

Central States Bankruptcy Workshop

Ethics: Wellness Matters with Kendra Brodin



WITH KENDRA BRODIN, ESQ., MSW

<u>Culture of Caring:</u> Cultivating a Legal Environment Where All Can Thrive

by Kendra Brodin, Esq., MSW

Presented for the American Bankruptcy Institute

Presentation Date: June 19, 2024

Timed Agenda for One Hour (60 minutes)

- 1. Part 1: What is a Culture of Caring? (Minutes 0:00 to 10:00)
 - a. What a culture of caring in the legal profession "is" and "is not"
 - b. Why this is a critical time for legal organizations to create cultures of caring
 - c. How a culture of caring is a proactive protection for our legal team members, our clients, and our practice, including preventing ethical violations
- 2. Part 2: What are the key ingredients of a culture of caring? (Minutes 10:00 to 25:00)
 - a. Key components of a culture of caring in the legal profession
 - b. Belonging (including impacts on diversity and inclusion)
 - c. Psychological safety in the legal profession
 - d. Courageous and difficult conversations
 - e. Interactive exercise on these key ingredients

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3. Part 3: Specific Ethical and Legal Considerations and Implications (Minutes 25:00 to 35:00)

- a. Model Rule 1.1: Competence
- b. Model Rule 1.3: Diligence
- c. Model Rule 1.4: Communication
- d. Model Rule 1.16(a)(2): Declining or terminating representation
- e. Model Rule 8.3(a): Reporting professional misconduct
- f. Model Rule 8.4: Misconduct

4. Part 4: The WALS Action Plan (Watch, Ask, Listen, Support) (Minutes 35:00 to 55:00)

- a. **Watch:** know what to watch for and notice to determine if a colleague might be struggling
- b. **Ask:** word tracks and suggestions on how to ask if someone is struggling
- c. Listen: how to listen well
- d. **Support:** how to actively support someone who is struggling

5. Part 5: Resources and Next Steps (Minutes 55:00 to 60:00)

- a. The importance of taking care of yourself and being a good role model
- b. Key takeaways and resources
- c. Final Q&A

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Culture of Caring:

Cultivating a Legal Environment Where All Can Thrive

Presented by: Kendra Brodin, Esq., MSW Founder and CEO | EsquireWell

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Your Presenter Today:

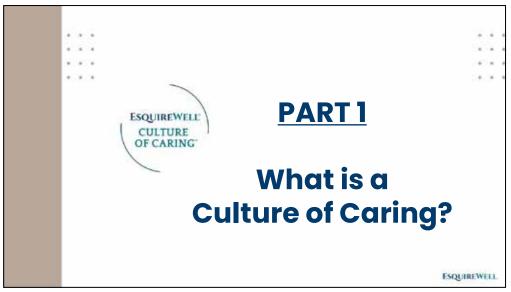
Kendra Brodin, Esq., MSW



- Former practicing attorney and Chief Attorney Development Officer
- Masters Degree in Social Work from the University of Pennsylvania
- Certificate in Advanced Leadership Skills
- Chairperson, Institute for Leadership in the Legal Profession
- · Certified Coach

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A Culture of Caring prioritizes
connection and support between
team members so all team members
have what they need to thrive, which
ultimately leads to improved client
service and business outcomes.

A **CULTURE OF CARING** IS:

PROACTIVE: Behaviors that set team members up for success and well-being

RESTORATIVE: Strategies that restore and support those who are struggling

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A Culture of Caring Represents An Organization's Core Values in Action!



"People-First"

"A culture that encourages innovation"

"Connect deeply with our colleagues and their values"

"We value collaboration and teamwork."

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Intervening Upstream

"There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they're falling in."



- Desmond Tutu

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Today's "Culture of Caring" Objectives:

- 1. Create a common language and understanding
- 2. Provide tools and knowledge
- 3. Empower you to confidently employ strategies

What Do We Ask of You?

