A Message from the Chair

A study conducted by Virtuali and WorkplaceTrends.com revealed that 91 percent of millennials aspire to reach leadership positions, with 43 percent currently motivated to take the helm and empower others as leaders. When asked about the type of leader they aspire to be, 63 percent of millennials chose “transformational,” which means they seek to challenge and inspire their followers with a sense of purpose and excitement. However, 43 percent of millennials admit that their weakest leadership skill is experience. Fortunately, the YLD offers a wealth of opportunities to get involved and make a difference in the PBA, while learning valuable leadership skills.

It is not enough for our generation to simply be a passive member of an association — we want to be a part of the association. We want opportunities to lead, we want to gain experience, and we want to make a difference, but where do we start? The YLD is the best “first stop” for young lawyers looking for ways to get involved and serve in leadership positions in the PBA. The Young Lawyer Summer Summit, July 18-20, 2018, in State College, is a great place to discover ways to get involved, especially if you don’t know where to begin. This annual Summer Summit affords you the opportunity to learn about the YLD and mix with state and federal judges, PBA leadership and each other in a professional and social setting. At the YLD business meeting, held during the Summer Summit, we’ll discuss all of the ways you could get involved in the PBA, including the YLD’s flagship programs: Wills for Heroes and Mock Trial.

There are many ways for you to serve in leadership roles as a member of the YLD. The YLD Council consists of YLD officers, Zone chairs and co-chairs representing each of the 12 zones of the state, and at-large chairs, who help with special projects. Due to a recent bylaws change, we now have nine seats on the YLD Council for law student representatives, representing each of the nine Pennsylvania law schools. In addition to leadership opportunities on the YLD Council, the YLD Liaison Program offers more than 60 young lawyers and law students an opportunity to volunteer to serve as liaisons to the PBA’s committees and sections. Our goal for this year is to appoint a YLD Liaison for every committee and section and enhance their role within the PBA.

The YLD offers millennials the opportunity to lead, to learn and to make a difference. Get involved and become a leader in our profession.
## Agenda
### Young Lawyer Summer Summit
July 18-20, 2018 • State College

### Wednesday, July 18
- 5:30 p.m. – 6:00 p.m. Meet and Greet
- 6:00 p.m. – 10:00 p.m. Dinner and Trivia Night

### Thursday, July 19
- 8:00 a.m. – 8:50 a.m. Continental Breakfast
- 8:30 a.m. – 9:00 a.m. Intro to the Pennsylvania Bar Association
- 9:15 a.m. – 10:15 a.m. Mindful Lawyering (1 substantive CLE credit)
- 10:30 a.m. – 11:30 a.m. Business Meeting
- 11:45 a.m. – 12:45 p.m. Lunch
- 1:00 p.m. – 2:00 p.m. The Case for Adjusting Your Perspective – Identifying and Combatting Implicit Bias in the Practice of Law (1 ethics CLE credit)
- 1:00 p.m. – 2:00 p.m. Welcome to the ‘Minor’ Courts (1 substantive CLE credit)
- 2:00 p.m. – 7:00 p.m. Free time
- 2:30 p.m. Hike Mount Nittany
- 7:00 p.m. – 11:00 p.m. Dinner followed by live music from the Brew Dogs (back by popular demand!)

### Friday, July 20
- 8:30 a.m. – 9:20 a.m. Continental Breakfast
- 9:30 a.m. – 10:30 a.m. Family Law 101 (1 substantive CLE credit)
- 9:30 a.m. – 10:30 a.m. Tips and Traps in Federal Practice (1 substantive CLE credit)
- 10:45 a.m. – 11:45 a.m. Tips from the State Court Bench (1 substantive CLE credit)

For details, see the [brochure](#).

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Commentary published in *At Issue* reflects the views of the authors and should not be regarded as the official views of the PBA Young Lawyers Division and/or the PBA.

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The MCLE programs for the 2018 PBA Young Lawyer Summer Summit are presented in cooperation with the Pennsylvania Bar Institute. The Pennsylvania Bar Institute is approved by the Pennsylvania Supreme Court CLE Board as an accredited CLE provider. The individual CLE programs for this conference have been approved for the number of credit hours indicated.
Five tips to make work-life balance work for you

By Lynne O. Ingram, Esq.

