



TRAVERSING THE CHANGING TIDES OF CHILD SUPPORT



CHILD SUPPORT DIRECTORS ASSOCIATION



BREATHING IN THE SEA AIR

How Well-Being Invigorates our Competence

Presented by:

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CHILD SUPPORT DIRECTORS ASSOCIATION



AGENDA

- ⚓ What is Competence?
 - ◆ Why do we have a Competence requirement?
 - ◆ Competence Concerns
- ⚓ What are the Competence Rules?
 - ◆ Competence and Attorney Discipline
- ⚓ Competence: From Survive to Thrive?
- ⚓ Thriving 101 for Lawyers







WHAT IS COMPETENCE?

⚓ Competence: *Miriam-Webster*

- ◆ The quality or state of having sufficient knowledge, judgment, skill or strength.

⚓ Competence: *CA Bar Rules*

- ◆ Competence in any legal service shall mean to apply the (i) learning and skill, and (ii) **mental, emotional, and physical ability** reasonably necessary for the performance of such service
- ◆ The CA Bar extends competence to physical and mental levels of fitness.





WHY DO WE HAVE A COMPETENCE REQUIREMENT?

- ⚓ Lawyers are not great at seeking help.
- ⚓ The legal profession rewards perfectionism and resilience.
 - ◆ Focusing on the mental and physical health of lawyers is not inherent in the profession.
- ⚓ Lawyers who struggle with mental or physical health may not have the ability to properly represent their clients.
 - ◆ Various stressors or health issues can negatively impact critical thinking, problem-solving, and decision making.

<https://isb.idaho.gov/blog/balancing-the-scales-practicing-law-while-managing-mental-illness-by-anonymous/>





WHY DO WE HAVE A COMPETENCE REQUIREMENT?

- ⚓ Necessary to protect clients and the legal system; ensure confidence and respect in the legal system.
 - ◆ Diminished competence impacts not only the attorney and the client(s) but the profession as a whole.
 - Poor outcome for clients
 - Loss of trust in the legal system
 - Negative view of attorneys





COMPETENCE CONCERNS

⚓ *Pandemic Anxiety Wanes, but Legal Industry Mental Health Struggles Persist* by Patrick Smith (May 10, 2022):

- ◆ 3400 law firm respondents indicated
 - 67% suffered from anxiety = 2278 individuals
 - 35% suffered from depression = 1190 individuals
 - 44% suffered from isolation = 1496 individuals
 - 19% contemplated suicide = 646 individuals





COMPETENCE CONCERNS

What Are We Feeling?

- ⚓ Exhaustion: 70%
- ⚓ Physical and mental overwhelm and fatigue: 65%
- ⚓ Trouble concentrating: 62%
- ⚓ Moodiness and irritability: 60%
- ⚓ Decreased satisfaction and sense of accomplishment: 55%
- ⚓ Believe work environment contributes to issues: 76.31%

<https://www.law.com/americanlawyer/2023/05/18/mental-health-by-the-numbers-an-infographic-mapping-the-legal-industrys-wellbeing/?slreturn=20250710180948>





COMPETENCE CONCERNS

⚓ LM Intelligence's 2021 *Mental Health and Substance Abuse Survey*:

- ◆ Workplace stressors identified in a 2021 study revealed:
 - 72% said top stressor was always being “on call” and unable to disconnect.
 - 57% listed client demands
 - LCSA “clients”: Case Participants, Commissioners, Department Heads, Board of Supervisors etc.
 - 34% felt clients had unreasonable expectations.



