

Addiction in the Law Office: Impact, Recognition, and Response

Introductions



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Why Are We Here Today?



How Many People Here...

- Have been affected by addiction in some way?
- Know someone who has struggled with addiction?
- Know someone who has been diagnosed as an addict?
- Know someone who has gone to in-patient rehabilitation?
- Know someone who has gone to out-patient rehabilitation?
- Know someone in recovery?

Why Are We Here Today?



To learn how you and your firm can best handle an attorney or staff member struggling with substance abuse

Objectives of Program

- Understand the data on and impact of substance and alcohol abuse
- Learn about the disease of addiction
- Review the ethics opinions and implications (including self-identification and reporting)
- Instruct stakeholders on the warning signs of addiction
- Discuss how to confront actively impaired attorneys or staff members
- Understand treatment options
- Review return to work protocols
- Educate all stakeholders on recovery and balance



Section 1

Addiction and Its Impact

A Personal Story...

Lawyers Are More Likely to Suffer

36%

of lawyers were
classified as **active
problem drinkers**

19%–28%

were struggling with
**stress, anxiety, or
depression**

2021 Study by Krill and Anker

- Sample of 2,863 licensed attorneys from the California Lawyers Association and DC Bar
- 30% of the sample screened positive for high risk/hazardous drinking
 - More women than men reported high risk/hazardous drinking (34% vs. 25.4%)
- 80% of attorneys considered themselves current drinkers
 - By contrast, it is estimated that 55% of the general population drank in the past month
- Workplace permissiveness towards alcohol was a primary factor in predicting of risky drinking

Possible Workplace Contributors

- High stress
- High demand, low control situations
- Low job satisfaction
- Long or irregular hours
- Fatigue
- Isolation
- Lack of opportunity for advancement
- Easy access to substances
- Repetitious duties
- High performance standards

The Marketplace and the Pandemic

2021 AmLaw 100 Performance

- 14.8% avg. growth in gross revenue
- RPL up 12.5%
- PEP up 19.4%
- Hours rose 5.7%
- Net income rose 35.9% since 2019
- Goodwin closed a deal every 8 hours
- Latham/Kirkland closed a deal every 12 hours

SOURCE: 2021 AmLaw 100 Report

average AM Law 100
lawyer billed

3.9%

more hours in 2021

Equivalent to
2 extra weeks
of work

SOURCE: Lawyers Burned the Candle at Both Ends in 2021.
Faltering Demand Could Cost Jobs Anyway | The American Lawyer

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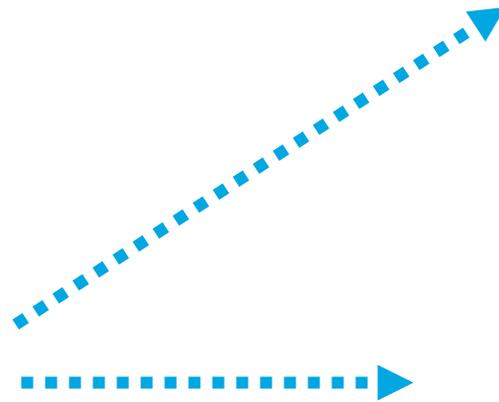
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Billable Hours Pressure

