

ALCOHOL USE POLICY TEMPLATE FOR LEGAL EMPLOYERS

The Alcohol Use Policy Template is designed to help Legal Employers set expectations about responsible drinking—which is an important topic in the legal profession.

Problematic Alcohol Use in the Legal Profession

In 2016, the ABA and Hazelden Betty Ford Foundation sponsored [a study](#) based on surveys of 12,825 practicing lawyers from across the U.S. (Krill et al., 2016). The most striking finding was that 21 percent of participants (36 percent when a short form of the assessment was used) qualified as problem drinkers. Problematic drinking was particularly high for lawyers under age 30 (especially men) in junior and senior associate positions at private firms. Participants who were problematic drinkers were much more likely to have higher symptoms of depression, anxiety, and stress.

A 2020 study of binge-drinking by occupation in 32 U.S. states found that the legal occupation had the second highest prevalence of binge-drinking (23.9 percent)—though, fortunately, rated lower than average in frequency of binge-drinking and number of drinks consumed while binge-drinking (Shockey & Esser, 2020).

Problematic Alcohol Use Nation-Wide

The risks of problematic drinking are not limited to lawyers. A 2017 study found a dramatic rise in risky alcohol use and alcohol use disorders across all demographics—causing medical professionals to warn of a “public health crisis” that echoes the opiate epidemic (Grant et al., 2017; Schuckit, 2017). Struggles with [alcohol use](#) have only gotten worse during the COVID pandemic (e.g., Pollard et al., 2020).

Change Efforts in the Legal Profession

After the National Task Force on Lawyer Well-Being published its 2017 [report](#) detailing behavioral health problems and calling for change, the American Bar Association (ABA) launched its [Well-Being Pledge](#) in 2018 asking legal employers to commit to a [7-point framework](#) for improved well-being, which includes addressing alcohol use:

1. Provide robust education on topics related to well-being, mental health, and substance use disorders
2. Curb drinking-based events and offer appealing alternatives when alcohol is served
3. Visibly partner with outside organizations and experts committed to reducing substance use and mental health distress in the profession (e.g., healthcare insurers, lawyer assistance programs, EAPs, experts in relevant fields)
4. Provide confidential access to addiction and mental health experts and resources, including free self-assessment tools
5. Develop proactive policies to support assessment and treatment of substance use and mental health problems (e.g., a post-treatment back-to-work policy)

6. Demonstrate that help-seeking and self-care are core cultural values
7. Highlight that the firm has adopted the 7-point well-being framework to retain and attract top talent.

Impact of Firm Drinking Norms

The reasons that some people engage in risky drinking are complex, and many factors can play a role, including a host of biological, intrapersonal, interpersonal, and environmental factors. As discussed in Anne Brafford's new *Workplace Well-Being Handbook For Law Firms*, the most impactful factor over which legal employers have some influence are peer drinking norms. Altering drinking norms involves changing workplace culture. This is a challenging task but may be the most important determinant for the long-term success of alcohol use disorder prevention programs. Drinking norms (at the firm, department, team, and interpersonal network level) can powerfully influence whether and how much firm members' drink.

Implementing a Policy to Influence Drinking Norms

An essential step in developing responsible drinking norms is to clearly state the firm's expectations about drinking alcohol in a well-communicated and enforced policy. The Policy Template provides organizations with a foundation for preparing such policies tailored to their own culture and needs.

The Policy Template includes citations to research for use by organizations that are considering adopting it. These citations can be omitted from the final policy. Additionally, the Policy Template flags decision-making points where legal or practical concerns may influence legal employers' decision about a particular provision.

Authors and Reviewers of the Policy Template

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- **Bree Buchanan**, JD, MSF, reviewed and provided feedback on the Policy Template. Bree is the President of the Institute for Well-Being in Law. She is a founding co-chair of the National Task Force on Lawyer Well-being and was a co-author of the 2017 report. She served as chair of the ABA Commission on Lawyers Assistance Programs (2017-2020) and as director of the Texas Lawyers Assistance Program from 2013 until retirement in 2018. She is now Senior Advisor with Krill Strategies, Inc., providing consultation on issues related to lawyer well-being and impairment for major legal employers.

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- **Gretchen Rose**, SPHR, MA Organizational Dynamics, reviewed and provided comments on the Policy Template. She is a Director of Human Resources at Cozen O'Connor,
- An experienced employment lawyer also reviewed and commented on the Policy Template.

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ALCOHOL USE POLICY TEMPLATE

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WHY THIS POLICY?

