

1  **Legal Technicality, LLC**  
**Continuing Legal Education**  
SUBSTANCE ABUSE  
PRESENTED BY

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2  **QUESTION**

Why do I have to take this CLE on Substance Abuse?

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3  **ANSWER**

■ Because the Supreme Court of Ohio said so! That's why.

4  **. . . but seriously . . .**

■ Lawyers have the third highest rate of substance abuse among professionals.

■ Doctors are first with easy access to drugs.

■ Nurses are second with easy access to drugs.

■ Lawyers are third, without access to drugs.

5  **ALCOHOL**

■ The most commonly abused substance.

■ Approximately 60% of discipline prosecutions involve alcoholism.

■ Over 60% of all malpractice claims involve alcohol abuse.

■ More significantly, a recent study has suggested that 90% of serious disciplinary matters involve alcohol abuse.

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6  **Why Alcohol?**

■ Alcohol is the only intoxicating substance that is both a food and a drug.

■ I cook with wine, sometimes I even add it to the food.

■ I don't believe in dining on an empty stomach.

■ Some weasel took the cork out of my lunch.

■ During one of my treks through Afghanistan, we lost our corkscrew. We were compelled to live on food and water for several days.

7  **Why Alcohol? (continued)**

■ It is a welcome relief from stress, pressures, business and personal discomfort.

■ A man who overindulges lives in a dream. He becomes conceited. He thinks the whole world revolves around him; and it usually does. (W.C. Fields)

■ Man: I have no sympathy for a man who is intoxicated all the time.

WC: A man who's intoxicated all the time doesn't need sympathy.

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8  **Why Alcohol? (continued)**

- It allows us to step down from the command post and take a break.
  - I drink therefore I am.
  - WC: Was I in here last night and did I spend a 20-dollar bill?  
Barkeep: Yeah.  
WC: Oh boy, what a load that is off my mind. I thought I'd lost it.
  - Man (to WC): You're drunk!  
WC: Yeah, and you're crazy. And I'll be sober tomorrow and you'll be crazy for the rest of your life.

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9  **Why Alcohol?**

- We enjoy it!
  - Sleep...the most beautiful experience in life--except drink.
  - Secretary: Someday you'll drown in a vat of whiskey.  
WCF (an aside): Drown in a vat of whiskey? Oh death, where is thy sting?

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10  **Why Alcohol? (continued)**

- We brag about it!
  - Say, Mr. Fields, I read in the paper where you consumed two quarts of liquor a day. What would your father think about that?  
WC: He'd think I was a sissy.
  - I never drank anything stronger than beer before I was twelve.
  - Of course, now I touch nothing stronger than buttermilk: 90-proof buttermilk.

11  **Why Alcohol? (continued)**

- We laugh about it!
  - A woman drove me to drink and I didn't even have the decency to thank her.
  - Always carry a flagon of whiskey in case of snakebite and furthermore always carry a small snake.
  - If I had to live my life over, I'd live over a saloon.
  - The cost of living has gone up another dollar a quart.
  - In response to a waiter who'd offered him a Bromo Seltzer for a hangover, Fields said: Ye Gods, no! I couldn't stand the noise.

12  **Why Alcohol? (continued)**

- We tend to view alcohol as a reward or a treat.
  - Christmas at my house is always at least six or seven times more pleasant than anywhere else. We start drinking early. And while everyone else is seeing only one Santa Claus, we'll be seeing six or seven.

