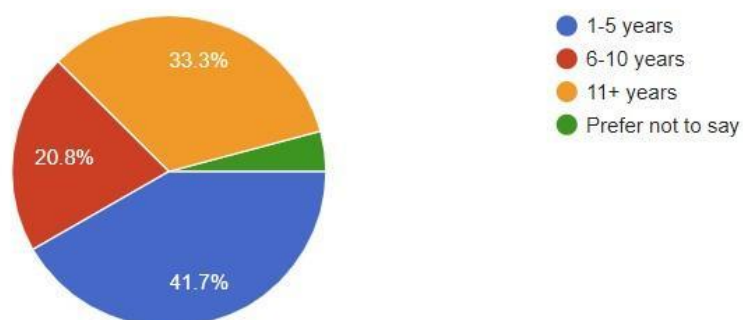
There were 24 legal practitioner participants in this study. They were located in Alberta, British Columbia, Ontario, and Nova Scotia. Majority of participants were from the province of Alberta with 62.5% of participants located in Calgary, 8.3% of participants located in Edmonton, and 4.2% of participants located in Grand Prairie. There was a relative split between the male and female total participants with males representing 54.2% of the data and females representing 41.7% of the data. One individual preferred not to say, representing 4.2% of participant data.

Figure 1

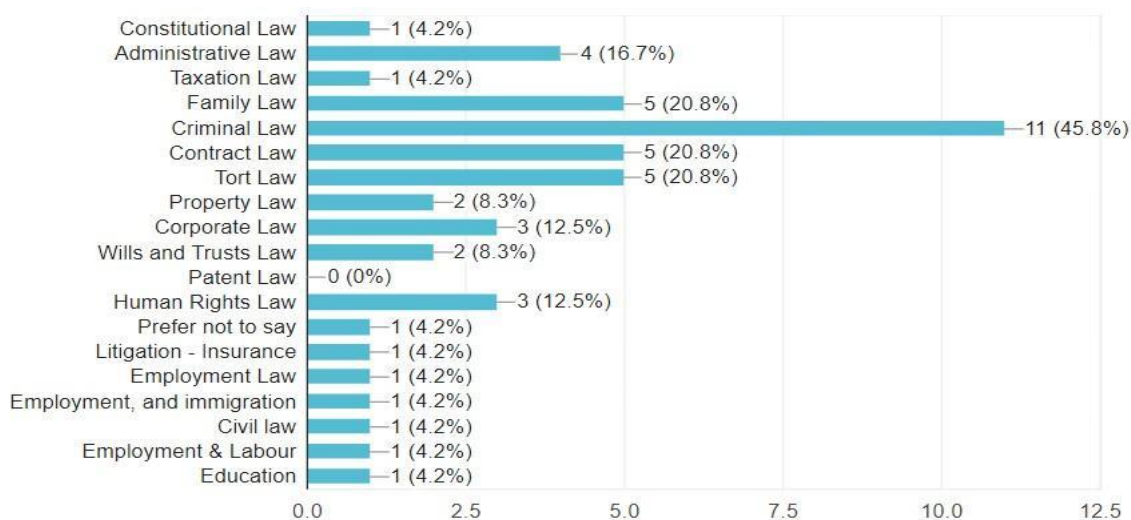
Participants' Reported Gender



The largest number of participants have 1-5 years of experience working in the legal profession (41.7%) and those with 6-10 years of experience at 20.8%. Only 33.3% of participants have more than 11 years of experience and 4.2% reported prefer not to say.

Figure 2*Participants' Number of Years Practicing Law*

All participants practice in a variety of areas such as constitutional law, administrative law, taxation law, criminal law, family law, and more. The most common area among the participants is criminal law (45.8%) with the lowest being property law at 0% of participant data. One participant reported preferring not to say. The data regarding areas of law are shown in the graph below.

Figure 3*Participants' Reported Area of Law Expertise*

Participants who were in a private practice represented 70.8%, and those who were not in a private practice represent 25% of the data. These lawyers would be public prosecutors.

Understanding and Addressing Mental Health

There appears to be unanimous understanding of the importance of mental wellness and mental illness in the legal profession. The most common themes arising from the mental wellness questions relate to the importance of maintaining a positive and healthy lifestyle. The most prevalent themes include having a positive mentality, maintaining a healthy mental, emotional, and spiritual state, possessing the appropriate coping skills for everyday stressors, taking care of oneself, and the enjoyment of life.

Some of the responses were “to be mentally ‘well’ means that I have healthy mentally, emotionally, and spiritually. I have a solid foundation of tools that help me work on things like stress, anxiety, sadness, anger, etc.” “mental wellness is like an aspect of overall wellness and health,” “the practice of maintaining positive mental well-being - not just getting by,” and “being able to accomplish things personally and professionally, engage in self-care, and not be dragged down by your brain.”

There were several unique responses from each participant that delved deeper into their personal understanding of what mental wellness means to them, which presumably depends on the individual’s life experiences. The array of these subjective responses include topics such as inner satisfaction, recognizing warning signs, work-life balance, self-awareness, accomplishments, interpersonal connection, and even refraining from engaging in self destructive behaviour. All these responses are true and valid to each individual as no answer was exactly alike.

There were a couple responses for this category that are worth noting. One participant described their understanding of mental wellness as “a state of happiness, capability, control,

optimism and sustainability in your daily routine, personal relationships, physical and emotional health, and financial and material state” whilst another participant merely stated that mental wellness meant “a lack of mental illness; having overall mental well being and no identified illness.” The responses reporting that mental wellness is a lack of mental illness represents a very small proportion of the participants, yet it is notable to acknowledge how this historical and limited definition of mental health is still present among legal professionals. This may be due to the age differences among participants as those who are more experienced in the legal profession would be more experienced in life as well. Something that is also worth noting is that respondents mentioned their work life in their responses more frequently than what was expected. It seems to be that work is a very important component of these participants' daily life and has a great impact on their overall mental well-being.

When asked to describe or define their understanding of mental illness there was an array of themes as well as interesting outliers. The most common responses included that mental illness is a diagnosed condition, it impacts daily functioning, results from an inability to cope and possessing poor coping mechanisms, and it has emotional impacts.