Just like diversity and inclusion in the workplace should matter to everyone, so should work-life balance. Work-life balance is a struggle for everyone—not just women or parents. But having my son a year and a half ago made me realize just how much of an issue it is for mothers. Here are five tips that have helped me in my quest to become the best mother and the law firm partner I can be.

1. Remember you aren’t perfect.
This should come as no surprise to anyone. So it’s surprising how many of us strive for this unattainable goal. Be good. Be darn good. Be great, even. But not perfect. Recognition and, more importantly, acceptance of this obvious fact is crucial.

A recent acknowledgement of my imperfection was signing my family up for a food delivery service that brings healthy, all-natural, fully-cooked dinners to our door three nights a week. The new running joke in our household is who (my husband or I) is going to “cook” (i.e. reheat) dinner tonight. It doesn’t have the same feel as the home-cooked meals my own stay-at-home mom prepared daily in my youth, but it’s better than Chinese delivery and pizza every night. (Friday nights are pizza nights, and we just had Chinese last Monday.)

2. Wherever you are, be there.
If you are always trying to be a good parent, you will never be fully present at work. Conversely, if you are always trying to be a good lawyer, you will miss out on so many moments with your family. I try to keep the two separate whenever possible. When I’m not traveling, I save two to three hours every evening and spend that time with my son and husband. We eat dinner as a family, watch Jeopardy (yes, we are trivia nerds) and enjoy our son’s bedtime routine. Oftentimes, I return to working after he falls asleep. But I find it’s easier to do so after having had that time with my family. Having said that…

Perfect example: I am typing the first draft of this article one handed on my iPhone while I rock my 19-month-old back to sleep. And, three weeks ago, I took a conference call while holding my sleeping son in the Pediatric Intensive Care Unit, where he was admitted for bronchiolitis. My client was aware of the situation and could not have been more supportive. Our clients understand that we are people, because they are people. Just as we are there for our clients when they lose a parent, are going through a divorce or are otherwise struggling, they will be there for us. It’s a good thing for our clients to see us as real people—and for us to remember that they are, too.

4. Be on the lookout for burnout.
Merriam-Webster defines burnout as “exhaustion of physical or emotional strength or motivation usually as a result of prolonged stress or frustration.” A recent Harvard Business Review article states that “companies may be at risk of losing some of their most motivated and hard-working employees, not for a lack of engagement, but because of their simultaneous experiences of high stress and burnout symptoms.” (See Seppala, E. and Moeller, J. (2018, Feb. 2). 1 in 5 Highly Engaged Employees Is at Risk of Burnout. Available at www.hbr.org.) Chronic stress and overwork cause burnout, which is detrimental not only to your work life but also to your home life. Be on the lookout for burnout—not just in yourself, but in your employees and colleagues. You may be on the road to burnout if:

• Every day is a bad day;
• Caring about your work or home life seems like a total waste of energy;
• You’re exhausted all the time;
• The majority of your day is spent on tasks you find either mind-numbingly dull or overwhelming;
• You feel like nothing you do makes a difference or is appreciated. (See Smith, M., Segal, J., Robinson, L., and Segal, Continued on page 4
Five years of experience as a practicing attorney and being unemployed were two things I would never put together in the same sentence, yet that is the exact sentence I found myself living during the summer of 2017. I had no idea what I was going to do when I first became unemployed, so I launched a full-scale job search while freelancing simple creditor/debtor work on the side. I was pleased to find that having five years of experience makes you an attractive candidate for an associate counsel position, and I enjoyed the abundance of opportunities to interview with different law firms. While I may have been a strong candidate, none of the firms I interviewed with attracted my attention. I considered that maybe I needed to change my practice area if I wanted to find a firm whose mission and style resonated with mine. I continued my freelancing on the side, hoping to figure out my next career move.

I had my “aha!” moment while driving through the backroads of South Hills on my way to court in Fayette County. At this point, I had been freelancing for months, and I did not need another attorney to realize my abilities. I decided not to attempt to compromise my own convictions just to fit into the culture of some other firm. I decided I was going to do it. I was going to launch my own law firm.

Law school teaches you everything from torts and liabilities to civil procedure and ethics, but “Opening Your Own Firm 101” has not made its way into any curriculum I have seen.

1 You do not have to have much capital to actually start your own practice. In fact, with just $5,000, I was able to purchase a new computer, supplies and a website, open a business bank account and afford rent for a small office. The office space was optional, but I personally prefer to have a designated working space. I was amazed at how much you could accomplish with such a small amount of money. You just need to get your information to potential clients so you can start drawing in referrals.