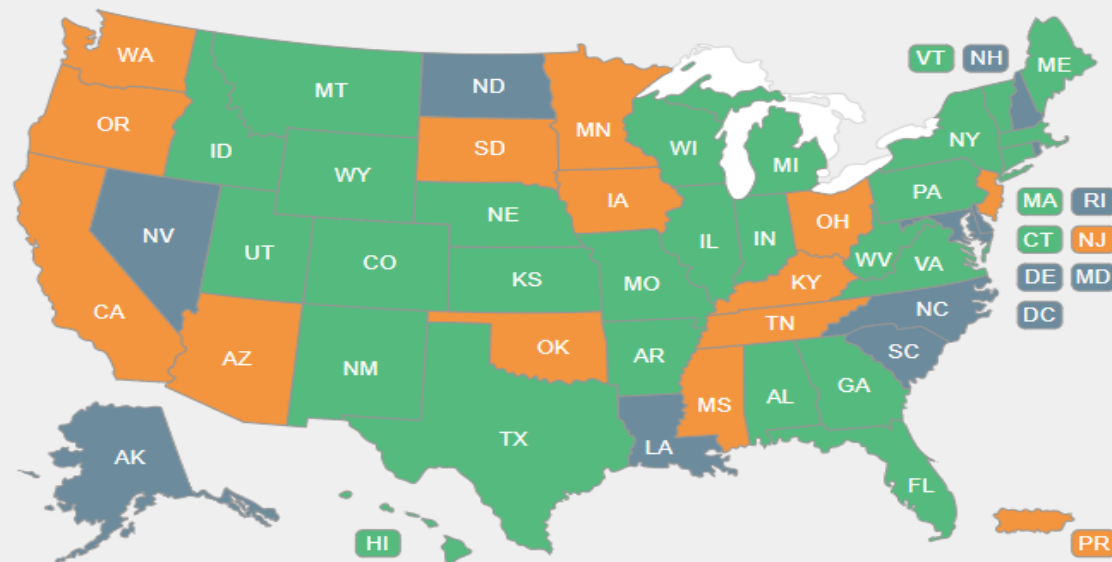


COMPETENCE REQUIREMENTS ACROSS THE COUNTRY

What is being done to help?

The Well-Being in Law Movement Is Sweeping The Nation

The National Task Force report triggered a wave of concern and action across the country. Click on a state on the map for details on what State Task Forces and Commissions are doing to promote thriving in the legal profession.







WHAT ARE THE COMPETENCE RULES?

- ⚓ Based on the ABA Model Rules, Competence rules are the first rules in the California Rules of Professional Conduct:
 - ◆ ABA: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
 - ◆ California Rule 1.1: A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
- ⚓ California created a negative directive and included a state of mind: "intentionally, recklessly, with gross negligence or repeatedly fail..."





WHAT ARE THE COMPETENCE RULES?

⚓ California Rule 1.1

- ◆ (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
- ◆ (b) For purposes of this rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service.
- ◆ (c) If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes to be competent.
- ◆ (d) In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably necessary in the circumstances.





BREAKING DOWN THE COMPETENCE RULES?

⚓ Rule 1.1 (a):

- ◆ The intent is to define competence and remove “simple” negligence from the primary definition.
- ◆ Simple negligence: Failure to correctly calendar and complete an important case management event.
 - May still lead to malpractice if the client is harmed, but less likely to lead to discipline.
- ◆ Gross negligence/recklessness: Failure to have any type of calendaring system at all and repeatedly miss deadlines or hearings.
 - More likely to lead to discipline.

⚓ <https://www.sdcba.org/?pg=Ethics-in-Brief-2018-06-18>





BREAKING DOWN THE COMPETENCE RULES?

⚓ Rule 1.1 (b):

- ◆ Rule 1.1 (b) further defines competence: To apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service.
- ◆ What about lawyers who suffer from substance abuse, mental health issues, physical illness and personal problems?
 - Do they possess the required level of competence? Sometimes no.
 - Conditions may impact their ability to understand their limitations.
 - Financial need may require them to keep working despite diminishing competency.
 - Stress of the issue being dealt with may impact ability to work competently.





BREAKING DOWN THE COMPETENCE RULES?

⚓ Rule 1.1(c):

- ◆ Rule 1.1(c): If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes to be competent.
- ◆ Provides an option for a lawyer to obtain competence and avoid violating Rule 1.1.





BREAKING DOWN THE COMPETENCE RULES?

- ⚓ Rule 1.1 (d): A less than competent lawyer is better than no lawyer at all?
- ◆ Rule 1.1 (d): In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably necessary in the circumstances.





COMPETENCE AND ATTORNEY DISCIPLINE

⚓ California Lawyers Association July 2021

- ◆ In 2020, 17,500 cases opened to investigate misconduct.
 - Amounts to 1% of licensed attorneys in California.
- ◆ 180 notices of discipline filed.
- ◆ One of the top 6 reasons: Failure to perform with competence as required by Rule 1.1.

<https://calawyers.org/california-lawyers-association/ethics-spotlight-the-attorney-disciplinary-system/>





COMPETENCE AND ATTORNEY DISCIPLINE

⚓ The State Bar of California 2024 discipline report:

- ◆ 18,156 cases opened
- ◆ Disciplined 229 attorneys
- ◆ Launched diversion program resulting in 388 conditional closures:
 - Do not pose a significant risk to future harm to clients.
 - Current, alleged misconduct is minor and stems from issues subject to correction through education or rehabilitation measures.
 - Complaint conditionally closed.
- 220 through diversion agreements
- 168 via warning letters

<https://www.calbar.ca.gov/Portals/0/documents/reports/2024-Annual-Discipline-Report.pdf>







COMPETENCE: FROM SURVIVE TO THRIVE

- ⚓ Move from survival mode to thrive mode
 - ◆ Identify your stressors.
 - Look for signs of overload.
 - ◆ Prioritize taking steps to minimize or limit stressors one at a time.
 - ◆ Learn to unload.