This was interesting as it seems the majority of individuals view mental illness as something that is wrong with an individual rather than something that is treatable and allows an individual to maintain a healthy life. With the view that mental illness is a result of an individual being unable to cope with stressors and having poor coping mechanisms, one participant reported that mental illness to them meant a “chronic inability to manage stress and emotions.” This illustrates possible misinformation or stigma affecting how mental illness is perceived by legal professionals. Other responses included statements such as an “inability to cope or process

certain feelings/emotions” or “not being in the right mindset to proceed with day-to-day activities.”

There were interesting responses on the contrary, as some participants reported “to me, mental illness can be classified as either a diagnosis that requires medicine and doctor intervention like schizophrenia or illness as in addiction or being mentally unstable in that moment of our lives. That often requires intervention and support from others, but is less common to see/notice physically” and “mental illness is anything diagnosed or undiagnosed that you could be born with or develop that impacts your cognitive or social abilities.” These perspectives suggest that mental illness is more accepted in this small group of legal professionals rather than a hindering diagnosis. Only a single participant noted that mental illnesses are something that an individual can be either born with or develop over time, and this alludes to an understanding of mental illness from a psychological perspective rather than an anecdotal or subjective perspective. It appears that there is some discrepancy in the participants' understanding of mental illness among legal professionals, as there is a gap in the understanding of mental illness from the responses recorded and this is worth noting for future prevention and education purposes with legal professionals in Canada.

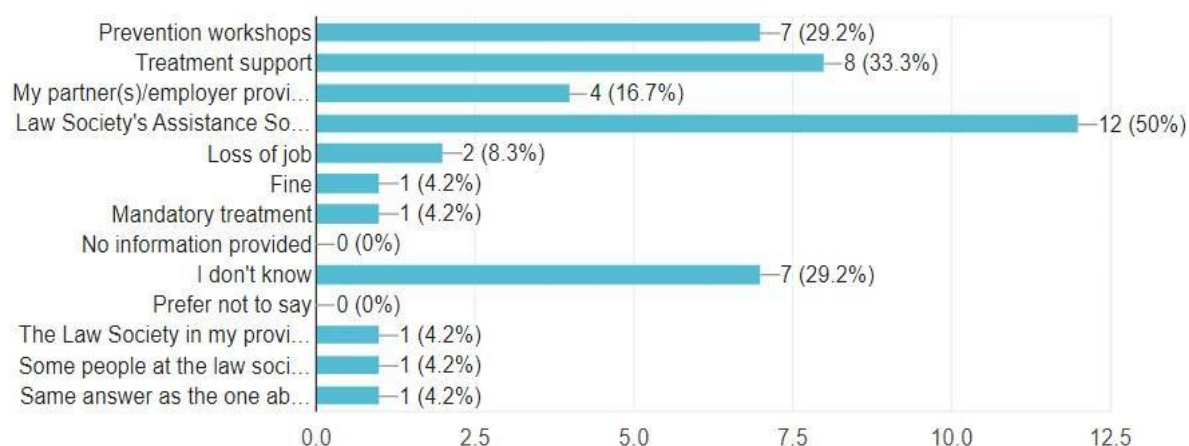
How is Mental Health Treated in the Legal Profession in Canada?

From the participants' responses there was variety in the way their provincial law society handles mental health issues. The most common response from participants was that the Law Society's Assistance Societies provide support for mental health issues, which represent 50% of the overall data. The second most common response was treatment supports, which represent 33.3% of the data. The third most common response was tied between prevention workshops and I don't know, representing 29.2% of the data for each category.

There are some unique splits in the participants' responses that are worth noting as a significant number of participants are unaware of how mental health issues are dealt with in their firm or practice, yet there was a significant number of participants who reported that they believe the Law Society in their province has assistance programs to aid lawyers with mental health issues. There were also participants who reported their partner/employer provides wellness training and services for their legal practitioners, but these programs are separate from the Law Society assistance programs in their province and would require further research in order to determine their effectiveness and quality that is dependent on the firm or practice.

Figure 3

How the Law Society in the Participant's Respective Province Handles Mental Health Concerns



The few answers added to the bottom of the graph are from the “other” option of the survey. These responses are “the law society in my province has acknowledged mental health as an important issue and has promoted its resources” and “some people at the law society recognize things like addiction as a mental health disease, while others look at it as a lawyer not being able to cope with the stressors of the job.” It is again apparent that there is a unique divide in the responses regarding whether those in the legal profession are aware if they have access to

assistance or help regarding mental health, or even the genuine quality of these programs. The notable responses above report different answers in offering and acknowledging the need for support for lawyers who are suffering from mental health concerns in their career, and this is something that must be acknowledged to encourage positive change for the betterment of the legal profession in the future. This topic will be discussed in the sections below.

Understanding and Addressing Burnout

As with mental wellness, participants had unanimous understanding of burnout. The most common explanations were emotional and physical exhaustion, interference with daily functioning, inability to cope, no energy left, overworked, and constant exposure to stressors. The most common theme in this category was emotional and physical exhaustion. One participant reported that burnout is “the point at which a person has stretched beyond their emotional, physical or psychological stress limits” and another reported “when you overwork to the point you can no longer get yourself to care or feel strongly about your work and is mentally and physically exhausted.” A key term that stood out was “overworked” which is a major factor in burnout especially for legal professionals. The reality of being overworked is not an uncommon reality and this poses a threat to a lawyer’s well-being.

One unique statement from the responses was that burnout is “to the point of an inability to give proper attention to the standard of care requisite for the file” and this correlates with lawyer competency as discussed earlier. It appears that there is a link between lawyer competency and burnout in legal professionals, as the symptoms of burnout may cause depletion in a lawyer’s ability to perform to their best ability. Addressing and being aware of the warning signs for burnout is an integral component that must be integrated into prevention and education programs. Furthermore, there appears to be another link between burnout and mental health as various respondents reported that burnout is being “unable to see a way out or have the capacity

to see the bigger picture” and an “inability to cope, make decisions, or obtain enjoyment from activities you previously enjoyed” which both correlate with mental health factors also mentioned in the former.