For firm members who choose to drink alcohol, we encourage responsible choices to reduce harmful drinking. This policy explains what we mean by responsible choices and what is expected from you. Wherever laws and regulations are more restrictive than this policy, those laws and regulations prevail.¹

SHOULD I CONSIDER NOT DRINKING AT ALL?

Because we care about your well-being, it's important to point out that alcohol use is a health risk. It has been linked to a wide range of diseases and negative health consequences² even at [moderate levels](#).³ For example, the World Health Organization has classified alcohol as a class 1 carcinogen.⁴ The classification derived from a strong scientific consensus that alcohol causes head, neck, esophageal, liver, breast, and colorectal cancer.⁵ The more alcohol consumed, the higher the risk—and even light drinkers and binge drinkers have a modestly increased risk of some cancers. Additionally, high-risk drinking and alcohol use disorders can impair cognitive functioning and productivity, are linked to many mental health problems, and harm relationships.⁶

Because of the risks and the fact that there are limited or no countervailing health benefits, the best approach is to consider not drinking alcohol.

¹ We recommend viewing the Alcohol Use Policy template as just one element in a comprehensive approach to well-being and behavioral health issues in the workplace. Additional guidance may be needed on, for example, (1) what organizational members should do if they believe they or someone else needs treatment, (2) the confidential process to report concerns, (3) guidelines that will be used for conducting an investigation (if needed), (4) guidelines that cover situations in which organizational members need treatment and time away, and (5) guidelines on integrating organizational members back into the firm. The American Bar Association has published a [Well-Being Policy Template](#) that provides guidance to legal employers on managing suspected lawyer impairment. It provides language covering confidential reporting procedures, responsibilities of the firm and impaired lawyer, and conditions for return to work.

² Grant, B. F., Chou, S. P., Saha, T. D., Pickering, R. P., Kerridge, B. T., Ruan, W. J., ... & Hasin, D. S. (2017). Prevalence of 12-month alcohol use, high-risk drinking, and DSM-IV alcohol use disorder in the United States, 2001-2002 to 2012-2013: results from the National Epidemiologic Survey on Alcohol and Related Conditions. *JAMA Psychiatry*, 74(9), 911-923; Kolar, C., & von Treuer, K. (2015). Alcohol misuse interventions in the workplace: a systematic review of workplace and sports management alcohol interventions. *International Journal of Mental Health and Addiction*, 13(5), 563-583; National Institute on Alcohol Abuse and Alcoholism (n.d.). *Alcohol's effects on the body*. Available at <https://www.niaaa.nih.gov/alcohols-effects-health/alcohols-effects-body>

³ Belluz, J. (2018). It's time to rethink how much booze may be too much. *Vox.com*. <https://www.vox.com/2018/4/24/17242720/alcohol-health-risks-facts>.

⁴ Testino, G. (2011). The burden of cancer attributable to alcohol consumption. *Maedica*, 6(4), 313-320.

⁵ National Cancer Institute (2018). *Alcohol and cancer risk*. Available at <https://www.cancer.gov/about-cancer/causes-prevention/risk/alcohol/alcohol-fact-sheet>.

⁶ Carbia C, López-Caneda E, Corral M, et al. (2018) A systematic review of neuropsychological studies involving young binge drinkers. *Neuroscience and Biobehavioral Review*, 90, 332-49; Grant et al., 2017; Stephens, D. N., & Duka, T. (2008). Cognitive and emotional consequences of binge drinking: role of amygdala and prefrontal cortex. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363, 3169-3179.

WHAT IS RESPONSIBLE DRINKING?

If you choose to drink alcohol, we encourage responsible choices. By this, we mean to drink in moderation, at the right time, in the right place, and for the right reasons. By moderate consumption we mean the level of alcohol consumption that represents a low risk to health and work functioning. Guidelines on what is low risk vary from country to country. The U.S. Guidelines are referenced below.⁷

Moderate Drinking Guidelines

If you choose to drink, we suggest that you follow the U.S. Guidelines that recommend aiming to consume no more than one (for women) or two (for men) drinks per day.⁸ One “drink” is defined as a beverage containing 0.6 fluid ounces of pure alcohol—e.g., 12 fluid ounces of regular beer, five fluid ounces of wine, or 1.5 fluid ounces of 80 proof distilled spirits.

