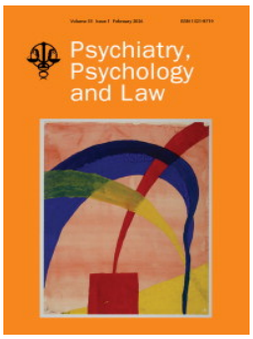

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A tool for wellbeing? Tribunal penalty decisions in cases involving lawyers' alcohol and other drug use

K. Kersey[a], O. Kelly[b], M. Rychert[c], L. Surgenor[d] and K. Diesfeld[b]

[a]*Centre for Addiction Research, Social and Community Health, University of Auckland, Auckland, New Zealand;* [b]*School of Public Health and Interdisciplinary Studies, Auckland University of Technology, Auckland, New Zealand;* [c]*SHORE and Whariki Research Centre, Massey University, Auckland, New Zealand;* [d]*Department of Psychological Medicine, University of Otago, Christchurch, New Zealand*

Little is known about how alcohol and drug use feature and are considered in lawyers' disciplinary decisions. This article explores the features of lawyers' disciplinary cases where alcohol and drugs were present and the application of rehabilitative principles in penalty decisions using a five-year cohort from the New Zealand Lawyers and Conveyancers Disciplinary Tribunal (2017–2021). Case features, penalties ordered, and details of application of rehabilitative principles were extracted. The data were analysed thematically. Eight of 94 decisions referenced lawyers' use of alcohol and/or drugs. Rehabilitative themes were: (1) rehabilitation as an important principle; (2) insight and rehabilitative steps prior to hearing relevant to penalty; (3) reliance on voluntary undertakings; and (4) time away from practice used as a rehabilitative tool. We argue for a consistent rehabilitative approach that promotes the wellbeing and fitness to practice of disciplined lawyers, enhancing profession sustainability and public safety.

Keywords: Lawyers' discipline; rehabilitation; alcohol; drugs; penalties; New Zealand.

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Introduction

Legal practice is associated with high levels of at-risk alcohol consumption and use of other drugs. Survey studies have estimated that as many as 20% of American lawyers (Krill et al., 2016), 22% of Polish lawyers (Chrobak-Kasprzyk & Jośko-Ochojska, 2020), and over 30% of Australian lawyers (Chan et al., 2014) drink alcohol at hazardous levels. As defined by the World Health Organization, hazardous drinking is a drinking pattern that increases the risk of, or results in, harm to physical or mental health or negative social consequences (Babor et al., 2001). Although less prevalent than alcohol consumption, use of prescribed and illegal drugs by lawyers, including sedatives, cannabis, stimulants, and cocaine have also been reported (Krill et al., 2016; Leignel et al., 2014). Law students report high levels of at-risk drinking and prevalence of substance use, suggesting that use of psychoactive substances may be embedded in the profession's culture at an early stage (Bogowicz et al., 2018; Rosky et al., 2022). A study published in 2016 found that approximately one-quarter to one-third of law students reported that they

Correspondence: Kate Kersey Centre for Addiction Research, Department of Social and Community Health, Faculty of Medical and Health Sciences, University of Auckland, Auckland, Aotearoa New Zealand. Email: kate.kersey@auckland.ac.nz
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engaged in regular binge drinking or drug use (Organ et al., 2016).

These rates of alcohol and substance use are of concern due to workplace and personal consequences. Alcohol use is associated with short- and longer-term health harms, and heavy drinking is associated with acute harms as well as impaired performance, absenteeism, and an intention to leave the workplace (Anker & Krill, 2021; Krill et al., 2016; Thørrisen et al., 2019). Impaired performance jeopardises client interests and carries the threat of discipline through findings of practitioner misconduct. Illegal activity related to alcohol and drugs (e.g. driving under the influence of alcohol or possession of illegal drugs) may also result in criminal proceedings and disciplinary action.

Alcohol and other drugs, mental health, and the legal profession

Researchers have sought to understand the drivers of harmful alcohol and other substance use in lawyers. International research has shown that due to the stressful, demanding, competitive and at times traumatic, nature of legal practice, lawyers experience higher rates of mental health issues such as depression, anxiety, and burnout than the general population (Chlap & Murray, 2025; Popa et al., 2024; Scott & Freckelton, 2024). Research from the United States has identified links between perceived stress and loneliness with predicting suicide ideation among attorneys (Anker & Krill, 2021).

The relationship between alcohol, substance use, and mental health is complex. It is clear, however, that distress and low mental health and wellbeing are associated with harmful drinking patterns, and mental health conditions and alcohol use disorders occurring together are common (Mental Health Foundation/mauri tū mauri ora & Alcohol Healthwatch/Whatkatūpato Waipiro, 2025). Binge drinking has also been found to increase the risk of mental health conditions, and alcohol use disorder is a risk factor for suicide (Cobiac & Wilson, 2018; Mental Health Foundation/mauri tū mauri ora & Alcohol Healthwatch/Whatkatūpato Waipiro, 2025).

With alcohol embedded in Western societies as a means for dealing with stress and life's difficulties (McEwan et al., 2013; Peltier et al., 2019), it is unsurprising that alcohol and drug use have been linked to demanding legal work environments and related to mental health issues experienced by lawyers (Anker & Krill, 2021; Chan et al., 2014; Popa et al., 2024; Scott & Freckelton, 2024). Although, a recent review found an uncertain relationship between job strain and alcohol use overall (Chlap & Murray, 2025). However, both high rates of mental health issues and hazardous alcohol use were found, leading the review authors to suggest that drinking might have become a maladaptive coping strategy and/or attributable to social and cultural norms (see below) (Chlap & Murray, 2025). To the extent that the current economic downturn and persistent inequalities – particularly related to gender and ethnicity (Nelson et al., 2023; New Zealand Law Society/Te Kaui Ture o Aotearoa, 2022, 2023) – affect the legal profession, some lawyers may also be experiencing increasing workplace and personal stressors, potentially enhancing the role of alcohol in their lives (Institute of Alcohol Studies, 2024; Thomson Reuters Institute, 2025).

As has been argued more generally with alcohol and drug use (Babor, 2022), it is important to consider how alcohol is socially embedded in legal practice (Braff, 2024; Chlap & Murray, 2025; Krill et al., 2016). Drinking alcohol has been an accepted way for lawyers to relieve stress, relax, and celebrate following completion of a piece of work or the end of a busy week (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2021). For example, a recent high-profile report on sexual harassment, bullying, and discrimination within the legal profession in Aotearoa New Zealand observed that the profession is

characterised by a '"work hard, play hard" culture that enables and even encourages excessive alcohol use' (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2018). It is within this context that disciplinary responses to practitioners' misconduct where alcohol and drug is are present must be considered.

Alcohol and drug use, professional discipline, and the potential for rehabilitation

Use of alcohol and drugs (prescription or illegal) can be problematic as it can impair lawyers' performance and conduct in the workplace. Although meeting the criteria for hazardous drinking itself does not mean that impairment exists, practitioner impairment and associated poor performance or conduct may occur due to heavy drinking episodes or alcohol or substance use disorder (terms that include prior concepts of abuse and dependence) (American Psychiatric Association, 2022). In turn, this may lead to negligence and professional misconduct that attracts the attention of the relevant legal regulatory authority and, in serious cases, disciplinary action. Professional discipline charges may also follow alcohol- and drug-related criminal convictions – even if unconnected to practice – such as driving while intoxicated or possession/use of illegal substances by legal professionals.

Internationally, some professional organisations related to medicine, nursing, and law recognise that problem substance use qualifies as a health issue for which professionals should receive treatment (American Bar Association, 2025; Candilis et al., 2019; Federation of State Physician Health Programs, 2024; Intervention Project for Nurses, 2025). This may also extend to taking a health or impairment approach to related professional misconduct, including diversion to alternative pathways (Intervention Project for Nurses, 2025). In Aotearoa New Zealand, a health pathway is available to registered health professionals and teachers when conduct of concern arises and issues of mental or physical impairment, including problematic alcohol or drug use, exist (Rychert & Diesfeld, 2019; Surgenor et al., 2024). Despite longstanding arguments as to the benefits of such a health pathway for lawyers in the United Kingdom and the USA (Brooke, 1997), no such pathway currently exists for lawyers in Aotearoa New Zealand (Diesfeld et al., 2024).

As a result, the main opportunity for a rehabilitative response to poor performance and misconduct to occur is through Aotearoa New Zealand's legal disciplinary tribunal, the Lawyers and Conveyancers Disciplinary Tribunal (NZLCDT). If found guilty of negligence, unsatisfactory conduct, or misconduct, the NZLCDT applies a range of penalty principles which seek to balance considerations such as public safety and deterrence against the prospect of rehabilitation. For lawyers with impairment issues or convictions relating to alcohol and drug use, it has been argued that, to the extent these issues played a part in their offending, the NZLCDT should prioritise rehabilitation back to safe practice (e.g. Moore et al., 2015).