- 1. Keep an open mind and actively participate
- 2. Commit to doing your part to build a **Culture of Caring**

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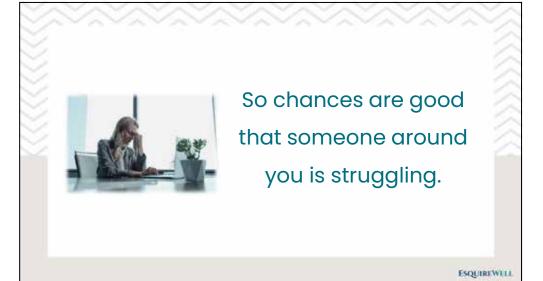
In the General Population ... • According to the American Psychological Association, more than one-third (37%) said they have a diagnosed mental health condition. • 100% of us have mental health – we are all on a spectrum. UNWELL SOMEWHAT UNWELL SOMEWHAT WELL WELL 0 1 2 3 4 5 6 7 8 9 10 Where would you rate yourself?

Why now? American Lawyer 2023 Mental Health Survey

- 71.1% of lawyers said they had anxiety (up 5% over 2022)
- 38.2% said they were depressed (up from 35% in 2022)
- 31.2% said they had another mental health issue (up from 14.6% in 2022)
- 50%+ said they felt a sense of failure or self-doubt, lost emotion, felt increasingly cynical and negative, and had decreased satisfaction and sense of accomplishment.
- 60%+ felt physical or mental overwhelm or fatigue, felt moody or irritable, exhausted, or struggled to concentrate.
- 1/3 of lawyers said they felt helpless, trapped, detached, or alone in the world.
- 44% knew co-workers who struggled with alcoholism.
- 15% knew someone in the profession who died by suicide in the past two years.

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What are some challenges you are facing or have faced (or heard that others are facing or faced)?

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Part 2: PREVENTION

How to *proactively* build a Culture of Caring to prevent problems

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Two Key Components of a Culture of Caring



- 1. Engage in courageous conversations
- 2. Cultivate belonging and psychological safety

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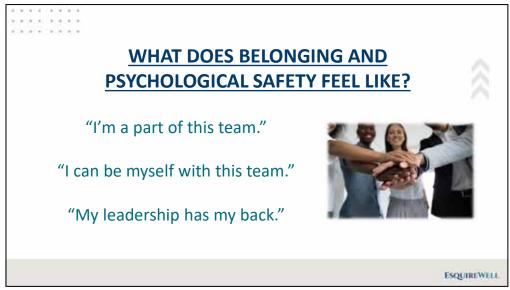
Kinds of Courageous Conversations:

Not comfortable, but critical



- √ Giving or receiving feedback
- ✓ Asking someone if they are struggling
- ✓ Acknowledging your needs or limits
- $\checkmark \ \text{Addressing an interpersonal concern}$
- $\checkmark \ \, \text{Thoughtfully and respectfully advocating for yourself}$

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Reflection Question #2

What are some ways you can help create belonging in your office and on your team?

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Some Strategies to Create Belonging

- ✓ Show appreciation and thanks
- ✓ Address behaviors that undermine belonging
- ✓ Make sure everyone has a voice
- ✓ Stay humble and share your vulnerabilities and mistakes
- ✓ Build opportunities for fun and connection



For more, check out "The Culture Code" by Daniel Coyle

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Part 3: Ethical Considerations and Implications



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Preamble: A Lawyer's Responsibilities: Lawyers are generally held to a very high standard of skill and responsibility.



Rule 1.1: Competence: Impaired lawyers aren't as able to represent their clients at the highest level of competence.

Rule 1.3: Diligence: An impaired lawyer might not be as diligent and prompt in their representation.

Rule 1.4: Communication: Lawyers who are impaired aren't as able to be as responsive as needed.

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Rule 1.16(a)(2): Declining or Terminating Representation: A lawyer shall withdraw from the representation of a client if "the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client."