2 Networking is a huge part of a successful law practice. I am not a Pittsburgh native, so my only real contacts are individuals I have met over the last eight years. I was astonished at how suffocatingly small my network seemed once I needed to look for business referrals. The majority of my attorney network already has referral procedures, and I found that while the contacts I met through volunteer work provide some referrals, they

Continued on page 5
can not sustain a law practice for years to come. Networking and meeting new people will always be necessary.

3 **Referrals can come from unlike-ly places.** For example, I handled a simple traffic ticket for an individual I knew from my hometown who happens to now live in Pittsburgh. A friend referred several volunteer firefighters to me to draft their wills. Another attorney gives me cases when he has overflow. I learned very quickly that it is critical to reach out to everyone in your network area, let them know you exist and have faith that the bridges you worked hard to build will pay off someday.

4 **You remember more law than you think.** At least in my case, I discovered that I knew more about law than I had initially realized. When you work at someone else’s law firm, you tend to work only in specific fields of law and it is easy to forget the other areas. Luckily, I have found regenerating this knowledge to be like riding a bike. I once had my hands into all areas of law when I clerked for a judge in Greene County after law school. I can easily recall that knowledge when clients call me for their particular issue, ranging from criminal arraignments to civil writs of execution. I get to stretch different legal muscles on a regular basis, and doing so builds new confidence, especially when realizing you know something that at first glance seemed impossible to tackle.

5 **Set hours are only real if you make them real.** Since opening my firm, I dictate how I spend my time, which means that working from 6 p.m. until midnight happens sometimes. I can go to meetings in the middle of the day without permission, and I can attend simple health appointments without using vacation time. If you are not a morning person, you do not have to be a morning person. At the same time, if you want to pull 18-hour days, that is your prerogative. Just maintain a healthy balance and remember to take a break every once in a while.

6 **You do not have to fit into anyone’s mold.** I have learned that, unlike my experience working at prior firms, I can be myself while practicing law. I do not have to alter my litigation style to suit older attorneys, and I can interact with clients however I want. Billing is my responsibility, and I set my own hourly rate. I can build relationships with my clients in my own way, finding common ground through things like music, books or hobbies. I can develop the kind of rapport with my clients that not only ensures that they will pay their bills and give out referrals, but also allows me to make a difference in their lives. I have the freedom to be myself, and I am a better attorney because of it.

I have learned a lot in the last six months, but I surely have plenty to learn. If a client presents an issue that I have not encountered before, I am flexible and confident enough to figure it out. Opening my firm has improved my confidence, happiness and work-life balance. I love knowing that everything I have is mine, and that I can be as successful as I want. Most of all, I love knowing that I do not need permission to be the best attorney I can be.

Jennifer Dickquist is an attorney in Pittsburgh. She recently opened her own firm, JD Law LLC, after five years of practice. She continues to work in the area of family law, while branching out into civil law.

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**PBA Real Property, Probate & Trust Law Section Annual Retreat**

**August 8-10, 2018 • Wyndham Gettysburg**

The retreat offers:

- Up to 9 hours of CLE credits, including 2 ethics credits
- A wine-pairing dinner on Wednesday and a walking ghost tour of Gettysburg or s'mores with General and Mrs. Robert E. Lee on Thursday.
- Free time on Thursday afternoon to enjoy a tour of Eisenhower National Historic Site, a Segway tour of Gettysburg Battlefield or a “Death vs. Dirt” Battlefield Scavenger Hunt Challenge.

**PBA YLD members get discounted registration fee!** To receive the YLD early registration discount of $150, registration with payment must be received by July 13, 2018.

To get the brochure and register online, go to the calendar at **www.pabar.org**
One of the most rewarding moments in a young lawyer’s career is the day she gets her first client. In that moment, it can be easy to just cash the check and begin your zealous representation. First, however, you should give serious thought to an all-too-often rushed aspect of the attorney-client relationship: the engagement letter.

The engagement letter is the key document that will dictate what you do for your client, how you get paid and what happens if something goes wrong. Yet, it is also often one of the last things new attorneys consider in the race to get business. This article will examine some of the typical terms of such letters and help you avoid costly pitfalls that can result when the details of representation are insufficiently defined.

