

Building Personal Resilience

One Difficult Conversation at a Time

Mary Crane, Mary Crane & Associates

Why Discuss Resilience?

- Accelerating change
- Global instability
- Information overload
- Innovate or die

Why Discuss Resilience?

- No one escapes life without encountering some challenge
- How you manage those challenges is part of your story

Why Discuss Resilience?

- Ethical obligations
- Data indicates many lawyers resort to unhelpful coping skills
- Resilient lawyers serve their clients best



Impairment Issues Among Lawyers

- **1 in 3 practicing lawyers** are “**problem drinkers**” (“Prevalence of Substance Abuse and Other Mental Concerns Among American Attorneys,” ABA/Hazelden Center (2016))
- **50%** reported drinking enough to get drunk at least once in the prior 30 days and **43%** reported **binge drinking at least once in the prior two weeks** (2014 Survey of Law Student Well-Being)

Impairment Issues Among Lawyers

- Levels of depression, anxiety, and stress among attorneys reported here are significant, with **28%**, **19%**, and **23%** experiencing mild or higher levels of **depression, anxiety, and stress**, respectively.
- In terms of career prevalence, **61% reported concerns with anxiety** at some point in their career and **46% reported concerns with depression**.

Impairment Issues Among Lawyers

- [O]ur study reveals significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use.

“The Prevalence of Substance Abuse and Other Mental Health Concerns Among American Attorneys,” *Journal of Addiction Medicine*, February 2016



Colorado Rule 1.1: Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Colorado Rule 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Colorado Rule 1.4: Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

Colorado Rule 1.4: Communication

- (3) keep the client reasonably informed about the status of the matter;*
- (4) promptly comply with reasonable requests for information; and*
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.*

Colorado Rule 1.16: Withdrawal

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

Colorado Rule 1.16: Withdrawal

- 1) the representation will result in violation of the Rules of Professional Conduct or other law;*
- 2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or*
- 3) the lawyer is discharged.*

Rules of Professional Conduct

- Impaired lawyer is not aware of disability
- Impaired lawyer refuses to acknowledge disability
- Impairment is sporadic, fluctuates day-to-day

Colorado Rule 5.1: Supervisory Lawyers

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

Colorado Rule 5.1: Supervisory Lawyers

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved;

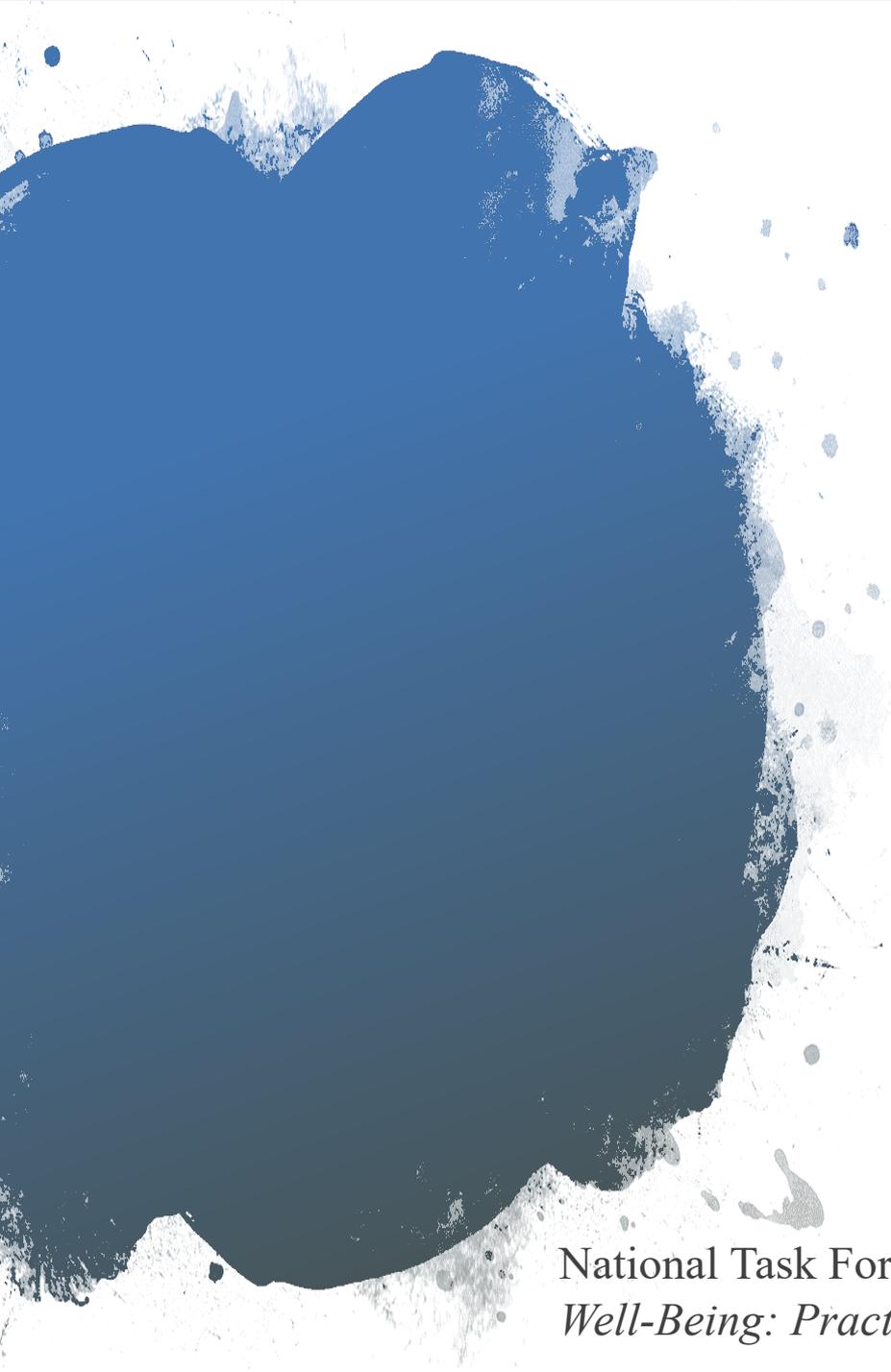
Colorado Rule 5.1: Supervisory Lawyers

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

THE PATH TO LAWYER WELL-BEING:

Practical Recommendations
For Positive Change

[THE REPORT OF THE
NATIONAL TASK FORCE ON
LAWYER WELL-BEING]



*...start the process necessary
to place health, resilience,
self-care, and helping others
at the forefront of what it
means to be a lawyer.*

National Task Force on Lawyer Well-Being, *“The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,”* 2017

Program Objectives

- Define resilience
- Define characteristics that make some people more resilient than others
- Identify specific resiliency strategies that you can incorporate into your life/practice
- Special focus on having difficult conversations
- Get practical



