

Back to Work!? Information for the lawyer, law firm and friends involved in the return to work process after a lawyer's mental health leave of absence.

Consider these four scenarios:

- 1) a lawyer returns to work a month after a suicide attempt.
- 2) You, the managing partner, have orchestrated an intervention on a fellow partner and now, after two months, she's back from treatment.
- 3) A lawyer starts to receive help for severe anxiety or depression and during the course of treatment with a psychiatrist and counselor continues to work and confides to his friends about his challenges.
- 4) You start to attend AA because of your drinking problem and don't want your friends or anyone at your firm to know.

These are but a few examples of the challenges facing the Texas lawyer who has sought help for a particular mental health issue and now moves back into the workplace, the law firm that welcomes him back and the friends who want to help. We know that recovery from the various mental health illnesses such as depression, anxiety and substance dependency is a process not an event. So what does it mean to the players in the game? How does a law firm treat the returning lawyer, what are the tasks and challenges of a lawyer during the first year of recovery and how can friends help? Please note: Best practices will include management of the legal issues inherent in the return to work scenario. This article does not address legal issues but rather focuses on the practical and psychological aspects of the issues. Consult an employment lawyer for legal advice.

Information for the Lawyer:

A. **Education.** The first days and months and even first year after seeking help for a major mental health illness present unique challenges to the individual lawyer. Whether in a firm, solo practice, in government service or unemployed, a lawyer's tasks of staying healthy are the similar. Most likely you've gotten plenty of education about your illness, how it manifests in you,

the expected recovery path and what you need to do to stay healthy. Keep getting educated, it can only help.

B. Professional Help. Continue with your treatment plan, aftercare program and counseling.

You didn't get to this place overnight and you're not going to get better overnight either. You will need the advice and guidance of a mental health professional. Think of it as securing and maintaining your personal team of experts. Follow the advice.

C. Process vs. Event. The recovery process is just that, a process. You may bounce back quickly or you may have a host of symptoms that manifest including memory issues, mood swings, fatigue, emotional sensitivity, sleep disturbances, physical issues, cognitive disturbances and stress sensitivity. These may be the "normal" process of your brain learning to work again in a healthier manner but pay attention to the expected route of recovery and the signs and symptoms of relapse for your particular illness. Contact your mental health care provider with changes or concerns. Get familiar with the principles of the acronym **H.A.L.T.**, a tool that can help stave off any mini emotional or psychological crisis and even full blown relapse by reminding you to check whether you are **Hungry, Angry, Lonely or Tired** and to address each area accordingly. Once you are fed, calm, supported and refreshed, things will seem better.

D. Support Networks. Establish and maintain a support network of similarly situated individuals.

Among the many reasons AA can be a successful wellness program is its emphasis on group participation, after meeting fellowship and group activities. Group support for other illnesses such as depression is available throughout Texas too. Studies show and people report that having a group of peers who intimately know similar challenges is beneficial and necessary for successful recovery. Additionally, many times the mental illness has robbed you of your social skills, contacts and networks and this group support can be instrumental in regaining these

much needed building blocks for recovery. TLAP has a variety of support groups for lawyers around the state. If there isn't one in your community, TLAP would be happy to help you start one!

E. Exercise and Stress Management. Establish an exercise and stress management routine. Make sure you are healthy enough for physical activity but if you are, don't hesitate to get started. Exercise is an extremely effective stress reliever and will also operate to build your stress resiliency over time. Don't overdo it but at a minimum plan to incorporate an exercise activity at least once a day for one-half hour. Try different sports or activities, investigate old passions or check out new ones. Walking, running, swimming, kayaking, hiking, tennis, soccer, rollerblading, tai chi, power yoga or tap dancing – whatever you choose, practicing a little bit every day will help you feel better faster. Stress management programs will suggest exercise as well as other activities to help with stress: prayer, meditation, biofeedback and of course regular old fashioned fun!

F. Nutrition. Pay attention to your nutritional needs. Some illnesses affect our physical systems more harshly than others but no matter the cause, proper nutrition that restores and nourishes the body is most important. Eat in a health manner to fuel the body process and reap the benefits!

G. Telling Others. Think about who to tell and what to say about your re-entry, illness or recovery. It's your life and your health and it's no one's business unless you want them to know. That said, if you work for a firm who has supported you during a medical leave, it will be important to talk to them about how and what is said to others. You have a voice in this discussion, so take advantage. Friends will be interested in your welfare and recovery, but you can also choose what you say to them. Not everyone needs to know everything. Loved ones

and family should be kept in the loop – they are a critical part of your support system. Practice with group or individual support system about how to handle the hard questions and then relax. Most people are rooting for your success and merely want to help. Frankly, they are probably more interested in themselves. Your sense of humor will go a long way too.