Exploring legal disciplinary cases where alcohol and drug use is present

In recent years, there has been greater concern about and attention given to the mental health and wellbeing and substance use of lawyers (Anker & Krill, 2021; Chan et al., 2014; Chlap & Murray, 2025; Jarden et al., 2024; Krill et al., 2023). However, there has been little research about how alcohol and drug issues are considered in disciplinary decisions by the NZLCDT, apart from an exploratory study considering a range of lawyers' physical and mental impairments including substance use by Moore et al. (2015). Given the potential for impairment due to the psychoactive nature and dependence potential of these substances, the strong links with mental health, and the embedded nature of alcohol – and perhaps even drug use – in the legal profession, this work focused on Tribunal cases where alcohol and drug use is present. Indeed, early research

from the USA suggested that lawyers with problematic alcohol and/or other substance use comprise a significant proportion of disciplinary cases (Bloom & Wallinger, 1988; Morehouse, 1982; see the discussion in Organ, 2022). We explicitly consider how rehabilitation principles are discussed and applied in this context due to the societal emphasis of recovery from problematic alcohol and drug use and the potential for re-integration to safe practice. This has implications for alcohol and drug treatment and rehabilitation of professionals, an important field in itself, but also offers insight into how the Tribunal treats other physical and mental health impairments.

This work therefore seeks to: (i) identifyand understand the features of disciplinarycases involving alcohol and drug use by practitioners in Aotearoa New Zealand, and, (ii) illuminate how the NZLCDT discusses and applies the principle of rehabilitation in its decisions on penalty. The analysis examines the factors the NZLCDT considers and penalties given. These findings will then be used to reflect on whether there are opportunities to integrate principles and processes that promote the wellbeing and fitness to practice of legal practitioners, enhancing profession sustainability and public safety. We first outline the regulatory system for discipline of lawyers in Aotearoa New Zealand and how alcohol and drug use may become relevant.

An overview of the regulatory system for lawyers in Aotearoa New Zealand

Aotearoa New Zealand's regulatory scheme

Under the Lawyers and Conveyancers Act 2006 (NZ) (LCA), Aotearoa New Zealand established a scheme and processes for the regulation and discipline of legal practitioners. The LCA invested regulatory powers in the New Zealand Law Society (NZLS) (also a representative body for lawyers) as well as a directive for it to operate the Lawyers Complaints Service (s 121). Two other relevant bodies established by the LCA are the Legal Complaints Review Officer (s 190) and the NZLCDT (s 226), which is operated by the Ministry of Justice.

Issues related to performance or conduct are considered in the first instance by a volunteer-run regional Standards Committee established under the LCA as part of the Complaints Service (s 130 LCA). This referral may be initiated through a complaint made to the Complaints Service or as the result of an investigation by a Standards Committee on its own motion (s 130 LCA). While the Standards Committee has statutory powers under the LCA to provide a range of actions in response to an issue, serious matters may be referred to the NZLCDT for disciplinary consideration (s 154 LCA). A complainant may seek review of the Standards Committee's decision by the Legal Complaints Review Officer, who also has discretion to refer the matter to the NZLCDT (s 192 LCA).

The grounds of discipline that the NZLCDT considers are set out in s 241 of the LCA and comprise three levels of conduct of varying severity: (a) misconduct; (b) unsatisfactory conduct that is not so gross, wilful, or reckless as to amount to misconduct; or (c) negligence and incompetence in a professional capacity to a degree or frequency that reflects on fitness to practice or brings the profession into disrepute. In addition, lawyers can be disciplined if they are convicted of an offence punishable by imprisonment that reflects on fitness to practice or brings the profession into disrepute.

Following a decision on liability (usually outlined in a published decision), if the practitioner is found guilty on any of the charges, the NZLCDT then conducts a penalty hearing (from which a penalty decision is also usually published). The NZLCDT has a range of powers when applying penalties, including strike-off, suspension, censure, restrictions on employment, and a fine. Conditions on practice may also be ordered relating to advice in relation to practice management, practical training and education, or

other conditions that the NZLCDT sees fit (s 156, s 242 LCA).

The primary objective of discipline is to protect the public and maintain professional standards. Over time, the decisions of the NZLCDT have articulated principles and relevant factors to consider in determining penalties. These include seriousness of the offending, the extent of insight and remorse, past disciplinary conduct, engagement in Tribunal proceedings, and the potential for rehabilitation (e.g. see Gardner-Hopkins [2022] NZLCDT 2).

Relevance of alcohol and drug use by lawyers in the disciplinary process

Alcohol and drug use by lawyers may be relevant to the disciplinary process in several ways. Practitioners may come before the NZLCDT because of possession or use of illegal drugs such as cannabis, cocaine, or methamphetamine, which are prohibited under the Misuse of Drugs Act 1975 (NZ). Most criminal offences under this Act would trigger the conviction ground of s 241 of the LCA because they include imprisonment as a potential penalty. Additionally, use of alcohol and drugs may also be present in other instances of criminal offending, for example, assault.

Problematic alcohol or drug use (excluding prescription drug use under clinical supervision) may also contribute to poor professional conduct, such as acting in an unprofessional manner or resulting in negligence of professional duties. However, while it may be argued that a practitioner diagnosed with alcohol use disorder or drug addiction or dependence is by definition 'impaired' (Moore et al., 2015), this addiction or dependence may not have been relevant to performance or conduct. The extent to which the Tribunal considers that the alcohol or drug use underpinned or was reflected in the performance or conduct in question may determine how it is treated in penalty decisions by the NZLCDT. It is likely, however, that in some cases this will be difficult to determine. Practitioners may also only raise alcohol and drug use and consequent 'impairment' as a plea in mitigation in penalty decisions.

Applying the principle of rehabilitation

Rehabilitation as a principle in sentencing after a finding of misconduct or guilt is recognised in health, employment, professional, and criminal justice settings (Surgenor et al., 2023). This is underpinned by a number of different theoretical perspectives particularly in health and criminal justice that may have applicability in professional discipline settings (see Surgenor et al. (2023) for a more fulsome discussion of these). In short, theories of rehabilitation in health such as 'person-centred rehabilitation' (Australian Commission on Safety and Quality in Health Care, 2011) and the 'common sense model' (Cannon et al., 2022) focus on the person and their recovery. Criminal justice theories are more wide-ranging from those that focus on addressing the reasons for offending and balancing risk of future offending ('risk-need responsivity', Andrews and Dowden (2007)) to those which include all parties in the restoration process ('restorative justice', Hass-Wisecup and Saxon (2026)), and those that utilise a therapeutic lens and consider the psychological and longer-term impacts of both the process and penalty on the person ('therapeutic', Wexler (2000) and 'psychological', Sellers and Arrigo (2022) jurisprudence).

To date, in NZLCDT cases applying the rehabilitation principles there is some evidence of a pro-restoration to practice approach, including recognition of the personal and societal value of maintaining legal careers (e.g. Ravelich [2020] NZLCDT 22) (Diesfeld et al., 2024; Surgenor et al., 2024; Surgenor et al., 2023). Conditions on practice ordered in penalty decisions, especially in cases where suspension or cancellation of registration penalties are absent, are often seen as rehabilitative and a way for the practitioner to return to safe practice (Surgenor et al., 2024). Rehabilitative conditions are most likely to include supervision; mentoring; health

assessment or treatment; education; and training (Surgenor et al., 2024). It should be noted however that there has been little articulation to date in NZLCDT cases of explicit theory or principles underpinning how the NZLCDT approaches application of this principle.

Methods

This exploratory research was part of a larger study analysing how rehabilitation features in disciplinary Tribunal decisions in Aotearoa New Zealand (Surgenor et al., 2024). The study included data extraction, coding, and analysis of the NZLCDT decisions over a five-year period from January 2017 to December 2021 where at least one disciplinary charge was established by the NZLCDT, i.e. 'withdrawn' or 'no penalty' decisions ($n = 1$) were excluded. The analysis in the present article focused only on cases where lawyers' use of drugs or alcohol was mentioned in the NZLCDT written decision. From the total of 94 NZLCDT decisions with disciplinary charges established by the Tribunal between 2017 and 2021, eight cases included reference to lawyers' use of drugs and/or alcohol. The Auckland University of Technology Ethics Committee (AUTEC) deemed that because the research involved existing publicly available documents or data, ethics approval was not necessary.

