

Recognizing and Preventing Burnout in the Legal Profession

by Paula Davis-Laack

Burnout is closely linked to errors, turnover, reductions in work hours, and lower client satisfaction. Here are some strategies PD professionals can use to prevent burnout both in themselves and in those they lead.

I have been researching, teaching, and talking about burnout for the last ten years. I didn't intend for this to be my career path. I thought I would practice law for more than seven years, then go on to do something entrepreneurial — my parents owned a business for fifteen years, and I knew I was wired to own one as well. But I burned out during what became the last year of my law practice, and it stopped me in my tracks. My burnout story starts back in 2008. If you had met me then, you would have seen a successful lawyer, on top of her game, closing several complex, multi-million-dollar commercial real estate deals each month. You may have even thought, "She has it all." But here's what you would have missed.

First, I was physically and emotionally exhausted, and it was a different kind of tired than I had ever experienced. Getting out of bed to go to work had become exceedingly difficult, if not emotionally painful. My pop out of bed, ready to start the week, had become a slow drop and thud. Weekends weren't long enough to fully recover, and vacations, when I actually took them, provided only temporary relief. Every work or life curve-ball, no matter how minor, became a major deal. I remember my mom calling and asking me to pick up some groceries on my way out to her house, and I had a level 15 reaction to her very basic request. That was not my personality, and it was a red flag.

Second, I had become cynical, even by lawyer standards. People generally just started to bug me and rub me the wrong way. I remember working with clients, and when they came to

me with a legal issue, outwardly I was very professional, but inwardly I would roll my eyes and think, "Really? You can't handle this on your own?" Or, "Didn't we already talk about this?" Or, "Does the world really need another mini mall?" When your job is to help developers build mini malls, you have to get your head around the concept. Disconnecting from people was unusual for me, and I just wanted to be left alone in my office.

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Third, I started to feel ineffective. I never lost confidence in my ability to be a good lawyer, but I started to think "why bother" and "who cares" a lot. In conversations with clients, my inner dialogue would be, "You're not going to listen to my advice anyway, why are we having this conversation?" In addition, I stopped seeing a clear path for myself through the legal profession. I had worked at a large law firm, then in-house. I had checked the progression boxes that I thought were supposed to matter in law, and it wasn't enough.

My burnout was severe, but it didn't start that way. I slowly started going into work later. Over time, I stopped having as many lunches, coffees, and conversations with my business clients and colleagues. As it progressed, I spent many an hour

dreaming about pastry school and the bakery I thought I would someday own. Eventually, my panic attacks resurfaced, and I started having them weekly, sometimes daily. In addition, the high levels of stress caused such severe stomachaches that I ended up in the emergency room twice. I saw more than half a dozen doctors during this time and none of them mentioned burnout, work, or even asked how I was doing generally in life. I was at a point where if someone had asked me how I was doing, I literally would have burst into tears, revealing the truth I had been keeping a secret because I didn't want to be perceived as the weak lawyer who couldn't hack it. My last day practicing law was June 24, 2009. Before I left, I stumbled on an article that described exactly how I had felt. Up until that point, I had not really known what burnout was, how it started, or why it had picked me on which to unleash its insidiousness. At that moment, though, I knew that studying it was my path forward.

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What Is Burnout?

The [World Health Organization](#) recently updated its definition of burnout as follows: "Burnout is a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed. It is characterized by three dimensions: (1) feelings of energy depletion or exhaustion; (2) increased mental distance from one's job, or feelings of negativism or cynicism related to one's job; and (3) reduced professional efficacy. Burnout refers specifically to phenomena in the occupational context and should not be applied to describe experiences in other areas of life." The last sentence is an important one. The word "burnout" is often used synonymously with stress and therefore gets applied generally, but actual burnout is a work-related issue.

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When I first started researching and teaching about burnout prevention, I underappreciated the complexity of the topic. I inherently thought that I must have needed better stress management techniques, and so to me, the fix was simple — just get better at managing stress. Eventually, I learned just how [complex](#) burnout is and that it occurs over time and within the context of a multi-level system that influences the stress process. I also learned that quick fixes aimed at the individual level aren't going to be nearly enough to meaningfully move the needle on this issue. You can't yoga your way out of burnout. Instead, specific job demands and job resources either accelerate or slow the burnout process.

