

**Lessons Learned During a Pandemic: Managing Stress,
Building Resiliency
and Creating Positive Outcome
Webinar**

**March 5, 2021
Kimberly F. Duguay
Andrea E. Tomaino**

Taking care of yourself both physically and psychologically is an essential part of taking care of yourself professionally, especially during a pandemic. Think of it as the “Three P’s” of self-care: psychological, physical and professional wellbeing.

Fostering Personal and Professional Wellness

Although there is no single measure or definition for well-being, the Center for Disease Control has recognized the significance of well-being in public health (see <https://www.cdc.gov/hrqol/wellbeing.htm>). Under any definition, it is important to remember that wellness is not about the absence of stressful events or illness. Rather, wellness involves a more holistic approach to overall health that involves the presence of positivity to help reduce the strain associated with different life stressors, and the resilience to adapt to change in a healthy way.

Take care of your body. The mind and body are inextricably connected. Positive lifestyle factors such as proper nutrition and hydration, regular exercise, ample sleep and obtaining appropriate medical care can strengthen your body, making you better able to cope with the physical toll that stress and negative emotions can take. Physical exercises that everyone can do, such as deep breathing, can help reduce stress and bring emotions into balance.

Taking care of your mind

“Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. It also helps determine how we handle stress, relate to others, and make choices.” (<https://www.mentalhealth.gov/basics/what-is-mental-health>)

Nourishing our mental, social and emotional wellbeing is just as important as nourishing our bodies. Although each is subjective by nature, they all begin by recognizing areas in our life that are stressed so that we can develop different strategies and coping skills to deal with the stressors in a positive way.

Proper self-care requires self-awareness, and sometimes we may need to ask for professional help. Pay attention to such things as: changes in eating habits, feeling fatigued or lethargic, feelings of helplessness and hopelessness, feeling unusually forgetful, angry, worried or scared, fighting with family and friends, and/or performing daily tasks has become more difficult.

It may be tempting to deal with life’s stressors with alcohol, drugs, or other substances, but any relief is temporary. Focus instead on developing the tools to manage stress, rather than seeking to eliminate the feeling of stress altogether.

Substance abuse can cause serious impairments in decision making and work performance that can land an attorney into serious professional trouble. Unfortunately, substance abuse is all too common in the legal profession. Contacting a Lawyer Assistance Program may help. To find more information about LAP programs you can go to: https://www.americanbar.org/groups/lawyer_assistance/

Professional wellness

Rule 1.1: Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Competency Issues During Covid-19

Be wary of branching out into new areas of law where you are not competent because clients need new kinds of help and lawyers need work. Even with the best of intentions, lawyers have an ethical obligation not to take on a case that you don't have the requisite knowledge and expertise in – especially very specialized areas of law.

Like mental and physical wellness, professional responsibility requires self-awareness. Only you know what you don't know – it's a matter of self-examination. It's ok to move out of your practice area, just be mindful. You may take this time to set new professional goals. But be sure to set realistic, attainable goals and do something regularly to help you move closer to attaining those goals. For example, if you want to venture into a new practice area, you could join a bar association section committee to make connections with other lawyers who practice in that area. A new goal could also be to obtain co-counsel on a case involved in a new practice area. But if you cannot handle a case competently, do not hesitate to refer it out – you might save yourself a lot of grief.

Competency of Technology

NYSBA Comment 8: “A lawyer should keep abreast of the benefits and risks associated with technology that the lawyer uses to provide services to clients, or to store or transmit confidential info.”

Covid 19 and the effect on the legal system has taken many of us out of our comfort zone when it comes to technology. There is a big reasonableness flag involved with Competence – if you're not great at doing something, that's different from not being competent at it. Nevertheless, we are responsible for learning the technology needed to responsibly represent our clients in these new times. The Unified Court System has provided a series of Pandemic Technology Support Webinars to help address the challenges associated with working remotely. They can be found at: <https://ww2.nycourts.gov/accesstojusticecommission/ts.shtml>.

Rule 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Diligence Issues During Covid-19

The standard still requires us to act with “reasonable” diligence and promptness. For example, we are still required to return calls and inquiries in a “reasonable fashion.” Even though our ethical duty has not changed, we should be aware that clients may be more stressed or sensitive during uncertain times, and may want more attention or to hear back from you sooner. Sometimes it can be helpful to take preemptive measures, such as emailing clients to set their minds at ease by informing them you are still working on their cases (even if not physically in the office), and will still respond to

inquiries within a reasonable period of time. Of course, we still cannot ignore emergencies, even during a pandemic.

Rule 1.6: Confidentiality of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b). ...

