

Protecting the team – a firm’s most valuable asset

Tips to keep the team healthy and sane-ish.

There are certainties in life. Death. Taxes. A person who is well, physically and mentally, is more productive than if he or she is not well.

That last truth should be self-evident; if it isn’t, it might be proved by the wealth of material published on wellness. A Google® search produces 393,000,000 hits. That said, people being people, they often act in ways that put their health and wellness at risk, never mind their failure to take steps to actively improve their condition. If you think of the many ways to promote health and wellness as water, then most people are horses – you can lead them right to it but you cannot make them drink. Or can you?

Of course the primary responsibility for wellness rests with the individual – but nothing is more important to a law practice than its lawyers and staff. The “firm” – BigLaw or a solo practice – can do nothing without people; the better those people feel, the more productive they will be, and the more profitable the firm will be. It follows that a firm has an interest in helping its people be healthy and well.

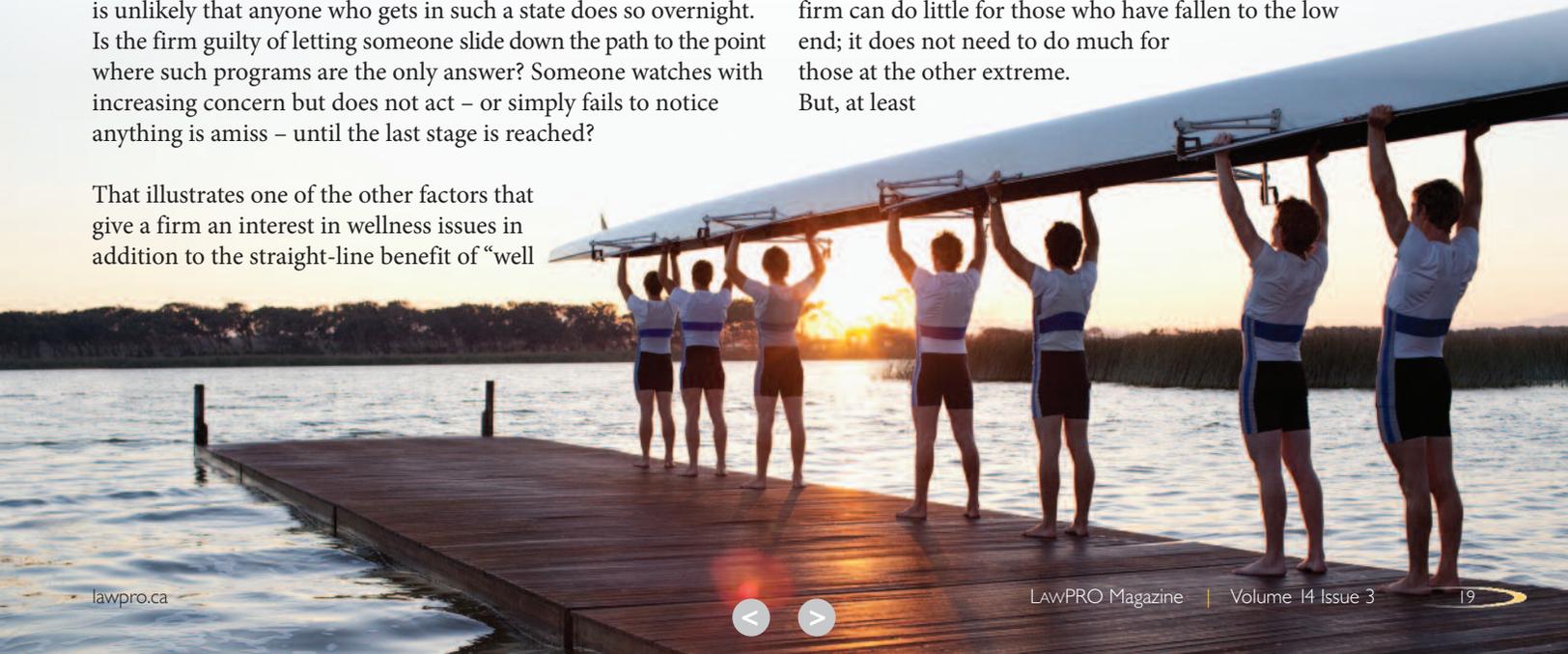
Many firms tend to categorize health and wellness issues in two radically different categories. The first category, rarely mentioned other than in hushed tones, is where a person is failing miserably due to physical or mental conditions that prevent them from functioning, period. There are special programs for such folks but, obviously, they are no longer a productive member of the firm. It is unlikely that anyone who gets in such a state does so overnight. Is the firm guilty of letting someone slide down the path to the point where such programs are the only answer? Someone watches with increasing concern but does not act – or simply fails to notice anything is amiss – until the last stage is reached?