13  **W.C. Fields' Death Certificate  
(January 29, 1880 – December 25, 1946)**

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- Cirrhosis of the Liver
  
- Chronic Alcoholism

14  **DEFINITION OF ALCOHOLISM**

■ In 1957, the American Medical Society determined that alcoholism is a disease. In 1990, the National Council on Alcoholism and Drug Dependency and the American Society of Addiction Medicine issued a definition of alcoholism:

*Alcoholism is a primary disease with genetic, psychosocial, and environmental factors influencing its development and manifestation. The disease is often progressive and fatal. It is characterized by continuous or periodic impaired control over drinking, preoccupation with the drug alcohol despite adverse consequences, and distortions in thinking, the most notable being denial of a problem.*

15  **Alcohol Dependency is characterized by the following elements:**

- Craving: A strong need, or compulsion, to consume a alcohol.
- Loss of Control: The frequent inability to stop using alcohol once a person has begun.
- Physical Dependence: The occurrence of withdrawal symptoms, such as nausea, sweating, shakiness, and anxiety, when the person stops using alcohol. These symptoms are usually relieved by alcohol.
- Tolerance: The need for increasing amounts of alcohol in order to get the same "high."
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16  **By the Numbers**

- It is accepted that 10% of the adult population is alcoholic.
- One third of the adult population does not consume alcohol at all for cultural, religious, health or personal reasons.
- Of the remaining two thirds of the adult population who do consume alcohol, over one in seven drink alcoholically.
- Alcoholics drink over half of all alcohol consumed.
  - WC Fields had two bars in his home, one on either end. His rationale was, "You never know when half of your house will burn down."

17  **Alcohol is the significant factor in:**

- 50% of all auto fatalities
- 83% of all fire related deaths
- 70% of all drowning
- 50% of all serious household accidents
- 50% of all successful suicides are alcoholics
- 50% of all homicides
- 70% of family violence, including homicide

18  **Lawyers are twice as likely to be alcoholics.**

- Studies conducted in numerous jurisdictions have pegged the rate of alcoholism in the legal profession at between 15% and 24%.
- Roughly 20% of all lawyers are alcoholics
- After 20 years of practice, the rate rises to 25%

19  **Attorneys with Alcohol Problems start having problems early.**

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- Evidence suggests that individuals in the legal profession experience problems with substance abuse early in their careers and these problems worsen over time.
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- 20  **The Number of Attorneys with Alcohol Problems Increases with Time.**
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  - According to one study,
    - 8% of prelaw students
    - 15% of first-year law school students
    - 24% of third-year law students,
    - and 26% of alumni reported concern with alcohol problems.
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- 21  **The Number of Attorneys with Alcohol Problems Increases with Time.**
  - Furthermore, 18% of attorneys who practiced for 2 to 20 years reported drinking problems and this increased to 25% for attorneys who practiced for over 20 years.
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  - Benjamin, G. A. H., Darling, E. J., Sales, B. (1990). The prevalence of depression, alcohol abuse, and cocaine abuse among United States lawyers. *International Journal of Law and Psychiatry*, 13, 233-246.
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- 22  **Attorneys with an Alcohol Problem Compared to the Entire United States Population.**
- 23  ***Myth: Most alcoholics are middle-aged or older.***
  - Fact: A University of California research team has found that the highest proportion of drinking problems occur among men in their early 20's, followed by men in their 40's and 50's.
- 24  **Is Alcoholism the Cause of Trouble for Attorneys or the Symptom?**
  - Over 1/3 of attorneys say they are dissatisfied and would choose another profession if they could.
  - Attorneys have the highest rates of depression and suicide of any profession.
  - A recent study of lawyers showed suicide to be the third leading cause of death for attorneys, behind only cancer and heart disease. (Canadian Bar Association)
- 25  **Attorney Alcoholism is such a problem, that it has become a mitigating factor in discipline cases.**
  - BCGD Proc.Reg. 10(B)(2)(g)
  - (2) Mitigation. The following shall not control the Board's discretion, but may be considered in favor of recommending a less severe sanction:
    - (g) chemical dependency or mental disability when there has been all of the following:
      - (i) A diagnosis of a chemical dependency or mental disability by a qualified health care professional or alcohol/substance abuse counselor;
      - (ii) A determination that the chemical dependency or mental disability contributed to cause the misconduct;
- 26  **Attorney Alcoholism is such a problem, that it has become a mitigating factor in discipline cases. (Continued)**
  - (iii) In the event of chemical dependency, a certification of successful completion of an approved treatment program or in the event of mental disability, a sustained period of

successful treatment;

- (iv) A prognosis from a qualified health care professional or alcohol/substance abuse counselor that the attorney will be able to return to competent, ethical professional practice under specified conditions.