Each case included all decisions related to a single set of charges; substantive, penalty, name suppression, costs, and appeal decisions were all counted as one case. Each case represents a separate practitioner. Electronic copies of those cases were downloaded from the NZLCDT page on the Aotearoa New Zealand Ministry of Justice website.

Three authors (KK, OK, and MR) independently read and extracted the following data from the eight cases: gender, type of practice, relevant substance, type of conduct, whether or not the conduct impacted clients, LCDT charge/s, previous offending, and penalty. We also identified excerpts in the penalty decisions about prior or current steps being taken by the lawyer in relation to rehabilitation for alcohol and drug use or any related mental and physical health condition. Lastly, we extracted the NZLCDT's reasoning in relation to penalties ordered in these penalty decisions and how rehabilitation (if at all) was discussed and applied as a penalty principle.

Data analysis comprised summarising the characteristics of disciplined lawyers and what substances were involved. Three authors (KK, OK, and MR) then analysed the excerpts from the penalty decisions to identify key insights about how the Tribunal applied penalty principles and factors, particularly that of rehabilitation, in determining penalties in these cases. This included whether conditions were used for rehabilitative purposes. Viewing these two analyses together, we used principles of reflexive thematic analysis (Braun et al., 2019) to develop themes regarding application of rehabilitative principles and conditions in these NZLCDT penalty decisions. Reflexive thematic analysis is a qualitative approach to discursive data informed by assumptions about the nature of social phenomena and how we can create knowledge about it (Braun et al., 2019). In this case, we see professional discipline as a system shaped by shared societal meanings underpinned by a range of social and material structures (Elder-Vass, 2012). Using reflexive thematic analysis enabled us to utilise existing conceptualisations in relation to alcohol and drug use and practitioner discipline, while at the same time ensuring the stages of data extraction, coding, and development of themes (meaning-based patterns) were open and iterative (Braun et al., 2019).

Findings

Key characteristics of the eight cases are summarised in Table 1, including: relevant substance(s), type of conduct, whether the conduct affected clients, the charge under the LCA, rehabilitation steps taken by the practitioners prior to trial, and the penalties

Table 1. Key characteristics of NZLCDT cases between 2017–2021 that mention drugs and alcohol.

Cases	Substance/practioner conditions/previous discipline	Conduct	Clients affected?	Charge	Rehab steps taken	Penalty
Hintze [2017]	Alcohol and methamphetamine	Incompetent care and unethical business practices	Y	Misconduct	• In and outpatient drug programme and ongoing attendance at Alcoholics Anonymous and Narcotics Anonymous	• 18 months suspension • Costs • (Voluntary undertaking given – random breath testing)
Cropper [2017]	Methamphetamine/ Alcohol and drug addiction	Criminal conviction – Misuse of Drugs Act 1975	N	Convicted of offence	• In and outpatient drug programme and ongoing attendance at Alcoholics Anonymous and Narcotics Anonymous	• 3 month suspension • Costs • (Voluntary undertaking given – random drug testing)
Copland [2019]	Alcohol	Criminal conviction – Land Transport Act 1998 (excess blood alcohol/ driving while disqualified)	N	Convicted of offence x 2	• Time off practice • Ongoing monthly counselling sessions	• Fine • Censure • Costs
A Practitioner [2020]	Methamphetamine/ Redacted illness – not fully recovered	Unprofessional communication and incompetent care Criminal conviction – Misuse of Drugs Act 1975	Y	Misconduct/ Unsatisfactory conduct	• None discussed	• Costs • (Significant delays operated as period of suspension) • (Voluntary undertaking given – practice under direct supervision)

(*Continued*)

Table 1. (*Continued*).

Cases	Substance/practioner conditions/previous discipline	Conduct	Clients affected?	Charge	Rehab steps taken	Penalty
Ravelich [2020]	Alcohol/ Alcoholism/ Previous disciplinary findings related to alcoholism	Unprofessional conduct in relation to liquor licence	N	Misconduct/ Unsatisfactory conduct	• Rehabilitation and support programme	• Censure • Costs • (Voluntary undertakings given – alcohol and drug course/ mentoring and supervision)
Healy [2020]	Alcohol	Criminal conviction – overseas (assault)	N	Convicted of offence	• Alcohol and drug course	• Censure • Costs
Woodward [2020]	Alcohol/ Depression, stress, gambling	Incompetent care and unethical business practices	Y	Misconduct	• Stopped drinking (18 months) and now much reduced consumption • Ongoing psychiatrist and psychologist sessions	• 9 month suspension (taking into account significant delays) • Costs • (Voluntary undertaking given – restriction on operating trust account)
Stevenson [2020]	Alcohol/ Alcoholism/Previous disciplinary findings related to alcohol	Unprofessional communication and incompetent care	Y	Misconduct	• Voluntary inpatient treatment • Inconsistent engagement with services	• 18 months suspension • Conditions prior to resuming practice (undertakings and supervision) • Costs

ordered (including any voluntary undertakings made by the practitioner). These features of cases are then summarised. Following this, we present four main themes incorporating the above results with our analysis of the Tribunal discussion of penalties and rehabilitation in these cases. These included: (1) rehabilitation as an important principle; (2) insight and rehabilitative steps prior to hearing relevant to penalty; (3) reliance on voluntary undertakings; and (4) time away from practice used as a rehabilitative tool.

Features of NZLCDT cases with alcohol and drug involvement

Overall, a small percentage of total cases (8 out of 94; 8.5%) involved alcohol and drug use. All lawyers were male. Four of the cases involved criminal convictions: two for possession of methamphetamine (Cropper [2017] NZLCDT 6 and A Practitioner [2020] NZLCDT 32), one for criminal assault under the influence of alcohol (Healy [2020] NZLCDT 4), and one where the lawyer was convicted for driving while above the alcohol limit and then convicted again for driving while disqualified (Copland [2019] NZLDCT 29). In all these cases, the alcohol or drug use was either the foundation of the crime or was considered material to the offending (e.g. Healy [2020] NZLCDT 4 where the influence of alcohol was relevant to the conduct giving rise to the assault charge). Only one case involved criminal convictions (A Practitioner [2020] NZLCDT 32) that also involved conduct related to clients and professional duties. None of these practitioners had prior criminal convictions.

The remaining four cases which were not the result of a criminal conviction, referenced *alcohol* use (Ravelich [2020] NZLCDT 22, Woodward [2020] NZLCDT 9, Hintze [2017] NZLCDT 13, and Stevenson [2020] NZLCDT 42), with the Hintze case also involving methamphetamine use although without conviction. In three of these cases, drug and/or alcohol use and dependence appeared relevant to the offending, but in no cases did the court expressly discuss whether the drug or alcohol use had led to 'impairment' (see discussion in Moore et al., 2015). In contrast, in Woodward [2020] NZLCDT 9 the practitioner submitted that he had experienced depression, which was related to the conduct, with alcohol use noted as an underlying cause of compromised functioning. Stevenson [2020] NZLCDT 42 and Ravelich [2020] NZLCDT 22 had previous disciplinary convictions (both were related to alcohol).

In five cases (Hintze [2017] NZLCDT 13; Cropper [2017] NZLCDT 6; Ravelich [2020] NZLCDT 22; Healy [2020] NZLCDT 4; Stevenson [2020] NZLCDT 42), the practitioners had undertaken rehabilitative steps in relation to alcohol or drug use prior to the penalty hearing. This included: participation in inpatient and outpatient alcohol and drug courses or programmes and attendance at Alcoholics Anonymous or Narcotics Anonymous. There is no delineation as to what constitutes a course or a programme by the NZLCDT; these are simply the descriptions given by the practitioners in these cases. In Woodward [2020] NZLCDT 9 and Copland [2019] NZLDCT 29 where the emphasis was on mental health conditions with associated alcohol use, more general rehabilitative steps had been undertaken including voluntary cessation of drinking, time out from practice, and visits to mental health professionals. The one practitioner that had not undertaken rehabilitation steps (A Practitioner [2020] NZLCDT 32) was noted as having ongoing drug problems.

In terms of penalties imposed, no practitioners were struck off but four were suspended. Three of the suspensions related to conduct that affected clients, namely failing to undertake work in an ethical and professional manner. For the Hintze case [2017] NZLCDT 13 that involved both methamphetamine and alcohol misuse, and the Stevenson case [2020] NZLCDT 42 where the practitioner remained in active alcohol addiction at the time of trial, the longest terms of suspension (of 18 months)

were given. The practitioner in the third case (Woodward [2020] NZLCDT 9 where the conduct affected clients was suspended for nine months, although the NZLCDT took into account lengthy delays in trial proceedings which it said had effectively amounted to a period of suspension. The remaining decision (Cropper [2017] NZLCDT 6) where suspension was ordered was for three months resulting from a criminal conviction for methamphetamine use. No clients were affected in that case. In all four decisions where suspension was ordered as a penalty, rehabilitative steps had been taken by the practitioner prior to the hearing.

