



Attorney Competence

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Speakers



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Rules of Professional Conduct

CA Rule 1.1: Competence

(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.

Rules of Professional Conduct

CA Rule 1.1: Competence

(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.

Rules of Professional Conduct

Rule 1.1: Competence

(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.

Rules of Professional Conduct

CA Rule 1.1: Competence Comment

The duties set forth in this rule include the duty to keep abreast of the changes in the law and its practice, including the benefits and risks associated with relevant technology.

Rules of Professional Conduct

CA Rule 1.3: Diligence

(a) A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.

(b) For purposes of this rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.

CA Rule 1.3: Diligence

A lawyer's work load must be controlled so that each matter can be handled competently.

Common Causes of Lawyer Incompetence

Mental Health Issues



Alcohol Abuse



Drug Abuse

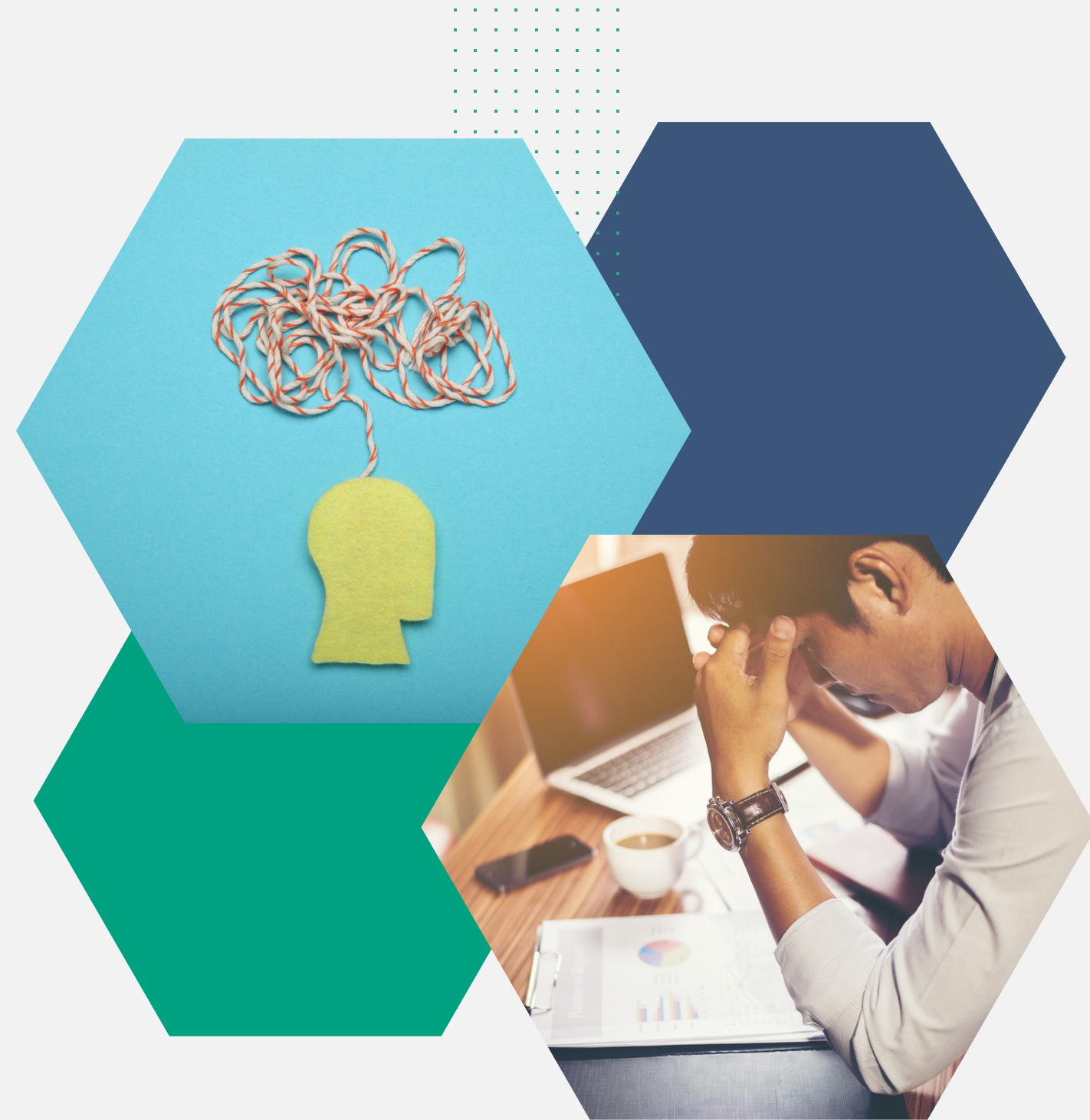


MENTAL HEALTH, ALCOHOL & DRUG ABUSE

Mental Issues

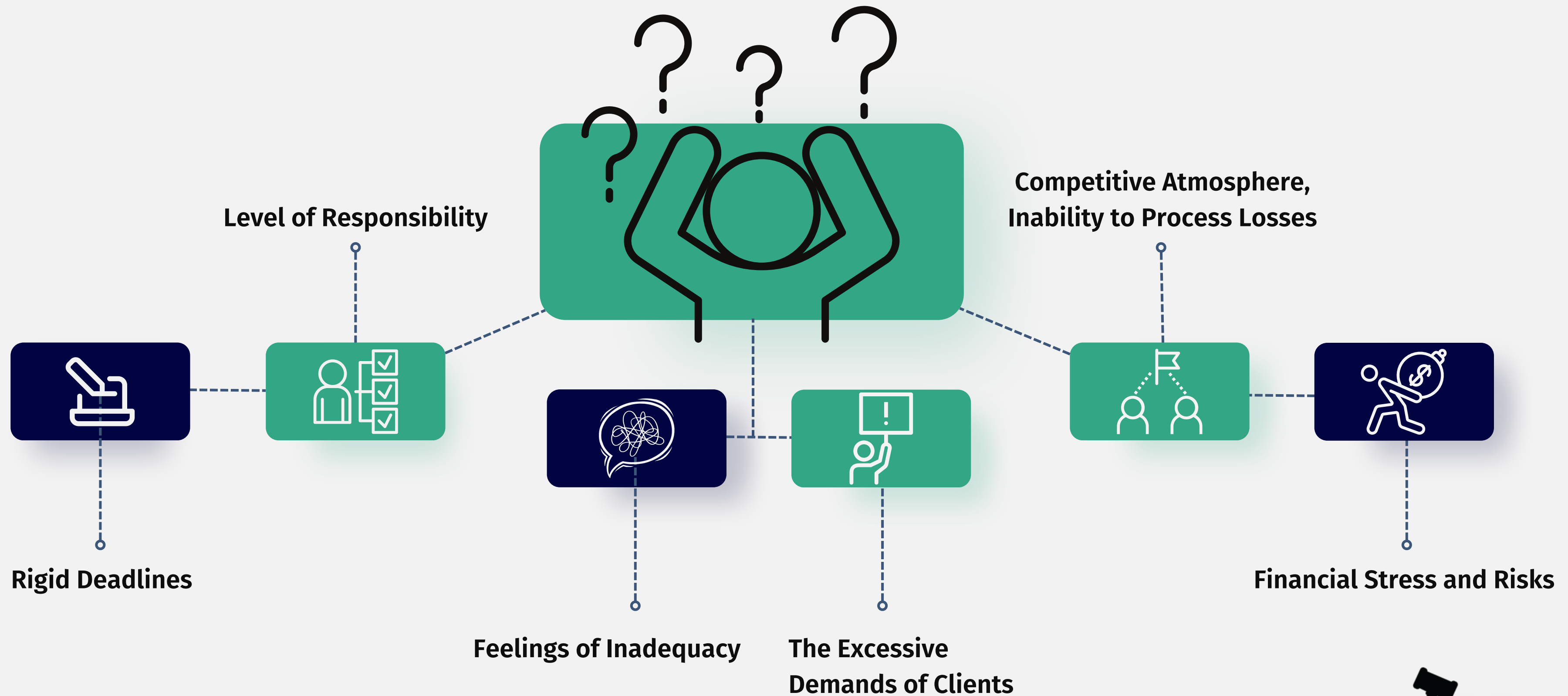
- Stress
- Anxiety/Fear
- Depression
- Financial Problems