1,700 average billable hours

+ 700 average non-billable hours

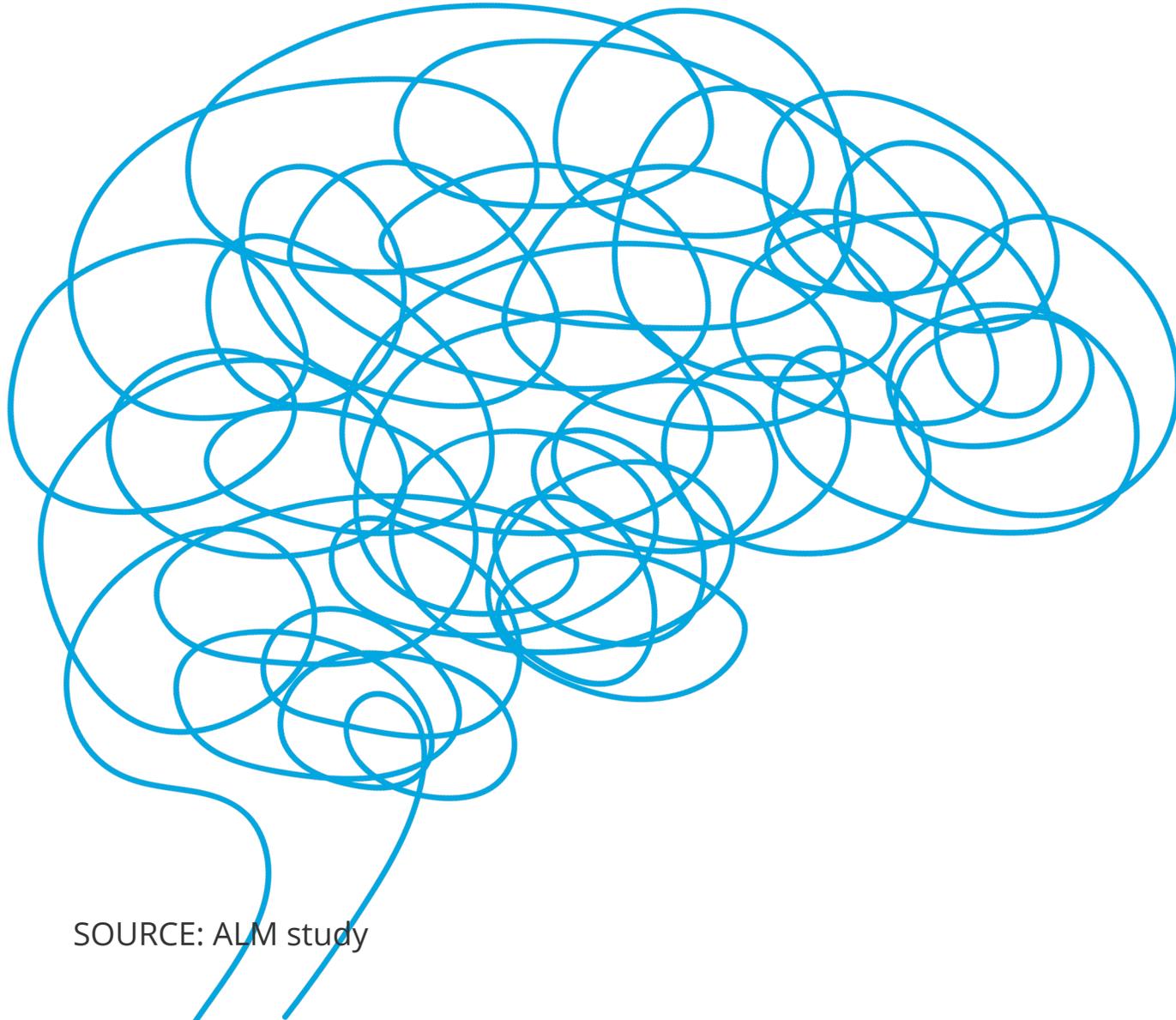
2,400 average total hours



12 hours per day
Monday–Friday

–OR–

8 hours per day
including weekends
and holidays



31%

of Associates are
**experiencing
depression**

13%

of Associates
admitted to a **drug
or alcohol problem**

SOURCE: ALM study

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Krill/Anker Study

(13,000 attorneys nationwide)

25%

of women contemplate leaving the legal profession over **mental health concerns**

17%

of men contemplate leaving the legal profession over **mental health concerns**

SOURCE: Stress, drink, leave: An examination of gender-specific risk factors for mental health problems and attrition among licensed attorneys | Anker J, Krill PR (2021)

Krill/Anker Study

(13,000 attorneys nationwide)

28%

of attorneys
reported **symptoms
of depression**

23%

of attorneys
reported **having
mild to extreme
severe stress**

21%

of attorneys engaged
in **problematic
drinking to combat
the stress**

SOURCE: Stress, drink, leave: An examination of gender-specific risk factors for mental health problems and attrition among licensed attorneys | Anker J, Krill PR (2021)

The Cost

The Costs of Inaction – Absenteeism and Presenteeism

- An estimated 70% of employer expenditures on employee mental health issues are for lost productivity due to presenteeism.
- Employees with an alcohol problem miss an average of 35% more days.
- Healthcare costs for employees with an alcohol problem are estimated to be twice the amount as for those without an alcohol problem.