Rule 8.3(a): Reporting Professional Misconduct: A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

Rule 8.4: Misconduct: It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

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Part 4: RESTORATION

What to do to **restore** people when challenges arise

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WATCH: Signs of challenge to notice

Noticeable changes in appearance or behavior

- Unmotivated, less focused on goals
- Stops caring about their appearance
- Change in mannerisms or communication style
- Change in mood, energy level, or engagement
- Tension, conflict, or problematic patterns of behavior and interactions among office colleagues



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WATCH: Signs of challenge to notice





- Too many hours, too few hours, or poor time entry practices
- · Coming in late; staying late
- · Poor work product
- Time being written off or reduced by client
- · Not taking or canceling vacations



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WATCH: Signs of challenge to notice

- · Increased use of alcohol or drugs
 - · Drinking more than usual at social events
 - Seeming impacted by effects of drugs/alcohol
 - Exhibiting defensiveness or irritability when alcohol or drugs are mentioned

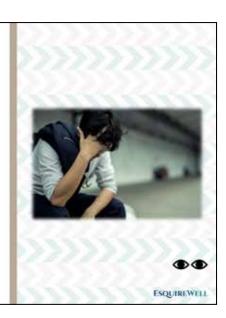




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WATCH: Signs of challenge to notice

When you know someone endured a particularly stressful event, whether at work or at home



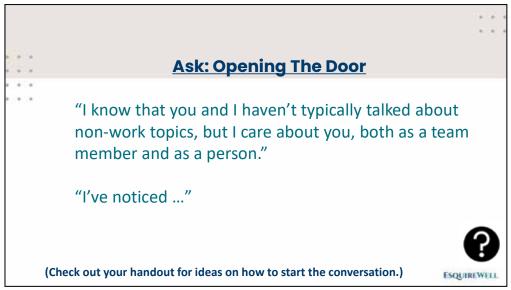
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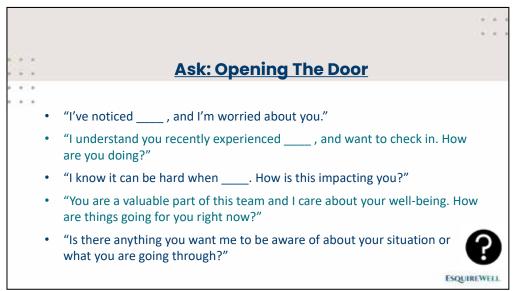
Ask: An Overview

- Express compassion while being as direct as you can.
- Keep questions open-ended.
- Don't ask for or receive too many details. You're here to support, not solve.



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LISTEN: So They Feel Supported

Pro tip: first regulate your own emotions in this process.

- ✓ Listen without interrupting.
- ✓ Don't judge or personalize. Stay curious, not defensive.
- ✓ To listen, you don't have to agree.
- ✓ Repeat what you heard to confirm you understand.
- ✓ Resist the desire to solve the problem.
- ✓ Watch their body language.



(Reference your handout for more listening tips and strategies.)

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Support: Reassure and Take Action

- √ "How can I support you right now?"
- ✓ "The firm has many resources to support you. Let me show you."
- ✓ "I know someone who may be able to help. Would you like me to connect you?"



(You can find more ideas on how to provide effective support in your handout.)

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Support: Reassure and Take Action

- √ "How can I support you right now?"
- ✓ "What do you need help with today?"
- ✓ "The firm has many resources to support you. Let me show you."
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(You can find more ideas on how to provide effective support in your handout.)

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Support: Reassure and Take Action

- ✓ "You are not alone. Others have gone through this."
- ✓ Don't be afraid to say "I don't know, but I will find out."
- ✓ Establish and honor a mutually agreeable schedule for follow-up conversations.



(You can find more ideas on how to provide effective support in your handout.)

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Additional Resources in Your Workbook

Emergency/Mandatory Reporting Situations

Non-Emergency/Non-Mandatory Reporting Situations

Firm Resources and Important Contacts

And more!

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Put On Your Oxygen Mask First

When you are depleted, it's much harder to show up for others.

Your self-care benefits the whole team!



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Be a Model for Others

- Take advantage of firm resources and get the help you need.
- > Share what you do to take care of yourself.
- Encourage office participation in well-being activities.
- Model courageous conversations.

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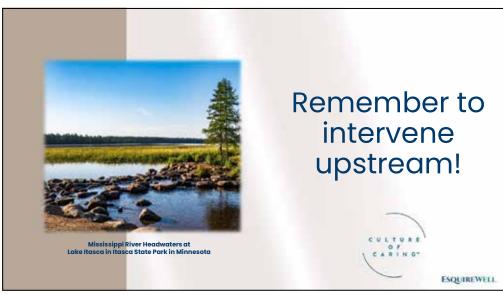
What's One Key Takeaway?