What Drives Burnout in Law?

While the precise causes of burnout in the legal profession likely vary, there are key stressors happening at all levels of the profession. At a macro level, the legal profession is becoming more complex. I recently heard Chicago Kent College of Law Professor Daniel Katz speak at a conference in London, and he said that in virtually every measure you can come up with, legal complexity has grown. The Big Four accounting firms are moving their way into the profession to compete with BigLaw in different ways, alternative legal service providers challenge the ways we thought law practices could and should operate, and legal technology has influenced the systems and tools lawyers use to practice.

At the organizational, team, and leader levels, the lawyers I coach and teach talk about the ways in which low autonomy, incivility, not being thanked for hard work, wanting to rehumanize the profession, not knowing what's expected of them at their different levels of practice (a sentiment I hear from both partners and associates), the "always on" 24/7 pace, general workload unpredictability, loneliness, and lack of work/life

integration drive stress and burnout. In addition, almost all of my conversations with lawyers include something about culture — their perceptions about the ways in which culture impedes or supports well-being.

Many of the stressors that lawyers cite match what the research reveals to be important job demands. [Job demands](#) are the aspects of work that require sustained physical, emotional, and/or psychological effort and energy, and they play a critical role in predicting burnout. [These](#) job demands have been shown to be particularly predictive of burnout:¹

- High workload and work pressure, especially if there is inadequate staffing;
- Role conflict (incompatible or different expectations);
- Low-quality relationships and support;
- Role ambiguity (lack of clarity about direction and who does what);
- Unfairness (lack of transparency; arbitrary decision-making; favoritism);
- Low work-life flexibility; and
- Little meaning derived from work.

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Job demands, in combination with the systemic and organizational challenges mentioned above, create a lot of stress. In addition to their effects on problem solving, concentration, and attention, chronic stress and burnout are associated with errors. In a healthcare-related [study](#), physicians who reported a major medical error in the prior three months were more likely to have symptoms of burnout and fatigue.

Recently, one legal malpractice insurance carrier reported that the percentage of claims that had lawyer-related mistakes associated with them jumped from about 15% of their total claims in 2012 to 63% of their total claims in 2017. As a result, claims attorneys at the malpractice insurance carrier interviewed their member general counsels to investigate the root causes of the increase. These were the most frequent responses received: the increased pace, the “always on,” 24/7 nature of the practice, the increased complexity and specialization of practice areas, and the decrease in mentoring and personal interaction.²

The medical profession far outpaces the legal profession in quantifying and further studying rates of burnout. While the latest [research](#) now indicates that more than 50% of physicians have one or more symptoms of burnout, I have only been able to identify two studies addressing burnout in the legal profession. One [study](#) found that almost 40% of public defenders in Wisconsin meet the criteria for burnout, and the other, more than 30 years old, shows that [burned out](#) lawyers are less committed to their organizations and report lower identification with organizational goals. Since burnout is [often linked](#) to depression and anxiety, and given the much higher-than-average rates of these issues in the legal profession, it would not surprise me to find that burnout rates among lawyers are similar to those reported among physicians.

What Can Legal Organizations Do to Prevent Burnout?

Increasing specific types of job resources and taking a systemic approach to the issue are two ways legal organizations can help slow down or prevent burnout.

1. Increase job resources

[Job resources](#) help to ease or even to prevent burnout. They are the aspects of work that give you motivation and energy and stimulate personal growth, learning, and development. [Job resources](#) have a consistent negative relationship with burnout and these are ones to prioritize:

- Autonomy;
- Regular feedback;
- Social support; and
- A high-quality relationship with your manager.