The Costs of Inaction – Replacement and Attrition

- 44% of associates leave within 3 years of hire
- 75% of associates leave within 5 years of hire
- Estimated that it costs \$200k-\$500k to replace an associate
- Associate attrition in a 100 associate firm is estimated to be \$5.6 million annually

2021 Partner & Associate Moves

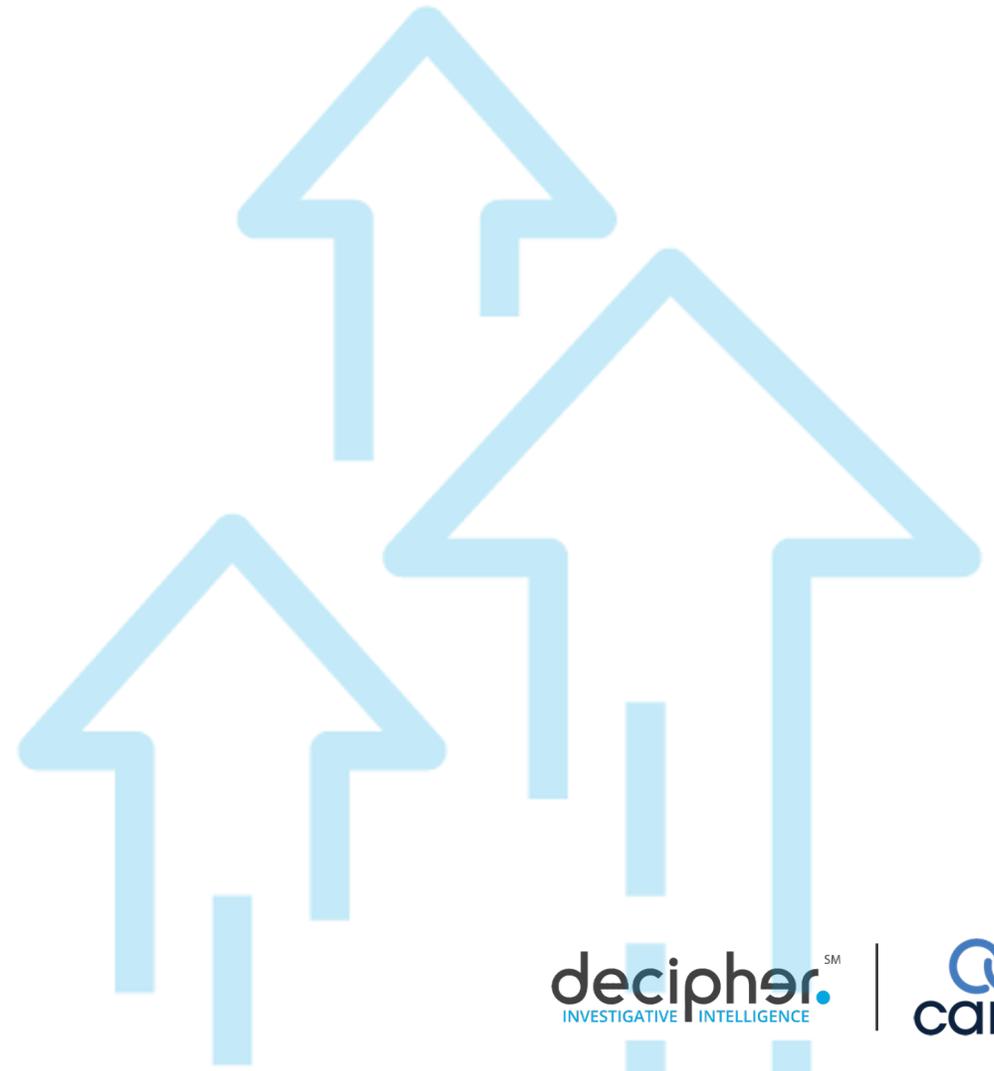


59%

associate moves

15%

partner moves



**Compared with the four-year average.*

Why Associates Move

60%

of AmLaw 200 associates
said they would leave their
current law firm **for a better
work-life balance**

—ALM—

27%

of AmLaw 200 associates
said they would leave their
current law firm **for higher
compensation**

—ALM—

Healthy vs. Not Healthy Hiring Environment



HEALTHY
(pre 2020)

20%

red flag rate



NOT HEALTHY
(2022)

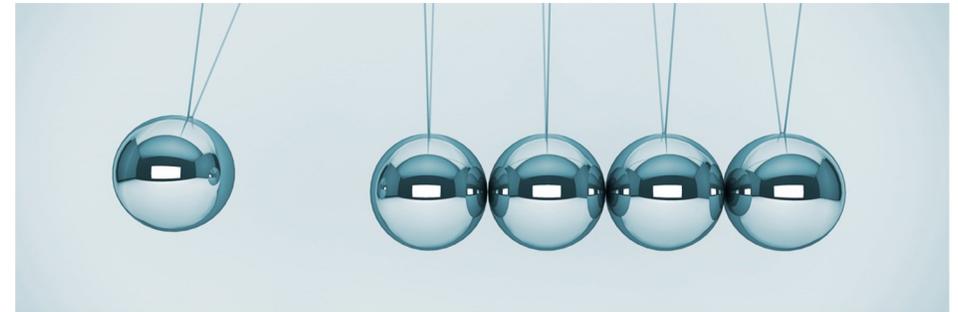
40%

red flag rate

The Impact

Impact

- Judgment, alertness, perception, motor coordination, or emotional state
- After-effects of substance use: withdrawal and hangovers
- Preoccupation with obtaining/using substances
- Illegal activities
- Increased likelihood of having trouble with other co-workers
- Tardiness
- Theft
- Poor decision making
- Loss of efficiency
- Lower morale and physical well being