The NZLCDT only ordered conditions on practice in one case (Stevenson [2020] NZLCDT 42) involving incompetent care and unprofessional communication. The NZLCDT ordered that, on return to practice, Stevenson would have to make (unspecified) undertakings as well as obtain a supervisor. However, in five cases the NZLCDT accepted voluntary undertakings. These included undertakings as to drug testing, an alcohol and drug 'course' (as suggested by the practitioner), mentoring and supervision, and restrictions on practice (e.g. on operating a trust account).

NZLCDT consideration of alcohol and drug use in penalty decisions

Rehabilitation an important principle

In all cases, the principle and concept of rehabilitation as a penalty principle was present, albeit with greater focus in some decisions. For example, the principle of rehabilitation was detailed clearly in Ravelich [2020] NZLCDT 22:

> One of the primary purposes of penalty – once protection of the public is assured – is that of rehabilitation of the practitioner. Not only is this a human response by the disciplinary process, but it is also a sensible and practical factor given the years and cost of training of a lawyer and the loss to the public if a good lawyer is no longer able to continue to practice. It is proper, that if safeguards can be put in place … that a lawyer be able to continue to serve his or her community provided he or she addresses the underlying issues which have brought him or her to the notice of the disciplinary body [para 16].

In the above excerpt, the NZLCDT provided a multifaceted explanation for rehabilitation, including it being the compassionate response in sentencing in line with principles of therapeutic jurisprudence. The emphasis on the cost to train lawyers and consequent loss to local communities and the public if lawyers stop practising also reflects a focus on workforce sustainability. The NZLCDT also noted the practitioner's contribution to providing public criminal legal services for defendants in a relatively less privileged geographical area.

Similarly, in Copland [2019] NZLDCT 29, a case that involved drink-driving and a subsequent conviction for driving while disqualified, the NZLCDT emphasised rehabilitation as a purpose of penalty:

> [W]e were impressed by the level of insight that that demonstrated, which is relevant because it goes to one of the purposes of penalty, which is rehabilitation of the practitioner [para 5].

Although rehabilitation as a principle was not emphasised in a similar manner in the other decisions (e.g. Woodward [2020] NZLCDT 9; A Practitioner [2020] NZLCDT 32, Healy [2020] NZLCDT 4), principles or steps relating to rehabilitation were discussed. This indicates the importance of rehabilitation as a principle for the NZLCDT when considering penalty.

Insight and rehabilitative steps prior to hearing relevant in determining penalty

The penalty decisions highlighted the extent to which the NZLCDT considers insight and rehabilitative steps taken (and that continue to be taken) in determining penalties. In Cropper [2017] NZLCDT 6, a case in which a practitioner was convicted for methamphetamine

possession and where the practitioner acknowledged a serious alcohol and drug addiction, the practitioner had taken significant rehabilitation steps. This included outpatient and inpatient drug treatment programmes, as well as attendance at Alcoholics Anonymous and Narcotics Anonymous meetings. Additionally, the practitioner gave a voluntary undertaking for random drug testing. The decision stated:

> We give this practitioner considerable credit for his actions (not words) in demonstrating insight and determination to address his addiction by the rehabilitative steps that he has taken and continues to take … Responsible acceptance of the wrongfulness of the conduct, reflected in genuine insight and rehabilitative efforts, is an essential element of the penalty analysis in drug and alcohol-related cases [para 15].

In considering all the factors of this case, the NZLCDT ordered a penalty of three months suspension and costs, which contrasts with suspensions given of up to eighteen months in other cases (although involving different conduct relating to clients and ongoing dependence issues).

Similarly, in Copland [2019] NZLDCT 29, a case that involved drink-driving and a subsequent conviction for driving while disqualified, the NZLCDT gave considerable weight to the practitioner's steps of taking a month away from practice and engaging in sessions with a psychologist. After noting that insight is relevant to rehabilitation, the decision stated:

> In terms of mitigating factors, certainly after the second offence he did everything right. He reported to all of the people that mattered, and he immediately sought help.

However, even though the NZLCDT favourably noted rehabilitative steps taken in relation to alcohol and drug addiction in Hintze [2017] NZLCDT 13 and Stevenson [2020] NZLCDT 42, significant suspensions of 18 months were still given. These cases can be distinguished due to high levels of addiction and conduct that impacted on clients; while Hintze was in recovery at the time of the hearing, Stevenson remained 'in the grips of addiction' [para 46].

Overall, this highlights the emphasis the NZLCDT places on insight and having taken rehabilitative steps in discussing appropriate penalties, although this will be balanced against public safety and the seriousness of offending. Focussing on the efficacy of rehabilitation aligns with the criminal justice approach of assessing risk and ensuring that rehabilitative steps taken by the practitioner (although often voluntary in these cases) will address the underlying causes.

Reliance on voluntary undertakings

The analysis highlighted the relative infrequency of conditions ordered by the NZLCDT; only one penalty decision included ordered conditions. For Stevenson [2020] NZLCDT 42, suspension of 18 months was imposed, previously given undertakings (unspecified in the decision) were imposed as a condition, as well as a requirement for supervision and mentoring, on resumption of practice. This case involved a practitioner who remained actively addicted.

However, voluntary undertakings were made in six cases – including undertakings such as random breath testing, attendance at an alcohol and drug course (as suggested by the practitioner), mentoring and supervision, and restrictions on practice. These undertakings were reported across cases; from where the conduct affected clients, where rehabilitation steps had already been taken, and where none were discussed.

Based on these decisions, it appears the NZLCDT has developed a practice whereby it makes use of voluntary undertakings to the NZLS. Instead of the Tribunal considering what conditions it wishes to impose on the practitioner – either as the practitioner continues to work or following a period of

suspension – it appears that the practitioner determines the undertakings (potentially in conjunction with the NZLS) and then the NZLS is responsible for ensuring their compliance.

This has two main implications. First, the NZLCDT is not involved in crafting the conditions it sees as relevant to ongoing fitness to practice and rehabilitation back to safe practice. Although the NZLCDT has the power to order conditions under the LCA in relation to alcohol and drug use, which would likely be like those voluntarily undertaken, it is rarely using this discretion and thereby arguably falling short of engaging fully in the pro-therapeutic aspect of its sentencing function. This may reflect that the Tribunal does not see itself as having the appropriate mandate or expertise to craft such conditions. The Tribunal here may perceive that any conditions need to be based on expert evidence – both as to the practitioner's state of mind and the efficacy of the conditions – that they will in fact address the risk factors underpinning the offending (i.e. as would be required in the risk-needs-responsibility approach (Surgenor et al., 2023)). While beneficial to ensuring appropriate conditions are implemented, this emphasis may increase NZLCDT's perception that it is either ill-resourced or ill-equipped in this area.

Second, relying on voluntary undertakings defers responsibility to the practitioner and regulator (the NZLS) rather than these actions being *penalties* imposed by the Tribunal. This may detract from their importance as an essential part of the penalty. While it could be argued that voluntary understandings are constructive in obtaining practitioner engagement with the rehabilitative process and ensuring suitability of steps taken, it also places the onus on practitioners to find appropriate rehabilitative actions, e.g. finding a mentor or supervisor, or an appropriate alcohol or drug course. In reality, there may be limited options available to practitioners, such as being able to locate a supervisor or mentor. This is particularly the case where mentoring and supervision are often provided without payment and seen as a voluntary and informal part of legal practice in Aotearoa New Zealand (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2024). As a partly volunteer-run organisation, the NZLS may also find their enforcement difficult within existing resources.

Time away from practice used as a rehabilitative tool

In some cases, the NZLCDT acknowledged time away from practice as a rehabilitative mechanism. In the case of Copland [2019] NZLDCT 29, the NZLCDT clearly stated that one of the purposes of suspension was time to reflect on factors that had led to the offending conduct. Although Copland ([2019] NZLDCT 29) was not suspended, the NZLCDT observed that he had taken time off practice and undertaken monthly counselling sessions.

> In terms of mitigating factors, certainly after the second offence he did everything right. He reported to all of the people that mattered, and he immediately sought help. He took time away from his practice to think about what it was that had got him to where he found himself; and that is often in itself one of the purposes of suspension from practice [para 10].