Resilience

resilience

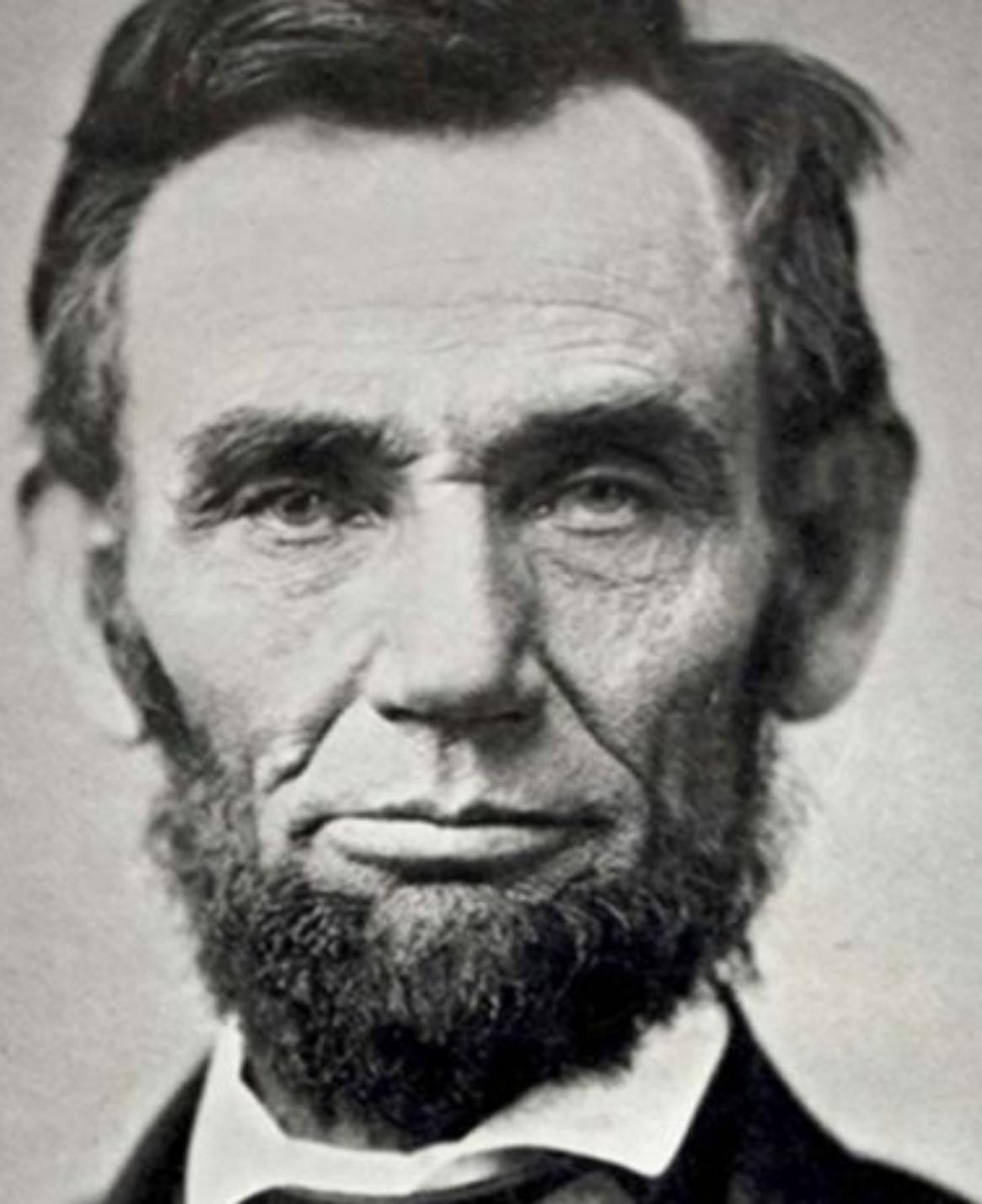
(noun) re-sil-i-ence

"...the process of adapting well in the face of adversity, trauma, tragedy, threats or significant sources of stress – such as family and relationship problems, serious health problems or workplace and financial stressors."

"It means 'bouncing back' from difficult experiences."



Source: American Psychological Association







**"I haven't failed.
I've just found
10,000 ways
that won't work."**

Thomas Edison





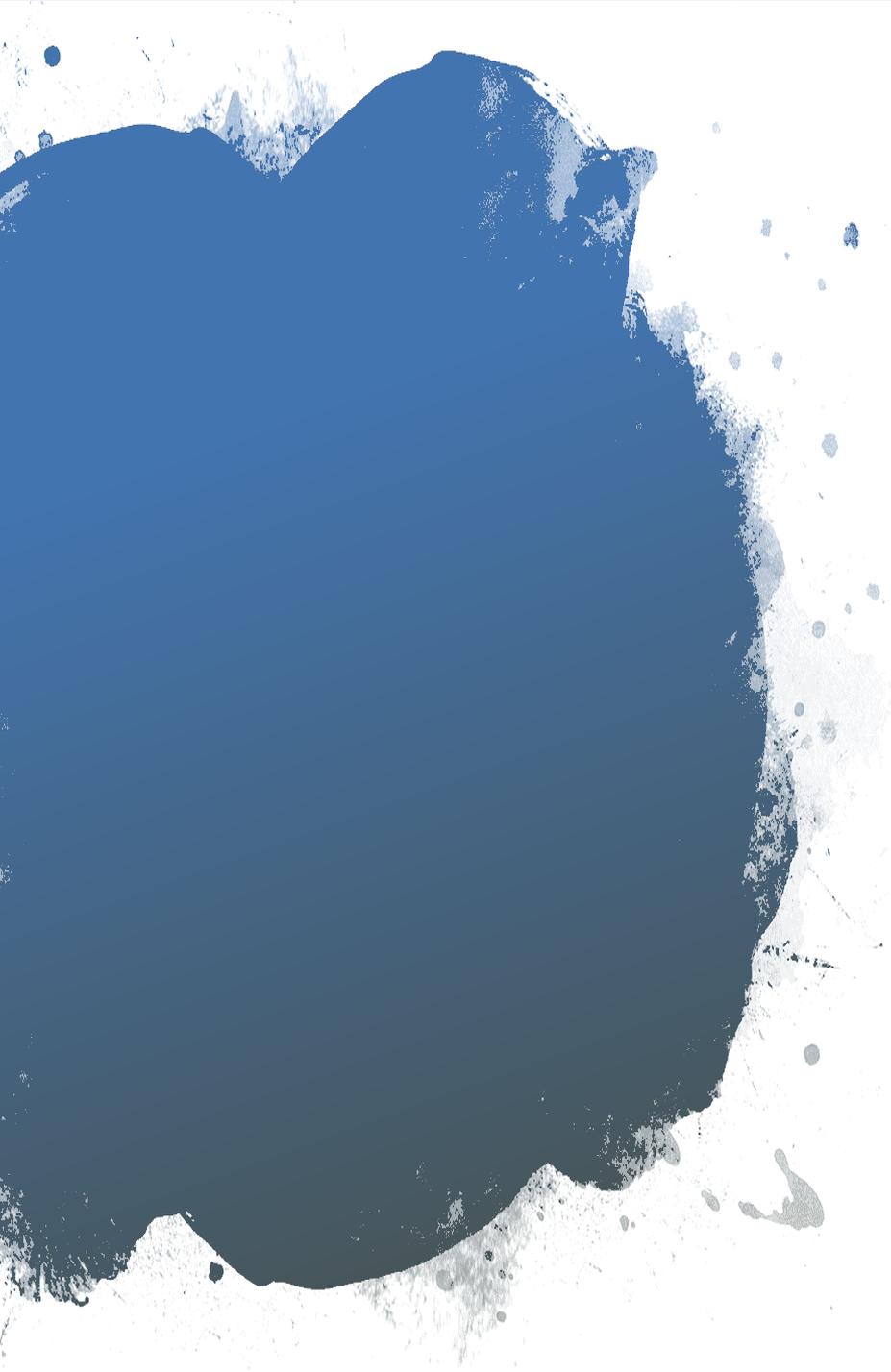


Resiliency - Contributing Factors

- Genes play a central role in how we respond to stress
- Genes and environmental factors contribute to resilience
- Magnitude of respective contributions is about equal
- Multiple variants

Resiliency - Contributing Factors

- Neuroplasticity
- *“the ability of the nervous system to respond to intrinsic or extrinsic stimuli by reorganizing its structure, function and connections”*
- Neurons that fire together wire together



*Bouncing back is a choice
– but the choice is easier
for some.*

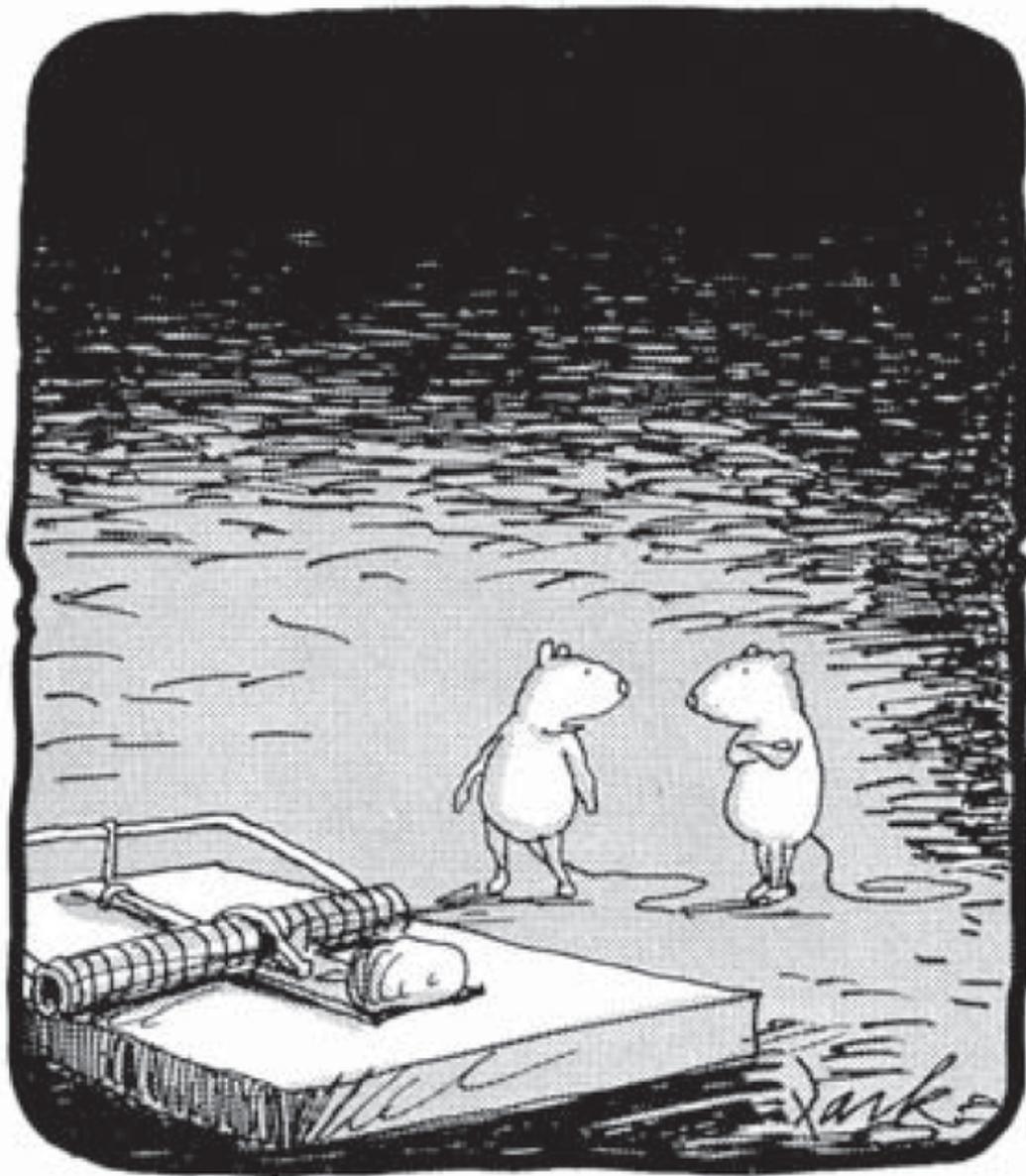
S. Southwick & S. Charney, **Resilience: The Science of Mastering Life's Greatest Challenges** (2018)