1. Rule #1 of engagement letters: Have one.

Interestingly, there is no rule or law requiring an attorney to have a written engagement letter, and thus, a lawyer is free to conduct business on a handshake if he wants — but this is a very bad idea and can result in awkward, and expensive, disagreements later on. Lawyers should therefore have a written engagement letter for every client or, at the very least, an engagement “e-mail” that outlines the terms of representation.

2. Precisely identify the client.

It may seem obvious, but make sure your letter accurately identifies the client. For organizations, specify that you are/are not also representing the entity’s affiliates, officers, shareholders, etc. Although a client’s identity is usually more straightforward for individuals, even then, if there is any potential for misunderstanding, be clear (e.g., “We will represent Mrs. Smith, but not Mr. Smith.”).

3. Define the scope of your representation.

Pennsylvania Rule of Professional Conduct (Rule) 1.2(c) provides: “[a] lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” I would go further and say that every representation should be limited in scope. Many disputes arise due to misunderstandings regarding the scope of work that could have been avoided by a clearer engagement letter. If you are only handling the case through trial, state that. If you are only negotiating one agreement, make that clear. If you see a potential ancillary dispute, specify whether the engagement encompasses it. On a related note, if you ever wish to change the scope of representation (e.g., you decide to take on an ancillary dispute), always execute an amended engagement letter.

Avoid “open-ended” engagement letters purporting to extend to some additional, unnamed representation — i.e., “in addition to the representation described herein, this agreement shall also govern any additional legal services rendered by us to you in the future.” Some attorneys use such language in the hopes of getting additional business from the client; but most often, all such language does is render the scope of representation ambiguous, exposing you to potential liability. If the client likes your work, she will hire you again. Keep the scope of representation limited.

4. Clearly describe your fee.

Make sure all details regarding your fee are unambiguously described in your letter. Will you be paid hourly? Via a contingency fee? What is your rate? Do you require a retainer? What kind? There are two particular issues regarding fees that often lead to disputes when not agreed upon in advance: retainers and changes to the fee arrangement.

Retainers. The term “retainer” can mean several things: first, a refundable deposit that will be used to pay the attorney’s
hourly rate as work is completed; second, a “minimum fee” arrangement similar to the above, but where the “deposit” is non-refundable in the case of early completion/termination; and finally, a fee paid simply for the privilege of having the attorney available, with any hourly work to be paid separately. If you require a retainer, specify what type of retainer it is. If it is one of the latter two, make sure to use the word “non-refundable” in your letter. The Pennsylvania Bar Association Legal Ethics and Professional Responsibility Committee (PBA) has stated that non-refundable retainers are permitted, but only when not “clearly excessive” and explicitly agreed to. See PBA Opinion 85-120; PBA Opinion 95-100; Rule 1.5(a).

Changes to fees. Ensure that any procedure for changing your fee arrangement is plainly described. If your rates increase annually, state that. If the percentage of the contingency fee changes at a date certain or if the case goes to trial, say so. But be wary of changing a contingency fee to an hourly fee, as at least one court has held that such a change, when within the sole discretion of the attorney, “impermissibly” burdens a client’s right to settle a case. See Compton v. Kittleson, 171 P.3d 172 (Alaska 2007).

5. Specify when and how costs are paid.

While attorneys commonly require clients to pay all costs in addition to the lawyer’s fee, this must be stated in the engagement letter. Pay particular attention to the related language used in contingency fee arrangements — i.e., are costs deducted from the client’s gross recovery (reducing the attorney’s percentage) or from the client’s net recovery? Either is fine, as long as it’s agreed upon in advance.

6. Identify the procedure for withdrawing/terminating representation.

A client can fire a lawyer at any time, Rule 1.16(a)(3), and a lawyer can also generally withdraw if he is not being paid, Rule 1.16(b)(5). Even so, it is a good idea to state this in the letter, not only to set expectations, but also to lay the groundwork in case a withdrawal is necessary later. Remember, in Pennsylvania, a court must approve an attorney’s withdrawal unless the client has secured other counsel. See Pa.R.C.P. No. 1012.

7. Alternative Dispute Resolution (ADR)

The PBA has stated that ADR provisions are generally permitted in engagement letters for both fee and malpractice disputes as long as (a) the terms, advantages and potential disadvantages of the ADR are fully disclosed in writing; (b) the client is advised in writing of the ability to get independent legal advice regarding the provision; and (c) the client consents to the provision in writing. Opinion 97-140; Rule 1.5, Comment 5; Rule 1.8, Comment 14.

