

How unhealthy lawyers affect client service

“Almost all lawyers experience stress, but unless it becomes toxic, there is little risk to the client. Occasionally things get truly out of control. That’s when important deadlines are missed, communication with the client diminishes (or ends), and files languish. In extreme cases, the lawyer ‘pretends’ to practice by misrepresenting to the client that work has been done when it hasn’t been.

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With proper treatment and effective management, lawyers with mental or physical issues can and do thrive in legal practice. But left unchecked, unhealthy lawyers can put client files at risk. Mental issues, whether caused by stress or illness, can result in a lack of judgment, memory loss, and concentration. A constant sense of danger can permeate daily life, along with feelings of inadequacy. Symptoms can manifest physically in the form of fatigue, muscle tension, pain, impaired sleep, and heart palpitations. Lawyers suffering from addiction can ignore everything in search of the next high or become completely immersed in damaging behaviours. And lawyers unprepared to deal with debilitating physical illnesses may find themselves suddenly incapable of simple tasks. To say nothing of how their daily lives are affected, these symptoms can result in poor client service and ultimately malpractice claims. Below are some examples of how lawyers can fail to deliver good client service when their problems are not addressed.

Depression

Depression is one of the most common types of mental illness from which lawyers suffer. Research has shown that lawyers, as a group, have a greater tendency to depression than the average person. Depressed lawyers can cease to take an interest in practising. Sapped of the energy to communicate legal information to clients, depressed lawyers can fail to advise of important legal consequences, for example, when negotiating contracts and settlements. Steps that need to be taken to investigate a file, such as conducting corporate searches and requesting reports, are summarily dismissed, and the lack of action is rationalized as saving money and time.

Depressed lawyers may choose only to work on the files that attract their interest on that day – leading to procrastination on other files and ultimately severely delayed files. Clients that are not liked receive the cold shoulder just when they are most in need. Depressed lawyers may also be more likely to accept retainers where there is a conflict of interest, especially where they cannot find the strength to break bad news to their clients.

Physical illness

While some physical illnesses can creep up slowly, traumatic events can suddenly disable healthy lawyers. If a contingency plan is not put into place, files can be left untouched for weeks, months, or longer, depending on the lawyer's recovery progress. To compound matters, coming to terms with a physical disability can be difficult. Often serious physical illnesses are associated with depression, anxiety, or other mental illnesses.

Addiction

Addiction to alcohol and other damaging substances or behaviours can be caused by an inability to cope. Lawyers may self-medicate or choose to compensate for the lack of ability to control their circumstances by drinking too much or playing video games at all hours, among other things. A lawyer suffering from addiction may ignore the needs of clients and their files in favour of the addiction. If the lawyer is addicted to a damaging substance like alcohol or drugs, the problem is compounded by the side effects caused by the substance, such as impaired judgment, paranoia, and anxiety. Every aspect of a file is in jeopardy.

Maintaining good client service and reducing the claims risk

A support system can lessen the claims risk. Mentors, friends, and family are all resources that can step up in times of need. The Member Assistance Program (MAP)¹ provides resources including a health risk assessment, information on stress, depression, anxiety, separation/divorce, and psychological challenges, and peer counselling. A few small steps can go a long way to improving the lawyer's ability to cope and to keep the practice claims-free.

Lawyers should implement a firm policy to handle unexpected work interruptions should a lawyer's health go sideways. LAWPRO sees, all too frequently, claims that occur when lawyers suddenly “disappear” for health or other reasons and files are left in the wind. This may trigger a cluster of administrative dismissals, for example. All active files should be monitored by more than one person so that they can be transferred when necessary.

Every one of the top four sources of claims – communication failures, inadequate investigation, missed deadlines/poor time management, and conflicts of interest – present even greater risks when a lawyer is unhealthy. Whether lawyers suffer from addiction, mental, or physical illness, or less severe forms of stress, client service often suffers and once again, the risk of claims rises. Taking steps to stay healthy will help you be a happier and better lawyer. ■

¹ MAP is available online at myassistplan.com, or call 1-855-403-8922.



Where to look for help

The Member Assistance Program (MAP), offered by Homewood Health provides a wide range of services and resources to lawyers, judges, paralegals, law students, and other legal professionals, as well as their families.

Perhaps you're stressed, not sleeping, dealing with marital strife or suspecting you drink too much. Or you may be searching for more information before deciding whether you need to speak to someone about stress, relationship problems, depression, or substance abuse. Whatever leads you to reach out for help or guidance, lawyers often report they felt that "something changed" as soon as they took that step.

Below are some of the many services offered by MAP. Visit myassistplan.com for the full list of services and resources.

Health Risk Assessment

Login to take this survey about your lifestyle and general health. It takes about 10 minutes and you get a report on actions you can take to improve your health. The survey asks questions about your eating and drinking habits, your weight, how much exercise you get, your blood pressure, how well you can relax, and other aspects of mental and physical health. The resulting downloadable report gives detailed explanations of your "scores" and advice on how to make improvements in areas of concern.

Counselling: in person, telephonic and e-counselling

When you contact MAP, you have the opportunity to speak with an experienced counsellor, including one who is a former lawyer. You can also be connected to a peer volunteer who is a member of the profession. Your conversations are completely confidential, and there is no waiting list. You can speak to a counsellor immediately in a number of ways: arrange an in-person visit, speak on the phone, or take advantage of secure and private e-counselling.

e-counselling can be done in two ways:

- **Private Conversations** are similar to email, so you can compose and edit your messages (or save as drafts to revisit later) and receive replies within 2 business days, or
- **Chat** is a secure and confidential instant messaging "chat room" format.

MAP resource library for legal professionals

The library offers an extensive selection of articles on childcare issues, caring for aging parents, financial health, relationships, and other life challenges that can add to the stresses of a legal career. An additional series of wellness articles are aimed at those who manage others to help guide them through such issues as job loss, illness or losing a loved one.

Below is a selection of articles and studies featured on the main MAP site:

- Stressbusters: Sanity Savers and Practical Tips
- Lawyer Distress
- Strategies for the At Risk Lawyer
- Why Lawyers are Unhappy
- Guidelines for Legal Practitioners with Suicidal Colleagues
- Depression and Anxiety in Law Students

The health & wellness library

Looking for information you can trust? The health and wellness library is an updated collection of articles and other resources written by qualified experts in their field. It includes information designed to improve health and wellness, and assists you in improving your work-life balance. The library provides you with a wealth of exclusively Canadian content and has information on drugs, disease, natural products, tests, procedures, and general health.

e-counselling

Homewood offers a number of e-learning courses that lawyers can do from their desks. They are designed to improve personal health and well-being and/or workplace effectiveness, and deal with such topics as stress, workplace change, improving resilience, and preparing for retirement. Each course contains an interactive audio/video component, written exercises, and links to additional information on that topic.

Completing a Homewood e-learning course qualifies for one \$50 LAWPRO Risk Management credit per policy year.

To get a sense of what the courses are like, see the reviews of "Taking Control of Stress" and "Embracing Workplace Change" on the AvoidAClaim blog. ■

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