Characteristics → Resilience

- Practice “realistic optimism”
- Face fears
- Seek social support
- Find resilient role models
- Get physical
- Exercise brains
- Practice morality/spirituality/meaning/purpose



Characteristic 1:
Practice
“Realistic Optimism”



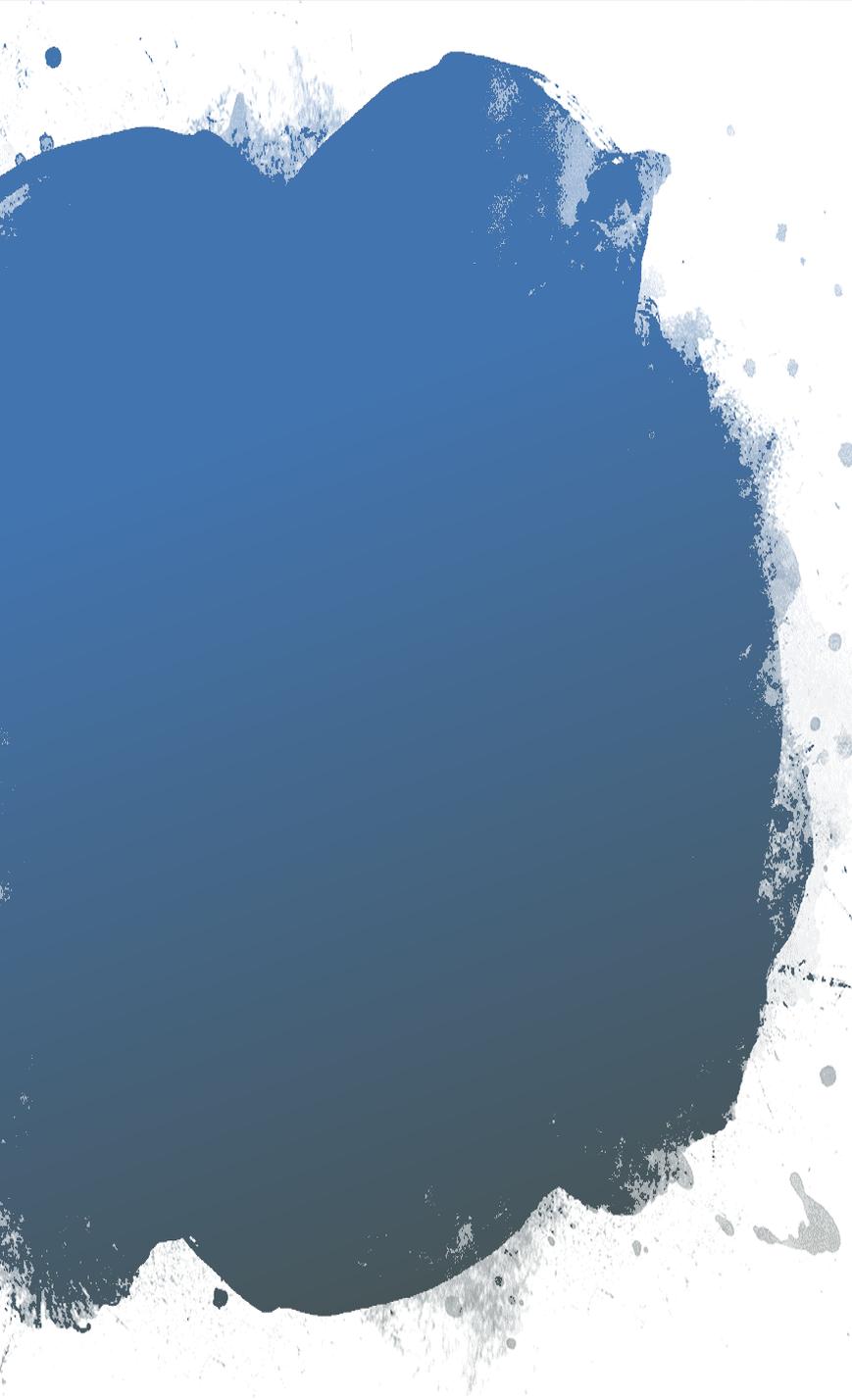
“Modern technology being what it is, there’s a good chance it won’t work anyway.”

DON'T WORRY!

BE HAPPY!

BE HAPPY!



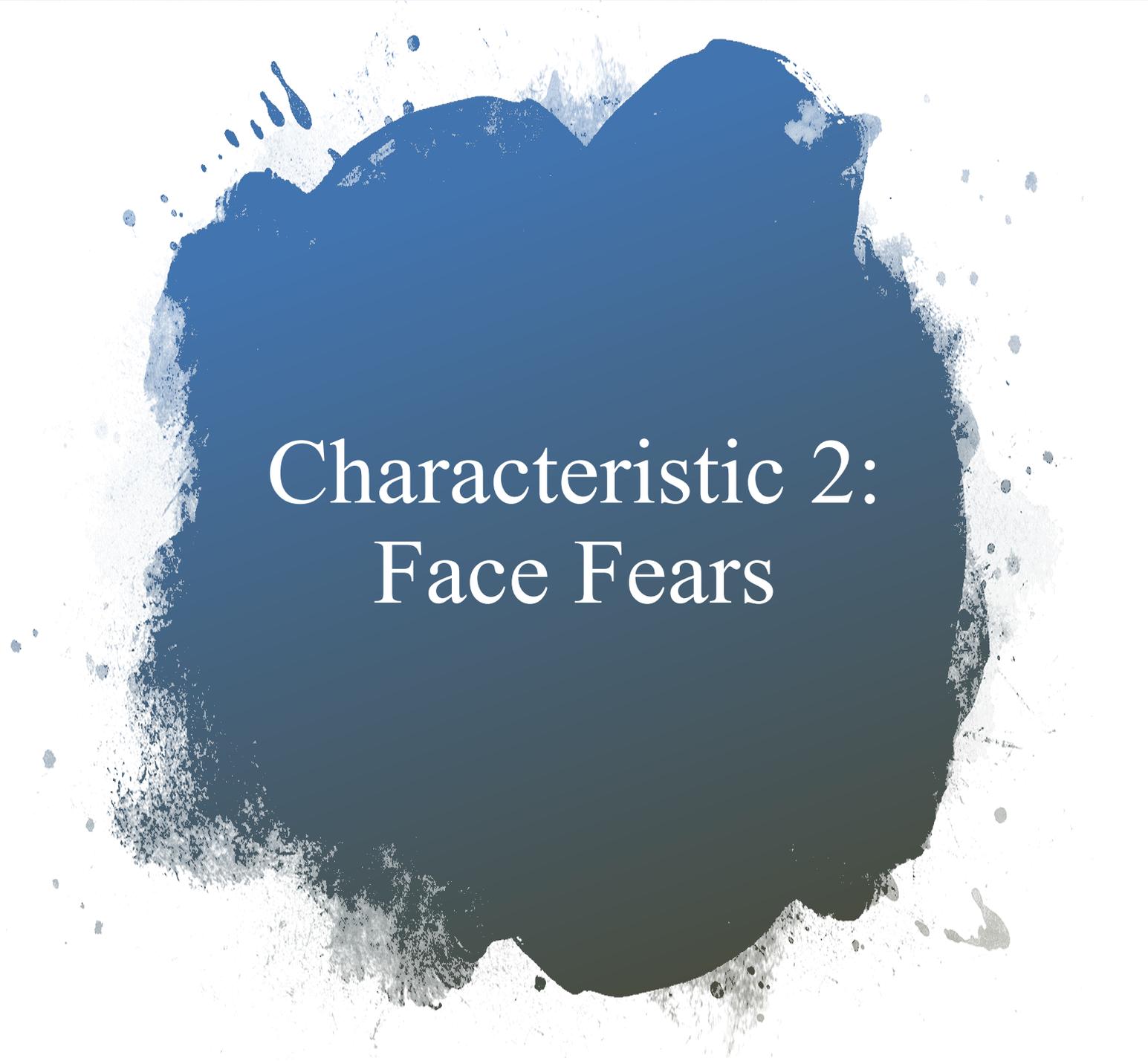


*A realistic outlook improves
chances to negotiate the
environment successfully,
whereas an optimistic outlook
places priority on feeling good.*

S. Schneider, "In search of realistic optimism:
Meaning, knowledge, and warm fuzziness,"
American Psychologist (2001)

Why does realistic optimism help?

