

Employee Wellness: Substance Abuse Are You Your Brother/Sister's Keeper?

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"Impairment" doesn't sound like a very complicated word, but a discussion of what it means and what you can do if you think it applies to any of your lawyers can take some time to understand. Dr. Hanks defines impairment as the inability to practice with reasonable safety. There are lots of problem behaviors in the workplace – some are a result of a probable impairment (alcohol/drug dependency or mental illness) and some are a result of a possible impairment (disruptive behavior, incompetent to perform the work assigned, unethical behavior). Dr. Hanks provided six indicators ("I"s) to help identify troubled colleagues. The six behavioral "I"s of a possible impairment are (but be careful NOT to jump to conclusions about any of these):

1. **Irritability** – mood swings, "personality changes", negativity, inappropriate anger, verbal altercations with clients, staff or peers
2. **Irresponsibility** – shifts workload to others, takes short cuts, manipulates the schedule, waits till the last minute, tardy time sheets
3. **Inaccessibility** – frequent tardiness, frequent absences, prolonged lunch breaks, "missing in action", "Monday morning" or post holiday illness, early departures on Fridays or pre-holiday weekends
4. **Isolation** – odd office hours, eats lunch alone, avoids other people and misses department meetings, CLE or other legal social events
5. **Inability** – inappropriate judgment, inadequate records, deviations from standard procedures, decreased performance, frequent forgetfulness, difficulty prioritizing, inattention to details
6. **Incidentals** –
 - a. **Eyes** – their eyes may be red or yellow, puffy or glassy and they will not make eye contact; you may notice their appearance is disheveled, they have tremors, or they drink heavily at staff or social functions
 - b. **Ears** – you may hear their voice becoming raspy, or their speech slurred
 - c. **Nose** – theirs may look red or like "orange peel", or be runny; you may smell the odor of alcohol on their breath or that they use an excessive amount of cologne, mouthwash or mints.
 - d. **Other** – unexplained intervals between jobs, frequent job changes, frequent relocations, indefinite references

Of course, in and of themselves these behaviors do not mean that a lawyer has a possible impairment. But often, others observing some or all of these will become concerned about the welfare of their co-workers and may begin to ask themselves some questions. For example, Dr. Hanks provided several questions and asked whether these would be answered true or false in regard to various behaviors as they relate to

potential impairment. (Answers at the end of the article.)

1. Intoxication in a legal professional in purely social settings should be ignored since it does not occur during normal work hours. (T or F)?
2. On the job AOB (Alcohol On Breath) is almost always an ominous sign even when noted on a single occasion. (T or F)?
3. Aberrant workplace behavior caused by chemical dependency should be addressed rapidly because it usually indicates progression beyond early-stage disease. (T or F)?
4. While several signs of impairment, or a cluster of them, usually suggest trouble, a pattern of aberrant behavior is almost always indicative of actual or potential impairment. (T or F)?
5. Normal behavior following an episode of aberrant behavior usually means that no significant problem exists. (T or F)?

People ignore warning signs for a variety of reasons. Some do so because they are in denial that the situation needs attention, or because they are trying to protect the potentially impaired person. Others fear being wrong, and they question the reliability of the person who is making a report. Still others fear losing a friend, or they fear possible retaliation. Some might feel the behavior is not that bad or that it will probably go away. Many people believe the myths that "the person must want help" or "must hit bottom" before they will be able to be helped. So what can be done?

One of the most significant steps that Dr. Hankes suggested is forming a Law Firm Health Committee that would consist of a distinguished senior partner, a consulting addictionist, a consulting psychiatrist, a high risk area representative and perhaps a lawyer in substantial recovery. The committee should NOT include the Managing Partner, Executive Director, any member of the Executive Committee, any Committee Chair or any Administrator. The purpose of the Committee would be to provide initial therapeutic alternatives to discipline (but not to shield a person from discipline forever), assist with interventions, if necessary; provide education through legal staff presentations, notices, bulletin boards or newsletters. He also suggested that the policy manual include a statement . . . "Qualifications for membership in the firm and the criteria entitling a lawyer to practice law include demonstrated competence and judgment, satisfactory current physical and mental condition, and the ability to work harmoniously with others sufficient to assure the firm that any client will receive quality competent counsel and that the firm will be able to operate in an orderly manner." The message of this session is that lawyers are different and denial is the chief symptom of underlying problems and the chief obstacle to treating the problem.

Answers (1)False, (2)True, (3)True, (4)True, (5)False