Adopted by the Supreme Court of Ohio, effective June 1, 2000; amended effective February 1, 2003

*Some have applauded this Rule, believing this will encourage attorneys suffering from alcohol addiction to step forward and ask for help. Others charge that showing leniency with lawyers who break the law is absurd.*

27  **The Progression of the Alcoholic**

- Alcoholism is a progressive disease and a lawyer may practice law as a social drinker without difficulty or repercussions for many, many years.
- Perhaps after 20 years or more, that same lawyer may cross the line from being a social drinker to a problem drinker.
- It may be 5 or 10 years beyond that before he or she progresses to alcoholism.
- It is patently easy to spot alcoholism in its later stages.

28  **A model of Alcoholic progression involving four phases:**

- Phase 1, is characterized by the use of alcohol to relax and to deal with the everyday tensions and anxieties of life.

29  **A model of Alcoholic progression involving four phases:**

- Phase 2, is ushered in by the experience of blackouts, sneaking drinks, growing preoccupation with drinking and drinking situations, defensiveness, rationalization and feelings of guilt.

30  **A model of Alcoholic progression involving four phases:**

- Phase 3, the crucial phase, consists of frank addiction. Physiological dependence is clearly evident, loss of control, job loss, marital conflict, separation and divorce, general interpersonal difficulties and increased aggressive behavior. The individual is willing to risk everything to continue drinking.

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31  **A model of Alcoholic progression involving four phases:**

- Phase 4 alcoholism in the chronic phase; advanced physiological diseases, withdrawal, severe depressions, manic behavior, hopelessness, suicidal thoughts, panic and self-loathing.

Dr. E.M. Jellinek, a pioneer in the scientific analysis of alcoholic use and abuse.

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32  **Negligence and disciplinary complaints finally cause action**

- In 1988 the American Bar Association set up its Commission on Impaired Attorneys.
  - The American Medical Association began a program for impaired physicians in 1972.
- In 1990 the Ohio Supreme Court created the Ohio Lawyers Assistance Program.

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33  **Who is most at risk?**

- Typically, a lawyer aged 40 to 55 is at greatest risk of becoming an alcoholic.
- The number and proportion of alcoholic lawyers increases with age so that the heaviest and highest rate of alcoholism is found with more senior practitioners.

34 **Question: Why are attorneys vulnerable to alcoholism?**

- Answer: Research shows that the legal profession contains fundamental characteristics that may facilitate the development of substance abuse. These characteristics include social influences within the work environment, heavy workloads, stress attributed to working with clients, and co-occurring psychological illnesses that precede and/or exacerbate substance abuse problems.
- Benjamin, G. A. H., Darling, E. J., Sales, B. (1990). The prevalence of depression, alcohol abuse, and cocaine abuse among United States lawyers. *International Journal of Law and Psychiatry*, 13, 233-246.

35 **Socio-cultural Influences within the Work Environment**

- Lawyers accept alcohol use to socialize or as a means to facilitate business, and thus create employees that are prone to alcohol problems.
- In some practices it is acceptable and common for attorneys to drink with clients or colleagues during work hours, or at the end of the day.
- Two out of three attorneys report social drinking connected to work.
- More than three out of four attorneys with self-reported alcohol problems reported drinking alcohol during lunch.

36 **Stress within the Legal Profession as a Function of Workload and Time Constraints**

- Stress is regarded as one of the most important predictors of substance abuse.
- Attorneys working in the public sector experience higher levels of work-related burnout compared to individuals in the general population, and work-related burnout is strongly related to drug and alcohol abuse.