Case Studies Part 1

Identifying Signs of Trouble

Addiction & Lawyers: Identifying Signs of Trouble

- Changes in behavior/habits, mostly subtle (not DWI/Grievances), like showing up late, missing deadlines, not returning calls, making excuses, and poor grooming.
- Attorneys have great hiding skills (skilled at concealment).
- Arsenal of excuses/denial.
- History of credibility they draw from to persuade others (they were always showing up/not found in the gutter).
- Hard to monitor attorneys (vs. Pilots/Doctors).
- Attorneys work autonomously, frequently in isolation.

Warning Signs at the Firm

Change in regular patterns

- Disappearing at unexpected times
- Lots of excuses for unexplained issues
- Unplanned “emergencies”
- Misses work on Mondays or leaves early on Fridays
- Extended breaks, lunches
- Leaving early, working from home

Change in physical appearance

- Significant weight gain or loss
- Red eyes
- Unsteady gait
- Inappropriate episodes of sweating
- Looking tired
- Lots of breath mints or mouthwash
- Strange breath; smell of alcohol or something different



WARNING

Warning Signs at the Firm (con't.)

Change in behavior

- Advent of fast talking, loud talking, loud laughter, extended periods of silence
- Mood swings
- Being tired all the time
- Increased irritation
- Becoming defensive when not appropriate
- Isolation behavior
- Avoids interactions
- Door that was always open is now always closed
- Strained relationships with co-workers
- Borrowing money

Change in Productivity

- Lateness or decreased productivity
- Confused thinking
- Forgetfulness
- Lack of concentration
- Missed deadlines





Section 2

The Disease of Addiction: The Brain and Substances

What Does an Alcoholic Look Like?

What Is Disease?

What you believe about a disease will dictate what you are willing to do to treat it.

What Is Disease?

“Pathological condition of a part, organ, or system of an organism resulting from various causes such as infection, defect, stress, and is characterized by identifiable symptoms.”

Pathology

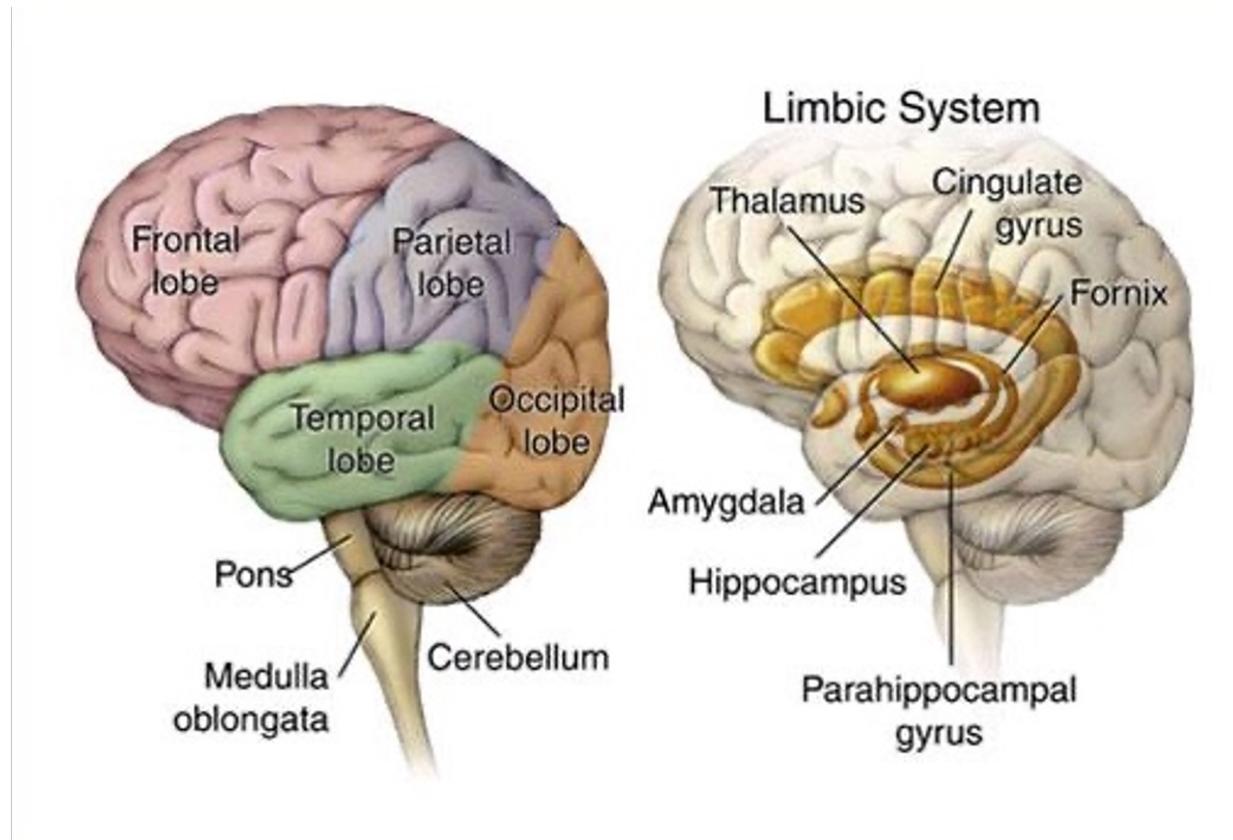
- A departure from a normal condition.
- Sooooo...what's normal?