8. Dis- and Non-Engagement Letters

Finally, consider also using “dis-engagement” and “non-engagement” letters. The first is a letter stating that representation has ended and can merely be a cover letter to your final invoice or even an email. This again helps to avoid future disputes regarding the scope of your work. In contrast, a non-engagement letter is a communication to a party that you have chosen not to represent. Again, this can simply be an email in which you say you enjoyed speaking with such person, but “regret” that you are unable to represent them at this time. Such a short email can avoid costly litigation in the event they later claim they left your office under the impression that they had retained you.

Conclusion

Although this article is not an exhaustive list of engagement letter considerations, hopefully it has given you some ideas to implement in your practice going forward. Most of the above can be summarized thus: When in doubt, spell it out. Should a dispute with your new client arise in the future, you will be glad you did.

Jonathan Skowron is an associate in the Pittsburgh office of Schnader Harrison Segal & Lewis LLP. Jonathan focuses his practice on complex commercial litigation (primarily professional negligence and product liability actions, as well as general contractual disputes), and he has represented clients in a wide variety of industries, including engineering firms, attorneys, financial institutions, insurance companies, healthcare providers, retailers and industrial manufacturers.
The last thing on my mind when graduating from law school was worrying about what the future held in terms of maternity leave. My main focus, as is the focus for most lawyers right out of school, was on finding a job. “Life found a way” a few years into my career, and there I stood, clueless, naïve and completely unprepared for what would happen to me, both professionally and personally, when I went out on maternity leave. I’ve since had two more children and like to consider myself a quasi-expert in this field. I hope that my experiences can serve other working mothers moving forward as you not only prepare for the awesomeness of motherhood, but what will be a lifelong balance of work and family.

Here are some tips and things you should know before preparing to take your maternity leave.

1. Know your benefits.
Ideally, before you become pregnant, you should be aware of what benefits are available to you, both through your employer and independently. This goes for knowing what your spouse or partner is entitled to as well. Does your firm offer six weeks leave, 12 weeks, or even longer? Is there an option to stagger your leave before and after delivery? Does your partner’s work allow for paternity leave or extended family leave? Start the discussion and planning early so that you can maximize the benefits available to both of you.

- **Short-term disability.** Short-term disability insurance is provided through your employer or can be purchased independently and typically covers a percentage of your salary while you are out on maternity leave. There are many different plans available, and it is possible your employer offers one of these plans. Check with your HR representative before your pregnancy to determine if they offer short-term disability insurance through your employer or whether you need to look into purchasing your own policy. If your employer does not provide paid leave, short-term disability can assist greatly in covering a portion of your salary while you are out on leave.

- **FMLA leave.** The Family and Medical Leave Act (FMLA) is a federal law that requires certain covered employers to provide their employees with job-related security and unpaid leave for qualified reasons. With respect to pregnancy, the act allows employees to take up to 12 weeks unpaid leave due to pregnancy or care for a newborn child. FMLA leave applies not only to pregnancy but to adoption as well. FMLA is generally available to employees of businesses who meet these requirements:
  - Employee must have worked at the business for the last 12 months and worked at least 1250 hours during that time; and
  - Employer must have 50 or more employees for the last 20 weeks of the year;
  - If fewer than 50 employees at a single office, must have 50 employees within a 75-mile radius.

Keep in mind that this is just a brief overview of the FMLA and only skims the surface of this complex law. Make sure to do your reading and understand the terms of your FMLA leave. The U.S. Department of Labor website is a good place to start. Additionally, be prepared to have your doctor fill out paperwork related to your FMLA leave, for which you typically must pay a fee.

- **Work-provided benefits.** These benefits are provided by your employer and are independent from your FMLA leave or short-term disability benefits. Your HR department should be able to advise you of what benefits your company provides, which will typically involve something along the lines of six weeks paid and six weeks unpaid, 12 weeks paid, or 12 weeks unpaid. Typically, you will receive your work-provided benefits concurrently with your FMLA leave.

After you determine what your benefits are, confirm them in writing with your employer. I cannot stress this enough. Additionally, your employer may ask you to put your intentions for maternity leave...
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Pennsylvania Bar Association
June 2018

Maternity leave
Continued from page 8

in writing as well. For example, you may be required to draft a letter indicating that you intend to take 12 weeks of FMLA-covered maternity leave, receiving concurrently the additional benefits from your firm of six weeks fully paid and six weeks unpaid leave. Your due date is an approximation, so give your employer your projected due date but also advise that you will continue to update them as your pregnancy progresses. Along these same lines, determine whether you will continue to work up until your C-section or delivery, versus taking a set time off before your baby arrives. Again, discuss this with your partner and confirm everything, in writing, with your employer.

