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ALM Survey on Mental Health and Substance Abuse: Big Law's Pervasive Problem

ALM Intelligence's survey of Am Law 200 firm leaders about their attitudes and actions regarding addiction and mental health challenges reveals much work remains to be done to deal with the problem.

By **Patrick Krill** | September 14, 2018



(<https://images.law.com/contrib/content/uploads/sites/292/2018/09/Alcohol-addiction-Article-201809141932.jpg>)

If you've ever wondered what leadership in Big Law thinks about the addiction and mental health problems in the legal profession, as well as what those leaders are—or are not—doing about the issues, you are not alone.

Despite the rapidly growing emphasis on lawyer well-being throughout the profession, the attitudes and actions of the largest and most influential law firms have mostly gone unmeasured with regard to this important subject.

Until now, that is.

Seeking to understand what these firms believe about the prevalence of substance abuse and mental health distress, the threats those problems pose to law firms, and the tools and resources being deployed to combat them, ALM Intelligence and I teamed up to survey Am Law 200 firms earlier this summer.



Confidential, online surveys (as well as several reminders to take the survey) were sent to managing partners, practice group leaders, general counsel, and benefits and HR directors at all 200 firms. The survey contained a series of questions on subjects ranging from stigma, to culture, to policies and education.

Here's a quick summary of what we found: The overwhelming majority of law firms report that alcohol abuse, depression and anxiety are occurring at their firms; half said the same about drug abuse. The stigma surrounding substance abuse, addiction and mental health problems is pervasive in Big Law. Firms are providing at least some training and resources around these issues, but they appear to be insufficient, underutilized, or both. In addition, firms worry most about addiction and mental health problems in the context of potential harm to clients, and see stress and workload as the No. 1 driver of the problems.



By the time the survey closed, we had received responses from 30 firms, representing a 15 percent response rate, with 24 of the 30 responses coming from Am Law 100 firms and the remaining six coming from Am Law 200 firms. In the language that prefaced the survey, we noted that “discussing substance abuse and mental health issues has often been considered taboo in the legal industry,” and our relatively low response rate—a survey finding in and of itself—would seem to suggest that the taboo is alive and well.

Over the course of the next four weeks, I'll discuss some of the survey's most notable findings in a series of weekly columns, and I'll offer insight into what those findings suggest about where Big Law stands on one of the most fundamental issues confronting the legal profession—how to improve and support the health and well being of its members.

Fortunately, the subjects of lawyer substance abuse, mental health and well-being are more widely discussed now than at any other point in the profession's history. This development is both welcome and overdue, a clear sign that we are increasingly willing to engage with difficult and sometimes sensitive topics that have historically failed to rank as true priorities.

But is Big Law on board? Let's discuss some key takeaways.

Who Participated in the Survey

First, even accounting for the general type of survey fatigue and avoidance that may have at least partially depressed the response rate, the number of firms that responded to the survey would seem to suggest that a majority of large firms are either not comfortable discussing these issues generally, they are not comfortable discussing what it is they are doing about them, or they don't view them as important enough to merit survey participation.

Either way, the fact that 85 percent of the Am Law 200 firms declined to share their views on behavioral health issues in the law firm setting indicates that much work remains to be done to normalize and prioritize this issue in Big Law and to facilitate a comfort and willingness to discuss it openly.

Also worth noting, a surprising 100 percent of the firms that responded to the survey stated they have the basic components of a behavioral health infrastructure in place that would theoretically lower the risks associated with substance use and mental

health disorders. Those include, but are not limited to, a drug and alcohol policy, an environment that encourages self-referral, employees trained to recognize behavioral health problems, and educational programs about addiction and mental health.

Not only is this response encouraging, but it may also explain a little bit about which firms felt comfortable participating in the survey in the first place, and it suggests some level of confidence and pride in these firms' efforts in this arena.

Problems Reported

I'll more fully explore in an upcoming column what resources, policies and programming the firms report having in place, but for now, I'll just say that despite their efforts, these firms clearly remain exposed to the risks associated with substance abuse and mental health distress, as indicated by their responses about whether the problems presently exist at their firms.

Specifically, 90 percent of respondent firms agree or strongly agree that alcohol abuse occurs in the firm; 48 percent agree or strongly agree that drug abuse occurs in the firm; 86 percent agree or strongly agree that depression occurs in the firm; and 93 percent agree or strongly agree that anxiety occurs in the firm.