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Confidentiality During Covid-19

We need to protect the confidentiality of both documentary information and our attorney-client conversations. We need to be mindful while working at home that the rules surrounding confidentiality still apply. There may be lots of verbal communication outside of the office and we should take note of the floor plan in our homes so that kids and significant others do not overhear things that they shouldn't. We should also be wary of getting mail at home where it can sit on the counter with the family mail for a few days – be sure to sort it out immediately from the household mail. Also, you should be careful about leaving documents/paperwork lying around the house. It is best to have a separate space for all legal work.

Confidentiality with Zoom

We have all seen funny videos of Zoom meetings where something unusual happens in the background. While we cannot anticipate every occurrence, you should treat a Zoom meeting as if you are in your office: go to a separate room and close the door. This will remind your family that the conversations you are having are supposed to be private. You should also be cautious of the technology that you are using to be sure that any communications are properly protected.

Confidentiality with email

Be careful not to use email to discuss strategy or other confidential matters with clients, or send them confidential documents. Email and text are not the most secure and have been the subject of some scrutiny in terms of preserving client confidentiality. This is no different from when you are in your office – it is just easier to email a client rather than drafting a hard copy and putting it in the mail. Again, the Unified Court System's Pandemic Technology Support Webinars help address many of the challenges associated with working from home.

(<https://ww2.nycourts.gov/accesstojusticecommission/ts.shtml>).

New York Courts Standards of Civility

Although the Standards of Civility are not intended to be enforced by disciplinary action, they are rules that we should all aspire to live by. The Standards of Civility state in part:

“Lawyers should be courteous and civil in all professional dealings with other persons” and should “refrain from engaging in acts of rudeness and disrespect.”

The ability to effectively and respectfully communicate with each other is essential to our wellbeing as both individuals and as a legal community.

A full copy of the New York Courts Standards of Civility can be found here:

<https://www.nycourts.gov/LegacyPDFS/RULES/jointappellate/Jan%202020%20-%20civility%20standards%20CLEAN.pdf>

Additional Resources:

Building Your Resilience (American Psychological Association):

<https://www.apa.org/topics/resilienceResources>:

Promoting Wellness: A Guide to Community Action

<https://store.samhsa.gov/sites/default/files/d7/priv/sma16-4957.pdf>

<https://www.urmc.rochester.edu/mental-health-wellness/seek-help.aspx>

Unified Court System Pandemic Technology Support Webinars

<https://ww2.nycourts.gov/accesstojusticecommission/ts.shtml>

Take Back Your Morning Tracker

	Day 1	Day 2	Day 3	Day 4	Day 5
Silence					
Journal					
Visualize					
Read					
Exercise					

Silence: Start your morning routine by clearing your mind in silence with meditation, prayer, reflection, deep breathing or gratitude.

Journal: Writing helps you to process your thoughts and reflect. Recommendation: Start Today Journal. Writing can include things such as a gratitude practice (writing down 5 things you are grateful for every day) and goals that you want to achieve.

Visualization: Close your eyes and use your imagination or look at a vision board of inspiring images to see what you want in your life, the things you need to create to achieve what you want, and who you need to be to get there.

Read: Spend as much time as you can allot every morning reading personal development. It can be 5 minutes. Choose a book that is relevant to what you are working on in the moment whether it relates to personal, professional or financial goals.

Exercise: Spend at least 30 minutes exercising. Exercising first thing in the morning can improve your mood, help you focus, lower your stress levels, and set you up for a very productive day!

Joy Thompson's COVID-19 Survival Guide



B R E A T H E ©

- B = Breathe** – Benefits of controlled breathing are [well documented](#).
- R = Rest** – “Staying woke” is exhausting. [Sleep helps your body and mind recuperate](#).
- E = Eat Well** – Avoid keeping unhealthy foods in the house. Eat better. Feel better.
- A = Ask for Help** – We are all human. Talk to loved ones. Pick up the phone. Visit [NYCWell](#) for digital wellness resources and the state’s [Emotional Support Hotline](#).
- T = Take Breaks** – Unplug. Disconnect. Power down. 5 minutes. An hour. A day. You need it.
- H = Humor is Healing** – Find opportunities to laugh: Movies, books, high school photos.
- E = “Exercise is My Friend”** – **This is your new COVID-19 mantra**. Find excuses to move:
- Gyms are livestreaming classes on Zoom and Instagram.
 - [“A personal trainer’s 20-minute travel workout”](#) also works at home.
 - Not in American Gladiator shape? Small NY apartment? [You can still get in your steps](#).
 - I am a big fan of [yoga](#). I call it meditation for the body. However, if you are not quite ready for downward or upward dog, then try [Standing Yoga in Your Office](#), [Chair Yoga for Seniors](#) or other YouTube beginner-friendly classes.

Finally, and once again, remember to **BREATHE** and stay well.