The Copland case highlights that the NZLCDT will take into account voluntary time away from practice as an effective suspension. In other cases, the NZLCDT held that delays in the legal proceedings effectively meant that the practitioner had served a period of suspension (Hintze [2017] NZLCDT 13). As stated in A Practitioner [2020] NZLCDT 32:

> This has been one of those rare cases where delay has proven therapeutic, and resolution has been worth the wait. The public has been protected, because the practitioner stepped away from practice

> while unwell, even requesting voluntary removal from the Roll in the early stages. And in the end, the career of a competent lawyer has been preserved [para 5].

In Stevenson [2020] NZLCDT 42, this extended further to the NZLCDT using its powers of adjournment to allow the practitioner time to attend rehabilitation and make further attempts at abstinence, prior to the penalty hearing.

Discussion

Overall, 8.5% of cases from 2017 to 2021 mentioned alcohol or drug use by the practitioner. Although the sample is too small to consider statistical significance, this can be contrasted with the high number of cases that early US commentators reported were associated with problematic alcohol and drug use (Bloom & Wallinger, 1988; Morehouse, 1982; see the discussion in Organ, 2022). Similar low numbers can be seen in a previous Aotearoa New Zealand study of Health Practitioners Disciplinary Tribunal decisions between 2004 and 2014 which found that of 25% cases that referred to a practitioner a health condition, approximately 25% were related to substance use (Surgenor et al., 2017). In contrast, a study of cases from the New Zealand Teachers Disciplinary Tribunal (from 1 January 2017 to 31 January 2018) found eight out of 41 cases published in a 13-month timeframe (19.5%) involved a reference to teachers' alcohol and drug use (Rychert & Diesfeld, 2019).

It may be that current NZLS and NZLCDT processes are not sufficiently capturing where alcohol and drugs are relevant factors in poor conduct or performance (e.g. alcohol and drug screening does not occur in disciplinary cases, see Organ (2022)). This may be due, as we discuss below, to the NZLS and NZLCDT not considering this is an area in which it should have expertise or responsibility. It may also be because there has historically been a low level of reporting of complaints about sexual harassment, bullying and discrimination (which may be exacerbated by alcohol use) within the legal profession (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2018; Schulz et al., 2022). The 2018 report which led to regulatory change to enhance reporting procedures and standards (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2018) strengthened reporting requirements in relation to this type of conduct. In turn, more complaints are likely to be made in situations where substance use is present and therefore alcohol and drugs may feature in more Tribunal decisions concerning behaviour after 2018 (which may have not made it into this dataset).

Of note is that all practitioners were male. While this may have occurred due to the small sample, this reflects Australian and English research that lawyer complaints and discipline disproportionately feature male lawyers ('Do women make more ethical lawyers?,' 2021; Sklar et al., 2020; Sklar et al., 2019). This also aligns with Aotearoa New Zealand research that shows men are more likely to engage in hazardous alcohol consumption than women (Ministry of Health, 2023), although international data on hazardous drinking prevalence between male and female lawyers is mixed (Chlap & Murray, 2025). It has been found that women are more likely to use alcohol to cope than men, while at the same time greater stigma attaches to their drinking (Kersey et al., 2022; Peltier et al., 2019). Therefore, women's substance use may not manifest in misconduct and, to the extent it does, women lawyers may be less likely to raise this in disciplinary hearings.

Lack of an explicitly rehabilitative approach

Regardless of the number of cases, this research highlights that the NZLCDT rarely applied conditions for alcohol and substance use related cases. The low proportion of cases with *any* conditions was foreshadowed by the earlier analysis of the full project dataset of

lawyers, health practitioners, and teachers. This analysis highlighted that between 2017 and 2021, inclusive, the NZLCDT overall imposed fewer conditions (16.0%) than the Health Practitioners Disciplinary Tribunal (64.7%) and Teachers Disciplinary Tribunal (68.1%) (Surgenor et al., 2024). If the Tribunal was emphasising a pro-therapeutic approach, we would expect to see more explicitly rehabilitative conditions in these cases (e.g. mentoring, supervision, health and substance use assessment/treatment, counselling) (Diesfeld et al., 2024).

Instead, these findings show that in the place of rehabilitative conditions, periods of time off work (either voluntarily or through trial delays) and suspension have been used as a rehabilitative mechanism by the Tribunal, as well as reliance on voluntary undertakings by practitioners. While important considerations in determining penalty, reliance on these aspects is not generally considered to be part of a proactive rehabilitative approach by disciplinary tribunals (Surgenor et al., 2024). While support for time away from work may be useful for restoring depleted coping resources and improving self-efficacy (Koning-Eikenhout et al., 2024), returning to work is also considered beneficial for economic and social reasons for those in recovery (CDC National Institute for Occupational Safety and Health (NIOSH), 2023). It is unlikely that suspension would be experienced as rehabilitative by practitioners; many may feel that it is punitive, particularly given the obvious absence from practice and impact upon income. Further, it is unclear if suspension without additional explicit, proactive rehabilitative intention or activity is adequate; to protect the public *and* achieve safe return to practice, combining suspension with other actions (e.g. alcohol/substance counselling and treatment) is likely to be more effective.

We argue that there is opportunity for the Tribunal to operationalise its commitment to rehabilitation and take a more explicitly rehabilitative approach using conditions on practice. As discussed earlier, while it can be argued that reliance on individual practitioner actions and voluntary undertakings going forward may increase the practitioner's commitment to the rehabilitative process, the current system may not itself support such an approach. With mentors and supervisors difficult to find and drug and alcohol courses (with the exception of the volunteer-run Narcotics Anonymous and Alcoholics Anonymous) hard to locate, as well as potentially costly, greater NZLCDT participation is both warranted and likely to be beneficial to practitioners.

A pro-therapeutic system would require a clearly articulated set of principles to be followed when determining rehabilitation conditions, such as protection of public, considering theories of restorative justice, a therapeutic lens, and evidence-based guidelines for effective rehabilitation (Surgenor et al., 2023). If there are indications that substance use may have contributed to the misconduct or affect fitness to practice, then consideration of this prior to hearings in order to help inform and craft conditions if needed would also be beneficial (Organ, 2022). We argue that this can only be successfully implemented with an appropriately resourced Tribunal and a health pathway, as discussed below.

A health pathway for lawyers is needed

An overarching reason for the absence of rehabilitative conditions may be that in Aotearoa New Zealand there is no 'health pathway' for legal practitioners provided by the NZLS in its capacity as the regulatory body for lawyers, leading to a relatively hands-off approach to these issues. In the corresponding health and teacher regulatory authorities, a health pathway is available at earlier stages of conduct or performance being raised as a concern. For example, prior to undertaking disciplinary proceedings, the Complaints Assessment Committee (an independent decision-making body run by teachers that determines outcomes for conduct complaints and reports against teachers), may offer

the teacher the opportunity to voluntarily undergo an impairment assessment if the Committee thinks a health or other issue could be affecting conduct or performance (Complaints Assessment Committee, n.d.; Rychert & Diesfeld, 2019). This process produces a report detailing whether the teacher has an impairment (including an addiction) and sets out steps to be taken to ensure that the teacher can continue to practice in a safe manner (Complaints Assessment Committee, n.d.; Rychert & Diesfeld, 2019). The Competence Authority or the Teachers Disciplinary Tribunal may also refer to the Impairment Committee.

Similarly, many of the regulatory authorities of the health practitioners, such as the Medical Council of New Zealand, have a Health Committee which may investigate concerns about a medical practitioner, including alcohol or drug use disorder. The Health Practitioners Competence Assurance Act 2003 (NZ) also sets out legislative trigger points for when health conditions must be disclosed including on application for or renewal of an annual practising certificate and for certain persons concerned that a practitioner is 'unable to perform the functions required for the practice of his or her profession because of some mental or physical condition' (s 45(1)). Under a similar provision in Australia, 25 out of 64 reports made by treating practitioners related to substance misuse (Bismark et al., 2016).

Addressing impairment as a health concern (including issues of alcohol or drug use) is absent from the LCA, and NZLCDT and NZLS processes and communications (see Stevenson [2020] NZLCDT 42; Diesfeld et al., 2024). This means that issues are not addressed in a systematic way prior to misconduct occurring of a level of seriousness that warrants a referral to the NZLCDT. If a health committee with appropriate expertise were able to impose rehabilitation conditions at an earlier stage, fitness to practice and consequent potential harm to clients need not occur. There is an opportunity for the NZLS and the NZLCDT to make further use of their broad range of powers under the LCA and adopt a more clearly articulated therapeutic lens to alcohol and drug issues in the legal profession.