COMPETENCE: FROM SURVIVE TO THRIVE

⚓ What does **overload** look like?

- ◆ Sleep disruption
- ◆ Increased irritability
- ◆ Reduced focus
- ◆ Detaching from colleagues, friends and family
- ◆ Procrastination
- ◆ Unhealthy or mindless eating or drinking
- ◆ Avoiding healthy options like exercise
- ◆ Abuse or overuse of Rx, addictive relaxants or taking illegal drugs





COMPETENCE: FROM SURVIVE TO THRIVE?

How do we unload?

⚓ Prioritize you:

- ◆ Ask for help.
- ◆ Delegate, where possible.
- ◆ Give yourself permission to say “No.”
- ◆ Set up a time to talk or visit with friends/family....and actually follow through.
- ◆ Take a risk and open up.
 - Someone you know may be walking a similar path or has already taken the same journey.
- ◆ Find something that moves you: Physically, mentally, emotionally.





FROM SURVIVE TO THRIVE: MEET MERLIN







THRIVING 101 FOR LAWYERS

- ⚓ 2017 National Task Force on Lawyer Well-Being comprised of ABA, APRL, ALPS, CoLAP, NCBE, NOBC, Conference of Chief Judges.
 - ◆ An extensive look at what it takes to thrive and retain competence as a lawyer.

<https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>





THRIVING 101 FOR LAWYERS

- ⚓ “To be a good lawyer, one has to be a healthy lawyer.”
- ◆ Well-being is defined as: "A continuous process whereby lawyers seek to thrive...."
 - ◆ Task Force identified six areas to seek to thrive embracing the “multi-dimensional concept of mental health and the importance of context to complete health.”

<https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>

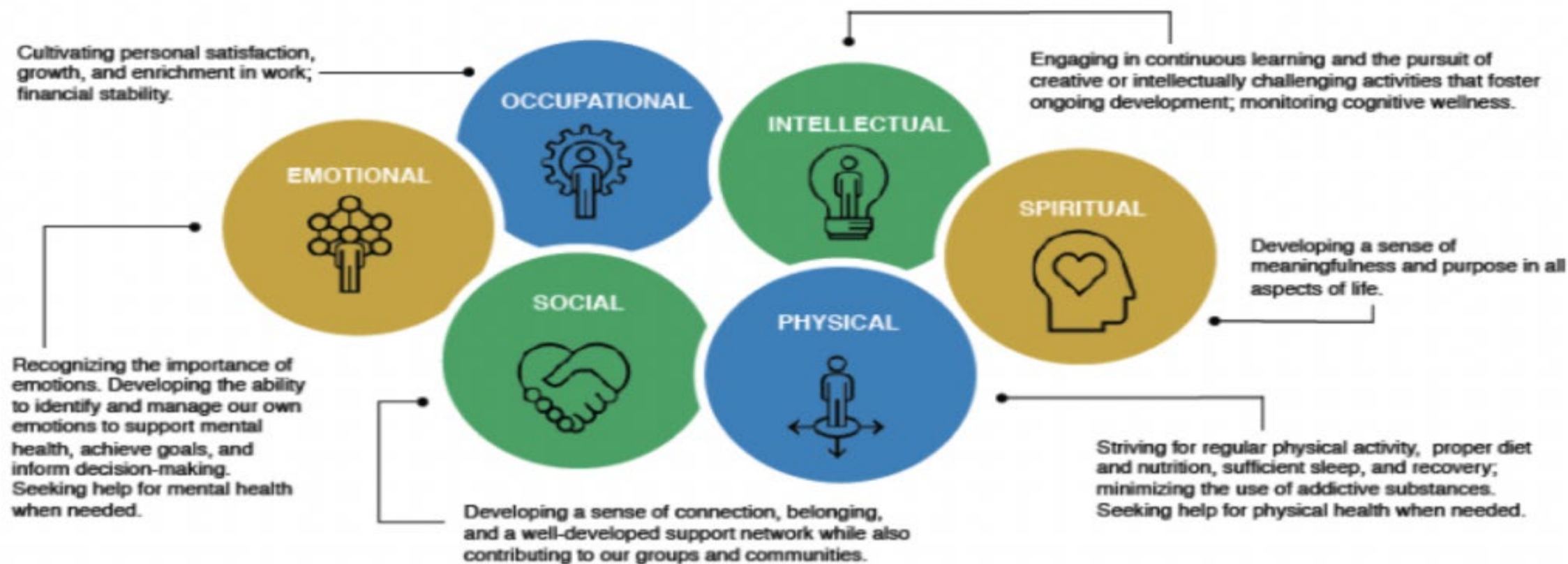




THRIVING 101 FOR LAWYERS

Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of their lives:





