

NOTICE TO THE BAR

WELL-BEING IN THE LAW -- SUPREME COURT ACTION ON INITIAL RECOMMENDATIONS OF THE WELLNESS COMMITTEE & REQUEST FOR INPUT

The Supreme Court has considered and approved the initial recommendations of the Committee on Wellness in the Law. This notice announces areas approved by the Court for ongoing work, as well as new areas of focus for 2024-2025. In addition, the Court also invites input on the Committee's continuing work and proposed new areas of focus.

Background

In May 2023, Chief Justice Rabner established the Supreme Court Committee on Wellness in the Law (or "Wellness Committee") to critically examine the challenges facing members of the legal community, as described in the March 2023 report of the New Jersey State Bar Association Putting Lawyers First Task Force. That NJSBA report published the results of a survey of more than 1,600 New Jersey attorneys, more than two-thirds of whom reported anxiety, and around half of whom reported alcohol misuse, substantial levels of burnout, and isolation. To address those and other documented challenges, the NJSBA's Task Force suggested a number of steps for action, including coordination of well-being efforts, engagement in a statewide conversation about attorney well-being, outreach and education, review of Judiciary and court practices, CLE programs, and specific initiatives involving law schools, law firms, the New Jersey Lawyers Assistance Program, and other third parties.

Supreme Court Commitment to Well-Being

The New Jersey Supreme Court has long confronted the well-being challenges faced by practicing attorneys, as often revealed in attorney disciplinary matters. For decades, the Court has championed support for attorneys in crisis, as well as strategies to assist practitioners in seeking help to avoid crisis situations, as evidenced by its establishment of the New Jersey Lawyers Assistance Program (NJ LAP) more than 30 years ago, outreach and

education by the Office of Attorney Ethics and the Lawyers' Fund for Client Protection, and CLE programs designed to help attorneys achieve and maintain professional wellness. The issuance of the NJSBA Task Force report provided an opportunity for the Court to redouble and expand its efforts with additional perspectives from stakeholders throughout the legal community.

Against this backdrop, the Chief Justice established the Wellness Committee, with Associate Justice Lee A. Solomon as chair and with a broad membership that includes attorneys in public and private practice, judges, court administrators, and key stakeholders including the NJ LAP. The Committee was asked to explore the issues all too commonly presented in proceedings before the Court and reinforced by the findings of the NJSBA Task Force. To the extent that these concerns were broadly acknowledged as incontrovertible, the request to the Committee was to move beyond merely describing the problems that confront attorneys and other law professionals, including law students, and instead to also offer proposed strategies to address those problems, both through independent Court and Judiciary initiatives and through critical collaboration with stakeholders throughout the legal community.

Wellness Committee Recommendations

In its first year, the Committee has answered the Court's call to action. Consistent with its ongoing mission, the Court has authorized the Committee (1) to continue five ongoing initiatives; and (2) to focus on four additional areas in the coming year. Those ongoing and new areas of focus are only the beginning, however, as the Court also through this notice is seeking suggestions for other ways in which the Judiciary, legal employers, law schools, and other stakeholders can foster and sustain well-being in the legal profession.

Ongoing Initiatives

The Court has authorized continuation of the following five efforts:

- **Recommendation 1:** Assignment Judges and other senior judicial leaders should continue and expand conversations about well-being in the legal profession. Well-being should be highlighted in Opening of the Court Year remarks and similar gatherings with local attorneys, as well

as in conversations with judges, law clerks, and law students. At least annually, the Committee should update and provide to judicial leaders a toolkit for their use in regular wellness discussions.

- **Recommendation 2:** The Judiciary and other stakeholders should continue to develop and provide continuing legal education (CLE) and other outreach and education programs on wellness topics. To optimize participation, such programs should be offered in various formats, including live virtual, hybrid, and in-person programs as well as recorded content. Certain programs, in particular those tailored for individuals in crisis, should be made available free of charge.
- **Recommendation 3:** The Committee should continue to solicit direct input from law professionals through regional, statewide, and other targeted listening sessions. Members of the legal community should have multiple ways and opportunities to share their experiences, insights, and suggestions, including at live in-person and virtual programs and through submission of written comments, with all input to be kept confidential.