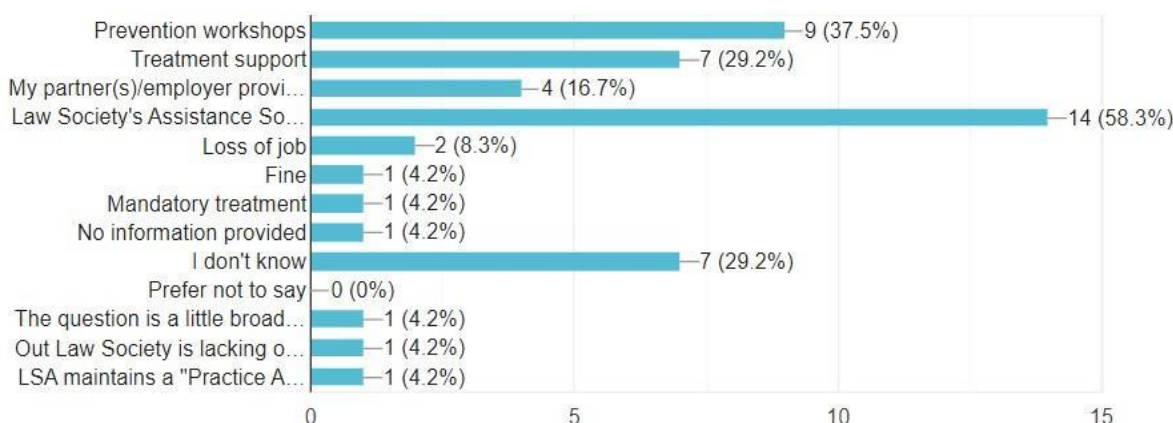
Another notable response about burnout was “when your accumulated trauma and damage exceed your ability to dissipate them, and therefore interferes with your daily functioning.” This statement provides a link to vicarious trauma. Vicarious trauma is another concept that is no stranger to legal professionals, and this presents an issue should vicarious trauma lead to burnout which may then lead to mental health concerns and other problems such as substance abuse. This also needs to be addressed in educational and preventative programs for lawyers across Canada.

How is Burnout Treated in the Legal Profession in Canada?

When asked about the ways in which the Law Society in their province addresses burnout, there were a surprising amount of responses that show participants were unsure. The most common answer was that the Law Society’s Assistance Societies provide assistance in treating burnout representing 58.3% of the data, with the second most common being prevention workshops representing 37.5% of the data. The third most common response was tied between treatment supports and I don’t know, representing 29.2% of the data for each category.

Figure 4

How the Law Society in the Participant's Respective Province Handles Burnout



The few responses in the bottom of the graph from the “other” category of the survey state “our law society is lacking in assistance for lawyers and often treat us like criminals instead of offering ways to help” and “LSA maintains a ‘practice advisor’ program.” The first response shows a lack of support for lawyers suffering from burnout and this is something worthy of our attention. Furthermore, the number of participants who reported that they are unaware of how burnout is treated in their province is a concern, as it represents nearly 30% of the participants’ for this category. As with the previous concept there is a noticeable difference between those who are aware of the assistance programs provided that can help and those who do not. This discrepancy shows that the Law Society in the respective provinces could do more to communicate their support services to members.

As evidence supports that burnout may lead to further issues such as mental illness or substance abuse, it is integral for the Law Societies across Canada to implement programs and initiatives to address burnout before it occurs. The advertisement of programs for those who are unaware of them in their province is also an issue that can be most easily addressed.

Understanding and Addressing Substance Abuse

When participants were asked about their understanding of substance abuse, the most common descriptions included overusing substances, relying on substances, impacts on personal health, interference with daily functioning, and using it as a coping mechanism. The most common theme from all responses was the understanding that substance abuse is a coping mechanism. This is a view that differs from the psychological definitions of substance abuse, which leads us to believe that lawyers view substance abuse as something necessary to cope with the struggles of their career. Some of the responses portraying this view include “when the use of intoxicants becomes regularized as an attempt to either deal with trauma or their use interferes with day to day functioning,” “using substances such as alcohol, illicit drugs, marijuana or tobacco to cope with life’s pressures,” “using substances as a coping mechanism, abusing substances, or overusing substances in inappropriate situations,” and “reliance on or overuse of substances to cope with daily life.”

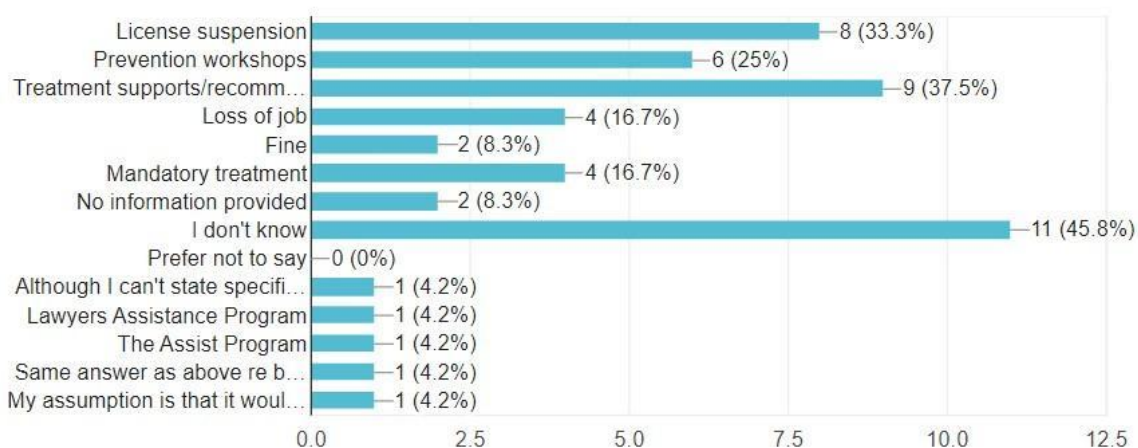
Another interesting outcome was the prevalence of answers that portray negative views about substance abuse. A notable response was “using a drug - whether illicit or prescribed - or alcohol...to the point of interference with your work/education/health; often resulting in criminal offences, domestic violence, and other legal issues because of lowered inhibitions or feelings of grandeur; often interfering with relationships with others, particularly family.” This response portrays a highly negative view about substance abuse and equating it to the potential for negative outcomes; including criminal activity. It appears that substance abuse continues to be highly stigmatized among legal professionals, yet it also appears that some view it as an acceptable coping mechanism. It is interesting to note this split in opinion because although substance abuse is highly stigmatized and viewed negatively among this group of participants, it appears to be known as a common coping mechanism within the profession.