INTELLECTUALLY THRIVING

- ⚓ Continuous learning to foster ongoing development:
 - ◆ Creating expertise in an area of law.
 - ◆ Learning more about a subject you are interested in: Travel, world history, psychology, fashion.
 - ◆ Developing a talent: Art, dance, cooking, photography.
 - Adult schools offer 4-6 week classes on many topics.





SPIRITUALLY THRIVING

⚓ Developing a sense of meaning and purpose in all aspects of life:

- ◆ Ask: Where do I personally find meaning and value?
- ◆ Can include religion and/or spirituality:
 - Spirituality seeks to personally find meaning, connection and value.
 - Religion seeks what is true and right.
- <https://www.takingcharge.csh.umn.edu/what-spirituality>





PHYSICALLY THRIVING

⚓ Involves all aspects of health:

- ◆ Physical activity: [How about Japanese Walking?](#)
 - The New York Times July 31, 2025
 - 20 years of research
 - Greater advantages than a simple stroll or walking at a moderate pace for 8,000+ steps a day
 - Designed for older adults, but translates to all ages
 - 3/3 interval technique
- ◆ Sleep
- ◆ Proper nutrition
- ◆ Avoiding addictive substances





SOCIALLY THRIVING

- ⚓ Developing and contributing to a supportive social network:
 - ◆ Reach out. Connect more often with people you already know. Check in, ask how they are doing. Set up a call or meet up.
 - If someone is going through a rough time, put in a calendar note to remind you to check in. Busy days can lead to forgetting what others have on their plate.
 - ◆ Share. Share what you are going through. You might find that others can relate or can offer support.
 - ◆ Be helpful. Try volunteering for a group or organization or offering to help someone you know with a task or a stressor.
 - ◆ Join. Take a class, join a group,





EMOTIONALLY THRIVING

- ⚓ Recognize the importance of emotions:
 - ◆ Emotions have long been minimized or seen as a weakness.
 - ◆ Allowing ourselves to feel **healthy emotions** can help to regulate us.
 - ◆ Emotions can also be a signal that a boundary has been crossed, or a need is not being met.
 - ◆ Learn from your emotions.





EMOTIONALLY THRIVING

⚓ What do emotions mean?

◆ Anger

- Meaning: Something is unfair.
- Need: Set a boundary.

◆ Fear

- Meaning: Immediate and overwhelming sense of danger.
- Need: To feel safe.

◆ Sadness

- Meaning: Grief, loneliness
- Need: Comfort





EMOTIONALLY THRIVING

⚓ What do emotions mean?

◆ Numbness

- Meaning: Overwhelmed
- Need: Respite

◆ Joy

- Meaning: Happiness, contentment
- Need: Stay connected to others or things we love

<https://www.cultivatetherapygroup.com/blog/what-emotions-can-teach-us#:~:text=Feelings%20reveal%20underlying%20needs&text=For%20instance%20C%20anger%20is%20often,grief%20C%20a%20need%20for%20comfort.>





EMOTIONALLY THRIVING

- ⚓ Develop the ability to identify and manage our own emotions:
 - ◆ Notice, name and accept feelings.
 - ◆ Identify emotional triggers.
 - ◆ Use regulation techniques such as deep breathing and other self-care options.
- ⚓ Seek help for mental health, when needed.
 - ◆ Find a healthy outlet.
 - ◆ Talk to a trusted person or professional.
 - ◆ Don't suppress and minimize how you feel. Learn from it and grow.





OCCUPATIONALLY THRIVING

- ⚓ Cultivate personal satisfaction, growth, and enrichment in work:
 - ◆ Find a committee, task, project or assignment you can contribute to.
 - ◆ Create an area of expertise in the law.
 - ◆ Contribute to the development of a supportive workplace culture.
- ⚓ Obtain financial stability
 - ◆ Make the most of your income.
 - ◆ Avoid empty spending that only gives fleeting satisfaction.







Thank You!

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Please be sure to fill out the session feedback on the mobile app Whova!



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