H. Speak Up. Learn to ask for what you need – especially as it relates to your recovery. Most people can't read your mind and aren't thinking about your situation. In fact, if you look like you're OK, most people will assume you're doing fine. But if you suffer in silence and don't ask for help or tell them what you need, no one will ever know. So, if you need special help at work or time off to get to the doctor or your support group meetings, let the right person know. If you're ready to take on a special project at work or handle that serious case, let your firm or colleagues know that you're feeling up to it and are ready for the challenge.

I. Reputation. Work to repairing your reputation at work or in the community. It will take time to rebuild trust and you can do it by re-building relationships through consistent, thoughtful and healthy actions over time.

J. Find Work. Transitioning back to a solo practice, a job change or unemployment can be stressful situations for the lawyer returning from a mental health leave of absence. Here's a list of suggestions to help with rebuilding the solo practice or finding employment while still following your recovery, treatment or wellness plan:

1. Consider a non-legal job if the return to a law practice is not immediately practical or feasible. Sometimes working a few months or longer at a job other than law can pay the bills, reduce stress and provide some time for recovery to take hold. Consider putting your law license on "inactive status" during this time- it's easy to do, it's inexpensive and there's no stigma or severe repercussions attached to electing this status. Or consider

work at agencies, non-profits, or with other non- traditional legal employers. Within the legal community, consider court appointments and make personal contact with the judges or committees who maintain those lists. Get creative – brainstorm about job possibilities with yourself or friends. Explore the possibilities.

2. Get active in a support group for lawyers – it can be shame reducing and an uplifting experience to be with others who have experienced similar rebounds.

3. Network within your local bar associations, volunteer with a particular committee or join a section of the State Bar. It will help keep you connected to the practice of law and lawyers and provide valuable interactions that may lead to employment in the future.

4. Join the local Solo Practice section. Again, this can be invaluable as both a networking tool and a source of practical practice information for a practitioner.

5. Find a mentor within your area of law practice. Yes, there are lawyers out there who want to help in this way! Those lawyers who have been helped often will want to give back.

6. Connect with helpful lawyers – offer to take them to coffee, breakfast or even offer to stop by with a cup of coffee for both of you at their office(with an appointment of course!) Talk to them about jobs/work/clients that interest you. Learn to network and keep those bridges and doors open.

7. Attend specialty bar association meetings, conferences or seminars in your area of practice or other special interests. The smaller associations can be very welcoming, personable and supportive.

Information for the Firm:

A. Education. If management has not already done so, it's imperative to obtain some specific information about the particular mental health issue affecting the lawyer. Find out about the nature of the illness, the normal course of treatment, the recovery process. Clinical depression and substance use disorders manifest differently and the recovery process can be quite different for each illness. It will pay off to know some basic information. TLAP can provide on-site coaching and information or direct you available resources in your community.

B. Fitness. Although the mental health professional or the treatment center will help a firm determine whether the lawyer is ready to return to the practice, where there is an objective and reasonable basis for believing that the lawyer is unable to safely or effectively practice law due to psychological factors a more formal review of the lawyer's condition before re-entry may be advisable. Psychological fitness for duty evaluations can provide objective information as to a lawyers "fitness for practice." Things to consider before proceeding to a fitness for duty evaluation include the examiners qualifications, the existence of proper authorizations and releases, and the privacy parameters and expected content of the report and recommendations.

C. Relationships within the Firm. Often law firm management is concerned about interpersonal relations with the re-entry lawyer. Do you treat her with kid gloves? Do you ignore the past crisis and continue as before? The answer lies in the grey area between those two options. Life has changed for management, the firm as a whole and the lawyer – hopefully for the better. So start at the beginning and start talking. Set some time before the lawyer returns to work to talk to him. Begin an ongoing dialogue about expectations, concerns and expectations. Go ahead and ask questions and definitely involve the lawyer in the process of re-entry and the decisions that need to be made regarding his re-entry.

D. Other lawyers and staff. The lawyers and staff who have picked up the work and handled matters while a lawyer is out on mental health/medical leave are often ignored in the re-entry process. This is not advantageous. Paying attention to their concerns, questions and providing some information or de-briefing activities is a crucial component of the successful re-entry process. Additionally, some education about the illness, the recovery process, and the various firm member and staff roles vis-à-vis the returning lawyer can all be discussed during these sessions. The firm's Employee Assistance Program, a local counselor or TLAP can help to provide this much needed assistance.