Implementation of a new, and adequately funded, independent regulatory body has been recommended by the recent Independent Review, 'Regulating lawyers in Aotearoa New Zealand', together with an appropriate health pathway for lawyers (Paterson et al., 2023). This Review further recommends new regulatory tools that allow the regulator to require a lawyer to undergo health or competence reviews where concerns as to fitness to practice have arisen, including 'grounds for believing the lawyer has an alcohol or drug problem' (Paterson et al., 2023, p. 135). The regulatory body would then be able to direct lawyers to comply with measures such as rehabilitation, supervision, or further training. It is argued in the health context that such as approach enables a pro-therapeutic and humane approach to protecting both practitioners and the public (Surgenor et al., 2017). Legislation could also set up reporting requirements of health issues to this new regulatory body (see s 45 Health Practitioners Competence Assurance Act 2003 (NZ)), which would then be able to utilise its powers to take appropriate rehabilitative steps.

Addressing mental health and substance use issues in the profession

Instead, the message that is sent from the disciplinary processes is that rehabilitation from alcohol and drug issues is considered a matter of individual responsibility for the practitioner to initiate and undertake. This can be seen in the importance placed on rehabilitative steps being undertaken prior to the penalty hearing and reference to voluntary undertakings in the penalty decisions analysed in this study. Placing responsibility solely on the lawyer for their own recovery risks under acknowledging systemic issues in the legal profession that may drive mental health and substance use and perpetuate stigma that a practitioner is

flawed or undeserving if they are unable to address such issues themselves (Room, 2011).

This individualistic approach remains evident in the more recent Gardner-Hopkins [2022] NZLCDT 2 case. After indicating a range of risk areas including '[p]roblematic alcohol consumption practices' and '[f]ailure to prioritise therapeutic needs and practical support' [para 67], the NZLCDT stated:

> At the end of any period of suspension, it will be for Mr Gardner-Hopkins to satisfy the Practice Approval Committee (PAC) that he has undertaken appropriate treatment/therapeutic interventions to mitigate any risks that might remain from the four areas of concern we have noted [para 68].

The current structure of the regulatory system for lawyers in Aotearoa New Zealand also supports an approach which places the sole onus on practitioners to address their health issues. Currently the NZLS undertakes both representative and regulatory functions for lawyers. Not only does this create tensions in aims and interests of the NZLS, but the current regulatory functions are considered systematically underfunded (Paterson et al., 2023). Most members on the NZLCDT are volunteers. Also, mentoring and supervision largely operate on an unpaid basis. The recommendations of the Independent Review seek to address these issues by separation of regulatory and membership functions, recommending the health pathway is established and appropriately resourced as a regulatory function (Paterson et al., 2023).

Without needing to be – or being seen to be – involved in regulatory functions around impairment and conduct, the NZLS could then concentrate on its role as an advocate for mental health and wellbeing of the profession. Currently, recognition of alcohol issues in the profession by the NZLS is limited to alcohol and its link with workplace bullying and harassment, not as an overall issue of wellbeing in the profession (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2021). The NZLS could then take a greater role in addressing the 'work hard, play hard' drinking culture identified in the legal workforce (New Zealand Law Society/Te Kaui Ture o Aotearoa, 2018). This may involve extending the existing 'Practising Well' initiative – which comprises a free counselling service, information about available services and resources, and information about what to do in the event of bullying and harassment – to provide greater individual assistance, as well as overall strategies to address problematic alcohol and drug use in the profession. Proactive wellbeing initiatives that reduce stigma, provide early intervention, and ensure ongoing comprehensive support for substance use issues (and mental health in general) are essential.

Limitations

While offering novel insight into the features and approach in NZLCDT cases involving alcohol and drugs, this study does have limitations. The small number of cases makes it difficult to draw robust and direct comparisons with the discipline of other professions in Aotearoa New Zealand (e.g. teachers and health professionals) and also with professions in overseas jurisdictions. It may be that alcohol and drug use was a relevant factor but was not disclosed by the practitioner as part of the disciplinary process. This is especially likely as stigma is attached to drinking problems both in general and in professional situations.

Given our aim was to identify ways that the Tribunal expressed the rehabilitation principle and applied it in cases involving alcohol and drugs, our in-depth analysis enabled identification of consistent ways the Tribunal approached these cases and the principles that underpin their approach. From this starting point, it is possible to extend this research to how the Tribunal approaches mental health conditions in greater detail, building on the research of Moore et al. (2015) and contributing to development of principles in this area (Surgenor et al., 2023).

We also know too little about the prevalence of problematic alcohol and drug use by lawyers in Aotearoa New Zealand to make any useful comparisons with overseas research in this area. Overall, however, the insights of this study are beneficial; they offer an important basis for determining future research to understand health issues faced by the legal professions and highlight the potential for improvement in regulatory and disciplinary processes.

Conclusions and implications for practice

As a result of these findings, we support arguments for a more explicitly rehabilitative approach to cases where alcohol and drugs – and mental health issues – are present and that a pro-therapeutic lens is applied when balancing public safety. This would involve: (1) a clearly articulated therapeutic and rehabilitative lens together with a set of theoretically informed principles; (2) if there are indications that substance use may have contributed to the misconduct or affect fitness to practice, consideration of this prior to hearings in order to help inform and craft conditions if needed; (3) implementation of a health pathway for lawyers; (4) a focus on addressing systemic issues facing the legal workforce; (5) appropriate mental health support, counselling, and treatment for lawyers, and (6) further research into and development of policies and initiatives to address the underpinning factors of misconduct, including mental health conditions related to demanding work environments and workforce drinking cultures.

There may be arguments that it is not the responsibility of legal regulatory authorities to police practitioners' alcohol and drug use. However, it is difficult to see why lawyers should not have the benefit of alternate health pathways and therapeutic approaches that are available in other professions in Aotearoa New Zealand, such as health professionals and teachers. This is particularly important in relation to alcohol and drug disorders as these have high rates of relapse (Moos & Moos, 2006). It also recognises that alcohol and drug issues, and mental health conditions more generally, are of concern in the legal profession in Aotearoa New Zealand, underpinned by overly demanding work environments and social and cultural expectations of substance use, particularly alcohol. Not only does such an approach maintain the health and career of the practitioner, it supports public safety and the ongoing wellbeing and sustainability of the profession.

Advocacy for more rehabilitative strategies within Aotearoa New Zealand's professional disciplinary regimes has been published. One example is analysis of an NZLCDT case concerning impairment related to reproductive health and treatment (Diesfeld et al., 2024). Also, the rehabilitative recommendations of the recent independent review of the regulatory system for lawyers (Paterson et al., 2023) point to arguments for pro-therapeutic, humane approaches to support impaired lawyers. Our findings further support such reform.

We also urge further research on problematic alcohol and drug use in legal practice generally. This could assist in developing constructive educational, preventive, and therapeutic programmes that consider the specificity of the work of lawyers. Research could use international and cross-jurisdictional comparisons and insights. In relation to alcohol consumption, while high rates of hazardous drinking may not of themselves indicate impaired lawyers or conduct, it does indicate drinking that poses future risks to legal practitioners, their clients, the public, and the profession itself.

Research highlights that, rather than treating alcohol and drug use as an individual problem, it is also essential to act on the economic, social, and cultural drivers of their consumption and use (Hutton, 2020; Lyons & Kersey, 2020). It is imperative to address the underlying drivers of alcohol use associated with legal practice including demanding and stressful work environments and highly normalised

drinking cultures. Adults report difficulties in reducing alcohol in social settings (Bartram et al., 2017) and this will be exacerbated in circumstances where alcohol use is ingrained in the productive aspects of legal work and social life. Initiatives and programmes addressing drug use are also essential given potential for dependence and abuse, and the criminality associated with illegal drugs.

Ethical standards

Declaration of conflicts of interest

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Ethical approval

This article does not contain any studies with human participants or animals performed by any of the authors.

ORCID

K. Kersey http://orcid.org/0000-0002-8897-1949
O. Kelly http://orcid.org/0000-0003-3824-5719
M. Rychert http://orcid.org/0000-0003-4170-1615
L. Surgenor http://orcid.org/0000-0002-1972-598X
K. Diesfeld http://orcid.org/0000-0002-8117-551X

References

American Bar Association. (2025). Commission on Lawyer Assistance Programs. https://www.americanbar.org/groups/lawyer_assistance/.