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- 1. 100% of us have mental health.
- 2. Mental health is a spectrum we can move from "well" to "unwell" very quickly.
- 3. Early intervention is key to positive outcomes.
- 4. Take time to check in on others; it matters.
- 5. Let's work together to create an environment where we can all perform at our best.

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A Culture of Caring:

Cultivating a Legal Environment Where All Can Thrive

In today's rapidly evolving legal landscape, where demands and stress levels are high, a "Culture of Caring" is a vital ingredient for organizational success and individual well-being alike. As legal professionals, we're intimately familiar with the relentless pace, the tight deadlines, and the high-stakes nature of our work. In such an environment, where the pressures can be immense and the challenges diverse, fostering a "Culture of Caring" isn't just a luxury—it's a necessity.

The engaging and interactive "Culture of Caring" program is designed to provide a blueprint for navigating these complexities, offering both proactive and reactive strategies to foster an environment where individuals can not only survive, but thrive. By embracing empathy, understanding, and support, we aim to create a workplace where every member feels valued, respected, and supported. Through a combination of education, awareness-building, and practical tools, this program will empower individuals and organizations to prioritize well-being, enhance engagement, and cultivate a culture where everyone can flourish personally and professionally.

Key Takeaways:

Understanding "Why Now?": Prioritize employee well-being in today's post-pandemic world to adapt to changing work styles and support diverse perspectives. Embrace initiatives like the national task force on lawyer well-being to enhance engagement, retention, and satisfaction. This includes a thorough discussion of ethical rules implicated when cultures do not support well-being.

Proactive Methods: Model compassion and cultivate belonging by demonstrating empathy and creating psychological safety. This sets the foundation for a supportive environment where individuals can thrive.

Restorative Strategies: Implement the WALS Action Plan—Watch, Ask, Listen, Support—to support colleagues in times of need. By remaining vigilant, asking open-ended questions, actively listening, and providing meaningful support, individuals can foster a culture of caring within the organization.

Practical Tips for Implementation: Lead by example, promote inclusivity, prioritize well-being, foster social connections, and provide support to create an environment where everyone can be at their best personally and professionally.

Collective Effort: Cultivating a "Culture of Caring" requires a collective effort from all members of the organization. With the "Culture of Caring" program, you'll have the tools and the shared knowledge to build a culture where everyone can succeed.

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Your Presenter

Kendra Brodin is the Founder & CEO of EsquireWell, a leading lawyer well-being and performance consulting firm, providing education, strategic guidance, coaching, and online learning tools to help lawyers be happier, healthier, and more successful. Prior to founding her company, Kendra was Chief Attorney Development Officer at a large national law firm where she managed firm-wide lawyer training and development as well as well-being initiatives. Kendra has also served as Manager of Business Development at an intellectual property law firm, Director of Career and Professional Development at the University of St. Thomas School of Law, and Executive Director of a leading attorney search and staffing firm.



Kendra is a frequent presenter on topics related to law student and lawyer well-being and career, leadership, professional, personal, and business development, and she teaches a course called "Well-Being and Professional Formation" at the University of St. Thomas School of Law in Minneapolis. Kendra is the chairperson of the steering committee for the Institute for Leadership in the Legal Profession signature program of the Hennepin County Bar Association and is a Past-President of Minnesota Women Lawyers. Kendra serves on the Board of Directors of Lawyers Concerned for Lawyers of Minnesota and is a member of the ABA Law Practice Division Well-Being Committee, the ABA Well-Being Pledge Signatory Committee, and several other committees devoted to lawyer and law student well-being and professional development.

Kendra is a certified coach and holds a certificate in Advanced Leadership Studies from the University of St. Catherine, a master's degree in Social Work from the University of Pennsylvania, and a law degree from the University of Minnesota School of Law. Kendra lives near Minneapolis, Minnesota with her husband and three children.