What Is Addiction?



- Primary, chronic, and progressive disease of the brain's reward, motivation, memory, and related circuitry
- Symptoms are primarily behavioral, in contrast to other chronic diseases
- Symptoms are also typically negative behavior
- Cannot be cured, but treated and managed

What Is Addiction?



Disease

Typical symptoms of addiction...

- High tolerance of substance
- Prone to relapse
- Obsessive and compulsive thoughts and behaviors (chapter 8 of the NA Basic Text)
- Distorted thinking (“insanity”, steps one and two)
- Withdrawal
- Isolation
- Affects mental, spiritual, and physical well-being
- Cravings



ASAM

Overview of Substances

- Alcohol
- Benzodiazepines
- Opioids
- Cannabis
- Stimulants
- Methamphetamine
- Designer Drugs
- Nicotine



Alcohol



Alcohol Concerns

- 54% increase in national sales of alcohol the week ending March 21, 2020, compared to the same week in 2019.
- Online sales increased 262% from 2019.
- Sales of liquor, wine, and beer have continued to rise in 2021:
 - In May 2017, 2018 and 2019, monthly retail sales averaged about 4.1 billion dollars.
 - In May 2020 monthly retail sales rose to 4.9 billion.
 - In May 2021 monthly retail sales rose to 6 billion.

Rx Stimulants



Cocaine



Opioids

- Heroin
 - Morphine
 - Codeine
 - Hydrocodone
 - Oxycodone
 - Fentanyl
- Popular opiate medications seen in treatment are:
 - Vicodin
 - Oxycontin
 - Percocet
 - Dilaudid



Process Addictions

- Gambling
- Sex
- Food
- Work



Process Addictions – Work

What is "*workaholism*"?

Workaholism prevalence . . .

- 27%-30% of population



Some “Workaholism” Data...

- The average American worker receives 13 vacation days every year, but 34% of workers don't take a single day of that vacation in any given 12-month period.
- Even when people do take vacation days, 30% of people say they worry constantly about work while they are trying to relax.
- Between 1970 and 2006, the average number of hours in a working year for the average American worker increased by a total 200 hours.
- 86% of those who admit to workaholic tendencies state that they feel like they must rush through their day in order to get work done effectively.
- More than half of all workaholics end their workday feeling like they weren't able to accomplish as much as they could.
- 34% of American adults don't take their vacation days.
- Workaholic marriages suffer disproportionately more than others.

Addiction Interaction



“Addictions do more than coexist. They in fact interact, reinforce, and become part of one another.”

-Patrick Carnes, Ph.D.

Addiction Interactions and Attorneys

- Replacement
 - One addiction replaces another with most or all of the same behavioral features.
- Rituals
 - Addictive behavior of one addiction serves as a ritual pattern to engage another.
- Alternating Cycles
 - Addictions cycle back and forth in a patterned systematic way.
- Fusion
 - When two or more addictions overlap and become fused together.

Case Studies Part 2

What's the Policy?

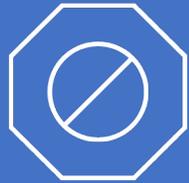
Law Firm Policies

- Does your firm have a policy around substance use in the office or while on firm time?
- Does your firm have a policy for helping employees seek help if needed?