On this point, the Court acknowledges that the Committee has recently conducted an initial round of listening sessions with law professionals throughout New Jersey. Through those in-person and virtual programs, attorneys and others have offered candid insights into challenges associated with the format and pace of legal practice, continuing barriers to interpersonal relationships flowing in part from the disconnectedness caused by the pandemic, concerns about ongoing inequities and biases in legal practice, and a troubling lack of access to or knowledge of existing mental health and other supportive resources for law professionals. These and other comments shared by listening session participants will inform the Committee's work in 2024-2025.

- **Recommendation 4:** The Committee should continue to facilitate access to wellness resources for law professionals, including through a dedicated webpage on the Judiciary's public website 

- **Recommendation 5:** The Committee should continue to focus on ways to connect law professionals with mental health and well-being services, including through insurance options for individuals and firms, benefits available to members of legal associations including CNA through the NJSBA, resources available to all law professionals through the NJ LAP, and apps and other online resources. This continuing work to reduce barriers to accessing mental health and well-being services should consider the needs of all members of the legal community, including those with limited financial resources.

New Areas of Focus

Building on the Committee's work in Year 1, and informed by resources including the Institute for Well-Being in the Law and by input already provided by law professionals, the Court has authorized the following four additional priorities for the Committee's work in 2024-205:

- **Recommendation 6:** The Committee should develop a proposed mission statement for ongoing well-being in the law efforts that highlights the particular roles and responsibilities of the various stakeholders.
- **Recommendation 7:** The Committee should continue to explore possible strategies for an attorney to request a brief adjournment of court dates, and possibly an extension of deadlines, to enable the attorney to seek assistance or otherwise attend to emergent wellness needs. As one potential option, such requests could be directed to the Assignment Judge.

As a starting point, the model envisioned by the Committee would involve confidential oversight and tracking to ensure compliance by the attorney in treatment without submitting private medical information to the court.

Some other jurisdictions have programs that could provide a template for this type of process. However, the development of any such policy begins from the premise that the best strategy may be to enable all

attorneys, in particular solo practitioners, to engage a trusted colleague to handle matters in the attorney's stead during any temporary absence. This dovetails with Recommendation 8.

- **Recommendation 8:** Through a new subcommittee, the Committee should develop a proposal to encourage, and potentially require, attorneys to designate a successor to step in and handle that attorney's clients and other responsibilities on a temporary basis.

In undertaking this effort, the subcommittee should consider the policies and practices implemented in other jurisdictions as well as existing New Jersey guidance, including Advisory Committee on Professional Ethics Opinion 692 Supplement (2002):

https://njlaw.rutgers.edu/collections/ethics/acpe/acp692_2.html

regarding the ethical duty for a solo practitioner to plan for disposition of files in the event of the practitioner's death or retirement.

- Whether attorneys should be required, or merely encouraged or permitted, to designate a successor;

As a starting point, the Committee could consider the following specific issues:

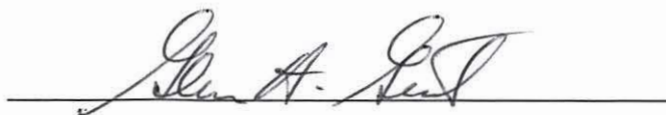
- Whether any requirement should apply to all attorneys, or only to certain categories of attorneys, such as solo practitioners and attorneys at small firms;
- Whether the identified successor attorney should function as an attorney-trustee pursuant to Rule 1:20-19 or in any other capacity, including whether the successor/designee should have any immediate access to the financial accounts of the primary attorney; and
- Whether and how to implement succession planning through the annual attorney registration system, including whether to require confirmation by the named successor of the successor's acceptance of designation.

- **Recommendation 9:** The Committee should consider whether the Judiciary should issue a public statement as to its commitment to well-being for all law professionals.

Invitation for Comments

While the Court has authorized both ongoing and new areas of focus for the Wellness Committee, direct feedback from members of the legal profession is essential to ensure the development of effective strategies. The Court invites all stakeholders, including law students, to provide written comments to the Committee by email to Comments.Mailbox@njcourts.gov. The names of commenters will not be shared, and written comments will not be subject to public disclosure.

Additional information about the Supreme Court Committee on Wellness in the Law is available on the Judiciary's website njcourts.gov. Questions about this notice or the Wellness Committee may be directed to Special Assistant Jessica Lewis Kelly at Jessica.LewisKelly@njcourts.gov.

A handwritten signature in dark ink, appearing to read "Glenn A. Grant", is written over a horizontal line.

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: May 7, 2024