2. Talk to your clients.
A few months before you are due, start letting clients know that you anticipate taking maternity leave for an approximate time period. This will put clients on notice in case there is anything they wanted to achieve before you go out. Also, advise your clients as to who will be available for them to speak with while you are out.

Provide good contact information for your client to the attorney and vice versa.

3. Talk to your co-workers and colleagues.
Talk to your colleagues and support staff to see what they need from you before you go out on leave. In the past, I would discuss these cases in person with whomever was taking over and also create a temporary “transition memo” to the file with relevant information. This also goes for talking to opposing or co-counsel. Make sure they are aware you will be out and that they should seek agreement or consent of another attorney at your firm before decisions are made on a case or file.

4. Make a plan.
Work with your office and HR department to come up with a plan for when you are out. This includes: (1) who you should notify when you go into labor and/or when your C-section is scheduled; (2) whether your email or voicemail will have an extended out of office message and, if so, when you should put it into place; (3) how emails will be handled – i.e., will you stop emails going to your phone, only respond when necessary, etc.; (4) when and how co-workers are to contact you and for what purpose; and (5) how new client intake is to be handled when you are out. Once you have talked through these issues with your office, put everything in writing, and send it to HR to review. Indicate that you understand these are the agreed-upon terms of your maternity leave and ask them to confirm. That way, there is no confusion with how things should be handled when you are out. Feel free to circulate this memo to people you regularly work with so they are in the loop.

Colleen A. Baird is an associate attorney with Martson Law Offices in Carlisle. She focuses her practice on civil litigation, estate planning, real estate and land use. Colleen can be reached at cbaird@martsonlaw.com.
Currently, millennials who are preparing to enter the legal profession as practicing attorneys are facing two issues, once parallel in nature, but now about to converge. The first issue resides in the tightly-contained law school environment where stress and anxiety are not only the norm but are seemingly expected if one is to be considered a diligent and dedicated law student. To gain that competitive edge that many law students desire over their fellow lawyers-in-training, drug use and abuse has become increasingly prevalent. Enter the second issue, the drug epidemic that has been ravaging U.S. cities, towns and neighborhoods at an alarming rate, most recently coming in the form of Fentanyl, a synthetic opioid 30 to 50 times more potent than heroin and 50 to 100 times more potent than morphine.

Implementations to curb this public health emergency include harm-reduction approaches, such as safe-injection sites, where active addicts receive clean needles and can to use intravenous drugs under the supervision of medical professionals. The objective of these sites is two-fold: (1) avoid death in the event of an overdose; and (2) urge addicts to enter treatment facilities or programs. While leaders of Pennsylvania’s drug task forces have discussed bringing safe-injection sites to drug-damaged cities like Philadelphia, it is yet to be seen whether this effort will be enough to curtail the black cloud looming over our communities.

Attention is also being turned towards drug dealers. Prosecutors have begun cracking down on those who sell the drugs that cause addicts to overdose, charging them with Drug Delivery Resulting in Death. See 18 Pa. C.S. § 2506. In 2013, prosecutors in Pennsylvania used the charge in 15 cases. Last year saw an increase to 205, a nearly 1,300 percent increase in five years. Specifically, the City of Philadelphia has had its share of publicity when it comes to the drug epidemic, with its Kensington section being considered one of most notorious open-air drug markets in the United States. Metropolises, however, are not the only backdrops for increasing drug overdose deaths. Rural areas such as Lancaster County saw more than 160 people die from overdoses in 2017, an increase of more than 40 percent from 2016. A ravenous public health issue showing no palpable signs of slowing begs certain questions: How will the next generation of law school graduates act in response to the growing number of overdose deaths? Will young lawyers be taken seriously in their battles against drug dealing and attempts to aid addicts in need, or will their desensitization to casual drug use hinder their credibility? Given that millennials are the generation with the highest illicit drug use, and that substance abuse plays a role in 40 to 70 percent of all disciplinary proceeding and malpractice actions against lawyers, current law students cannot risk discounting these questions without earnestly pondering answers.