How is Substance Abuse Treated in the Legal Profession in Canada?

Participants were unaware of how substance abuse is treated by their respective Law Societies possibly because these participants never had to access such services. The I don't know response represented 45.8% of the participants, while the second most common answer was treatment supports or recommendations at 37.5% followed by licence suspension at 33.3%. It is interesting to note that disciplinary actions (e.g., license suspension, loss of job, fine, mandatory treatment) appear to be one of the most commonly believed responses to dealing with substance abuse, compiling a total of 58.3% of the data reported.

Figure 5

How the Law Society in the Participants' Respective Province Handles Substance Abuse



A significant number of participants (45.8%) did not know what the Law Society in their province does to address substance abuse and this presents a major issue. If lawyers are unaware of the support programs available to them it may result in the avoidance of seeking help should they require it. It is also concerning that most participants reported disciplinary action as a believed normalized result of substance abuse issues. A treatment and prevention perspective is mandatory to break the stigma of substance abuse in the legal profession. Disciplinary action

from the Law Societies may further increase the fear of seeking help rather than addressing substance abuse from a more inclusive perspective.

The importance of education and initiative programs to prevent and address substance abuse is integral prior to it becoming a significant issue for legal practitioners. It is also important to note that prevention workshops and treatment supports or recommendations represent a significant portion of the responses, yet there is no commentary about the effectiveness of these programs or supports. Being aware of the potential repercussions of substance abuse issues covers one issue, yet the effectiveness of the initiatives in place to respond to the issue requires further examination to determine the quality and effectiveness.

Processes and Procedures

When asked about current processes and procedures should a colleague or employee approach the participant seeking help for their mental health or substance abuse issues, the participants' responses show a very interesting split. The two most common responses reported that the Law Society programs provide help to lawyers for their issue(s), and there are no current processes and procedures. It is apparent that there is a massive divide in the participants' responses regarding the processes and procedures for seeking help, and this presents another concerning issue.

Some respondents reported "we don't have any. It's a problem we need to fix," "have not been made aware of any, has not been spoken of," and "there is nothing in place." On the other hand some respondents knew where to start, "referral to partners, LAP; counselling, other resources, mental health leave (paid as disability)," and "to try and have an open door policy for communication. To talk openly about the Assist program (that it is a friend, not a foe). Many lawyers still feel that if they open up to Assist about their personal struggles it will somehow be reported back to the LSA." Another participant reported "I have a great deal of confidence that

robust programs and assistance are in place to help me and my colleagues in the event that any of us require help with our mental health.”

There appears to be two opposing sides where some participants feel very strongly about the programs and services currently available to them to help address mental health and substance abuse while others feel very strongly about the lack of assistance available to them. An interesting yet not surprising piece of information that arose from participants' responses was the presence of stigma still embedded in the conversation about mental health and substance abuse. One participant reported that “law firms and the Law Society tend to steer away from issues lawyers are personally feeling, and rather focus on administrative regulation like trust accounts for example.” It appears that the stigma of seeking help for personal issues may prevent a lawyer from seeking such help, as the personal issues of a practicing lawyer may be less important to a firm or the Law Society than regulations and ethical standards. Again, with discussion of the effectiveness and quality of programs available to lawyers who require assistance requires further research to answer this question.

Missing Pieces from the Law Society’s Approach for Assistance

The most expressive and detailed responses came from the survey question that asked what is missing from the Law Society’s approach to dealing with mental health and substance abuse either from a prevention or intervention perspective. There were a lot of unique answers yet some common themes that arose were “proactive and preventative measures,” “I don’t know,” and “a change in culture and conversation...normalizing getting help.” The most common theme was about the importance of prevention and education programs. Participants responded, “they can be more proactive in making sure firms are not overworking their lawyers or lawyers are overworking themselves,” “knowledge, education and understanding. Other than the Assist program - the LSA has no clue (in my opinion) about how these concerns should be

treated or addressed,” “prevention instead of intervention,” “so much - mostly prevention instead of treatment, and also peer supports,” “proactive prevention would be fantastic,” and “more training and prevention programs.”

The second most common response was “I don’t know” which comes as no surprise considering the information presented earlier. As a significant number of participants reported their lack of awareness of assistance programs on behalf of their employer or Law Society, this unawareness must be addressed. Furthermore, the presence of stigma surrounding mental health and substance abuse support programs was continuously present in the responses. One participant reported “there’s an attitude of the need for lawyers to have ‘the right stuff’ i.e. if you get in trouble it’s only because you are weak,” and another reported “yeah some services may exist but it’s a huge stigma.” Another participant reported that “most attention is focused on professional development from the Law Societies front. I know there are programs, but the immense amount of work derails from looking into programs in any realistic way.” Therefore not only does the stigma of seeking help prevent a lawyer from finding and engaging in any support programs, but the workload of a career in law may hinder the accessibility of these support services as well.

An interesting point from the perspective of a few participants was that support and assistance programs are not a responsibility of the Law Society, but rather a responsibility of the independent employer (e.g., the Solicitor General for public prosecutors, or the managing partner(s) in a law firm). One participant wrote, “I don’t think it is an LS duty...it is up to the professional regulator to maintain the integrity of the profession. I think it is up to the employer to support their employees.” Another participant reported the same perspective stating “I don’t think that this is a primary role of the Law Society as it simply doesn’t have the mandate or

resources to oversee the performance of its members on a day to day basis. Issues such as substance abuse would only come to the attention of the Law Society if the performance of one or more of its members adversely impacted a client or clients, or the public interest.”

The previous statement concerns lawyer competency where the Law Society becomes involved with the ethical standards and competency of its practicing members. The discussion about whose responsibility it is to provide support and assistance to its members is up for debate, as some participants believe it is the Law Society’s responsibility while others believe it is up to the employer. A point for consideration could be that both agents provide support, education, and programming rather than shifting the blame to one or the other.