2. Follow a systemic approach used in healthcare

Burnout is a systemic problem that requires systemic solutions. Thanks to the work done in healthcare, legal leaders don't have to reinvent the wheel. In response to the studies quantifying physician burnout, Mayo Clinic enacted a number of changes. [In the two years](#) following these changes, its physician burnout rate decreased by 7% despite an 11% rise in the rate of physician burnout nationally. [Importantly](#), the reduction was achieved while also reducing employee burnout generally and "despite having to implement a variety of other changes to improve efficiency, decrease costs, and increase productivity during the same interval." Here are some of the [strategies](#) Mayo Clinic used:

Strategy 1: Acknowledge and assess the problem. If the profession is serious about making meaningful strides to prevent burnout, it has to acknowledge that burnout is happening and then take steps to quantify it. The gold standard burnout measurement is called the Maslach Burnout Inventory — General Survey. While it does not diagnose burnout, it helps individuals, teams, and organizations understand how frequently each of the big three dimensions — exhaustion, cynicism, and reduced professional efficacy — occurs. I have given this survey to professionals in a wide variety of organizations, most recently to a group of business development professionals at a law firm and to lawyers in a large corporate legal department. [Mayo Clinic](#) first began measuring the professional satisfaction of its physicians in 1998 and began measuring burnout rates in earnest in 2010. Mayo switched to annual assessment of these measures in 2016, and the results are reported directly to the Mayo Clinic Board of Governors and Board of Trustees along with other key organizational performance metrics.

Strategy 2: Leverage leadership. The leadership behaviors of managers and leaders play a critical role in the well-being of those they lead. Physicians and scientists at Mayo Clinic frequently rate the leadership qualities of their immediate supervisor. The [survey](#) asks them to what extent they agree or disagree with certain statements about their leader, such as: "empowers me to do my job"; "holds career development conversations with me"; "keeps me informed about changes taking place"; "treats me with respect and dignity"; and "recognizes me for a job well-done." Researchers at Mayo Clinic [studied](#) the responses of more than 2,800 physicians and found that each one-point increase in the supervisor's score was associated with a 3.3% decrease in the likelihood of burnout and a 9.0% increase in the likelihood of job satisfaction. Not only do the right leaders need to be selected (do they have the ability to listen, to develop others, and to be engaged?), but they also need to be developed and prepared for their leadership role. The development and assessment of leaders is often not prioritized in law.

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Strategy 3: Cultivate community at work. In my coaching work with lawyers, this is the most commonly discussed topic other than stress. Lawyers want to feel like they are part of a team and part of a larger community at work. They are concerned about loneliness, and there is a profound sense of weariness about how to rehumanize law. One practice group I recently worked with discovered that its sense of community had eroded, so we talked about practical steps the team could take to feel more cohesive. The team decided to invite family members to a team outing, and the practice group chair committed to more frequent lunches and check-ins with the team. A group of associates I spoke to suggested billable hour credit for activities that fostered a stronger sense of community.

Strategy 4: Provide resources at the individual level and beyond. It's important to keep offering well-being programs tailored to individuals, such as resilience, meditation and

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mindfulness, work/life integration, stress management, building financial health, exercise and fitness programs, and more. However, these programs, if not coupled with programming, information, and conversations about how to address the systemic and cultural issues contributing to stress and burnout, may make already skeptical lawyers even more cynical and likely won't influence burnout rates, as the healthcare profession has discovered. There is a strong business case to be made supporting systemic interventions because burnout is closely linked to errors (mentioned above), turnover, turnover intention, reductions in work hours, and lower client satisfaction. One healthcare study found that physicians who experienced burnout at one point in time had 168% higher odds of leaving their organizations two years later compared to those who did not experience burnout, and those who reported intent to leave were three times as likely to have left. Here is a simple cost of attrition calculation for law: 500 lawyers x 16% rate of attrition x \$350,000 cost to replace a departed attorney = \$28,000,000 (and as high as \$40,000,000).³ If interventions can reduce burnout by even a fraction of the current rate, legal organizations may be able to save millions of dollars.

What Can PD Leaders Do?