The WALS Action Plan: A Framework to Support a Struggling Colleague

- **WATCH:** (what to watch for (signs))
 - Isolating or withdrawing
 - Slower response times or no response at all
 - Declining invitations
 - Keeping office door closed
 - A noticeable change in appearance or behavior
 - Unmotivated or less focused on goals
 - Stops caring about their appearance
 - Change in mannerisms or communication style
 - Change in mood, energy level, or engagement
 - Changes in work practices
 - Too many hours, too few hours, or poor time entry practices
 - Coming in late; leaving earlier or later than usual
 - Poor work product
 - Time being written off or reduced by client
 - Not taking time off or canceling vacations
 - Increased use of alcohol or drugs
 - Drinking more than before at social events
 - Seeming impacted by effects of drugs/alcohol
 - Exhibiting defensiveness or irritability when alcohol or drugs are mentioned
 - Tension, conflict, or problematic patterns of behavior or interactions among office colleagues

➤ **ASK:** (sample word tracks)

- "I've noticed _____, and I'm worried about you."
- "I understand you recently experienced _____, and I wanted to check in. How are you doing?"
- "I know it can be hard when ____. How is this impacting you?"
- "You are a valuable part of this team and I care about your well-being. How are things going for you right now?"
- "Is there anything you want me to be aware of about your situation or what you are going through?"

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- > LISTEN: (best practices for listening)
 - Provide adequate space and time to listen closely without interrupting in a distraction-free environment.
 - Focus on what's being said. If you start thinking, "What am I supposed to do?" or "What should I say next?", you've stopped listening.
 - Pay as much attention to what's *not* being said as to what *is* being said (e.g. body language, emotions).
 - Resist the urge to problem-solve. Say that you want to understand and clarify your understanding by articulating back what you hear.
 - Approach the conversation with curiosity and openness, not defensiveness. Be prepared to hear uncomfortable things and to sit with the discomfort.
- ➤ **SUPPORT:** (Understand what your firm has to offer and where to send people for additional support, help, or resources)
 - "How can I support you right now?"
 - "What do you need help with today?"
 - "I've been through something similar. I'm open to sharing my experience with you if it would be helpful."
 - "You are not alone. Others have gone through this."
 - "The firm has resources to support you. Do you want me to help you find them?"
 - "I know someone who may be able to help. Would you like me to connect you?"
 - Don't be afraid to say, "I don't know, but I will find out."
 - Establish and honor a mutually agreeable schedule for follow-up conversations.

WHEN SOMEONE RESISTS HELP

- Continue to monitor the situation.
- Conduct regular, supportive check-ins.
- Say, "My door is always open if you want to talk."
- Seek advice from others, including HR and firm resources.

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CULTURE OF CARING: CULTIVATING A LEGAL ENVIRONMENT WHERE ALL CAN THRIVE

A Workbook for:



Presented by:

Kendra Brodin, Esq., MSW Founder & CEO, EsquireWell



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2024 CENTRAL STATES BANKRUPTCY WORKSHOP

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TOOLS FOR SUCCESS

WALS: A Non-Linear Action Plan to Support a Struggling Colleague

- ➤ <u>WATCH:</u> (what to watch for (signs))
 - Isolating or withdrawing
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 - Resist the urge to problem-solve. Say that you want to understand and clarify your understanding by articulating back what you hear.
 - Approach the conversation with curiosity and openness, not defensiveness. Be prepared to hear uncomfortable things and to sit with the discomfort.
- > **SUPPORT:** (for ideas and resources, see page 9)
 - "How can I support you right now?"
 - "What do you need help with today?"
 - "I've been through something similar. I'm open to sharing my experience with you if it would be helpful."
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- Seek advice from others, including HR and firm resources.