Young attorneys-to-be who are not planning to pursue a career in government or public interest work may fail to see how Pennsylvania’s drug crisis directly affects their legal futures. But practice areas such as legislative affairs, administrative law, pharmaceutical litigation, medical malpractice, class action litigation, consumer law, criminal defense, and food and drug law are all potentially affected by this drug crisis. Without the ability to act on his or her own substance abuse concerns, a young legal professional’s ability to do so on behalf of others will be severely impeded.

Most solutions to vast public health issues are often complicated, exhausting, and tediously time-consuming. This public health emergency is no exception.
Likewise, the solutions surrounding the glorified and accepted substance abuse among law students have their own hurdles. In Pennsylvania, where efforts to tackle the drug epidemic are underway, it would benefit law students to assess their own internal scourges and encourage their colleagues to follow suit. In 2015, the ABA Journal reported that the addiction rate for attorneys was twice that of the general population and would only grow. If numbers are already against practicing attorneys, how can history be kept from repeating itself as the newest generation of legal minds set foot into the real world of law?

The way to accomplish such a considerable objective lies in two disciplines — administrative accountability and individual accountability. At the American Bar Association’s 2018 Midyear Meeting in Vancouver, the House of Delegates adopted a resolution urging law firms, law schools, bar associations, lawyer regulatory agencies and other legal employers to take concrete action to address the high rates of substance abuse and mental health issues. In keeping with the need for continued integrity in the legal profession, the lawyer well-being movement is given legitimacy by the ABA resolution, although it is nonbinding. Law schools must encourage and enforce proper social conduct and responsibility from students to ensure a solid foundation for morality preceding practice.

Just as crucial is a student’s responsibility to being personally accountable. For millennials preparing to graduate and those who have just begun to practice, a step-by-step approach is necessary in an already uphill battle. First, it is important to prioritize. It is impossible for active addiction and a successful legal career to coexist — at least not for very long. Therefore, law students and young attorneys must investigate their own substance abuse struggles, if any, before combatting the struggles of a community as its legal advocate. Second and third, respectively, it is important to merge and promote. Law school has accomplished little if it has not taught a law student or alumni how to apply the knowledge learned to real legal world scenarios. Any prior experience in a toxic environment can be the most insightful tool to help a community rise from its own ashes. While millennials seem to have a scarlet letter upon their chest according to statistics, the stigma surrounding them may be the perfect platform for major change.

Kathryn Stein is a third-year student at Widener University Delaware Law School in Wilmington, Delaware. Her academic involvements include serving as the American Bar Association Law Student Division’s liaison of the Delaware Law Student Bar Association, vice president of moot court Honor Society, and student ambassador. Kathryn has interned with the Delaware Department of Justice’s Criminal Division since May 2017 and with the Delaware Department of Justice’s Drug Overdose Fatality Review Commission since January 2017. Kathryn has also worked as a legal consultant for the Center for Support of Families since September 2017 and will begin a clerkship for Judge Paul R. Wallace in Delaware Superior Court in June 2018. Kathryn hopes to become a state prosecutor upon graduation from law school and admission to the bar.
Although Pennsylvania has been immune from the hurricane-caused flooding experienced recently by much of the country, the Pennsylvania Flood Plain Management Act (Act), 32 P.S. § 679.101, et seq., can still sink a development in Pennsylvania long before Mother Nature ever gets her chance. The Act and related laws and ordinances should float to the top of the due diligence checklist for young attorneys staffing real estate deals or corporate deals with a real estate component. As young attorneys grow and take on more responsibility, they are often trusted with being the coxswains who navigate the client through due diligence. But what is most dangerous for young attorneys in due diligence is not knowing what to look out for. The act is one of the obscure laws and infrequent issues lurking below the surface that could torpedo a deal.

Young real estate attorneys are used to being on the lookout for zoning and building code issues that could scuttle a development from happening at all (such as putting a factory into a residential area), but what an otherwise diligent attorney may not realize is that the Act can limit how much money a developer can invest into a project that is an allowable use. The Act prohibits the “construction or substantial improvement of structures in an area which has been determined by the Environmental Quality Board as a flood hazard area on a flood insurance rate map promulgated by the Department of Housing and Urban Development.” 32 P.S. § 679.104. A substantial improvement is defined as “any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged, and is being restored, before the damaged occurred.” A substantial improvement occurs when the first alteration of any wall, ceiling, floor or other part of the building commences, no matter whether the alteration affects the external dimensions of the structure.

