

## A Primer on Motivational Interventions

<i>Topic</i>	<i>Page</i>
We Are a Self-Regulating Profession	2
Prevalence of Impaired Judges and Lawyers	2
Spotting the Colleague in Distress	3
An Introduction to Lawyers Concerned for Lawyers of Pennsylvania, Inc.	5
Making the Initial Call to Assist a Troubled Colleague	6
A Primer on Substance Abuse, Addiction, Depression and Bipolar Disorder	9
The State of Mind of the Impaired Attorney	11
Pennsylvania's Motivational Intervention Model	15
High Risk Situations	24
Concerns Regarding Suicide	24
Treatment, Recovery Programs and Epigenetics	25
Conclusion	26

## **We Are a Self-Regulating Profession**

As a self-regulating profession it is important we familiarize ourselves with the Code of Judicial Conduct and the Rules of Professional Conduct. Observing a pattern of non-compliance provides an early warning system to identify and assist the judge or lawyer in distress; he or she may be suffering from a treatable illness; e.g., substance abuse, addiction, depression, etc. A timely call to LCL may allow us to assist the judge or lawyer before he or she engages in misconduct which harms both society and the reputation of the Bench and Bar.

At times, the misconduct is so serious that the reporting requirements of the Code of Judicial Conduct [Canon 3 B. (3) or the Rules of Professional Conduct [Rule 8.3 “Reporting Professional Misconduct”] are triggered. Even then, it is still not too late to call LCL. We can assist the judge or lawyer with finding treatment, surround them with recovering colleagues, and point the way toward the PBA’s Lawyers Assistance Committee to determine if voluntarily entering into a sobriety or mental health monitoring agreement is appropriate. Participating in a monitoring program can establish a case for mitigation (not a defense) when properly presented before the appropriate disciplinary agency.

## **Prevalence of Impaired Judges and Lawyers (Substance Abuse, Addiction or Mental Illness)**

There are approximately 47,122 judges and lawyers with active law licenses in Pennsylvania. In any given year, nearly 17,435 licensees may be struggling with alcohol, drugs, gambling or a mental health disorder:

- Alcohol abuse or dependence and illicit drug abuse or dependence (2007)<sup>1</sup>:
  - 6.2% suffering from alcohol abuse or dependence
  - 1.7% suffering from illicit drug abuse or dependence
- Estimated prevalence of problem and pathological gambling (past year)<sup>2</sup>:
  - 2.9%
- Approximate prevalence of US adults experiencing a mental disorder (past year)<sup>3</sup>:
  - 26.2%
  - *Note*: 5.8% of US adults classified with a seriously debilitating mental illness

---

<sup>1</sup> US adults 26 year and older; US Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), 2007 Report); Note: 5.9% of US adults currently using illicit drugs (2008 Report)

<sup>2</sup> National Research Council of the National Academy of Sciences (1999)

<sup>3</sup> National Institute of Mental Health (NIMH) website

## Spotting the Colleague in Distress

The surest way to identify a colleague in distress is to keep an eye on non-compliance with the Code of Judicial Conduct and the Rules of Professional Conduct.<sup>4</sup> A pattern of non-compliance should be addressed immediately. Repeated non-compliance is indicative that something is wrong. The causal factors for this non-compliance (and possible remedies) may include:

- lack of knowledge
- lack of skills
- lack of concern and care
- illness or disability.

This paper's focus is on the judge or lawyer who may be suffering from substance abuse (alcohol, prescription drugs or illicit drugs), an addiction to alcohol or other drugs, a gambling problem or addiction, or a mental health disorder (e.g., depression, bipolar, anxiety, eating disorders, etc.). These are treatable illnesses with a good prognosis for recovery.

Before we go any further there are three very important points to always keep in mind.

- (1) Do not diagnose anyone. We are not trained, skilled clinicians nor are our personal observations sufficient to make an assessment which is the prerequisite to determining the appropriate level of care (treatment).
- (2) Document specific instances of misconduct of which you have first-hand knowledge. As a general rule, focus on the individual's performance and not on the perceived cause of his or her performance problems.
- (3) Lawyers Concerned for Lawyers can provide invaluable information and guidance on how to help someone in distress. All contact and communication with LCL is confidential. Your call does not trigger any reporting requirements nor does it obligate you to take any further action. There is no downside to calling LCL.