Taken one way, these responses reflect a refreshing candor about the nature of behavioral health problems in the legal workplace, since it would be unrealistic to report that these problems did not exist in any large employment setting, let alone a large law firm. This realism, while hardly cause for celebration, suggests a step in the right direction, as the outward posture of many law firms historically has been—at least anecdotally—that those problems may exist in the profession, but they “don't exist here.”

Taken another way, however, these responses suggest that even firms with some of the key ingredients in place have room for improvement in their efforts to address and prevent behavioral health problems, and that more can be done to achieve better results.

Also important to note, the survey did not ask participants whether alcohol and drug addiction occurs in their firms, but rather only alcohol and drug abuse. This, it turns out, is a meaningful distinction because of the stigma that Big Law attaches to one but not the other. My next column will more fully explore the stigma these firms believe exists regarding alcohol and drug abuse, alcohol and drug addiction, depression, anxiety, and receiving treatment for all the above.



Rank the following concerns in order of greatest negative impact to the firm regarding substance abuse and mental health problems, where 1 has the most negative impact on the firm and 4 has the least negative impact on the firm.

Suffice it to say for now, Big Law takes a mostly charitable view toward occasional alcohol abuse, but not so much when that abuse turns to addiction, or when it comes to mental health problems like depression and anxiety. In fact, occasional drug abuse has less stigma attached to it than suffering from depression and anxiety. More on that later.

Perceived Threats of Substance Abuse and Mental Problems to a Law Firm Setting

Aside from cultural norms that have long created tolerance for alcohol abuse in law firms, one reason why firms may take a dimmer view of addiction and mental health problems than occasional alcohol or drug abuse is that they don't perceive occasional alcohol or drug abuse as posing threats to clients or to their firms' reputation as significant—the two areas that our survey reveals worry firms most.

When asked to rank concerns related to substance abuse and mental health problems according to negative impact on the firm, Big Law views “threat or damage to clients” as having the most negative impact, followed by threat or damage to reputation, productivity and damage to work environment. It would follow then, that if occasional alcohol abuse is less stigmatized than addiction, depression or anxiety in a law firm setting, it is because it is seen as less likely to damage clients or the firm’s reputation.

Another notable finding related to the risks that law firms see with substance abuse and mental health problems is the comparatively low level of concern about the threat to firm productivity. Excessive alcohol use costs the U.S. roughly a quarter-trillion dollars each year, with more than 70 percent of those costs attributed to lost productivity (<https://www.cdc.gov/features/costsofdrinking/index.html>), while mental disorders top the list of the most burdensome and costly illnesses in the U.S. at more than \$200 billion a year (https://journals.lww.com/joem/Fulltext/2018/04000/Mental_Health_in_the_Workplace) well exceeding the cost burden of heart disease, stroke, cancer and obesity. More than one-third of the costs associated with mental disorders are directly related to lost productivity.

It is completely unreasonable to believe that law firms are somehow exempt from those national trends, despite the historic lack of emphasis they have placed on behavioral health as a key factor in profitability. While I can certainly understand—and agree with—firms perceiving the most negative impact of substance abuse and mental health problems as being a threat or damage to clients, I remain more convinced than ever that large law firms under-appreciate the profound economic inefficiencies that substance abuse and mental health problems introduce into their operations.

Given the continued predominance of the billable-hour structure in law firms, it is worth noting that the economic costs associated with struggling or impaired lawyers are more likely to manifest in quality of work rather than quantity, or in other ways less visible than simply missing a billable-hour target.

Next week's column will take a closer look at the issue of stigma, the following week will examine the causes of substance abuse and mental health problems in Big Law, and the fourth column will discuss the policies, resources and education that firms are making available to address those issues. I hope to see you back here then!

The ALM Intelligence Compass full survey on the mental health and substance abuse is available [here \(https://legalcompass.intelligence.alm.com/#/surveydetail/301/overview\)](https://legalcompass.intelligence.alm.com/#/surveydetail/301/overview) for Compass subscribers. Not a subscriber? Click [here \(https://www.lawcatalog.com/ProductDetail/18162/Mental-Health-and-Substance-Abuse\)](https://www.lawcatalog.com/ProductDetail/18162/Mental-Health-and-Substance-Abuse).

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