In addition to regulating substantial improvements, the Act prohibits the construction of certain structures altogether without a special exception. These include hospitals, nursing homes, jails and mobile home parks. These specific structures are prohibited because they present a special hazard to health, safety and property. 32 P.S. § 679.301(a-b). Special exceptions are issued by the local municipality in accordance with the Act. 32 P.S. § 679.301(c)

The Commonwealth makes the policy behind the rule clear: the use of flood control measures has failed to “significantly reduce the human suffering and economic losses caused by recurrent flooding.” 32 P.S. § 679.102(c). Flooding destroys private and public property, means of livelihood and economic resources. Flooding also disrupts commerce, communications, utility and governmental services. 32 P.S. § 679.102(a). In short, the Commonwealth does not want developers investing in assets that could literally become liquid.

The rush of regulation on substantial improvements does recede. The Act allows improvements for the purpose of complying with existing Pennsylvania or local health, sanitary or safety codes to assure safe living conditions. Alterations of a structure listed on the National Register of Historic Places or a Pennsylvania inventory of historic places is also permitted. 32 P.S. 679.104.

The rules in the Act, however, are minimum standards. The City of Pittsburgh Code of Ordinances (PCO) dives deeper than the Act. The PCO establishes a Floodplain Overlay District (FP-O), which is intended to reduce financial burdens imposed on the community, its govern-

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Due diligence deluge
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mental units and its residents by preventing excessive development in areas subject to flooding. PCO § 906.02(A)(4). Rather than measuring allowable development in dollars, the PCO prohibits any development within the FP-O altogether unless zoning approval and building permits have been obtained. PCO § 906.02(B).

Young attorneys should not let unsuspecting clients sail through a due diligence period and purchase a property only to find out that the land cannot be developed or the building cannot be rehabilitated. Without being able to invest the full amount of money necessary, a client could be stuck with a building that never achieves its highest and best use. More could be written on the topic. Given the restrictions of this format, attentive real estate attorneys should submerge themselves in the regulations promulgated by the Commonwealth, their local municipality and FEMA. Young real estate attorneys should also remember during the due diligence period that the American Land Title Association offers flood zone classification as item number 3 on the Table A list of Optional Survey Responsibilities and Specifications for ALTA surveys.

Jason Antin is an associate in the Real Estate Group at Cohen & Grigsby PC. Before joining the firm, Jason worked at a national law firm and clerked for the chief district judge of the Western District of Pennsylvania. He earned his JD/MBA from Emory University and will graduate in May 2018 with a LLM in taxation from NYU. Jason lives in Shadyside with his wife, Rachel.

Hollidaysburg lawyer Joel Seelye presented with Service Award

The PBA Young Lawyers Division presented its Michael K. Smith Excellence in Service Award to Joel C. Seelye of Hollidaysburg during the Annual Meeting Awards Luncheon, May 10, in Hershey.

The award is named in memory of a young Philadelphia lawyer committed to providing legal services for low-income people and to offering law-related educational programs to students. It is presented to a Pennsylvania young lawyer who, through his or her exemplary personal and professional conduct, reminds lawyers of their professional and community responsibilities.

Seelye is being recognized for his willingness to always offer fellow attorneys his expertise, guidance and assistance and for his unrivaled professionalism, collegiality and dedication to the YLD.

Seelye, a partner at Grabill & Seelye PLLC in Altoona, formerly served as chair of the PBA YLD, the Zone 8 chair on its Executive Council and the YLD liaison to the board of directors of the Pennsylvania Bar Institute. He also served as the Blair County coordinator for its Wills for Heroes program, which provides free basic estate planning documents to first responders and military veterans, and is the former regional coordinator of the High School Mock Trial Competition.

Seelye is a member of the Blair County Bar Association (BCBA) and former president of the BCBA Young Lawyers Committee. He is a member of the executive committee of the J.S. Black American Inn of Court. Seelye serves as vice president of the board of directors of the Hollidaysburg YMCA and on the advisory committee for the criminal justice program at the YTI Career Institute. The Altoona Mirror selected him for its “20 under 40” in 2012, a distinction recognizing business success, entrepreneurial spirit and community involvement. He is a 2014 graduate of “Leadership Blair County” and serves on the program’s planning committee.

Seelye is a summa cum laude graduate of California University of Pennsylvania and Duquesne University School of Law. He also attended the International Study of Law program in Ireland.
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