37 **Stress within the Legal Profession Due to Exposure to Trauma-Exposed Clients**

- In addition to having a higher prevalence of job-related burnout, attorneys working in the public sector also experience higher levels of post traumatic Stress disorder (PTSD) compared to individuals in the general population.
- PTSD is a predictor of substance abuse severity, and research indicates that family and criminal court attorneys experience greater levels of trauma compared to individuals in other high-stress jobs due to prolonged contact with trauma-exposed clients.

38 **Co-occurring Psychological Illness and Social Relations in Attorneys**

- Research indicates that the presence of a co-occurring psychological illness can drastically increase the severity of substance abuse. Compared to individuals from other professions, attorneys with substance abuse problems are also more likely to have an additional psychological disorder, and they are three times as likely to struggle with depression as the general population.

39 **Co-occurring Psychological Illness and Social Relations in Attorneys (Continued)**

- Attorneys with a substance abuse problem are twice as likely to have a co-occurring psychological illness as non-professionals with a substance abuse problem.

40  **Does Depression Lead to Alcohol Abuse?**

- Research shows that children who are depressed are more prone to develop alcohol problems once they reach adolescence. Teens who've had an episode of major depression are twice as likely as those who aren't depressed to start drinking alcohol.
- Depression may be a particularly significant trigger for alcohol use in women, who are more than twice as likely to start drinking heavily if they have a history of depression. Experts say that women are more likely than men to self-medicate with alcohol.

41  **Does Alcohol Abuse Lead to Depression?**

- A number of studies have shown that alcohol abuse increases the risk for depression. This connection may be because of the direct neurotoxic effects of heavy alcohol exposure to the brain. Researchers know that heavy alcohol consumption can lead to periods of depression.
- Alcohol abuse also can have serious repercussions on a person's life, leading to financial and legal troubles, impaired thinking and judgment, as well as marital stress. If you're struggling with money or grappling with a failed relationship, you're more likely to feel depressed.
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42  **Why is it difficult to spot the Alcoholic Lawyer?**

- The pressures and difficulties of professional practice provide ready excuses for outbursts of temper, confusion or delay, exhaustion, inattention, or anxiety.
- Further, other lawyers or staff may be reluctant to discuss symptoms of addiction with anyone.
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43  **Three things you should know about Alcoholism**

- Alcoholism is a progressive disease. It gets worse, but never better.
  - Usually the addict seeks relief from anxiety and inner tension primarily by using alcohol.
  - Repetitive use of alcohol for relief firmly establishes this progressive addiction. When the alcoholic starts using again - even after a long period of "being on the wagon", his condition rapidly becomes as bad or worse as it was when he quit.
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- My boss didn't know i drank, till one day when I came to work sober.*

44  **The Addiction Research Foundation Drinker's Scorecard**

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- 1 - 2 Drinks per day:  
You are drinking in moderation; your health risk is minimal if consumption doesn't increase.
- 3 - 4 Drinks per day:  
Some increase in health risks from long-term consumption at this level. Be careful not to increase consumption. Learn more about alcohol.
- 5 - 6 Drinks per day - Hazardous:  
Danger of addiction or physical, psychological dependency. Seek professional counseling concerning alcohol intake.
- 7 - 8 Drinks per day - Harmful:  
Serious health risk, cirrhosis of the liver, heart disease and cancer. Reduce your level of consumption and consult your physician.
- 9 - 10 Drinks per day - Extremely dangerous:

Life expectancy may be reduced 10 - 12 years. The chances are very good that you are drinking at the alcoholic level of consumption. Professional treatment is required.

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45  **Alcoholics Anonymous:**

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1. Have you ever decided to stop drinking for a week or so but only lasted a couple of days?
2. Do you wish people would mind their own business about your drinking and stop telling you what to do?
3. Have you ever switched from one kind of drink to another in the hope that this would keep you from getting drunk?
4. Have you had a drink in the morning during the past year?
5. Do you envy people who can drink without trouble?
6. Have you had legal problems connected with drinking in the past year?

