



Back to Work

Returning to the Office After a Mental Health Leave of Absence

BY ANN D. FOSTER

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 mental health issue and has returned to the workplace. We know that recovery from 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? 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 focuses instead on the practical and psychological aspects of the issues. Consult an employment lawyer for legal advice.*)

Information for the Lawyer

Education

The first days and months — and even the first year — after seeking help for major mental health illness present unique challenges to the individual lawyer. Whether in a firm, solo practice, government service, or unemployed, a lawyer's tasks for staying healthy are similar. Most likely, you've received plenty of education about your illness, how it manifests, the expected recovery path, and what you need to do to stay healthy. Keep educating yourself — it can only help.

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. 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 their advice.

Process v. Event

The recovery process is just that — a process. You may bounce back quickly or you may have a host of symptoms, including memory issues, mood swings, fatigue, emotional sensitivity, sleep disturbances, physical issues, cognitive disturbances, and stress sensitivity. These may be the “normal” processes 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. Become familiar with the principles of HALT (hungry, angry, lonely, tired), a tool that can help stave off any minor 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.

Support Networks

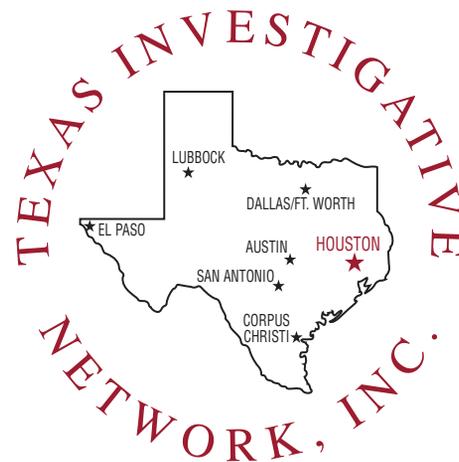
Establish and maintain a support network of similarly situated individuals. Among the many reasons AA can be a successful wellness program is its emphasis on group participation, after-meeting fellowship, and group activities. Group support for other illnesses, such as depression, is available throughout Texas. 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. The Texas Lawyers' Assistance Program (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!

Exercise and Stress Management

Establish an exercise and stress-management routine. Make sure you are healthy enough for physical activity; if you are, don't hesitate to get started. Exercise is an extremely effective stress reliever and will build your stress tolerance over time. Don't overdo it, but, at a minimum, plan to participate in a physical activity at least once a day for 30 minutes. 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!

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 essential. Eat in a healthy manner to fuel the body and reap the benefits.



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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 that 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 of it. 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 your 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.

Speak Up

Learn to ask for what you need — especially as it relates to your recovery. People can't read your mind and aren't thinking about your situation. In fact, if you look like you're okay, most people will assume you're doing fine. But if you suffer in silence and don't ask for help or tell someone what you need, no one will ever know. 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 important case, let your firm or colleagues know that you're feeling up to it and are ready for the challenge.

Reputation

Work to repair your reputation at work or in the community. It will take time to rebuild trust, but you can do it by rebuilding relationships through consistent, thoughtful, and healthy actions over time.

Find Work

Transitioning to a solo practice or a job change can be a stressful situation. The following is a list of suggestions to help with rebuilding the solo practice or finding employment while still following your recovery, treatment, or wellness plan.

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 repercussions attached to electing this status. Or consider work at agencies, nonprofits, or with other nontraditional 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 opportunities with yourself or friends. Explore the possibilities.

Become 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.

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.

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

Information for the Firm

Education

If management has not already done so, it's imperative to obtain specific information about the particular mental health issue affecting the lawyer. Find out about the nature of the illness, the normal course of treatment, and the recovery process. Clinical depression and substance abuse 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 onsite coaching and information or direct you to available resources in your community.

Fitness

A mental-health professional or a treatment center will help a firm determine whether an attorney is ready to return to practice, but 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 reentry may be advisable. Psychological fitness for duty evaluations can provide objective information concerning a lawyer's "fitness for practice." Things to consider before proceeding to a fitness for duty evaluation include the examiner's qualifications, the existence of proper authorizations and releases, and the privacy parameters and expected content of the report and recommendations.

Relationships within the Firm

Often, law firm management is concerned about interpersonal relations with the reentry lawyer. Do you treat him or her with kid gloves? Do you ignore the past crisis and continue as before? The answer lies in the gray 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 aside before the lawyer returns to work to talk to him or her. Start an ongoing dialogue about expectations, concerns, and expectations. Ask questions and involve the lawyer in the reentry process and the decisions that need to be made.

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 should not be ignored in the reentry process. Paying attention to their concerns and providing some information or debriefing activities is a crucial component of the successful reentry 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 provide this much-needed assistance.

Disclosures

What do you tell 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 benefit both management and the lawyer to confer in advance about how to address clients' questions upon the lawyer's re-involvement with cases. A consistent "team" message is preferable to ad-hoc disclosures — both for 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 whether the lawyer takes it upon him- or herself to share additional details. Lawyers may choose to take people into their confidence, but will necessarily feel betrayed and resentful if this is done for them.

Mentoring/Monitoring

What about those cases? When lawyers are struggling with untreated mental health or substance use disorders, 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, dealing with the aftermath, or just getting back into the game. Again, depending on the nature and severity of the illness and the recovery process, it may be in the firm's interest to set up a system of mentoring, coaching, or monitoring the lawyer's law practice for a period of months or longer.

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. 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. Devising a way to monitor a lawyer's recovery and to 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.

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 reemployment, dismissal with contingent reemployment, and last-chance agreements or some variation. Consult an employment lawyer who is familiar with the structure of your firm. Working out these consequences in advance will go a long way toward supporting the lawyer's recovery, as well as in paving the way for a dignified 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.

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 possesses. Stay focused on the job and job performance. Treat them as you would any other partner or associate, hold him or



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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 reentry lawyer. Likewise, the lawyer should be following policy with regard to requesting or advising of such absences.

Information for Friends

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 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 or her isolate themselves after work, but be respectful of the demands on your friend's time (therapy, support groups) and energy (recovery is hard work).

Recovery Education

Learn a little bit about the lawyer's recovery process and plan to participate a little. Having a knowledgeable friend who can talk about 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, talking to your friend and asking what would be supportive measures would be helpful. Follow that lead and renegotiate involvement over time, if necessary. Remember, it's a learning process for everyone.

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, 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 hometown. "Yoga Happy Hour" might be the perfect after work get-together for everyone.

Self-care

Don't forget to take care of yourself. Whether your friend or colleague is working on a drug/alcohol, depression, or other mental-health issue, rest assured that he or she is developing new awareness and skills for life. This may trigger concerns for you, which is to be expected. As the lawyer concentrates on getting healthy and returning to work, you may be triggered to look at your own behavior or wonder where the friendship stands. 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, and take a look at your own stress-management strategies. This may be a life-changing process for you, too!

Additional Information

If you would like to talk further about your particular reentry situation, call TLAP at (800)343-8527 or visit www.texasbar.com/tlap. TLAP services are free and confidential for lawyers, judges, and law students in Texas.

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