Another theme that arose from this question was the need for a change in culture and conversation. Namely that the more these issues are addressed and discussed in the legal profession the more acceptable and inclusive they may become. One participant wrote “I’ve heard psychologists may need to meet with other psychologists on a regular basis, to help deal with the stresses and providing support. I think something like that - which is an encouraged, regular, and normalized part of practice would be great!” On the road to normalizing getting help for mental health and substance abuse issues, it may be beneficial to learn from the processes of educational and preventative measures from other professions.

It is apparent that prevention and education initiatives are the most important piece that is missing from the Law Societies and employers. Engaging in conversation and advertising programs for all lawyers are two other pieces that can be easily implemented to help address these issues and deteriorate the damaging stigma present in the field. It is important to acknowledge that there are legal professionals who feel strongly about the presence of assistance available yet still have comments about things that can be improved or changed for the

betterment. No program or Law Society is perfect and there are great improvements that can be made.

The Current Perspective on Mental Health, Burnout, and Substance Abuse

Stigma of mental health, burnout, and substance abuse is very much alive among legal professionals. When asked about how mental health and substance abuse is viewed by colleagues or talked about, the most common answers were that “it is not talked about,” “it is joked or laughed about,” “there’s a stigma attached to it, it is viewed negatively,” and “it is accepted as a norm of the job.” The most common theme of all responses was that it is not talked about, and this raises concern regarding the issue of starting the conversation to de-stigmatize things. Participants reported statements such as “not very often and usually with stigma,” and “it’s viewed as a weakness and not discussed as much as it should be.” One participant even reported that “substance abuse is usually talked about as a joke, while mental health is often talked about as if the person is just looking for an extended vacation from work or looking for attention or an excuse as to why they will not last in private practice.” It appears that mental health and substance abuse remains to be a topic of silence among legal professionals who are somewhat behind the supportive way mental illness is talked about in the public realm. Generally there is still stigma about substance abuse in society, so it makes sense that legal professionals subscribe to this stigma as well.

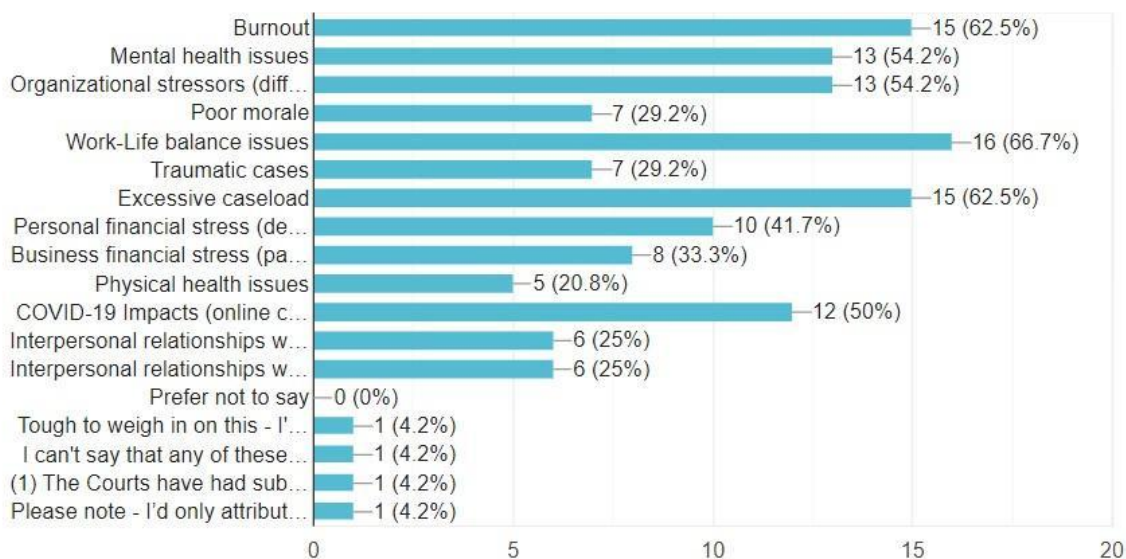
Participants also reported that mental health and substance abuse as “generally laughed about and accepted as a norm of the job,” “less stigma than 5 years ago, but still in whispers,” and “increasingly so. There has been a ‘normalization’ and lifting of stigma associated with mental health, particularly in recent years with larger campaigns and leaders/celebrities coming forward to speak about their personal issues and struggles. Possibly less so with substance abuse.” There seems to be another divide in the responses regarding the conversations about

mental health and substance abuse in the legal profession, which is consistent with the other concerns in this research. This raises significant questions about the progression and acceptance of mental health and substance abuse as an issue worthy of attention in the legal profession. It is worthy to note that one participant's response acknowledged the evolving progress in de-stigmatizing mental health in the profession, yet substance abuse remains far behind. De-stigmatizing mental health is an important place to start yet there is still room for improvements to begin the de-stigmatization of discussing substance abuse.

One of the most interesting outlier responses in the data was a participant who reported "I find many young lawyers are good at talking to each other about mental health issues but there is a massive generational divide." This speaks to those who are younger that may be a product of more modern ideals (as seen in society), and that are more accepting and inclusive of those with mental health or substance abuse concerns. It appears that there may be a new generation of lawyers that can aid in the de-stigmatization of mental health and substance abuse and this gives hope for the future of legal practitioners across Canada.

Prevalent Stressors

It is important for the purposes of this research to note the current stressors that those in the legal profession are facing to determine potential risks of developing mental health, burnout, and substance abuse issues. When asked about the current stressors in the participants' lives the most common response was work-life balance which represents 66.7% of the data. The second most common response was tied between burnout and excessive caseload, representing 62.5% of the data for each category. The third most common response was tied between mental health issues and organizational stressors (difficult coworkers, bosses, understaffed, etc.), which represents 54.2% of the data for each category.

Figure 6*Participants' Current Stressors in their Lives*

Some other notable responses involved the COVID-19 pandemic as a significant stress impact, personal financial stress, poor morale, business financial stress, interpersonal relationships with friends and family, and interpersonal relationships with colleagues such as clients, coworkers, or opposing counsel. It is important to note that only two participants reported they were experiencing none of these stressors in their current lives, and although this is a small portion of the data collected it is still important to acknowledge. All these stressors have the capacity to harm legal practitioners in exacerbating the development of mental illness, burnout, and substance abuse issues. To address these issues effectively it is integral for future and current programs to take note of these stressors and to make changes to prevent or reduce the prevalence of mental health, burnout, and substance abuse issues.