American Psychiatric Association. (2022). Diagnostic and statistical manual of mental disorders (5th ed.). https://doi.org/10.1176/appi.books.9780890425787

Andrews, D. A., & Dowden, C. (2007). The risk-need-responsivity model of assessment and human service in prevention and corrections: Crime-prevention jurisprudence. *Canadian Journal of Criminology and Criminal Justice*, *49*(4), 439–464. https://doi.org/10.3138/cjccj.49.4.439

Anker, J., & Krill, P. R. (2021). Stress, drink, leave: An examination of gender-specific risk factors for mental health problems and attrition among licensed attorneys. *PLoS One*, *16*(5), e0250563. https://doi.org/10.1371/journal.pone.0250563

Australian Commission on Safety and Quality in Health Care. (2011). Patient-centred care – Improving quality and safety through partnerships with patients and consumers. https://www.safetyandquality.gov.au/publications-and-resources/resource-library/patient-centred-care-improving-quality-and-safety-through-partnerships-patients-and-consumers

Babor, T. (2022). *Alcohol: No ordinary commodity.* (3rd ed.) Oxford University Press.

Babor, T. F., Higgins-Biddle, J. C., Saunders, J. B., Monteiro, M. G. (2001). AUDIT. The alcohol use disorders identification test. Guidleines for use in primary care. https://www.who.int/publications/i/item/WHO-MSD-MSB-01.6a

Bartram, A., Eliott, J., & Crabb, S. (2017). Why can't I just not drink?' A qualitative study of adults' social experiences of stopping or reducing alcohol consumption. *Drug and Alcohol Review*, *36*(4), 449–455. https://doi.org/10.1111/dar.12461

Bismark, M. M., Spittal, M. J., Morris, J. M., & Studdert, D. M. (2016). Reporting of health practitioners by their treating practitioner under Australia's national mandatory reporting law. *The Medical Journal of Australia*, *204*(1), 24–24. https://doi.org/10.5694/mja15.00710

Bloom, M., & Wallinger, C. L. (1988). Lawyers and alcoholism: Is it time for a new approach? *Temple Law Review*, *61*, 1409–1430.

Bogowicz, P., Ferguson, J., Gilvarry, E., Kamali, F., Kaner, E., & Newbury-Birch, D. (2018). Alcohol and other substance use among medical and law students at a UK university: A cross-sectional questionnaire survey. *Postgraduate Medical Journal*, *94*(1109), 131–136. https://doi.org/10.1136/postgradmedj-2017-135136

Braff, D. (2024). Under pressure: Understanding alcohol addiction in the legal profession. https://www.abajournal.com/web/article/under-pressure-alcohol-addiction-in-the-legal-profession

Braun, V., Clarke, V., Hayfield, N., & Terry, G. (2019). Thematic analysis. In P. Liamputtong (Ed.), *Handbook of research*

methods in health social sciences (pp. 843–860). Springer Singapore. https://doi.org/10.1007/978-981-10-5251-4_103

Brooke, D. (1997). Impairment in the medical and legal professions. *Journal of Psychosomatic Research*, *43*(1), 27–34. https://doi.org/10.1016/S0022-3999(97)00025-1

Candilis, P. J., Kim, D. T., & Sulmasy, L. S., ACP Ethics, Professionalism and Human Rights Committee. (2019). Physician impairment and rehabilitation: Reintegration Into medical practice while ensuring patient safety: A position paper from the American College of Physicians. *Annals of Internal Medicine*, *170*(12), 871–879. https://doi.org/10.7326/M18-3605

Cannon, M., Credé, M., Kimber, J. M., Brunkow, A., Nelson, R., & McAndrew, L. M. (2022). The common-sense model and mental illness outcomes: A meta-analysis. *Clinical Psychology & Psychotherapy*, *29*(4), 1186–1202. https://doi.org/10.1002/cpp.2721

CDC National Institute for Occupational Safety and Health (NIOSH). (2023). Workplace supported recovery. https://www.cdc.gov/niosh/substance-use/workplace-supported-recovery/index.html

Chan, J., Poynton, S., & Bruce, J. (2014). Lawyering stress and work culture: An Australian study [UNSW Law Research Paper No. 2014-61]. *University of New South Wales Law Journal*, *37*(3), 1062–1102.

Chlap, N., & Murray, K. (2025). Work demands, self-care, and mental health in lawyers. *Psychiatry, Psychology, and Law*, *2025*, 1–21. https://doi.org/10.1080/13218719.2025.2497784

Chrobak-Kasprzyk, K. S., & Jośko-Ochojska, J. (2020). Assessment of risky drinking, harmful drinking and alcohol addiction among lawyers. *Journal of Psychiatry and Clinical Psychology*, *20*(4), 259–266. https://doi.org/10.15557/PiPK.2020.0032

Cobiac, L., & Wilson, N. (2018). *Alcohol and mental health: A review of evidence, with a particular focus on New Zealand*.

Complaints Assessment Committee. (n.d). Professional practice. https://www.teacherscomplaintsassessmentcommittee.nz/professional-practice

Diesfeld, K., Rychert, M., Surgenor, L. J., Kelly, O., & Kersey, K. (2024). Case commentary: A 'merciful approach' to discipline for a New Zealand lawyer's misconduct. *Psychiatry, Psychology, and Law*, *31*(3), 574–586. https://doi.org/10.1080/13218719.2024.2340098

Do women make more ethical lawyers? (2021). City St Georges University of London. https://www.citystgeorges.ac.uk/news-and-events/news/2021/07/do-women-make-more-ethical-lawyers

Elder-Vass, D. (2012). Towards a realist social constructionism. *Sociologica, Problemas e Practicas*, (70), 9–24. https://doi.org/10.7458/SPP2012701208

Federation of State Physician Health Programs. (2024). About FSPHP. https://www.fsphp.org

Hass-Wisecup, A., & Saxon, C. (2026). *Restorative justice: Integrating theory, research, and practice.* Carolina Academic Press. https://books.google.co.nz/books?id=2KyS0QEACAAJ

Hutton, F. (2020). Femininities and intoxication. In F. Hutton (Ed.), *Cultures of intoxication: Key issues and debates* (pp. 187–210). Springer International Publishing. https://doi.org/10.1007/978-3-030-35284-4

Institute of Alcohol Studies. (2024). *Alcohol and economic crises.* https://www.ias.org.uk/wp-content/uploads/2024/04/Alcohol-and-Economic-Crises.pdf

Intervention Project for Nurses. (2025). Promoting safe practice for Florida's nurses. https://www.ipnfl.org

Jarden, A., Mohd Rameli, M., Jarden, R., & Silapurem, L. (2024). *The mental health and wellbeing of the New Zealand legal profession.* Center for Wellbeing Science. The University of Melbourne. https://lifesquared-trust.org.nz/#research

Kersey, K., Lyons, A. C., & Hutton, F. (2022). Alcohol and drinking within the lives of midlife women: A meta-study systematic review. *The International Journal on Drug Policy*, *99*, 103453. https://doi.org/10.1016/j.drugpo.2021.103453

Koning-Eikenhout, L. M. J., Delahaij, R., Kamphuis, W., Hulshof, I. L., & Van Ruysseveldt, J. (2024). A loss cycle of burnout symptoms and reduced coping self-efficacy: A latent change score modelling approach. *Chronic Stress*, *8*, 24705470241286948. https://doi.org/10.1177/24705470241286948

Krill, P. R., Johnson, R., & Albert, L. (2016). The prevalence of substance use and other mental health concerns among American attorneys. *Journal of Addiction Medicine*, *10*(1), 46–52. https://doi.org/10.1097/adm.0000000000000182

Krill, P. R., Thomas, H. M., Kramer, M. R., Degeneffe, N., & Anker, J. J. (2023).

Stressed, lonely, and overcommitted: Predictors of lawyer suicide risk. *Healthcare*, *11*(4), 536. https://doi.org/10.3390/healthcare11040536

Leignel, S., Schuster, J. P., Hoertel, N., Poulain, X., & Limosin, F. (2014). Mental health and substance use among self-employed lawyers and pharmacists. *Occupational Medicine (Oxford, England)*, *64*(3), 166–171. https://doi.org/10.1093/occmed/kqt173

Lyons, A. C., & Kersey, K. (2020). Alcohol and intoxication. In F. Hutton (Ed.), *Cultures of intoxication: Key issues and debates* (pp. 17–43). Springer International Publishing. https://doi.org/10.1007/978-3-030-35284-4

McEwan, B., Campbell, M., Lyons, A. C., & Swain, D. A. (2013). *Pleasure, profit and pain: Alcohol in New Zealand and the contemporary culture of intoxication.* University of Waikato Faculty of Arts & Social Sciences.

Mental Health Foundation/mauri tū mauri ora, & Alcohol Healthwatch/Whatkatūpato Waipiro. (2025). *Protecting Aotearoa's mental wellbeing through effective alcohol poliy*. https://mentalhealth.org.nz/resources/resource/protecting-aotearoa-s-mental-wellbeing-through-effective-alcohol-policy

Ministry of Health. (2023). *2022/23 New Zealand Health Survey: Annual Update of Key Results*.