That illustrates one of the other factors that give a firm an interest in wellness issues in addition to the straight-line benefit of “well

equals more productive”: the cost of doing nothing. Back in 2006, one commentator estimated it would cost \$300,000 to replace a senior associate. No firm can afford to let an associate collapse due to health issues if the firm can prevent it. As well, anyone who has been involved in recruiting staff will agree that replacing someone who is already contributing to the firm’s success, be it a lawyer or non-lawyer, is an expensive, time-consuming and chancy process. Hire three to get one keeper? The firm needs to prevent the loss in the first place.

The other category is often dismissed (especially in the hard-nosed, focussed world of law) as being New Age-ish or capital T – Trendy. Team Spirit! The Walmart® cheer! Unworthy of anything other than token notice by serious people. But based on what modern generations are telling their employers that they want out of life, no firm can afford to be so dismissive of a desire to work in a place that gives priority to the wellness of its employees. The current and future participants in the workforce are not going to be satisfied with toughing it out, drudging uphill in a stressful and perhaps strife-full workplace. A firm cannot eliminate all the stress but it can mitigate it. If one firm doesn’t do it, another will.

In truth, health and wellness issues lie on a sliding scale. At the low end of that scale are those who have collapsed under the weight of physical or mental burdens. At the other end of the scale are people who are perpetually happy, sometimes annoyingly so. The vast majority of us fall somewhere near the mid-point of those boundaries. A firm can do little for those who have fallen to the low end; it does not need to do much for those at the other extreme. But, at least



on an intellectual level, most people probably wish they were nearer the bright and shiny end of the scale even if they are not doing anything to get themselves there. What can a firm do to help them?

How to help?

If budget was not an issue – or more precisely, if budget *was* the answer – firms could, and some do, offer benefits that are clearly intended to promote health and wellness. These are over and above the basic benefits of pension, dental, vision and disability insurance, etc. BigLaw firms who are actively recruiting in today’s market are offering fitness memberships, in-house day care, child-care vouchers, nap rooms, flexible hours, loans for holiday travel, budgets for staff entertainment, exclusive event discounts, and access to corporate hotel rates. And, of course, access to health and wellness consultants. But horses and water, right? Firms have to do more.

Reduce stress

Some stress is inherent and necessary in a law practice. Reducing unnecessary stress, however, will have a positive impact on health and wellness. A feeling of “not being in control” is a major source of stress and is frequently both unnecessary and avoidable with proper communication. For example, when giving work assignments, the lawyer should give clear instructions as to what the recipient is to do and by when; don’t make the recipient guess or stressed by mentioning the next day you needed it by 5:00 yesterday. Don’t dump work on someone’s desk if you don’t know what is already there – all it takes to avoid that stress is communication.

Have firm-wide policies on internal response times. People can get more work done in an hour or two of uninterrupted time than in a day full of interruptions. If you give an associate or assistant a plate full of important assignments, then expect them to answer every email – no matter how trivial – from a partner within ten minutes, you are not promoting health and wellness – just the opposite. Allow lock-down times.

Help your lawyers with a firm-wide policy for managing client expectations. The client only has one lawyer but the lawyer has many clients. If every client expects to manage the lawyer’s time by getting an instant response 24/7, that lawyer will be facing excessive stress and some disappointed clients. The firm should insist on setting the clients’ expectations on communications and response times in an engagement letter so the lawyer can live (a bit more) happily ever after.

Promote vacations

How often have you said, or heard it said, that you need a vacation just to recover from the stress of getting ready for that vacation? Vacations are not just a mandated employment obligation; they

are critical to keeping everyone fresh and engaged. The firm needs to ensure a vacation reduces stress, not causes it.

Begin by making sure that the firm truly recognizes that holidays are a normal and valuable part of work life. The firm should keep those who will be affected by someone else’s absence aware that a vacation is in the offing. Lawyers should not end up panicked (bad for the lawyers’ health) if they discover Friday that their assistant’s vacation starts Monday. Do not permit them to load up the assistant’s desk when they realize that person is going on holidays – not only bad for the assistant’s health but also proves the firm does not truly value vacations.

Do more than “permit” holidays – encourage them. The firm should monitor who has yet to take holidays and encourage them to get those dates in the calendar. If the firm fails to pay attention, everyone will be stressed as the year-end approaches and the “use them or lose them” policy might kick in. On that note, policies, like rules, are made to guide the intelligent and bind the stupid. If a firm wants to keep its people happy, someone has to exercise a sensible level of discretion to ensure a specific policy does not hurt a specific person in specific circumstances.

“ A firm cannot eliminate all the stress but it can mitigate it. ”

The firms’ busiest and most productive people are the ones who most need the vacation and yet may be the ones who have the most stress about taking that vacation. The firm should sit down with such a person and discuss how to make it happen. Determine who can assist with that person’s work in the lead-up to the vacation and handle it during the absence (we have all experienced the stress of thinking what our desk is going to look like when the vacation is over because nobody did anything while we were away). If need be, assure the vacationer – and mean it – that deadlines for work will be pushed back and there will be time given to catch up upon return.