Additional Information from Participants

Survey participants were given the opportunity to share any other information they believed would be beneficial to this research project. Some participants felt there was no further

information to provide for the survey while others responded with detailed and elaborate responses. It is important to acknowledge that participants are aware of the issues regarding mental health, burnout, and substance abuse in the legal profession yet with the inconsistent responses there is no confidence that it is being dealt with effectively. Some noteworthy responses to this open-ended question are listed below:

Openly discussing this topic is important as that will help encourage people who are suffering to get help. And to offer help.

There is an old idea about law, and operating a firm. Many old timers believe that work is life. They work from 4am to 8pm 7 days a week. They pride themselves on not taking vacations or time off. At a certain point, it is not about the money, rather, it becomes an addiction. I believe in the modern and new age of law firms, where work is NOT life.

This is a difficult profession- huge case loads, demanding clients, and areas of law that even senior lawyers don't fully grasp. It is mentally challenging on a daily basis. It is hard to let go of work on leaving the office. Finding balance is extremely difficult, and doesn't seem to be encouraged in any meaningful way given work loads. Assistance programs appear nice, but I (and apparently others) am/are not accessing them due to work pressures and lack of time.

As noted in my responses above, I think it's important to distinguish between the role (and resources available to) the Law Society. The mandate of the Law Society is to govern the conduct of its members with a view to protecting the public's interest and not to oversee their day-to-day performance. Issues such as mental health and substance abuse, important as they may be, are much more perceptible at the firm / employer level than at the Law Society level, where the consequences to the public of mental health and substance abuse may be addressed

Lawyers often use substances to relax after a long day at work whether that is weed or liquor etc. That can lead to issues if they become dependent on it. However in major cities use of illicit drugs like cocaine or prescription drugs such as adderall is more common. It can be seen as giving them an edge or extra energy to work long hours. But that is not all of the profession. Some lawyers may just eat more food when they are stressed. Or not go to the gym when they are tired which snowballs into feeling worse mentally and physically. It is easy to preach work life balance, however, when there are bills and debts that need to be paid off, you will work as much as you need. At the end of law school most lawyers are saddled with over \$100,000 of debt. So, jr lawyers are in no position to say no to work.

COVID-19 has driven so much litigation, which is contributing to burnout in the profession.

Mental health and substance abuse are issues that disproportionately effect this profession. Resources are available to those who are experiencing these issues and want assistance. I have had anxiety issues that my firm has recognized and been supportive of treating.

That said, I do not think it is a secret to anyone that this is a high stress profession that can lead to these issues, no different than many other professions. There are a variety of positions within the profession that allow different levels of flexibility, from large private practice firms to smaller firms, government and in-house positions. In my opinion, the taboo regarding mental health, and to a lesser extent substance abuse, is dissipating as society continues to progress and firms are far more supportive in helping their employees address these issues. However, I do believe that some people are more suited for different positions that carry different stressors, and there is a certain onus on each individual to listen to their body and check in with their well being and shape their career accordingly.

There seems to be a serious generational divide between older lawyers, whose view in my anecdotal experiences, often amounts to "I used to work 70-90 hours a week when I started so don't complain that you are too". Many younger lawyers I know would rather make less across their career and have a proper work life balance. You don't realize how important that is until you're working for a third of a year in a row without having a single full weekend free. And on the weekdays during 1/3 of the year, you've worked up to 13.5 hours at times.

At a prior firm, I opened up to a boss just by saying I had some anxiety both from work and things outside of work, with no additional details, and I knew my future was dead there the second I told him. He viewed me differently.

Despite how bleak the above is, and how tough parts of my career have been so far, I'm enjoying my current role and finally found a position where colleagues are friendly and I have some semblance of work life balance.

We as a profession need to do a better job of creating a united front (ie. stop the race to the bottom with unrealistic timeframes and lower fees).

Responses reveal that participants are concerned about these topics yet there is no consistent evidence to support that the Law Societies or independent firms and practices are addressing them robustly or effectively. The presence of mental health, burnout, and substance abuse issues in the legal profession continues to be deserving of further prevention and education, and further research to promote acceptance and reduce stigma.

Limitations

There were limitations to this research project. It was conducted for the purposes of writing an honours thesis to complete my undergraduate degree within eight months. This time constraint was one of several limitations. Additionally, the project was limited in scope, exploring gender and race, and lacked access to the Law Society programs.

The limitations in scope were that only twenty-four participants completed the survey, which is a reasonable number of responses but to explore this topic more deeply a larger sample would provide greater insight and generalizability. Limitations in gender and race also constrict the scope and generalizability of the project, as both such variables could add an additional layer of depth to understanding mental health, burnout, and substance abuse among legal professionals.

Finally, the limited access to the Law Society pages was a barrier. It was difficult to gain access to the programs via their sites due to privacy and member exclusivity, and reviewing all provincial Law Society programs was not feasible due to the time constraints of the academic year.

Discussion and Conclusion

Mental health, burnout, and substance abuse remain important topics of concern by legal professionals in Canada. Mental health is becoming more accepted and normalized by most professionals yet substance abuse remains as a negatively viewed and stigmatized topic. Substance abuse remains as a highly stigmatized issue for which legal professionals are quick to judge as negative and job-threatening. Discussion about mental health and illness has improved for these professionals, but all have acknowledged that more positive steps need to be taken.

The Law Societies across Canada have inconsistent reports about the programs available and the effectiveness of them. Some supportive services are available, yet there are plenty of lawyers who are unaware they exist. The promotion of these programs and taking leadership in education and destigmatizing efforts may help to increase the awareness and acceptance of these issues, but the genuine effectiveness and quality of these programs requires further study.

The participants in this study reported plenty of areas of improvement for the Law Society in their respective provinces, as they reported concerns about accessibility, individualized support, and prevention and educational initiatives. Prevention and education initiatives was the most reported issue and therefore it is integral for legal professionals to have access to programs and services that aid with mental health, burnout, and substance abuse before they require intervention. Participants argued that prevention is better than intervention, as preventing a problem before it becomes an issue is a much more effective and cost-effective strategy.