Moore, J., Buckingham, D., & Diesfeld, K. (2015). Disciplinary Tribunal cases involving New Zealand Lawyers with physical or mental impairment, 2009-2013. *Psychiatry, Psychology, and Law*, *22*(5), 649–672. https://doi.org/10.1080/13218719.2015.1055624

Moos, R. H., & Moos, B. S. (2006). Rates and predictors of relapse after natural and treated remission from alcohol use disorders. *Addiction (Abingdon, England)*, *101*(2), 212–222. https://doi.org/10.1111/j.1360-0443.2006.01310.x

Morehouse, S. E. (1982). In Re Driscoll: Illinois' new approach in the discipline of alcoholic attorney misconduct. *DePaul Law Review*, *31*, 433–447.

Nelson, R. L., Dinovitzer, R., Garth, B. G., Sterling, J. S., Wilkins, D. B., Dawe, M., & Michelson, E. (2023). *The making of lawyers' careers: Inequality and opportunity in the American legal profession*. University of Chicago Press.

New Zealand Law Society/Te Kaui Ture o Aotearoa. (2021). Information for employers. https://www.lawsociety.org.nz/professional-practice/practising-well/bullying-and-harassment/information-for-employers/

New Zealand Law Society/Te Kaui Ture o Aotearoa. (2022). New Zealand Law Society Gender Equality Charter Survey. https://www.lawsociety.org.nz/assets/Branches-Sections-and-Groups/Women-in-the-legal-profession/New-Zealand-Law-Society-Gender-Equality-Charter-Survey-Summary-Nov-2022.pdf

New Zealand Law Society/Te Kaui Ture o Aotearoa. (2023). 2023 Workplace Environment Survey. Summary of findings relating to Pacific lawyers. https://www.lawsociety.org.nz/assets/About-Us-Documents/Workplace-Environment-Survey-2023/LWES-Pacific-summary-Final.pdf?vid=4

New Zealand Law Society/Te Kaui Ture o Aotearoa. (2024). Mentoring Programme. https://www.lawsociety.org.nz/professional-practice/practising-well/mentoring-programme/.

New Zealand Law Society/Te Kaui Ture o Aotearoa. (2018). Report of the New Zealand Law Society Working Group. To enable better reporting, prevention, detection, and support in respect of sexual harassment, bullying, discrimination and other inappropriate workplace behaviour within the legal profession. https://www.lawsociety.org.nz/assets/News-and-publications-documents/Other-Reports/Report-of-the-NZLS-Working-Group-December-2018.pdf

Organ, J. M. (2022). The relationship between attorney discipline and attorney impairment: The need for better information to protect clients and to help attorneys. *University of St. Thomas Law Journal*, *17*(4), 941–951.

Organ, J. M., Jaffe, D. B., & Bender, K. M. (2016). Suffering in silence: The Survey of Law Student Well-Being and the reluctance of law students to seek help for substance use and mental health concerns. *Journal of Legal Education*, *66*(1), 116–156.

Paterson, R., Meares, J., Ruru, J. (2023). Independent Review. Regulating lawyers in Aotearora New Zealand. Te Pae Whiritahi i te Korowai Rato Ture o Aotearoa. https://www.lawsociety.org.nz/assets/Independent-Review/IR-Report-Received/Regulation-of-lawyers-final-report-for-submission.pdf

Peltier, M. R., Verplaetse, T. L., Mineur, Y. S., Petrakis, I. L., Cosgrove, K. P., Picciotto, M. R., & McKee, S. A. (2019). Sex differences in stress-related alcohol use. *Neurobiology of Stress*, *10*, 100149. https://doi.org/10.1016/j.ynstr.2019.100149

Popa, T., Christina, P., Kate, J., Kayleigh, Y., Lisa, H., & Luo, Y. (2024). 'A big nebulous, multifaceted concept': Reflections from Victorian personal injury lawyers on wellbeing, burnout and vicarious trauma. *Psychiatry, Psychology, and Law*, *31*(3), 417–439. https://doi.org/10.1080/13218719.2024.2342410

Room, R. (2011). Addiction and personal responsibility as solutions to the contradictions of neoliberal consumerism. *Critical Public Health*, *21*(2), 141–151. https://doi.org/10.1080/09581596.2010.529424

Rosky, C. J., Roberts, R. L., Hanley, A. W., & Garland, E. L. (2022). Mindful lawyering: A pilot study on mindfulness training for law students. *Mindfulness*, *13*(9), 2347–2356. https://doi.org/10.1007/s12671-022-01965-w

Rychert, M., & Diesfeld, K. (2019). Teachers' health, wellbeing and professional misconduct. An exploratory analysis of cases from New Zealand's Teachers Disciplinary Tribunal 2017–2018. *Journal of Law and Medicine*, *26*(4), 922–942.

Schulz, J. S., Christine, F., & Diesfeld, K. (2022). The discipline of, and failure to sanction, sexual misconduct by Australian legal practitioners. *Legal Ethics*, *25*(1-2), 88–108. https://doi.org/10.1080/1460728x.2022.2146965

Scott, R., & Freckelton, I. (2024). Vicarious trauma among legal practitioners and judicial officers. *Psychiatry, Psychology, and Law*, *31*(3), 500–522. https://doi.org/10.1080/13218719.2024.2339323

Sellers, B. G., & Arrigo, B. A. (2022). The narrative framework of psychological jurisprudence: Virtue ethics as criminal justice practice. *Aggression and Violent Behavior*, *63*, 101671. https://doi.org/10.1016/j.avb.2021.101671

Sklar, T., Moore, J. S., Bismark, M., & Taouk, Y. (2020). Vulnerability to legal misconduct: A profile of problem lawyers in Victoria, Australia. *International Journal of the Legal Profession*, *27*(3), 269–289. https://doi.org/10.1080/09695958.2020.1751166

Sklar, T., Taouk, Y., Studdert, D., Spittal, M., Paterson, R., & Bismark, M. (2019). Characteristics of lawyers who are subject to complaints and misconduct findings. *Journal of Empirical Legal Studies*, *16*(2), 318–342. https://doi.org/10.1111/jels.12216

Surgenor, L., Diesfeld, K., Rychert, M., Kelly, O., & Kersey, K. (2024). To impose or not impose penalty conditions following professional misconduct: What factors are cited by three professional disciplinary tribunals in New Zealand? *Laws*, *13*(6), 69. https://doi.org/10.3390/laws13060069

Surgenor, L. J., Diesfeld, K., Kersey, K., & Ip, M. (2017). Practitioner health issues featuring before New Zealand's Health Practitioners Disciplinary Tribunal: An analysis of cases 2003–2014. *Journal of Law and Medicine*, *24*(3), 590–596.

Surgenor, L. J., Diesfeld, K., & Rychert, M. (2023). Practitioner rehabilitation following professional misconduct: A common practice now in need of a theory? *Laws*, *12*(3), 59. https://doi.org/10.3390/laws12030059

Thomson Reuters Institute. (2025). 2025 Report on the state of the New Zealand legal market: Navigating growth & challenges. https://insight.thomsonreuters.co.nz/legal/resources/resource/state-of-the-new-zealand-legal-market-2025-report

Thørrisen, M. M., Bonsaksen, T., Hashemi, N., Kjeken, I., van Mechelen, W., & Aas, R. W. (2019). Association between alcohol consumption and impaired work performance (presenteeism): A systematic review. *BMJ Open*, *9*(7), e029184. https://doi.org/10.1136/bmjopen-2019-029184

Wexler, D. B. (2000). Therapeutic jurisprudence: An overview. *Thomas M. Cooley Law Review*, *17*(1), 125.

Cases

Auckland Standards Committee 1 v Cropper [2017] NZLCDT 6 (LCDT 001/17).

Auck land Standards Committee 1 v Hintze [2017] NZLCDT 13 (LCDT 029/16).

Auckland Standards Committee 1 v Ravelich [2020] NZLCDT 22 (LCDT 016/18 and 009/19).

Canterbury Westland Standards Committee 2 v A Practitioner (2020) NZLCDT 32 (LCDT 001/18).

Canterbury Westland Standards Committee 2 v Healy (2020) NZLCDT 4 (LCDT 025/19).

Canterbury Westland Standards Committee 2 v Woodward (2020) NZLCDT 9 (LCDT 022/19).

Nelson Lawyers Standards Committee v Stevenson (2020) NZLCDT 42 (LCDT 010/18 and 002/19).

National Standards Committee 1 v Gardner-Hopkins [2022] NZLCDT 2 (LCDT 022/20).

Otago Standards Committee v Copland [2019] NZLCDT 29 (LCDT 020/19).