Drug and Alcohol Abuse



**THE PRACTICE OF LAW IS
STRESSFUL AND OFTEN
CAUSES ANXIETY,
DEPRESSION AND
SUBSTANCE ABUSE**

COMMON STRESSORS IN THE PRACTICE OF LAW



STRESS REDUCTION PRACTICES

Meditation



Sleep



**Morning
Routine**

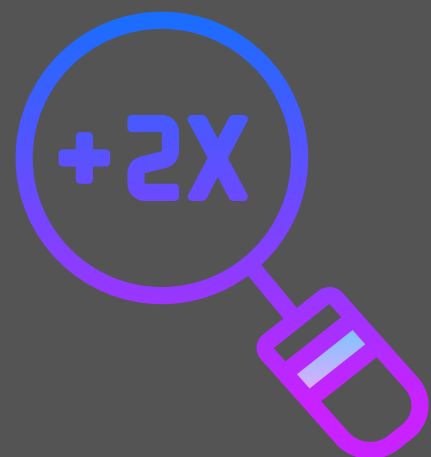


**Exercise
Routine**



Attorney Addiction in America

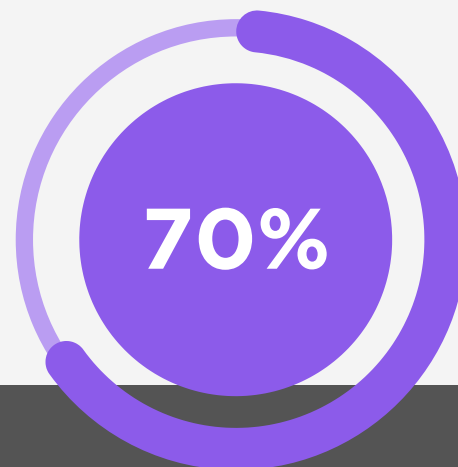
Lawyers have
2x the rate of
addiction
than the
general
population



14

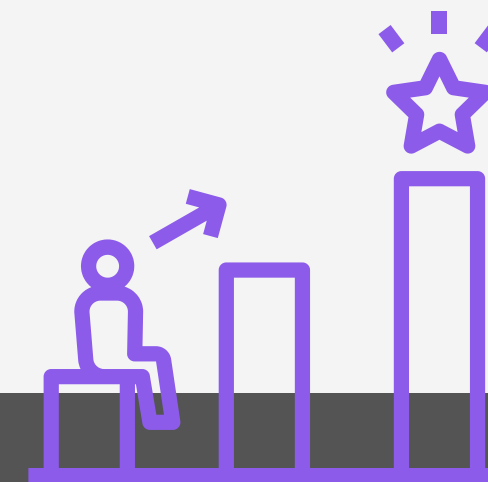
Stressful profession. Depression and anxiety rates are **extremely** high.

- John Hopkins study concluded legal professionals have the highest rate of clinical depression of all professions studied
- Female attorneys have an even higher rate of depression
- Almost 70% of all disciplinary cases involve alcohol or other substance abuse.