Additionally, there are a variety of stressors that legal professionals experience in their daily life that can be also addressed through prevention and education programs and cultural shifts. These stressors are not unique to the profession, but they are pervasive and a great place to start in addressing mental health, burnout, and substance abuse.

In conclusion, mental health, burnout, and substance abuse are prevalent issues among legal professionals in Canada that are deserving of further attention, awareness, and prevention for the betterment of the profession and for the clients they serve. Lawyers are aware of these issues and express concern about the prevalence of them, offering insight into the potential implications that can be made with a more effective, efficient, and personalized approach. There is a noticeable divide regarding awareness of the programs available and the accessibility of them, and this must be addressed. Although the legal profession is seen as a tough, cutthroat, and demanding profession for those fortunate enough to work within it, the future of the profession does not have to be indoctrinated with this cultural milieu. There is potential for change to create a healthier and happier career, but it is up to the legal professionals themselves to start these conversations and demand the Law Societies provide the assistance, education, and services they deserve.

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APPENDIX A

HREB Approval Form



Human Research Ethics Board

t: 403.440.8470 | f: 403.440.6299
e: hreb@mtroyal.ca
research.mtroyal.ca

November 2, 2021

Scharie Tavcer & Megan Rombough
Economics, Justice and Policy Studies
Mount Royal University

Dear Dr. Tavcer and Miss Rombough:

Re: Application Number 102682

Understanding Mental Health and Substance Abuse among Lawyers in Alberta

The above-noted honours thesis project was reviewed by the Human Research Ethics Board (HREB) and was found to be ethically acceptable on **November 2, 2021**. I am pleased to advise you that ethical clearance for this proposal has been granted to **November 2, 2022**. You may request an extension if you wish to collect data beyond this date.

Please note that this clearance is contingent upon adherence to the limits of the project as outlined in your application, including the restriction of the student projects to minimal risk, and the appropriate education being provided to students regarding ethical conduct of research involving human participants. Prior permission must be obtained from the Board before implementing any substantive modification(s) to the submitted documentation.

Researchers are required to notify the Mount Royal University HREB immediately if any untoward or adverse event occurs during the student projects, or if data analysis or other review reveals undesirable outcomes for participants or the students. HREB and Mount Royal University adhere to the Tri-Council Policy Statement, "Ethical Conduct for Research Involving Humans".

You are required to submit a brief project completion report in **November 2022**. Completion report templates can be assessed through ROMEO.

Please accept the Board's best wishes for success with this project.

Yours sincerely,

Lynne Lafave, PhD
Chair, Human Research Ethics Board

APPENDIX B

Consent Form



CONSENT FORM

Project Title: Understanding Mental Health and Substance Abuse among Lawyers in Alberta

Investigators: Ms. Megan Rombough and Dr. D. Scharie Tavcer

Contact Information:

Megan Rombough: mromb840@mtroyal.ca

Dr. D. Scharie Tavcer: stavcer@mtroyal.ca

You are being invited to participate in a research project, as described above and in this consent form. Please note this consent form serves to provide an overview of what the research in question is about and what your participation would entail; it is only one part of the consent process. Read this consent form carefully. You should understand the accompanying information. If you have any questions, please ask for help. You will receive a copy of this form in the beginning of the survey that you must read prior to giving your consent to participate.

Summary of the Study:

The purpose of my research is to ask lawyers about the uniqueness of their work and its connection to mental health and substance abuse prevention and education, as well as how the profession handles these issues. Participants will be asked to answer a survey regarding their personal experiences in their profession that relates to mental health and substance abuse. This topic is worth studying because it may inspire further action to prevent mental health and substance abuse issues among one of the most vulnerable workforce professions, as well as to provide further insight into possible programs to implement for treatment and prevention and to challenge stigmas surrounding these concepts.

Participant's Involvement/ What would my involvement entail?

Participation in this study will involve answering a series of open and close ended questions. Participants are encouraged to answer all of the questions in the survey, but are not required to answer all of the questions if participants are not comfortable answering.

The survey will take approximately 15-20 minutes to complete.

Collection of Personal Information/ What sort of personal information would be collected and how?

Personal email addresses will not be stored. In order to send the survey to participants, Dr. D. Scharie Tavcer will have access to the participants invited to the study, but neither Dr. Tavcer nor Megan Rombough will know which invitees have completed the survey. Personal information that will be collected includes gender, years of practice, location, and area(s) of law practiced.

Your information will be collected using Google Forms on the digital Google platform. The information you submit may be subject to laws in force outside of Canada. As with any information transmitted via the internet, there is some risk that data may be intercepted by unauthorized parties and, therefore, privacy cannot be absolutely guaranteed.

Study Risks or Benefits for Participants/What are the risks or benefits involved in my participation?

There is no moderate to severe risk for participating in this study. A minor risk may be caused by the sensitivity of the survey questions that could potentially trigger uncomfortable responses in participants. A list of resources for support will be provided to the participants at the end of the study.

The benefits of participating in the study mainly revolve around the participant's potential to support undergraduate research and to contribute to the literature on mental health and substance abuse in the legal profession. Participation in this study will further open the discussion about these topics in their individual workplace as well as help bring awareness on these topics in the legal profession as a whole. Furthermore, each participant may feel gratitude in participating in a study that focuses on a modern concept that is deserving of more attention in the academic environment.

Voluntary Participation and Withdrawal of Consent:

You are under no obligation to participate in this research study.

As the data collected from participants will not be coded to unique participants, each participant is required to fill this consent form prior to engaging in the study. You will not suffer any disadvantage or reprisal for choosing not to participate.

In the consent section of the survey, participants will read that they can withdraw from the survey at any time before they click submit. If a participant chooses to withdraw their participation in the study by not completing the survey, their survey data will not be collected. After they click submit it will not be possible to remove their data because the survey is anonymous, and I will not be able to connect a participant to their responses in order to delete it.

What will happen to the results of this research project?

This is part of my honours thesis and the final paper will be posted to the library's institutional repository, and I might submit a poster of my study to MRU's student research days.

Who should I contact if I have concerns regarding ethical issues related to this research project?