- Surprise event stimulates fight-or-flight response
- Realistic optimism stimulates cerebral cortex (executive thinking, decision-making)
- Reframe and reinterpret



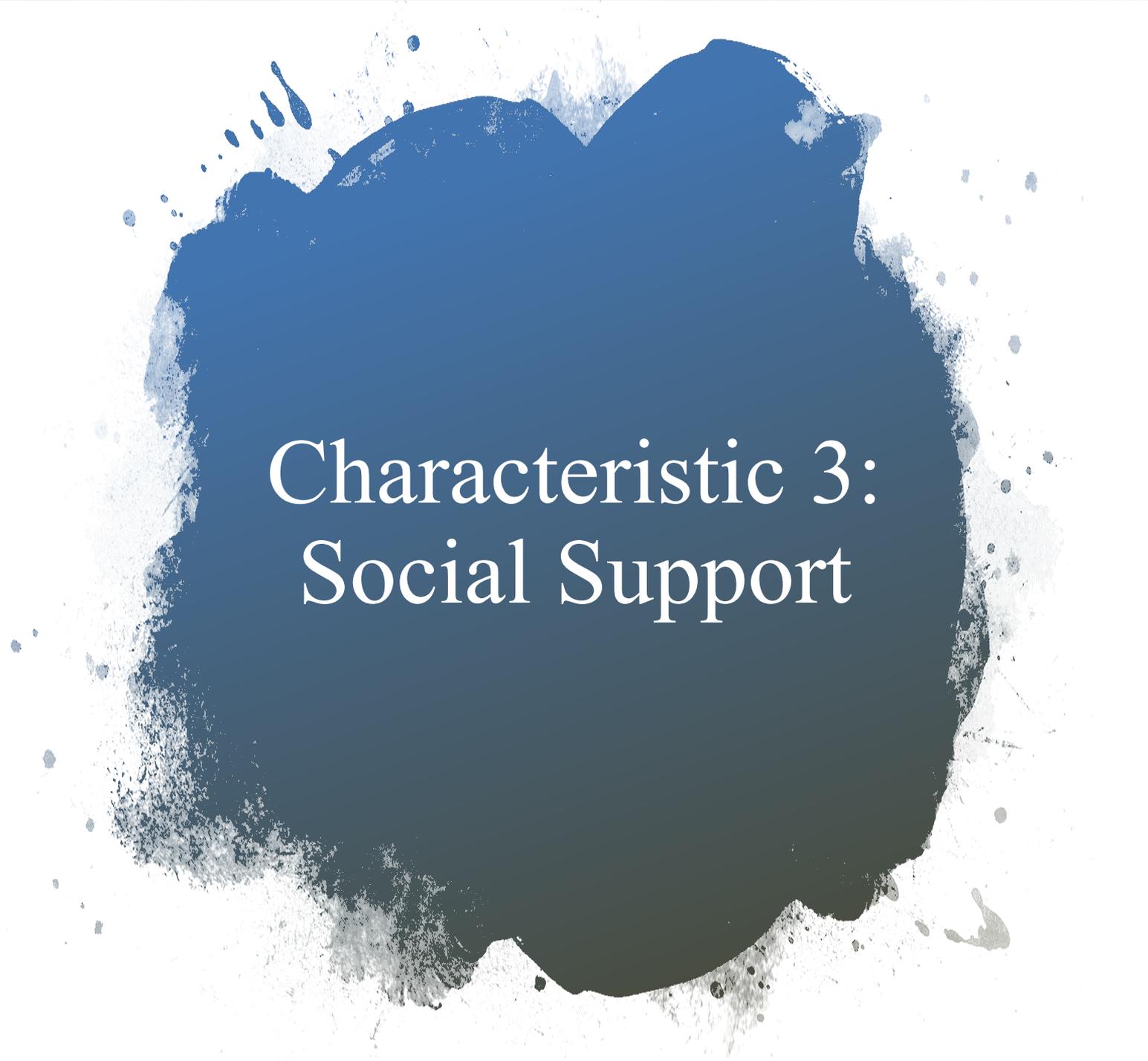
Characteristic 2: Face Fears





Facing Fears

- Use fear as a guide
- Identify what is feared
- Focus on your goal or mission
- Learn and practice skills to master fear
- Face fear with friends/colleagues
- Get someone to push you



Characteristic 3: Social Support



Social Support

Perhaps even more concerning is that the psychological strain of loneliness manifests physiologically, too. Harry Taylor, who studies social isolation in older adults, particularly in the black community, says that it's one of the worst things that humans can do to their overall well-being, adding that "the mortality effect of social isolation is like smoking 15 cigarettes per day."

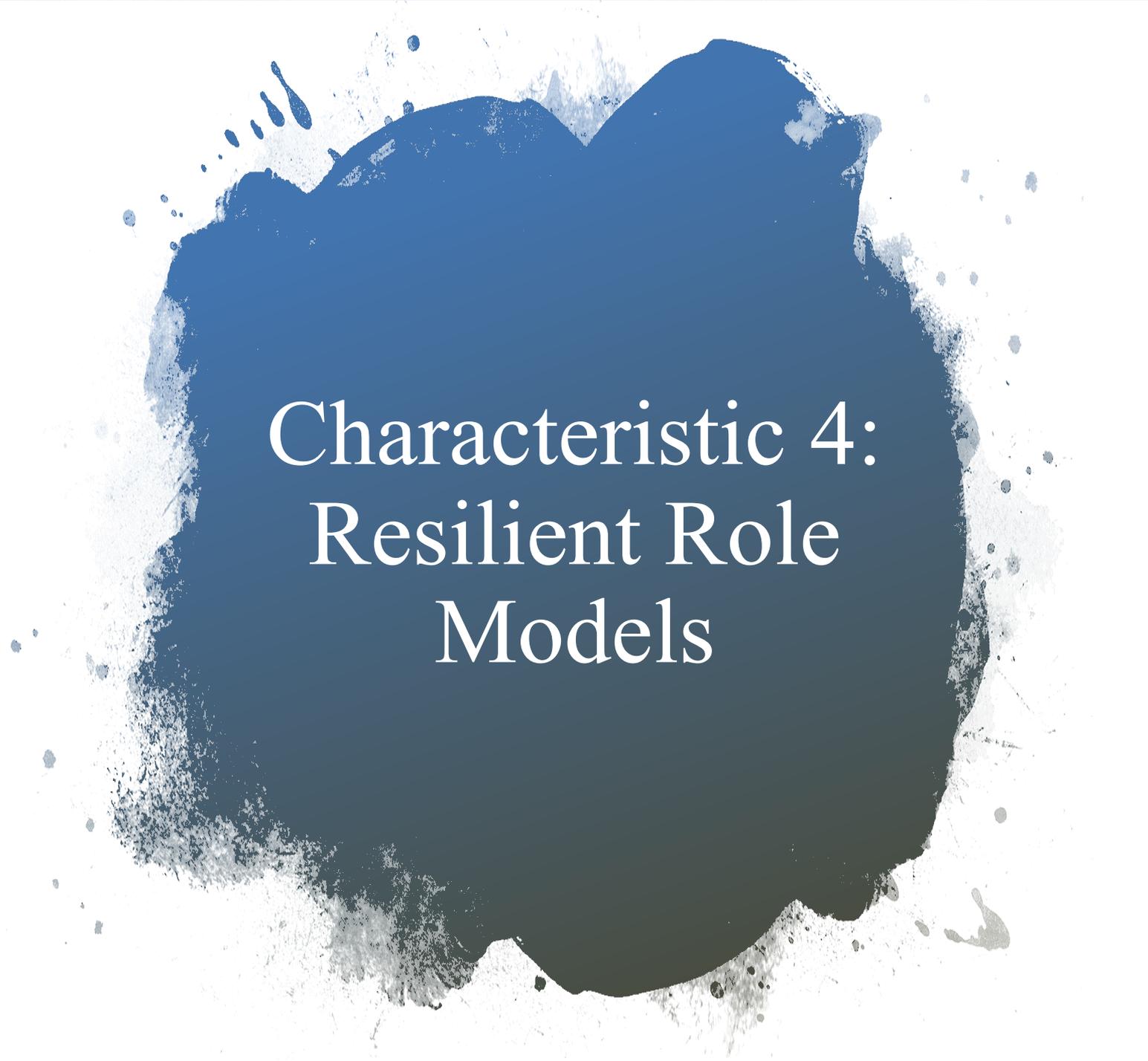
E. Ellis, "What Coronavirus Isolation Could Do to Your Mind (and Body)," *Wired*, March 25, 2020