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SIMPLE STRATEGIES TO MODEL AND ENCOURAGE CARING AND WELL-BEING

- 1. Normalize the discussion around well-being and decrease the stigma. For instance, if you are leading a meeting, implement a "well-being check" at the start of internal meetings; ask about your team members' well-being and let them share.
- 2. Familiarize yourself with (and take advantage of) internal and external well-being resources and share with others how you find them beneficial.
- 3. Model healthy behaviors and encourage others to engage in healthy behaviors, too (e.g. taking vacation time; respecting others' time out of the office).
- 4. Gather and welcome input. If you manage a team, you could ask: "How are we doing and what can we be doing better?".
- 5. Create or participate in mini well-being "challenges" through the year.
- 6. Create or participate in opportunities for connection among team members in settings that do not emphasize alcohol. Try creating and providing fun mocktails as an alternative to alcoholic drinks.
- Participate in firm-wide Well-Being Programs individually and as an office:
 - Well-Being Week in Law (annually, first week of May) as part of Mental Health Awareness Month (each May)
 - October 10 (World Mental Health Day)
 - ➤ Well-Being webinars, programming, and events
- 8. Be thoughtful of people who are going on or coming back from a leave of absence.
- 9. Volunteer in your office to help organize activities and coordinate events.
- 10. Be a "Culture of Caring" Champion in your office, organization, and profession.

STRATEGIES TO CREATE BELONGING

- ✓ Show appreciation and thanks
- ✓ Address behaviors that undermine belonging
- ✓ Make sure everyone has a voice and chance to be heard
- ✓ Stay humble (be willing to be "in the trenches")
- ✓ Build opportunities for fun and connection

NOBODY'S PERFECT: WHAT TO DO WHEN THINGS GO WRONG

A healthy apology always includes "I'm sorry":

- ✓ Acknowledge what happened
- ✓ Admit your mistake in the first person ("I did this ...")
- ✓ Remember intent versus impact.
 - o No excuses.
 - o No conditions (i.e. "if you were offended")
- ✓ Focus on what you learned and will do different next time

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CHEAT SHEET:

EMERGENCY SITUATIONS AND MANDATORY REPORTING

- Medical Emergency: Dial 911
- **Support Hotlines:** If you feel that you might do harm to yourself, please immediately contact your local support hotline.
 - > Suicide and Crisis Lifeline: 988
- Fill in your organization-specific resources and point people for emergencies:

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CHEAT SHEET:

HAVE A NON-EMERGENCY AND/OR NON-MANDATORY-REPORTING SITUATION WITH A STRUGGLING COLLEAGUE?

YOU HAVE OPTIONS!

- Reach out to your organization-specific point people and resources (like HR, Talent, etc.) You can—and should—talk about the situation without naming names unless the employee consents to being identified.
- Reach out to your local Lawyers Assistance Program (LAP) for confidential advice.
- Reach out to your EAP (if your organization has one):
 - ➤ Common reasons to reach out to your EAP or LAP:
 - Stress & Burnout
 - Personal & Work Relationships
 - Parenting
 - Anxiety, Depression, and Grief
 - Substance Misuse
 - Self-Care
 - Sleep Issues
 - Fitness & Nutrition
 - Finances & Budgeting
 - Conflict Resolution
 - Work-Life Balance

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ETHICAL CONSIDERATIONS: MODEL RULES POTENTIALLY IMPLICATED BY DECREASED WELL-BEING

Preamble: A Lawyer's Responsibilities: Lawyers are generally held to a very high standard of skill and responsibility.

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Rule 8.4: Misconduct: It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

RECOMMENDED READING

Reich, Jarrod, "Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being" 65 Vill. L. Rev. 361, 372 (2020)

Wellbeing at Work: How to Build Resilient and Thriving Teams by Jim Clifton and Jim Harter (from Gallup)

The Culture Code: The Secrets of Highly Successful Groups by Daniel Coyle

Trust and Inspire: How Truly Great Leaders Unleash Greatness in Others by Stephen M.R. Covey, David Kasperson, McKinlee Covey, and Gary T. Judd

The Art of Caring Leadership: How Leading with Heart Uplifts Teams and Organizations by Heather R. Younger

The Employee Experience: How to Attract Talent, Retain Top Performers, and Drive Results by Tracy Maylett and Matthew Wride

All Rise: Practical Tools for Building High-Performance Legal Teams by Benjamin Sachs

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<u>NOTES</u>	
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Faculty

Kendra Brodin is founder and CEO of EsquireWell in Minneapolis. She brings to the challenge of unhappy lawyers 20+ years of industry experience, advanced degrees in both social work and law, coaching and leadership skills, and significant time in the trenches supporting lawyer talent. Ms. Brodin presents proven strategies, accessible and practical tools, speaking, coaching and consulting services to practitioners. She received her Master's degree in social work from the University of Pennsylvania and her J.D. from the University of Minnesota.