Common personality traits which predispose attorneys to self medicate

- High achieving
- Adversarial
- Controlling
- Obsessive compulsive
- Competitive
- More comfortable with thoughts than feelings



Denial: a term of art in addiction and law

MYTH

Moral Failing
Weakness of
Character

ADVERSE
CONSEQUENCES
OF LABEL

STRONG EGO
DEFENSES AND
VERBAL SKILLS

Trained to be
impersonal and
objective



STAGES OF ADDICTION

A disease, as classified by the AMA

- The disease is addiction (A disease of the brain)
- Law affords privacy and insurance coverage
- Cannot be fired for having the disease (Behaviors resulting from, yes)
- Chronic, not curable, it must be managed (Relapse prevention)
- Progressive, addiction never gets better
- Often fatal, if left untreated

**Use to abuse and self
medicating, then
addiction**

Symptoms of Dependency

- Tolerance
- Habituation
- Cravings
- Loss of control
- A compulsive dependency

Types of Addictions

Substance

- Alcohol
- Drugs
 - Stimulants
 - Depressants
 - Anti-anxiety
- Eating Disorders

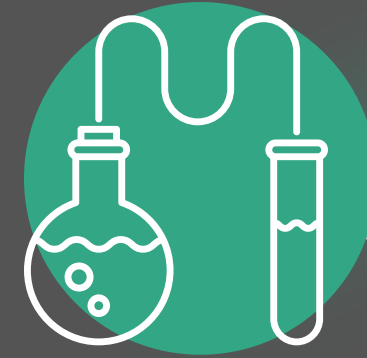
Process

- Gambling
- Sex & Pornography
- Hoarding



BRAIN CHEMISTRY AND THE SHORT TERM REWARD OF SELF –MEDICATING

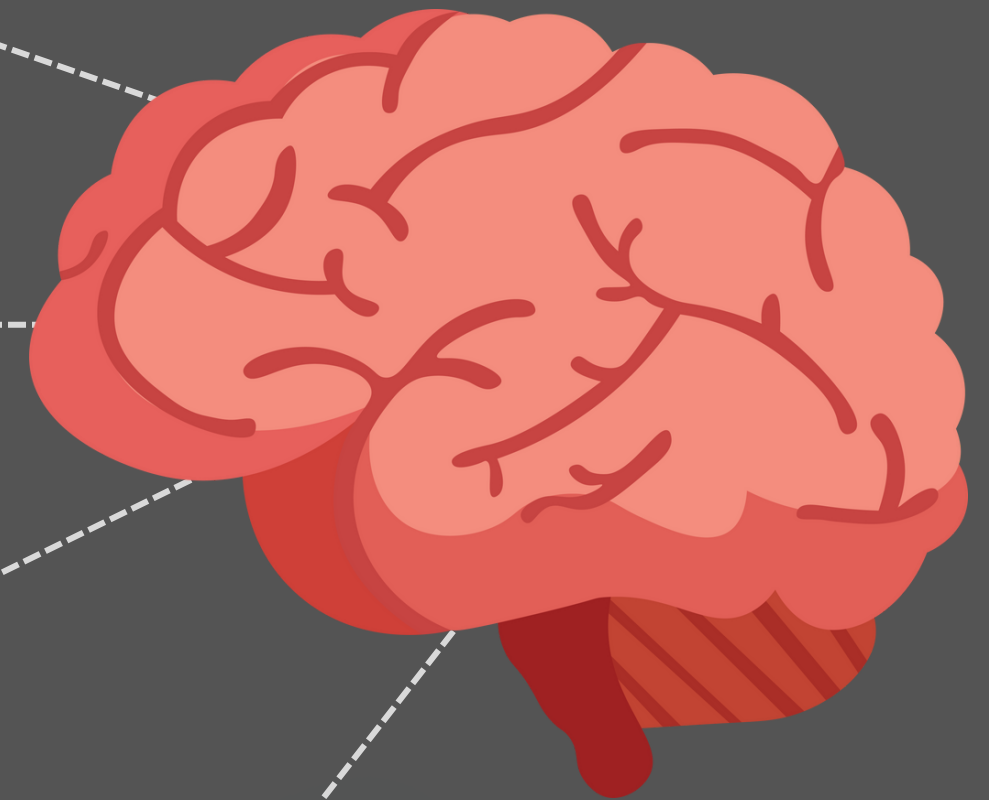
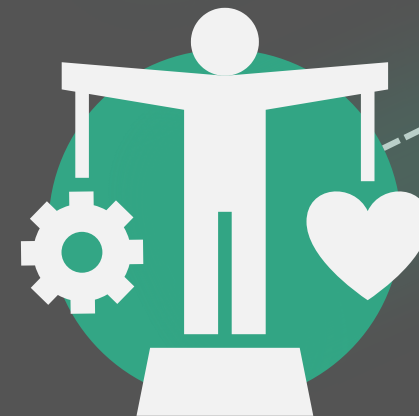
Addictive habits alter brain chemistry (Epigenetics)