Science - Social Support

- Social isolation or rejection sets off brain responses similar to fight-or-flight
- Brain's reward circuitry can be activated by socially supportive interactions
- Oxytocin

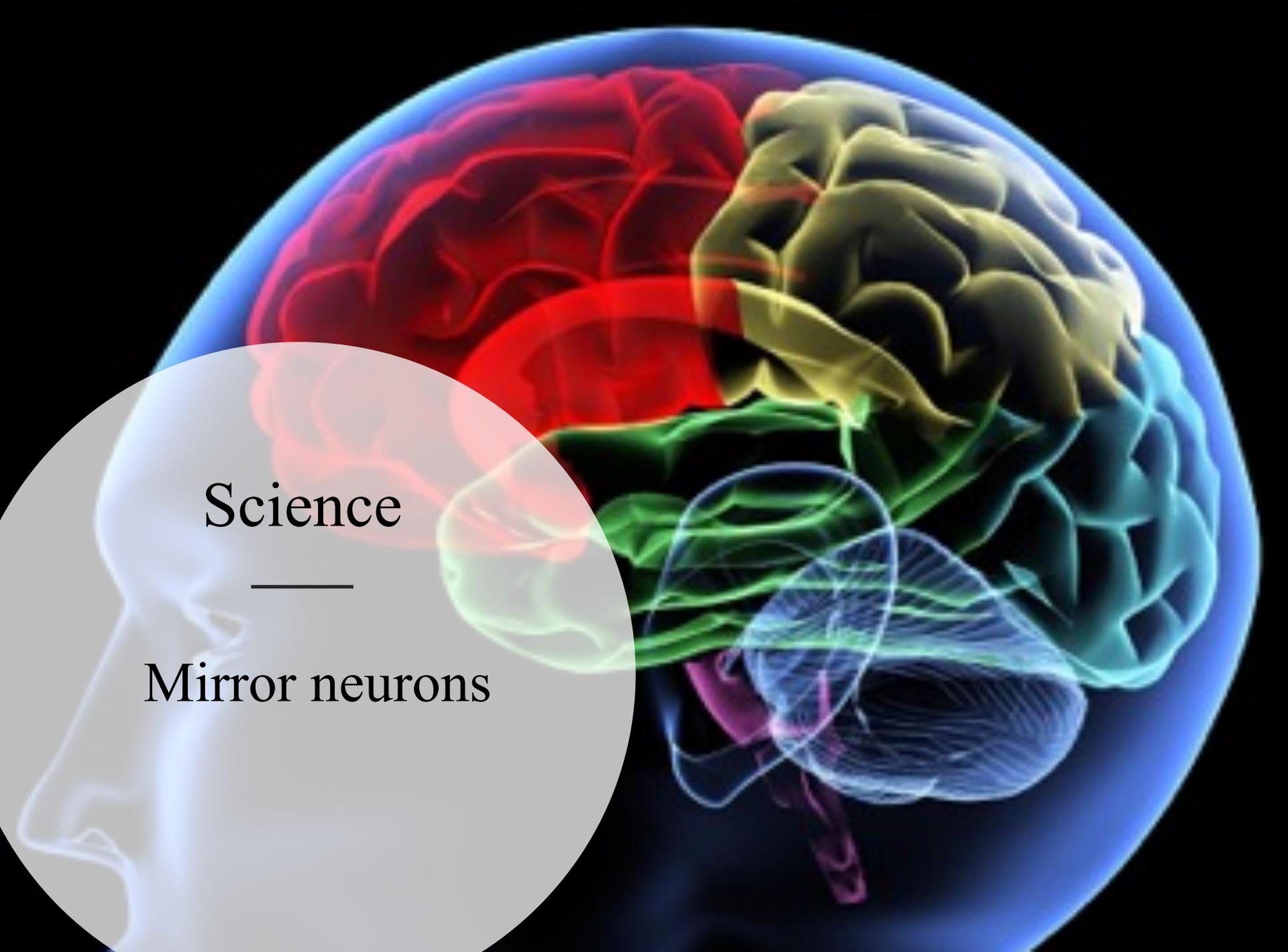
Social Support

- Invest effort in giving and receiving social support
- Attend social gatherings
- Join a “support group”
- Seek genuine communication beyond the superficial
- Make use of all of smartphone’s capabilities