It is not the role of the supervisor or the employer to diagnose the problem, but to identify an employee who may be impaired and take the appropriate steps under organizational policy.

The Firm's Ethical Responsibilities

ABA Ethics Opinion 03-429 focuses on three areas



Obligation to Prevent

Obligations of a partner or supervisory lawyer to take steps to prevent an impaired lawyer in the firm from violating the Rules of Professional Conduct.



Obligation to Inform

Whether lawyers in the firm have an obligation to inform the appropriate professional authority or the impaired lawyer's clients or prospective clients that the impaired attorney has violated the Rules.



Obligation after Exit

The obligations that lawyers in the firm may have when the impaired leaves the firm.

The Firm's Ethical Responsibilities

Rule 1.16

Competence

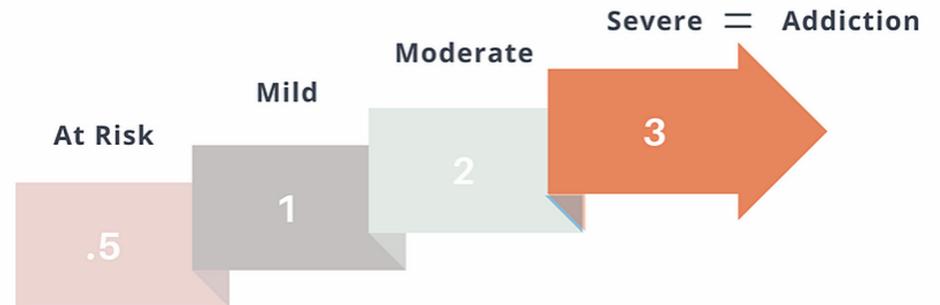
Rule 1.4

Communication

Rule 1.6

Confidentiality of Information

Levels of Severity of Substance Use Disorders



Law Firm Policies

In 2019, the Policy Committee of the ABA Commission on Lawyer Assistance Programs (CoLAP) and the ABA Working Group to Advance Well-Being in the Legal Profession developed a template to provide suggested guidelines to legal employers for responding to an employee who is experiencing impairment due to a substance use disorder, mental health disorder or cognitive impairment.

- https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/well-being-template-for-legal-employers-final-3-19.pdf

Law Firm Policies

- Rewrite drug and alcohol policies (including self-identification, reporting, and return to work protocols)
 - Include addiction experts, HR, EAP, health insurer, malpractice carrier, lawyers, and staff in the process
 - Confidential access to addiction experts and resources
 - Written protocol for assessment and treatment of attorneys/staff who report a problem or who are discovered to have a problem
 - Define back-to-work policy following treatment using physician and pilot models
- Train your staff on new policies
 - With emphasis on assuring the safety, confidentiality, and retention of job if employee complies with regulations
- Partner with addiction experts and resources
 - To include your healthcare and malpractice carriers, recovery coaches, treatment centers, interventionists, and EAPs

Sample Law Firm Policies

Sample:

- Persons who have difficulty in meeting professional codes of conduct or work performance standards or who jeopardize the firm's reputation due to alcohol use will be asked and supported by the firm to be assessed by a qualified healthcare professional and to follow intervention or treatment recommendations.
 - For judging whether a performance issue is "due to alcohol," some employers articulate a reasonable suspicion standard.
- Any disciplinary measures related to alcohol use may be suspended pending the outcome of treatment. If treatment is unsuccessful, or if an employee refuses or neglects to accept or comply with assessment, advice and/or treatment, disciplinary measures will be applied, which may include dismissal.
 - Some employers explicitly retain the right to immediately terminate employees for performance issues due to alcohol use. Note that some states restrict employers' ability to terminate employees for first-time offenses (e.g., Iowa, Minnesota, Rhode Island, and Vermont have special rules)



Section 3

Warning Signs and Intervention

Case Studies Part 3

The Intervention

Intervention/Timing

Whether and When To Do Something

- The time to do something is ASAP - the question is not whether to do something, it is HOW!
- Addiction is a chronic, progressive disease - act, and the sooner the better.
- Lawyers are ethically, if not morally, bound to call out the problem.
- Major adverse risk/impacts, even life and death.
- How to help- Like anything else, get experts (we lawyers are not usually good at this stuff).
- Have a plan in place because these things WILL HAPPEN. We have plans for everything else.