Limbic System v. Prefrontal Cortex
(Emotion and Mood v. Reasoning)



“Show me your drug and I’ll show you the
neurotransmitter that needs balancing”
Dr. David Kipper, The Addiction Solution (2010)



Ethical Obligations



No obligation in CA to report misconduct of another attorney

No CA State Bar opinions on reporting of substance abuse

Duty of competence under Rule 3-110 (A) of the Rules of Professional Conduct (CRPC)

Law Firm must protect the interest of their clients (ABA Formal Opinion 03-429 (2003))

FENTANYL

Source: US Custom and Border Protection Agency



Drug agents confiscated nearly 1 million fentanyl pills at an Inglewood, Calif., home in July. Drug loads that cross the border often go to stash houses in the Los Angeles area. (Drug Enforcement Administration)

Source: CBS News



107,622

died of drug overdoses in the U.S. in 2021.

Fentanyl was responsible for
two-thirds of those deaths.

Source: Washington Post

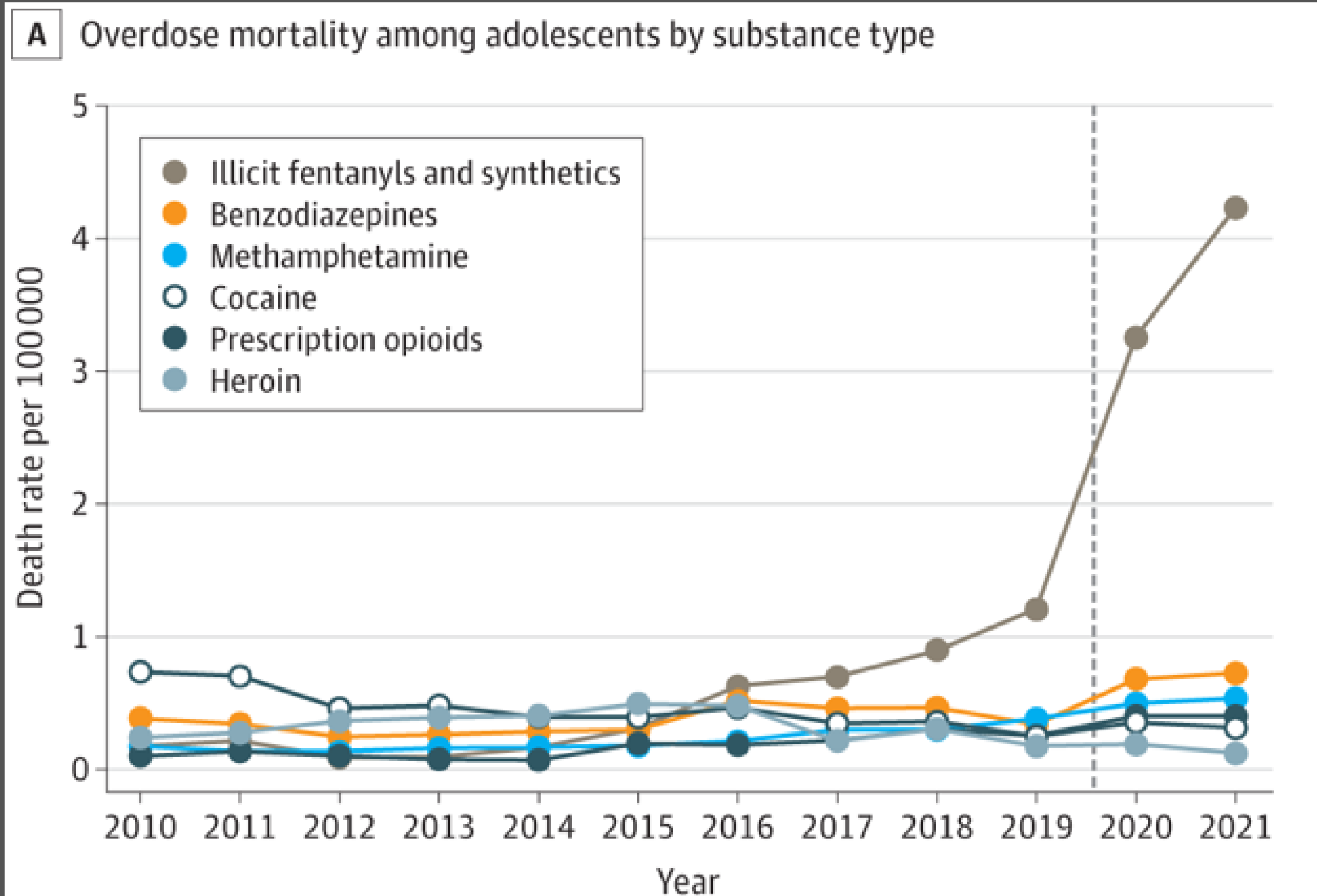
MORE THAN \$50 BILLION

IN OPIOID MANUFACTURER SETTLEMENTS AGREED TO IN 2022

According to [OpioidSettlementTracker.com](https://opioidsettlementtracker.com)

Source: NBC News





Adolescent Overdose Deaths, 2010-2021 Drug overdose rates per 100 000 adolescents are shown by (A) substance involved and (B) race and ethnicity. The year 2021 refers to January to June 2021, and rates have been annualized. The vertical dashed lines delineate the pre-pandemic and pandemic periods of observed data.