Characteristic 4:
Resilient Role
Models





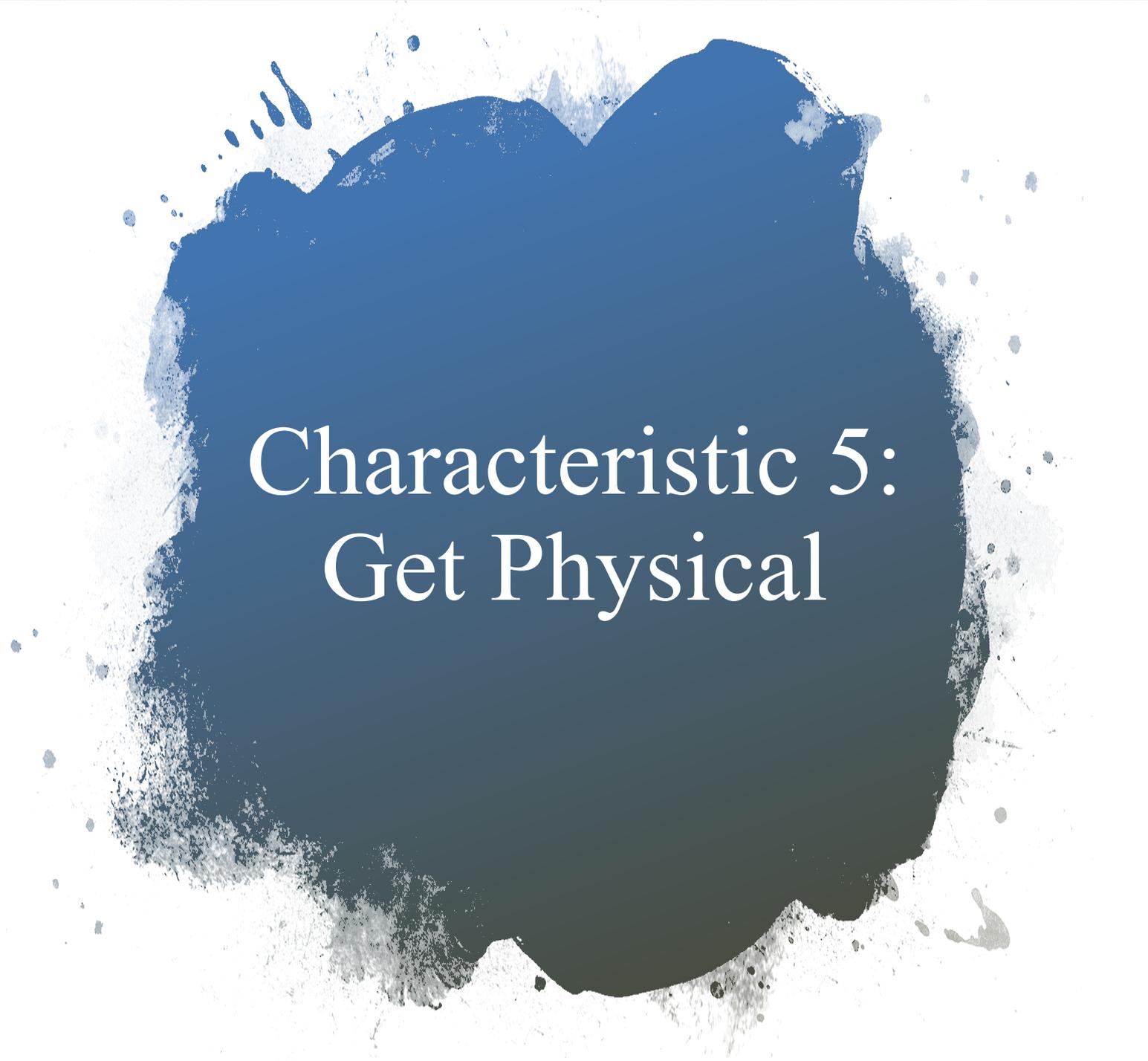
Science



Mirror neurons

Resilient Role Models

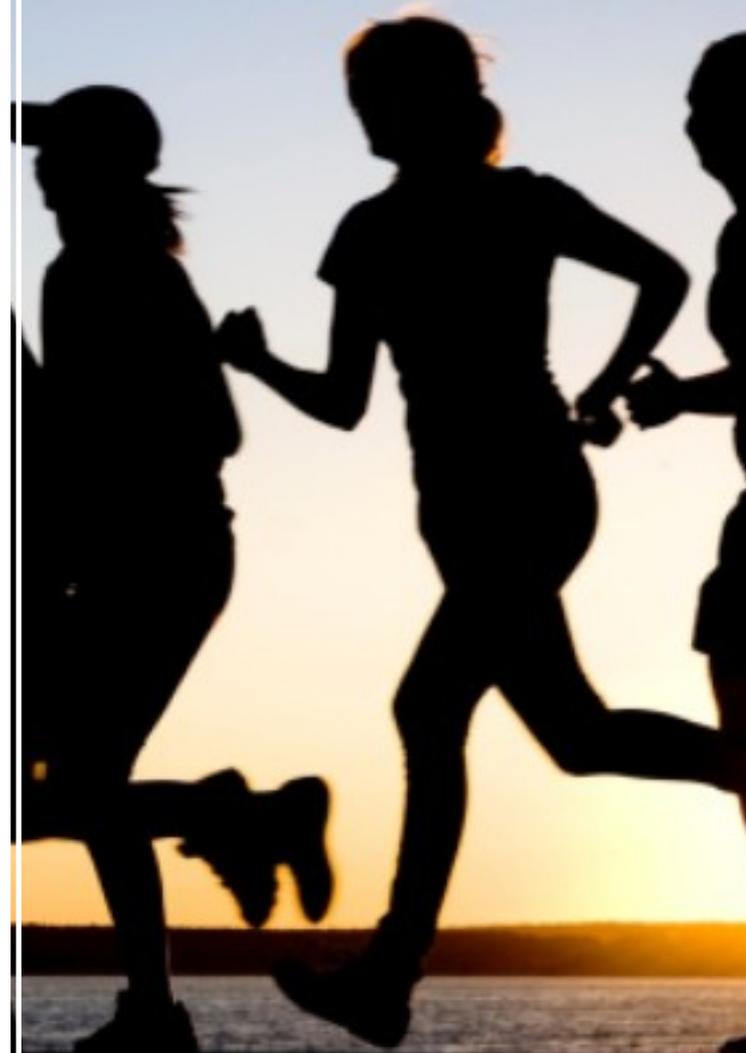
- Observe the skill
- Break the skill down into segments
- Transform the segments into rules designed to guide behavior in different situations
- Practice
- Obtain feedback



Characteristic 5: Get Physical

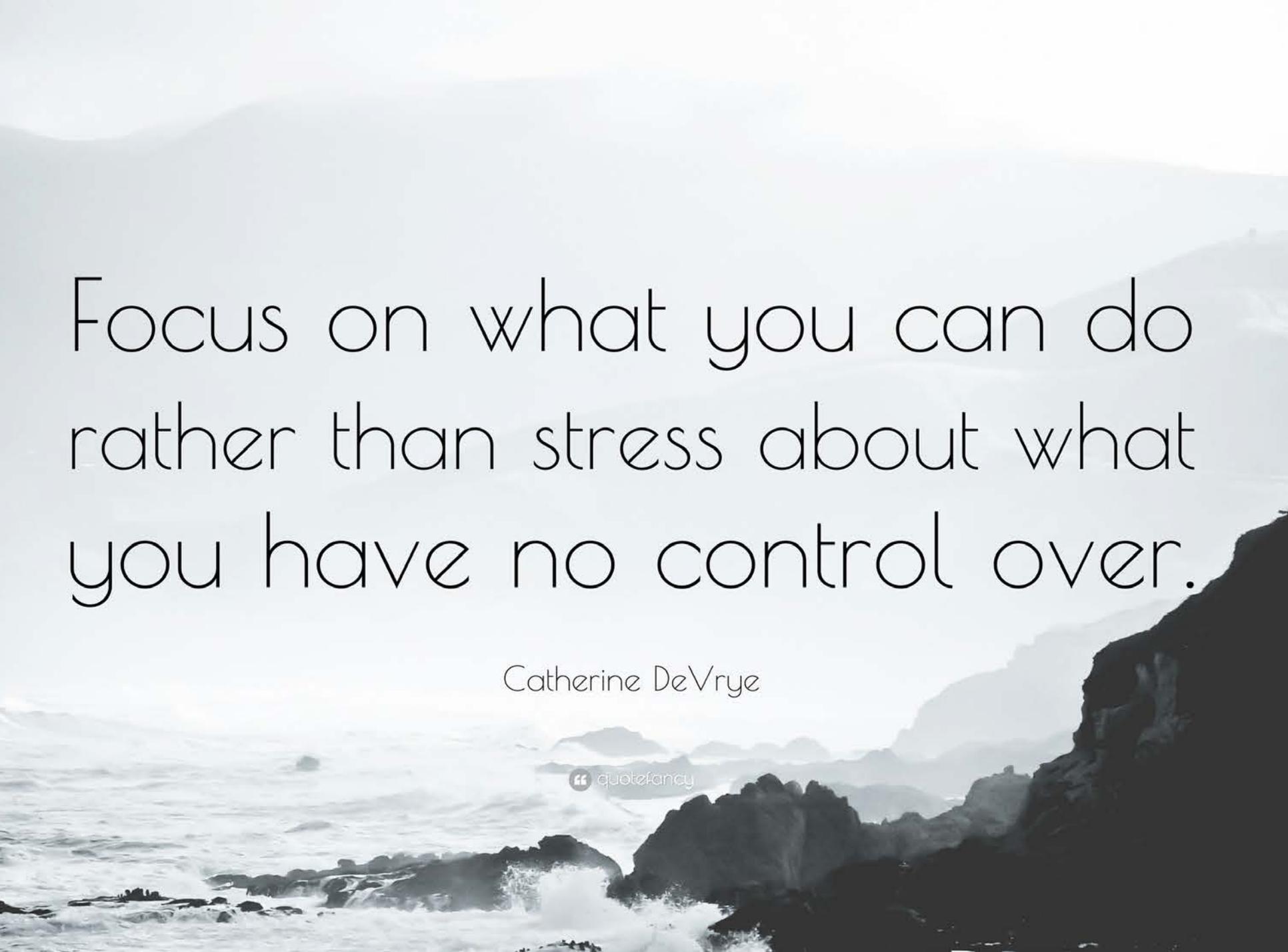
Benefits of Exercise

- Weight control
- Helps combat health conditions & diseases
- Improves mood
- Boosts energy
- Promotes better sleep
- Can be social



Science - Exercise

- Releases endorphins & dopamine
- Protects against the hormonal effects of chronic stress
- Enhances the growth of neurons in the brain
- May increase hippocampal volume (memory)



Focus on what you can do
rather than stress about what
you have no control over.

Catherine DeVrye

“ quote fancy

Get Physical

- Consult with your M.D.
- Well-defined goals
- Reward yourself for meeting goals
- Increase intensity
- Practice good recovery habits
- Notice the positive feelings that accompany increases in physical resilience



Strategy 6:
Exercise Your
Brain



Brain Fitness

- Research over the past decade indicates that we can enhance brain fitness
- Neurons that are actively used make more connections with other cells and transmit information more efficiently

“Thinking about Thinking”

Higher Reasoning

Executive Function

Prefrontal Cortex

9 Functions of the Prefrontal Cortex

1. Empathy
2. Insight
3. Response Flexibility
4. Emotion Regulation
5. Body Regulation
6. Morality
7. Intuition
8. Attuned Communication
9. Fear Modulation



Limbic Brain

1. Fight, flight, freeze stress response
2. Thinks, "Am I safe? Do people want me?"
3. Emotions live here

Managing the Emotional Brain

Mindfulness training

- Paying attention in a particular way: on purpose, in the present moment, without judgment
- Helps individuals tolerate negative emotions better without acting upon them

Managing the Emotional Brain

Attention Restoration Theory

- Cognitive muscles become fatigued
- An effective way to recover is to “unplug”
- Mom: “*Go outside and play!*”