Confronting Your Impaired Colleague

- Is there a crisis?
- Remember, you are not diagnosing
- You have an ethical and professional responsibility
- You may need additional support
- The only thing you can do wrong is to do nothing at all



Ethical Obligations

Rule 5.1

Responsibilities of
Partners, Managers and
Supervisory Lawyers



Ethical Obligations

ABA Ethics Opinion 03-431

- If the lawyer's impairment raises a substantial question as to the lawyer's fitness to practice, lawyers may have an obligation to report impairment under 8.3 and, if applicable, obtain client's consent under Rule 1.6.
- If appropriate, consider consulting a mental healthcare professional or Lawyers Assistance Program to determine the manner in which to proceed.

Ethical Obligations

Rule 8.3

Duty to Report

A lawyer having reliable information that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer shall inform the appropriate professional authority.



Ethical Obligations



Rule 1.4
Communication

Suggested Crisis Protocol

- Get the person to a secure and private place
- Have at least two people involved
- Make sure the individual is mentally, medically, and psychologically safe
- Do not allow the individual to drive home
- Have a plan as to who to involve and notify and to whom to release any information about the event
- Make sure confidentiality is paramount
- Document everything
- Suspend the individual with pay if appropriate



Resources for Help

- Employee Assistance Program (EAP)
- Lawyer Assistance Programs (LAPs)
- Interventionists
- Treatment Programs –
local, regional, national





Section 4

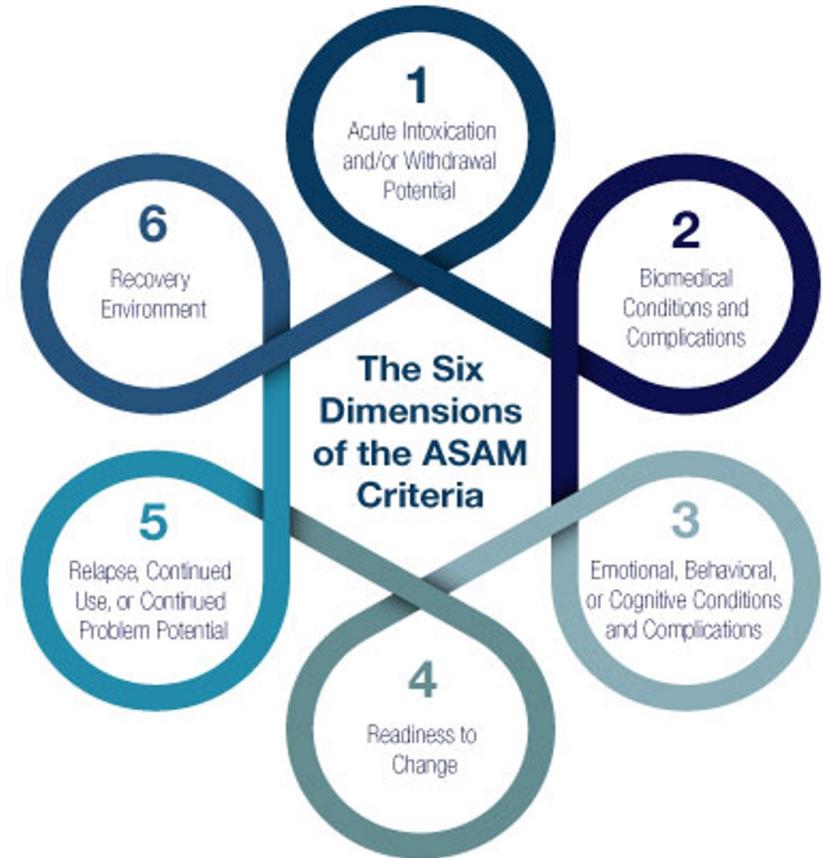
Treatment, Return, and Recovery

Case Studies Part 4
In Treatment

Treatment

ASAM Dimensions

- 6 areas of functioning that are used to help determine an appropriate level of care



Levels of Care

- **Level 0.5: Early Intervention** - Education based for someone who is at risk to develop a substance-related problem.
- **Level 1: Outpatient Services** - Designed to help individuals achieve permanent changes in their behaviors that involve the pathological pursuit of reward or relief.
- **Level 2: Intensive Outpatient/Partial Hospitalization** - Services that meet the complex needs of addiction and co-occurring conditions.
- **Level 3: Residential/Inpatient Services** - Housing in permanent facilities that are staffed 24 hours a day due to need to be kept safe while in treatment.
- **Level 4: Medically Managed Intensive Inpatient Services** - 24 hour medically directed evaluation, care, and treatment.

What Does Treatment Look Like?

Outpatient

- One to two times per week in group and/individual setting

Intensive Outpatient

- Three hours of group, three to four times a week, with at least one individual session, plus substance use screens.