Source: JAMA. 2022;327(14):1398-1400. doi:10.1001/jama.2022.2847

Source: MSNBC



DRUG ENFORCEMENT ADMINISTRATION

FAKE



U.S. TACKLES SURGE IN TEEN DRUG OVERDOSE DEATHS

 **MSNBC**

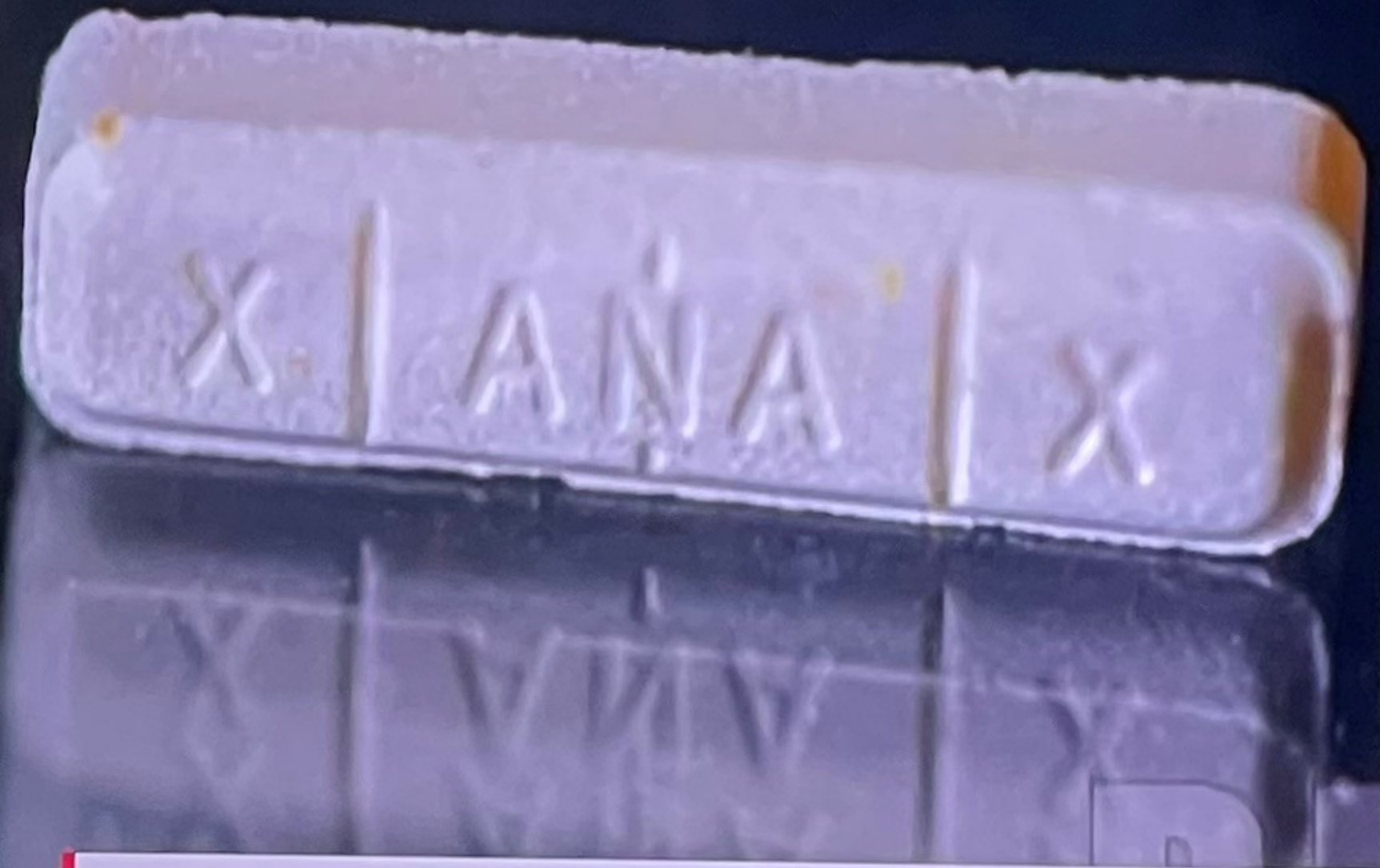
LIVE > 5:44 AM

Source: MSNBC

DRUG ENFORCEMENT ADMINISTRATION

REAL

FAKE



U.S. TACKLES SURGE IN TEEN DRUG OVERDOSE DEATHS


MSNBC

LIVE > 5:44 AM

Source: MSNBC



U.S. TACKLES SURGE IN TEEN DRUG OVERDOSE DEATHS

 **MSNBC**
LIVE > 5:45 AM MT

EMOJI CODE LANGUAGE

32474.009



© CBS MORNINGS

AMERICA'S FENTANYL CRISIS

POLICE CRACK DOWN ON DRUG CONNECTIONS FOR KIDS THROUGH SOCIAL MEDIA

NAS ❤️ 277.53

Source: CBS News

Source: MSNBC



U.S. TACKLES SURGE IN TEEN DRUG OVERDOSE DEATHS



Source: NBC 7



Rescue Me CPR!

Brennan Marsh-Armstrong

OPEN



AGE

CHART

DEVELOPER

COVERAGE YOU COUNT ON

UCSD DOCTOR MAKES NEW APP TO CURB OPIOID EPIDEMIC

Resources for Attorneys

Lawyers Assistance Program (LAP)

The Other Bar

Both services are confidential

Thank You



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