If you have any questions concerning your rights as a possible participant in this research, please contact the Research Ethics Officer, at Mount Royal University, 403-440-8470, hreb@mtroyal.ca.

Signature (digital consent):

Your approval on this form indicates that you:

- are voluntarily consenting to participate in this research project,
- understand to your satisfaction the information regarding your participation in the research project and your agreement to participate,
- have not yet commenced participation in the research project – your participation will only begin once you have provided your consent, and
- have been given adequate time and opportunity to:
 - consider the information provided,
 - pose any questions you may have, and
 - discuss and consider whether you will participate.

If you have further questions concerning matters related to this research, please contact:

Dr. D. Scharie Tavcer, Department of Economics, Justice, and Policy Studies, Faculty of Arts.
403-440-6383, stavcer@mtroyal.ca

This consent form is hereby signed and presented by Ms. Megan Rombough on September 14, 2021.

The Human Research Ethics Board of Mount Royal University has approved this research study. This study is not funded.

A copy of this consent form has been provided to you on this survey. Please consider taking a screenshot for your records and reference. Should you require a paper copy of this consent form please contact either Ms. Megan Rombough or Dr. D. Scharie Tavcer at the contact information stated above.

APPENDIX C
Email Invitation

Hello,

My name is Megan Rombough and I am an honours student at Mount Royal University in the Criminal Justice Degree Program. I am undertaking an independent research study about understanding mental health and substance abuse with lawyers in Alberta. I am writing to you to ask for your participation in my study by completing an anonymous 10-20 minute online survey.

The purpose of my research is to ask lawyers about the uniqueness of their work and its connection to mental health and substance abuse prevention and education, as well as how the profession handles these issues.

The benefits of participating in the study mainly revolve around the participant's potential to support undergraduate research and to contribute to the literature on mental health and substance abuse in the legal profession. Participation in this study will further open the discussion about these topics in their individual workplace as well as help bring awareness on these topics in the legal profession as a whole.

It would give me great pleasure to have you participate in this research. If you wish to participate please find the link to the survey attached to this email. All ethics information is provided in the first section of the survey, including a consent form outlining all aspects of my research intent. Thank you for considering this contribution to undergraduate research and I hope you will participate in my study.

All the best,

Ms. Megan Rombough
Criminal Justice Honours Major
Mount Royal University
mromb840@mtroyal.ca

APPENDIX D**Survey Questions**

Understanding Mental Health, Burnout, and Substance Abuse among Lawyers- Survey Questions:

1. Do you consent to participate?
 - a. Yes
 - b. No
2. What gender do you identify as?
 - a. Female
 - b. Male
 - c. Prefer not to say
 - d. Other
3. How many years have you been practicing law?
 - a. 1-5 years
 - b. 6-10 years
 - c. 11+ years
 - d. Prefer not to say
4. What area(s) of law do you currently practice? Click all that apply
 - a. Constitutional Law
 - b. Administrative Law
 - c. Taxation Law
 - d. Family Law
 - e. Criminal Law
 - f. Contract Law
 - g. Tort Law
 - h. Property Law
 - i. Corporate Law
 - j. Wills and Trusts Law
 - k. Patent Law
 - l. Human Rights Law
 - m. Prefer not to say

- n. Other
5. Where do you practice law?
- a. Edmonton
 - b. Calgary
 - c. British Columbia
 - d. Ontario
 - e. Saskatchewan
 - f. Any of the Territories
 - g. Maritime provinces
 - h. Quebec
 - i. Outside of Canada
 - j. Prefer not to say
 - k. Other
6. Are you in a private practice?
- a. Yes
 - b. No
 - c. Prefer not to say
7. Please describe or define your understanding of burnout
8. How does the Law Society of Alberta treat burnout? Click all that apply
- a. Prevention workshops
 - b. Treatment support
 - c. My partner(s) / employer provides wellness training
 - d. Law Society's Assistance Society
 - e. Loss of job
 - f. Fine
 - g. Mandatory treatment
 - h. No information provided
 - i. I don't know
 - j. Prefer not to say
 - k. Other
9. Please describe or define your understanding of mental wellness

10. Please describe or define your understanding of and mental illness
11. How does the Law Society of Alberta address mental wellness and illness? Click all that apply
- a. Prevention workshops
 - b. Treatment support
 - c. My partner(s)/employer provides wellness training
 - d. Law Society's Assistance Society
 - e. Loss of job
 - f. Fine
 - g. Mandatory treatment
 - h. No information provided
 - i. I don't know
 - j. Prefer not to say
 - k. Other
12. Please describe or define your understanding of substance abuse
13. How does the Law Society of Alberta address substance abuse? Click all that apply
- a. License suspension
 - b. Prevention workshops
 - c. Treatment supports/recommendations
 - d. Loss of job
 - e. Fine
 - f. Mandatory treatment
 - g. No information provided
 - h. I don't know
 - i. Prefer not to say
 - j. Other
14. What is missing from the Law Society of Alberta's approach to dealing with mental wellness and substance abuse either from a prevention or intervention perspective?
15. If a colleague or your employee came to you seeking help for their mental health and/or substance abuse, what are processes and options at your firm or practice?

16. How are mental health and substance abuse viewed by colleagues or talked about in the legal profession?
17. We understand that the practice of law can have many stressors. Which of the following would you say affect **you** and your practice/firm at this point in time? Click all that apply
- a. Burnout
 - b. Mental health issues
 - c. Organizational stressors (difficult coworkers, bosses, understaffed etc.)
 - d. Poor morale
 - e. Work-Life balance issues,
 - f. Traumatic cases
 - g. Excessive caseload
 - h. Personal financial stress (debt, home expenses, family needs)
 - i. Business financial stress (paying staff, utilities, rent etc.)
 - j. Physical health issues
 - k. COVID-19 impacts (online court, lack of clients, etc)
 - l. Interpersonal relationships (partners, friendships, family)
 - m. Interpersonal relationships (clients, coworkers, opposing council)
 - n. Prefer not to say
 - o. Other
18. Is there any additional information you are willing to share that would be beneficial to this study?

Thank you for your time and participation in this study.

I wish you all the best in your future endeavors as a practicing lawyer in Alberta.