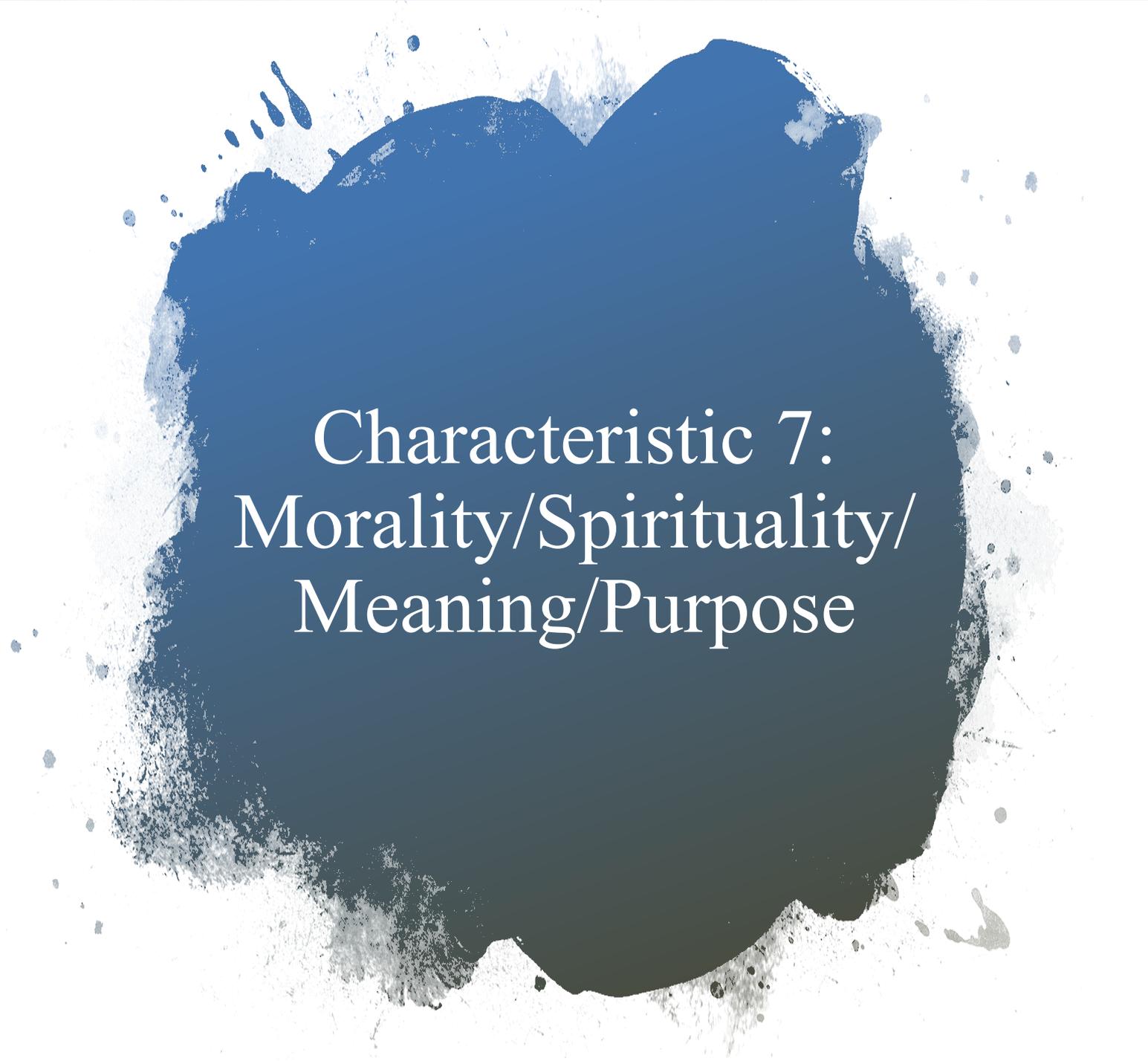
July 16, 2018

The New York Times

THE CHECKUP

Writing Prescriptions to Play Outdoors

Advantages for children include being physically active, spending time in nature and getting away from screens. And fun.



Characteristic 7:
Morality/Spirituality/
Meaning/Purpose

Characteristic 7: Morality/Spirituality/ Meaning/Purpose

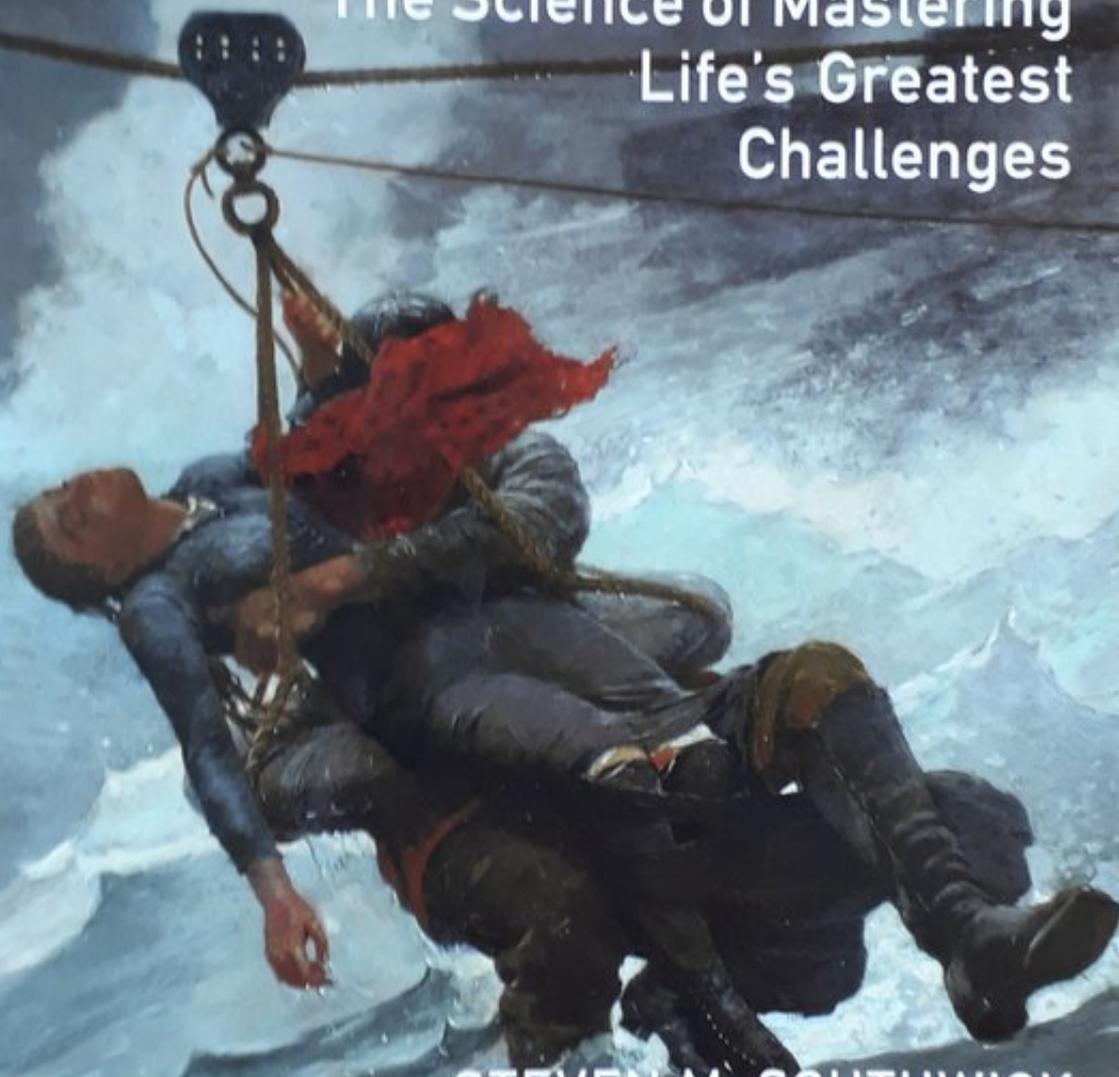
- Keen sense of right and wrong (core values)
- Compassion, concern for welfare of others
- Forgiveness
- Purpose

Resiliency Strategies

- Practice “realistic optimism” (reframe)
- Face fears
- Seek social support
- Model resilient colleagues
- Get physical
- Exercise your brain
- Practice morality/spirituality/meaning/purpose

RESILIENCE

The Science of Mastering
Life's Greatest
Challenges



STEVEN M. SOUTHWICK
& DENNIS S. CHARNEY



Resilience Skills for Lawyers

Skill 1: Activate your inner Perry Mason

Skill 2: Develop assertive communication skills

Skill 3: Capitalize on your strengths

Skill 4: Take time to re-energize

Skill 5: “Hunt the good stuff”





Activate Your Inner Perry Mason

Successful lawyers:

- Collect information and data
- Analyze the data from multiple perspectives
- Check for errors in thought processes that might impact their ability to achieve client goals