In considering what’s best for you, be aware that even complying with U.S. Guidelines is not without meaningful health risks. Many studies have found that people who had one to two drinks four times or more weekly had a greater risk of dying from all causes than those who drank one to two drinks at a time weekly or less. Other studies have found that risk of death from all causes increased significantly when alcohol use exceeded one standard drink per day.⁹ The amount of alcohol use associated with increased risk of death in these studies was lower than current U.S. guidelines, and risk did not differ between males and females.

Avoid High-Risk Drinking

Avoid high-risk drinking, which, for women, includes consuming four or more drinks on any day and, for men, consuming five or more drinks per day.

Avoid Binge Drinking

Also avoid binge drinking, which is a risky drinking pattern that alternates between episodes of excessive drinking and not drinking.¹⁰ The definition of a “binge” is, within a two-hour period, consuming four or more drinks for women and five or more drinks for men. The U.S. Centers for Disease Control and Prevention (CDC) has called [binge-drinking](#) “the most common, costly, and deadly pattern of excessive alcohol use” in the U.S. Negative effects include cognitive deficits,

⁷ You can find available drinking guidelines for other countries on the [International Alliance for Responsible Drinking](#) website.

⁸ U.S. Department of Health and Human Services; US Department of Agriculture. 2015-2020 Dietary guidelines for Americans. 8th ed. Washington, DC: US Dept of Health and Human Services. Available at <https://health.gov/our-work/food-nutrition/2015-2020-dietary-guidelines/guidelines/>.

⁹ Hartz, S. M., Oehlert, M., Horton, A. C., Grucza, R., Fisher, S. L., Nelson, K. G., ... & Bierut, L. J. (2017). Components of alcohol use and all-cause mortality. *bioRxiv*, doi: <https://doi.org/10.1101/129270>; Wood, A. M., Kaptoge, S., Butterworth, A. S., Willeit, P., Warnakula, S., Bolton, T., ... & Thompson, S. (2018). Risk thresholds for alcohol consumption: combined analysis of individual-participant data for 599 912 current drinkers in 83 prospective studies. *The Lancet*, *391*(10129), 1513-1523.

¹⁰ Maurage, P., Lannoy, S., Mange, J., Grynberg, D., Beaunieux, H., Banovic, I., ... & Naassila, M. (2020). What we talk about when we talk about binge drinking: towards an integrated conceptualization and evaluation. *Alcohol and Alcoholism*, *55*, 468-479.

such as problems with impulsivity, self-control, cognitive flexibility, memory, and decision-making, as well negative mood and decreased emotional competence.¹¹

EXPECTED BEHAVIOURS

1. Be a responsible drinker and a champion for responsible behaviors

Consuming alcohol (even a moderate amount) may impact your behavior, judgment, and coordination. Be aware of this and, in all cases, obey the law and the firm's Code of Business Conduct. Use common sense, and be mindful of your and the firm's reputation. Everyone at the firm is expected to be a champion for responsible drinking. This means to set the right example by making responsible choices about drinking and encouraging others to do so.

2. Avoid drinking alcohol during working hours and at work events

Generally, avoid drinking alcohol during working hours and at work events. A few functions may allow for limited consumption of alcohol during work activities including, for example, firm-sponsored social events and dinner meetings with clients or other firm members.

If you drink alcoholic beverages during working hours, ensure that your judgment, health, safety, and performance are never impaired by alcohol. When you attend firm events, business meals, entertainment, hospitality, or after-work gatherings where alcohol is served, keep in mind that you will be judged as a representative of the firm. In these situations, you are expected to always make responsible choices about alcohol use and be mindful of the impact on your behavior. Consider making plans to consume non-alcoholic beverages or limiting consumption of alcohol at these events. If you are uncertain about how to proceed, consult a supervisor.

3. When you drive, don't drink

If you will be driving a vehicle at any time (at work or privately), you are strongly encouraged not to consume any alcoholic beverages—even if it is allowed under applicable laws. Even at very low levels, alcohol impairs judgment, reaction time, and coordination. There are two main ways to avoid driving under the influence:

- Drink only alcohol-free drinks.
- Take alternative transportation. The firm will reimburse firm members who choose to drink alcohol for ground transportation to and from firm events at which alcohol is served.

Under all circumstances, you should abide by local drink-driving limits.

4. Consider alternative activities and beverages

¹¹ Carbia C, López-Caneda E, Corral M, et al. (2018) A systematic review of neuropsychological studies involving young binge drinkers. *Neuroscience and Biobehavioral Review*, 90, 332–49; Stephens & Duka, 2008.