E. Disclosures. What do you tell the clients? Most likely management has already made some disclosures about the lawyer's absence to clients consistent with privacy and confidentiality concerns. Still, it would behoove both management and the lawyer to confer in advance about how to address client's questions upon the lawyer's re-involvement with cases. A consistent "team" message is preferable to ad-hoc disclosures - for both the lawyer's recovery and the law firm's posture of support. Privacy and confidentiality issues should be addressed and management should strictly adhere to the agreed upon disclosure information regardless of how much the lawyer himself may share additional details – lawyers may choose to take people into their confidences but they will necessarily feel betrayed and resentful when this is done for them.

F. Mentoring/Monitoring. What about those cases? When a lawyer is struggling with an untreated mental health or substance use disorder, their law practice will necessarily suffer. The extent to which it has been affected is unique to each situation but suffice it to say that a lawyer returning to practice may need some help in rebuilding the practice and dealing with the aftermath or just getting back into the game. Again, depending on the nature and severity of the

illness and the correlated recovery process, a firm may be wise to set up a system of mentoring, coaching or monitoring the lawyer's law practice for a period of months or longer.

G. Relapse. Expect success but be aware of the signs and symptoms of relapse. Relapse into any illness is not a prerequisite for success or a harbinger of failure but it is a realistic possibility. Realistically, law firms must expect that some lawyers may relapse. To avoid accusations of unfairness or discrimination, a law firm is wise to have a standard response to all lawyers and staff who do. Devising a way to monitoring a lawyer's recovery and provide accommodations along the way may be a way for each party to keep track of progress or lack thereof. In short, identifying and addressing issues early is the best practice to ensure success.

H. Policies. Likewise, management should engage in discussions with the lawyer as to the consequences of an untreated relapse. Will the firm give the lawyer another chance? Under what conditions would a lawyer leave or remain at the firm? The options may include dismissal with no chance of re-employment, dismissal with contingent re-employment and last chance agreements or some variation of the same. Consult an employment lawyer who is familiar with the structure of your firm. Working these consequences out in advance may go a long way in supporting the lawyer's recovery as well as paving the way for an elegant exit for both parties should relapse occur. With this in mind, take a look at your policies regarding drug, alcohol and mental health issues in the workplace. If you don't have policies in place, be careful – you'll be making policies as you go along.

I. Fairness. Remember, the lawyer is a valuable part of your team and was recruited and hired because of the unique legal skills he or she possessed. Presumably, you like him and you like her. Keep attention focus on the job and job performance. Treat them as you would any other partner or associate, hold him/her to the same standards of performance, ask for participation

in the firm as you would any member of the firm, accommodate special needs or requests as part of the normal course of business. Be fair when asked about sick time or personal leave. You should follow policy regarding other illnesses in dealing with a re-entry lawyer. Likewise, the lawyer should be following policy with regard to requesting or advising of such absences.

Information for Friends

A. **Remain a friend.** When your lawyer friend or colleague returns to work after a mental health leave of absence, friends often assume that life returns to normal quickly. Remember, however, that your friend is returning to a workplace that could be extremely stressful – not only because of the recovery process but because of the inherent nature of a law practice. What your lawyer friend needs from you is for you to continue to be a friend. Include your friend in activities outside the workplace. Inquire as to how things are going. Talk about the problems and talk about solutions. Try to keep a sense of humor. Don't let him/her isolate after work but be respectful of the demands on time (therapy, support groups) and energy (recovery is hard work).

B. **Recovery Education.** Learn a little bit about the lawyer's recovery process and plan to participate a little. Having a friend who can talk a little about the process and who isn't a complete stranger to the process may go a long way toward creating a support system for you both. That said, don't get overly involved. Your friend probably wants and needs some privacy around these issues. After all, wouldn't you? In any event, talk to your friend and ask about what would be supportive measures that you can take. Follow that lead and re-negotiate involvement over time, if necessary. Remember, it's a learning process for everyone!

C. **Fun.** Depending on the situation, your friend may need some help in discovering new and different ways to cope with stress, work or relationships. If your camaraderie has centered on

sedentary activities or been limited to drinking at your favorite bar, why not think of creative ways to spend time together. Both of you might enjoy trying out a new activity, engaging in a new volunteer pursuit, learning a new skill, or becoming a tourist in your own home town. Sometimes “Yoga Happy Hour” might be the perfect after work get together for everyone!

D. **Self-care.** Take care of yourself too. Whether your friend or colleague is working on a drug/alcohol, depression or other mental health issue, rest assured that he/she is developing new awareness and skills for life. This may trigger concerns for you and that’s to be expected. As the lawyer concentrates on getting healthy and getting back to work, you may be triggered to look at your own behavior or wonder where the friendship stands. Why not take advantage of this time? Take a look at your own mental health issues, check out Al-Anon, learn about setting healthy boundaries for yourself, learn about past enabling behaviors or take a look at your own stress management strategies. This may be a life changing process for you too!

Conclusion???