Inpatient

- 28-31 day residential care
- daily group sessions
- weekly or bi-weekly individual sessions
- lectures, activities, and recreation

A Good Treatment Program Uses

- Evidenced based modalities
- Medically sound practices
- MAT management
- Avoiding addictive medications to manage co-occurring issues
- Mind, body, and spirit
- Family involvement
- Work involvement (or not)
- Aftercare planning
- Return to work plan

Some Recovery Programs

- Alcoholics Anonymous (AA) 12 Step Program
- Narcotics Anonymous (NA) 12 Step Program
- Self-Management and Recovery Training (SMART Recovery)
- Recovery Dharma

Case Studies Part 5
Return to Work

Lawyers in Recovery

What are the qualities of a good lawyer?

What questions might a lawyer in recovery face?



Lawyers in Recovery Often Report

Denial	➔	Acceptance
Physical Debilitation	➔	Feeling good again
Blaming	➔	Self-honesty
Identifying solely as an attorney	➔	Identifying as more than an attorney (broader view)
Feeling a sense of failure	➔	Resiliency
I cannot be gone for 28 days	➔	I don't want to leave
Unmanageability	➔	Stability
Jumping out of my skin	➔	Security
Emptiness	➔	Meaning
Isolation	➔	Engagement

Returning to Work

Things to Consider:

- What are the hours to be worked?
- What is the time frame which one is expected to work?
- What are the billing and productivity requirements?
- Is there support available within and without the firm?
- What is a reasonable time frame as to when back to full speed?
- What does the individual need to do to maintain balance?

*Remember, it's not "back to normal" because
"normal" is not usually good*

Treatment and Recovery Obstacles

- Lawyers must make room for recovery. It can be a full-time effort for the first year, like treatment for any disease (think about treating cancer).
- Going away for treatment is counterintuitive.
- Lawyers return excited, “better than ever” – will move too quickly back to work.
- Lawyers take on too much - recovery becomes second fiddle to work.
- Billable hours requirements may interfere with recovery.
- Entertaining/social obligations can be distracting and interfere with recovery (hard at first).
- Perception of stigma leads to hiding recovery, and isolation.
- Owning recovery as a badge of honor can be helpful.
- Honest connection with others is the best antidote.
- Relapse can be a part of recovery, though not a requirement.

Some Tips to Help Integrate Individual Recovery and Professional Obligations

1. Develop a Routine Each Morning
2. Avoid Multitasking
3. Take Downtime
4. Talk to Employer or Law Partners/Colleagues
5. Simplify the To-Do List
6. De-clutter the Space
7. Set Healthy Boundaries

Changing the Culture of Addiction and Mental Health Issues

- What policy changes can law firms implement to support a culture of Wellness?
- What does a culture of Wellness look like?
- How can policy affect culture?
- What stakeholders are needed to implement cultural change?



Recovery

- Restores what the impaired attorney lost
- Adds new skills and abilities
- Provides a renewed purpose and passion for all aspects of life, including professional life

Recovery may include:

- Support meetings (AA, NA, SMART Recovery, Dharma Recovery, etc.)
- Working with a sponsor
- Working with a counselor in a group and/or individual basis
- Developing work/life balance

The Tangible Benefits of Recovery

Benefits to Work

- Additional free hours each day – more time
- Restored and enhanced cognitive function and clarity
- Restored and enhanced energy
- Heightened level of honesty and integrity
- Ability to be present and engaged
- Authenticity
- Improved personal and professional relationships

Benefits to Self

- Improved health and balance
- New priorities in line with wellness and life goals
- Changes to selected aspects of life
- Loss of regret, guilt, shame
- Serenity and stability
- Embracing of spirituality
- Connectiveness with the world
- Self-love/self-esteem
- Shift from self-absorption, narcissism
- Financial stability

Final Thoughts

*Never ignore any impairment in the workplace –
even if you have in the past*



Final Thoughts

Questions, Thoughts, Musings.....





Thank You

We are here on behalf of the Legal Professionals Program at Caron Treatment Center. We are a 501c3 not-for-profit organization with treatment locations in PA and FL.

Call if you or someone you care about needs help. We are here to help in any way we can.

Caron.org | 800-854-6023

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Corey Rabin has been a practicing attorney for more than 35 years. Corey has decades of experience in substance abuse recovery and interventions. Corey speaks and writes nationally about behavioral health subjects relating to lawyers and law firms and provides regular counseling and resources to legal professionals while they engage in the world-class services and programs at Caron Treatment Centers.



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