Nudge your people to health and wellness

Wikipedia defines the *Nudge* theory as “a concept in behaviour science, political theory and economics which argues that positive reinforcement and indirect suggestions to try to achieve non-forced compliance can influence the motives, incentives and decision making of groups and individuals, at least as effectively – if not more effectively – than direct instruction, legislation, or enforcement.” This is how you get the horse to drink the water.

The firm has to demonstrate that the health and wellness of its people is truly a Firm Value. Putting that in the firm’s Statement of Values



is purely superficial; the firm needs to live it. Example – flu shots are a good idea – so either bring somebody in to give everyone a shot or give everyone time off to get the shot. Do not leave it up to the staff to be bold enough to take that time (they won't if they think the firm was kidding); the firm's management has to put it in the calendar.

Encourage activities that can lead to better health. If you have enough people, sponsor them in a Dragon Boat race or give them time off to build a house with Habitat for Humanity. Register a team in intra-mural hockey, volleyball or slow-pitch. Pay for the uniforms. Get out and cheer for them.

Celebrate every chance you get. A firm should pay attention to the accomplishments of its people and not just for marketing purposes. Somebody's child graduates with Honours? A client thanks an assistant for his or her extra attention to the matter? Close a big deal? Someone has been with the firm five years? Celebrate – and mean it.

A firm can get everyone involved in celebrations. In a previous life, my firm's office administrator, Shanna Hapko, implemented an idea like this. Get some toy action figures – some Supermen and Wonder Women, for example. Print up "Nomination" forms. When you see someone in the firm go above and beyond the basics, put an action figure on that person's desk with a nomination, filled in with the donor's and recipient's names and a brief explanation why the recipient would be a super hero that day: "he stood up for me when a client was verbally abusive," "she saw I was over-loaded and did some files for me without being asked," "I had to leave suddenly because my child was sick and she covered my calls for me," "she noticed I mis-read an email and told me before I was embarrassed," "he saw I was panicking and took time to talk me through it." At the end of the week, the figures go back in the queue and the Nominations go into a prize draw. Once a month, one lucky donor and one lucky recipient get a prize (a random gift certificate, an afternoon off, movie tickets, whatever). Corny? No, even cynical lawyers were strutting when they got to be Superman for a day. Any firm of any size can do it; it's the celebration that counts.

Keep watch

It is easy for a firm – a collection of lawyers focussed on their own files – to forget those individuals it depends upon. That creates the risk that individuals will be or will feel isolated. The firm will not spot someone who is sliding towards the low end of the wellness scale if it isn't watching. A firm needs to subtly monitor the health and wellness of its people.

In this area, communication is the key. For instance, people who are left in the dark will automatically create a story about what is going

on. The story will almost certainly be wrong and negative. Tell your people about what is going on before they start to wonder. Firms, or practice groups if the firm is too large, can have a weekly stand-up five minute meeting – here are the big files we took on, here are the administrative changes we are considering, who won the Wonder Woman last week? It doesn't have to be earth shattering news, it just needs to make people feel like they are on the same team; that they are not isolated.

Make it a two-way conversation. What news do your people want to share with the firm?

The firm should engage in some Management by Walk-Around. The person walking around should be looking at the people behind the desks, not just the desks; eye contact is the best way to make a connection. Do not assume that a closed office door always means the lawyer behind it is beavering away. From time to time, check to make sure the door isn't closed to hide the sound of weeping.

Each lawyer has a secret belief that he or she is the busiest lawyer in the firm – carrying the heaviest load. Resentment is not a healthy emotion. How do they know what the others are actually doing; indeed, who the others really are? Perhaps TGIF should happen more often than once a month, as it does in some firms – and it doesn't have to happen at the end of the day when it causes stress to those junior lawyers who would rather get home to their toddlers than share a beer with a senior partner. A firm might consider (for instance) no client meetings between 11:00 a.m. and 2:00 p.m. on Wednesdays – no emails or calls either – but come and go for sandwiches and chitchat in the lunch room.

The hardest part?

Leadership; that is the hardest part. The firm says holidays are important – but the partners don't take them? Associates are encouraged to block dedicated work time – but a partner yells if an email goes unanswered for ten minutes? The firm values its people – but doesn't even know their names? [A recent survey, reported in the Harvard Business Review, listed communication issues that prevent effective leadership. Number six (at 36 per cent) was *Not knowing the employees' names*. Seriously? "Hey, you", will not convince an employee that you value their contribution to your success. By the way, Number one (at 63 per cent)? *Not recognizing employee achievements*.]

Any firm, big or small, can take steps to encourage – nudge – its people to a better level of health and wellness. To do it requires only some thoughtfulness, a plan, and an honest desire to do it. ■

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