Stimulus



Response

Stimulus



Response



Thought

ABCDE Model

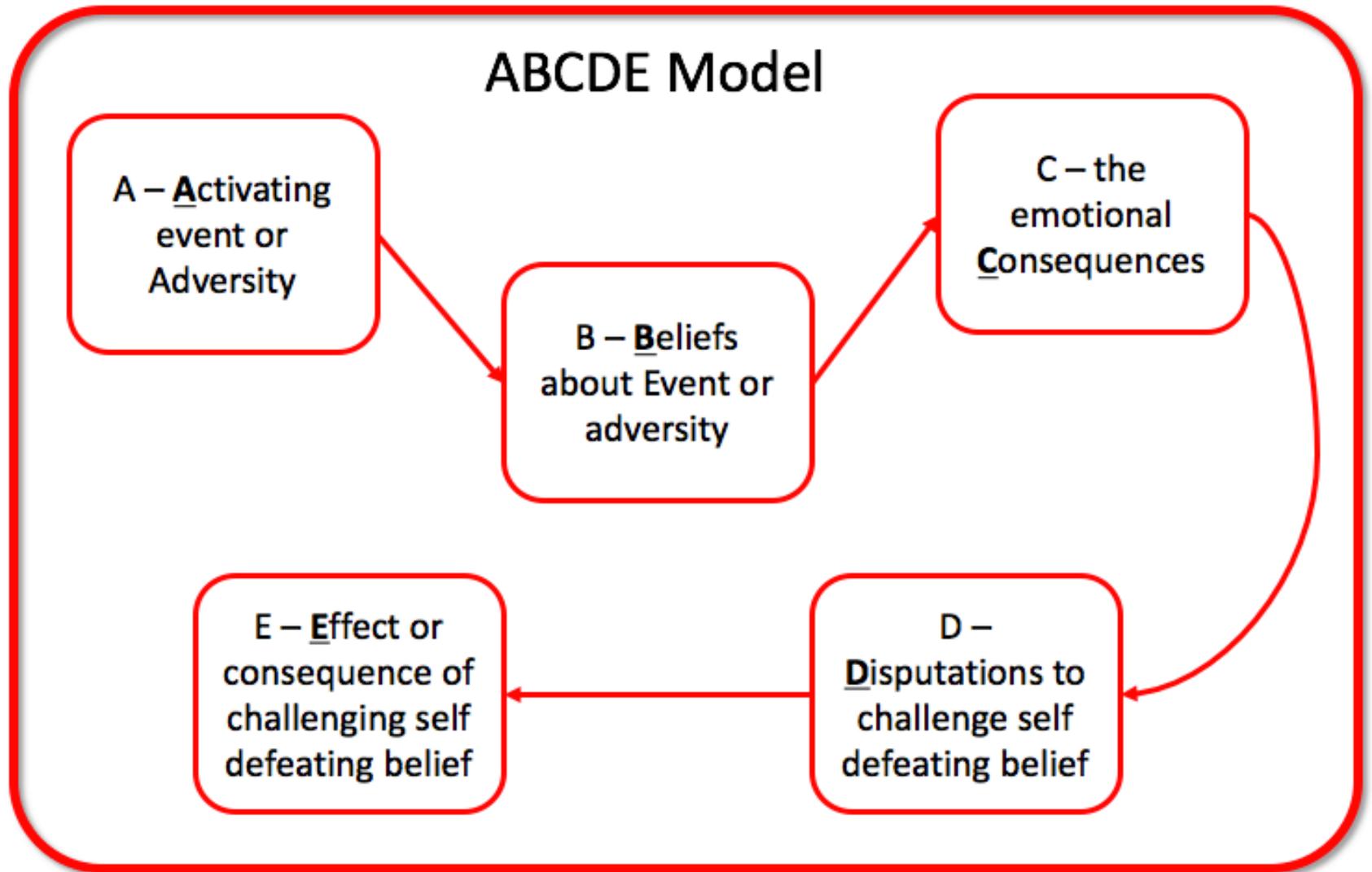
A – Activating
event or
Adversity

B – Beliefs
about Event or
adversity

C – the
emotional
Consequences

E – Effect or
consequence of
challenging self
defeating belief

D –
Disputations to
challenge self
defeating belief



**Activating
Event**

**I need to deliver an important client
pitch.**

**Belief/
Thought**

My client pitches always go badly; I get dry mouth; I'm terrified I'll forget some important point.

Consequences

Anxious and afraid; I can't concentrate on the content; I've put off preparation.

Dispute

My pitches don't always go bad; I've never forgotten a critical point; If I start now, I have time.

Resilience Skills for Lawyers

Skill 1: Activate your inner Perry Mason

Skill 2: Develop assertive communication skills

Skill 3: Capitalize on your strengths

Skill 4: Take time to re-energize

Skill 5: “Hunt the good stuff”

Assertive Communication

...the ability to express positive and negative ideas and feelings in an open, honest and direct way. It recognises our rights whilst still respecting the rights of others. It allows us to take responsibility for ourselves and our actions without judging or blaming other people.

Difficult Conversations

- Step One:** Preparation
- Step Two:** Develop an opening statement
- Step Three:** Invite other person to dialog
- Step Four:** Listen deeply
- Step Five:** Solve issues collaboratively
- Step Six:** Do a reality check
- Step Seven:** Reach agreement
- Step Eight:** Designate a check-in time

NOW IT'S
YOUR TURN.

10th-ANNIVERSARY EDITION

THE
NEW YORK
TIMES
BUSINESS
BESTSELLER



Difficult Conversations

HOW TO DISCUSS
WHAT MATTERS MOST

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FIERCE CONVERSATIONS

Achieving Success
at Work & in Life,
One Conversation
at a Time

SUSAN SCOTT

Foreword by KEN BLANCHARD, PhD

Difficult Conversations

Our work, our relationships, and our lives succeed or fail one conversation at a time. While no single conversation is guaranteed to transform a company, a relationship, or a life, any single conversation can. Speak and listen as if this is the most important conversation you will ever have with this person. It could be. Participate as if it matters. It does.

Susan Scott, Fierce Conversations: Achieving Success at Work and in Life One Conversation at a Time (2004)

Resilience Skills for Lawyers

- Skill 1: Activate Your Inner Perry Mason
- Skill 2: Develop assertive communication skills
- **Skill 3: Capitalize on Your Strengths**
- **Skill 4: Take time to Re-energize**
- **Skill 5: “Hunt the Good Stuff”**

NT

ASSESSMENT



POPAY

BUD
AGENDORF*

I YAM
WHAT I
YAM!





6 Morning Habits For Positive Energy All Day



I am grateful
for

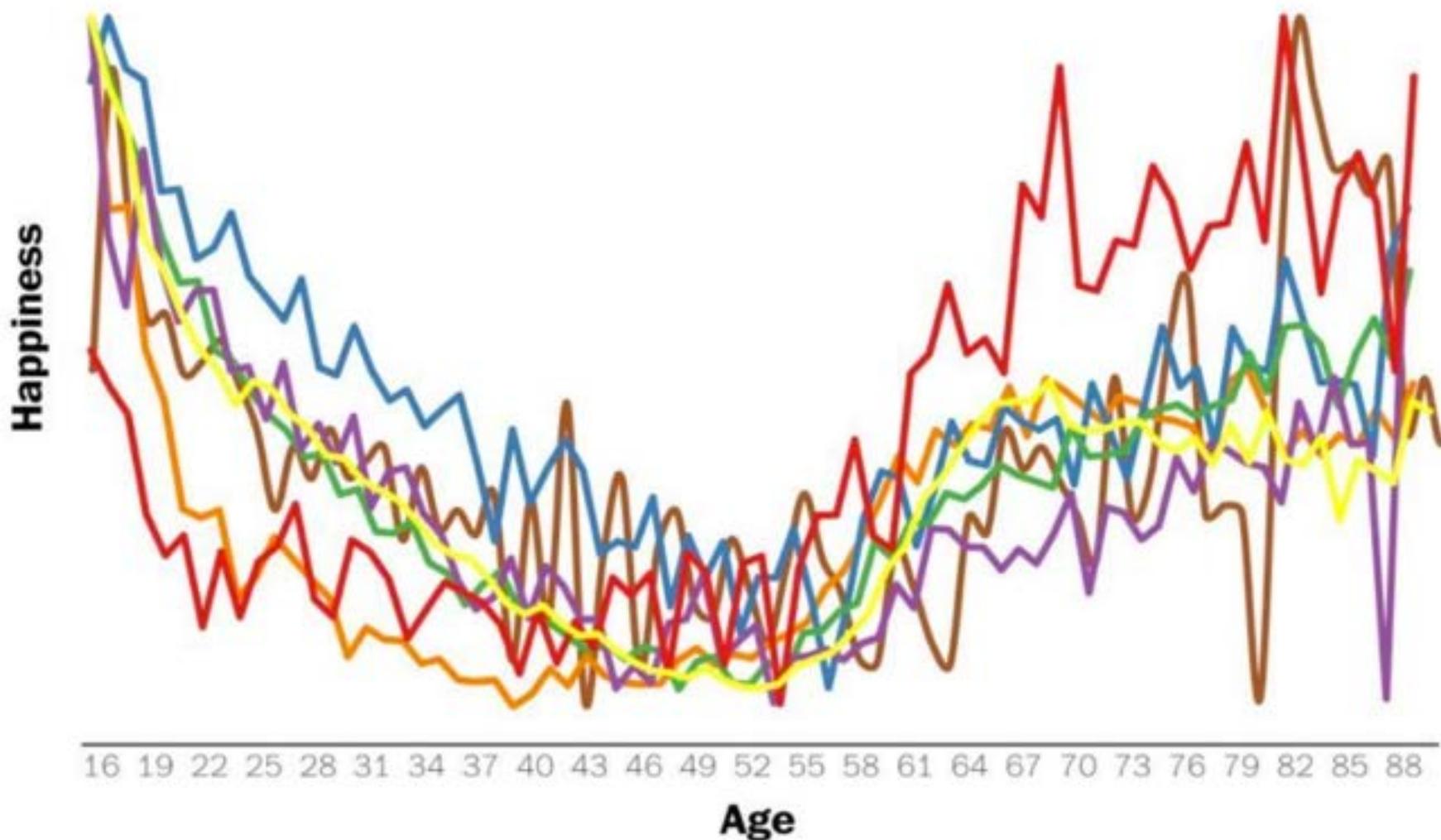


One Last Thought

The shape of happiness

Relationship between happiness (or life satisfaction) and age across seven major surveys

Note: Trend lines are scaled to a common minimum and maximum range



If you have questions ...

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One Difficult Conversation at a Time

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