46  **Alcoholics Anonymous: (continued)**

7. Has your drinking caused trouble at home?
8. Do you ever get extra drinks at a party to get enough?
9. Do you tell yourself you can stop drinking anytime you want, but you keep getting drunk when you don't mean to?
10. Have you missed days at work because of drinking?
11. Do you have blackouts (a blackout is when there are drinking hours or days you cannot remember)?
12. Would your life be better if you did not drink?

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47  **Alcoholics Anonymous: (continued)**

- Did you answer "yes" 4 or more times to the questions? If so, you are probably in trouble with alcohol.

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48  **Is there a Problem?**

- **Alcohol/Drug Self-Test** - This series of questions about one's use of alcohol and/or drugs is an informal inventory of "tell-tale signs" with many items tailored to lawyers. It is not a list of official diagnostic criteria and does not substitute for a professional evaluation (which OLAP personnel can provide in person or refer you to a certified evaluator).

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- 1. Do I plan my office routine around my drinking or drug use?
- 2. Have I tried unsuccessfully to control or abstain from alcohol or drugs?
- 3. Do my clients, associates, or support personnel contend that my alcohol/drug use interferes with my work?
- 4. Have I avoided important professional, social, or recreational activities as a result of my alcohol/drug use?
- 5. Do I ever use alcohol or drugs before meetings or court appearances, to calm my nerves, or to feel more confident of my performance?
- 6. Do I frequently drink or use drugs alone?
- 7. Have I ever neglected the running of my office or misused funds because of my alcohol or drug use?
- 8. Have I ever had a loss of memory when I seemed to be alert and functioning but had been using alcohol or drugs?

49  **Is There a Problem?-Continued**

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- 9. Have I missed or adjourned closings, court appearances, or other appointments because of my alcohol/drug use?
- 10. Is drinking or drug use leading me to become careless of my family's welfare or other personal responsibilities?
- 11. Has my ambition or efficiency decreased along with an increase in my use of drugs or alcohol?
- 12. Have I continued to drink or use drugs despite adverse consequences to my practice, health, legal status, or family relationships?
- 13. Are strong emotions, related to my drinking or drug use (e.g., fear, guilt, depression, severe anxiety) interfering with my ability to function professionally?
- 14. Are otherwise close friends avoiding being around me because of my alcohol or drug use?
- 15. Have I been neglecting my hygiene, health care, or nutrition?
- 16. Am I becoming increasingly reluctant to face my clients or colleagues in order to hide my alcohol/drug use?
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50  **Is There a Problem?-Continued**

- A "yes" answer to any of these questions suggests that it would be wise to seek professional evaluation, but may or may not indicate that you have a diagnosable addictive disorder. Evaluations of alcohol/drug problems should be done by a clinician with addiction credentials and/or experience working in an addiction-oriented setting.

51  **Admit the Problem**

- Acknowledging that help is needed may not be easy, but the real stigma comes when one does not take action to confront the problem responsibly. Alcoholism is a treatable disease rather than a moral weakness. Identifying the problem and seeking help can result in a more successful career, improved relationships, and a healthy, more rewarding life.

52  **What is the Ohio Lawyer Assistance Program?**

- If you, or someone you know, need special, confidential assistance, help is available (at no cost) through the Ohio Lawyers Assistance Program, Inc.

■ For more information, contact:

■ Scott R. Mote  
Director/Administrator  
Ohio Lawyers  
Assistance Program, Inc.

■ Confidential Line (800) 348-4343

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■ Call any time of day, seven days a week.

53  **How can I be assured of confidentiality?**

- R.C. § 2305.28 provides qualified immunity from civil liability for OLAP staff (B and C) and for anyone who provides information to OLAP (D).
- Prof. Cond. Rule 8.3 provides an exemption from the duty to report knowledge of ethical violations when that knowledge was obtained in the course of OLAP's work.

54  **How can I be assured of confidentiality?**

- The recovering individual may reveal circumstances as he or she sees fit.
- The recovering individual must be confident that his or her confidentiality will be respected at all times by others involved in the recovery process.
- Confidentiality for those seeking help must be maintained throughout the recovery process and thereafter.

55  **THANK YOU!**

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