There are a number of strategies PD professionals can use to prevent burnout both for themselves and for those they lead:

1. Start with TNTs

This is my acronym for "Tiny Noticeable Things." Many leaders feel overwhelmed by a topic as big as burnout and don't know where to start. Tiny noticeable things, done consistently over time, will help. Here are some important ones:

- Say thank you more (probably much more) than is your current practice.
- Offer FAST feedback (frequent, accurate, specific, and timely).
- Be clear when giving assignments; take five extra minutes to add a couple of sentences to your email.
- Make constructive feedback a learning-focused, two-way conversation; minimize the temptation to just "do it yourself" if a younger team member misses something.
- Keep people informed of changes.
- Actively encourage suggestions and displays of initiative.
- Publicly recognize team members and staff who go above and beyond.

2. Talk about stress

If it's more comfortable, ask your team to identify team-related stressors. Talk about what pushes your team closer to the burnout dimensions of cynicism, exhaustion, and low professional efficacy and what pulls the team back to their stress "sweet spot" — a place where they feel like they have the resources to better manage their stress.

3. Create a bigger-than-self goal

A bigger-than-self goal is less about the objective goals you have, like achieving metrics or working a set number of hours, and is more about how you see yourself within your community (which could mean in your organization, family, or larger community). When people are connected to bigger-than-self goals, they are more hopeful, curious, grateful, and inspired. Not surprisingly, they also show greater well-being and satisfaction with their lives. Health psychologist Dr. Kelly McGonigal points to these helpful questions to get you started:

- What do you want to contribute to the world?
- What type of positive impact do you want to have on the people around you?
- What mission in work or life most inspires you?

4. Know the key burnout warning signs

There are a number of physical, psychological, and behavioral [warning signs](#) associated with burnout. Here are some red flags PD leaders should be aware of:

Physical: Frequent headaches, getting sick more often than usual, physical and emotional exhaustion, stomach and digestive issues, restlessness, inability to sleep, heart palpitations, chest pain.

Psychological: Panic attacks, increasing feelings of anger, frustration, and irritability, making the same mistake over and over, difficulty concentrating, memory issues.

Behavioral: A drop in productivity, increased absenteeism, isolation — wanting to eat lunch alone or just be alone more frequently, a chatty colleague becoming increasingly quiet, increased frustration and venting more frequently, becoming a poor team player.

5. Debrief

Teams who spend 12-14 minutes [debriefing](#) at the end of a project or during a pivotal point in a project show less burnout. Why? Team members leave feeling supported and that they have a sense of clarity about individual and group expectations. Make it a habit to discuss what you intended to do, what actually happened, what went well, and what you would do differently. Importantly, you can debrief on your own as well. I ask myself a version of these questions after every program to help me recognize what I missed and how I can capitalize on wins moving forward.

I have learned a lot of lessons in the past ten years, and I now see my burnout as a blessing. I still wish it hadn't happened, but I often think about all of the people, places, and experiences I would have missed had I continued my law career. Work is so complex, stressful, and at times frustrating, but we all have the power to make it a bit less so. Let's start now.

Endnotes

¹ See also Tait D. Shanafelt and John H. Noseworthy, "Executive Leadership and Physician Well-Being: Nine Organizational Strategies to Promote Engagement and Reduce Burnout," 92(1) Mayo Clinic Proc. 129-146 (January 2017).

² Firm Administrator Conference of a large legal malpractice insurance carrier, August 2017.

³ The attrition rate is taken from the NALP Foundation's 2017 *Update on Associate Attrition*; the cost of losing an associate is usually estimated at \$200,000–\$500,000, so I just used the midpoint. See also Jarrod F. Reich, "Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being," 65 V. Law Rev. June 2020 (forthcoming).

About the Author



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Paula will be publishing her first book, *Teaming Up Against Burnout*, with the Wharton School Press (University of Pennsylvania) in early 2021. It will be about burnout prevention using a leaders- and teams-based approach.

She is the Founder and CEO of the Stress & Resilience Institute, a training and consulting firm that partners with law firms and organizations to help them reduce burnout and build resilience at the team, leader, and organizational level (www.stressandresilience.com). You can reach Paula at paula@stressandresilience.com.