When planning firm-sponsored social and client events, organizers should consider choosing activities not focused on the consumption of alcohol. Among the firm staff, there will inevitably be those who cannot drink because of medications, religious mandates, need to care for children or seniors, or being in recovery from a substance use disorder. A wide variety of activities where alcohol is not consumed can serve the important functions of aiding social connection among firm members and with clients.

Additionally, at firm events where alcohol is served, appealing non-alcoholic beverages always should be offered. Pressuring or encouraging colleagues to drink alcohol or asking why they're not drinking alcohol should be avoided.

WHAT IS MY RESPONSIBILITY AS A MANAGER?

If you are a partner, leader, or manager, please take seriously your responsibility to be a role model of firm policy. You are asked to lead by example and create awareness and understanding of good decision-making regarding alcohol use. Consuming alcohol should never be considered a requirement for the successful performance of one's professional duties.

If you notice that colleagues' alcohol use endangers their own or someone else's safety or health, or leads to behavior, productivity, or professional competency issues, you should address this and, if needed, coordinate with Human Resources or [*List Contacts*]¹² to connect this colleague with available behavioral health resources.

ADDRESSING ALCOHOL USE PROBLEMS

Persons who have difficulty in meeting professional codes of conduct or work performance standards or who jeopardize the firm's reputation due to alcohol use¹³ will be asked and supported by the firm to be assessed by a qualified healthcare professional and to follow intervention or treatment recommendations.¹⁴

Any disciplinary measures related to alcohol use may be suspended pending the outcome of treatment.¹⁵ If treatment is unsuccessful, or if an employee refuses or neglects to accept or comply with assessment, advice and/or treatment, disciplinary measures will be applied, which may include dismissal.

The firm will treat all communications related to alcohol use issues as confidential to the extent consistent with our duties to protect clients, as well as to comply with state or federal rule,

¹² Include options that do not require no firm contact, such as LAPs and EAPs.

¹³ For judging whether a performance issue is "due to alcohol," some employers articulate a reasonable suspicion standard.

¹⁴ Some employers explicitly retain the right to immediately terminate employees for performance issues due to alcohol use. Note that some states restrict employers' ability to terminate employees for first-time offenses (e.g., Iowa, Minnesota, Rhode Island, and Vermont have special rules).

¹⁵ Note that some employers condition participation in a rehabilitation program on employees' self-reporting a substance use disorder before the condition leads to performance or conduct that warrant disciplinary action. Additionally, employers should consider whether the person will be placed on a medical leave of absence and whether it will be paid or unpaid.

regulation, or statute. All protected health information will be handled in accordance with state and federal laws. Statutory exceptions to confidentiality will be followed, including but not limited to: a threat to harm oneself or others, future criminal conduct, child or elder abuse. Those members involved in oversight of the treatment plan will be limited in number and, for each matter, the firm will specifically address and plan for maintaining confidentiality of information obtained.

For more guidance and information about how to respond when you suspect that a colleague may be developing an impairment due to alcohol or other substance use, please review the firm's Member Impairment Policy.¹⁶

This Policy is in no way intended to interfere with the firm's obligations to provide reasonable accommodations to those who are disabled under the Americans with Disabilities Act. Please see the Firm's EEO and Reasonable Accommodation policies for further information.

GETTING HELP

The firm maintains an Employee Assistance Program (EAP), which provides help and guidance to firm members who may have an alcohol or other substance use disorder. Additionally, lawyers may access their state's Lawyer Assistance Program (LAP) for assistance with substance use issues. The firm encourages all firm members who believe that they have or might have problems with substance use to seek rehabilitation. Both the EAP and LAPs are designed to ensure that firm members who develop drug or alcohol use problems are medically evaluated and referred for appropriate services (e.g., brief intervention, outpatient treatment, intensive outpatient treatment, or residential treatment/rehabilitation). Both programs also adhere to strict confidentiality guidelines.

For information on how to contact the firm's EAP provider or a local LAP [*Provide instructions for contacting the EAP or LAP*].

SPEAK UP

If you have any concern regarding alcohol use issues or a possible violation of this policy, please speak up promptly. Raise any concern you have through your manager or [*List Other Contacts*].¹⁷

QUESTIONS?

If in doubt, discuss any questions you may have with your colleagues or consult your manager, Human Resources, or [*List Other Contacts*].¹⁸

¹⁶ For assistance preparing such a policy, see the ABA's [Well-Being Policy Template](#), which provides guidance to legal employers on managing suspected lawyer impairment.

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