There are numerous indicators that a judge or lawyer is in distress not involving first-hand observations of drinking, drug use, gambling, etc. These are in the nature of personal and professional attributes that illustrate declining functionality and professionalism. Not everyone will display the same warning signs or display them all of the time. Depending upon the illness (or illnesses) involved, an individual may have periods of time when he or she appears "OK" only to later slip back into dysfunctional behavior. When a pattern emerges, we can safely assume that something is wrong which, if not addressed, may lead to (or allow the continuation of) ethics violations and malpractice. Please note that sometimes the individual may be "OK" but is struggling to cope with a loved one who is suffering from an illness or disability. This is another good reason to avoid labeling anyone as "addicted" or "depressed".

---

<sup>4</sup> It is important to note any changes for the worse in the attorney's appearance, behavior and overall functionality.

The most common warning signs of distress are:

1. Attendance
  - ✓ late to meetings, conferences, hearings or other court functions
  - ✓ last-minute cancellations
  - ✓ failure to appear
  - ✓ taking “long lunches”
  - ✓ not returning after lunch
  - ✓ unable to be located
  - ✓ improbable excuses for absences
  - ✓ ill with vague ailments
  - ✓ frequent restroom breaks
  
2. Performance
  - ✓ misses deadlines; routinely requests continuances or rescheduling
  - ✓ fails to follow local court rules, policies and procedures
  - ✓ unprepared or poorly prepared
  - ✓ disorganized
  - ✓ lack of attention to details
  - ✓ inadequate follow-through with assigned duties or tasks
  - ✓ poor judgment
  - ✓ inability to concentrate
  - ✓ difficulty remembering details or directions
  - ✓ general difficulty with recall
  - ✓ blaming or making excuses for poor performance
  - ✓ decreased efficiency
  - ✓ decreased performance after long lunches
  
3. Behavioral
  - ✓ complaints from clients, lawyers, etc.
  - ✓ problems with court personnel
  - ✓ difficulty working with colleagues
  - ✓ avoidance of others (isolating)
  - ✓ irritable, impatient
  - ✓ angry outbursts
  - ✓ hostile attitude
  - ✓ overreacts to criticism
  - ✓ inconsistency or discrepancy in describing events
  - ✓ unpredictable, rapid mood swings
  - ✓ poor hygiene, disheveled or unkempt appearance

4. Personal
  - ✓ legal separation or divorce
  - ✓ relationship problems
  - ✓ credit problems, judgments, tax liens, bankruptcies
  - ✓ frequent illnesses or accidents
  - ✓ arrests or warnings
  - ✓ isolating from friends, family and social activities
  - ✓ objective indicators of a potential drug or alcohol or gambling problem
  
5. Miscellaneous
  - ✓ non-responsive to a judge's requests or orders
  - ✓ non-responsive to a disciplinary agency's inquiry
  - ✓ noncompliance with CLE requirements
  - ✓ failure to renew law license
  - ✓ lapsed insurance policies
  - ✓ failure to file tax returns
  - ✓ failure to pay taxes
  
6. Trust Account
  - ✓ checks not deposited
  - ✓ debit card withdrawals
  - ✓ incomplete or irregular records
  - ✓ missing or altered bank statements
  - ✓ pay office expenses from trust
  - ✓ pay personal expenses from trust
  - ✓ "borrowing" from trust
  - ✓ failure to timely disburse client's funds or other payments
  - ✓ incomplete accounting for receipts and disbursements

### **An Introduction to Lawyers Concerned for Lawyers of Pennsylvania, Inc.**

Lawyers Concerned for Lawyers of Pennsylvania, Inc. (LCL) is an independent, not-for-profit corporation whose mission is to provide confidential assistance to judges and lawyers, members of their families, and law students who are showing signs of severe stress, anxiety, depression, bipolar disorder, prescription drug problems, substance abuse, alcohol and other drug addiction, problem gambling or serious emotional problems. LCL knows how to help a judge or lawyer in distress or crisis. We are staffed with recovering attorneys and trained case workers. We access both a statewide and a national network of volunteers: recovering judges and attorneys who know first-hand the fear and embarrassment attached to these illnesses.<sup>5</sup> It is this stigma that makes it almost impossible for anyone to ask for help. These volunteers are willing to share their personal stories. These volunteers can often help judges and lawyers to overcome their fears and accept the help they so desperately need when others cannot.

---

<sup>5</sup> We can also tap into a nationwide network of recovering judges and lawyers.

The nature of these illnesses, the stigma attached to them and the tendency of attorneys to retain control and responsibility to solve any problem (especially their own) works against the impaired attorney. Similarly, the intrinsic authority of being a judge interferes with his or her ability to recognize the need for outside assistance. Alcoholic or drug addicted judges and lawyers minimize or altogether deny their illness – sometimes to the gates of death. Depressed judges and lawyers (some of whom may also suffer from addiction, compulsive gambling, eating disorders, etc.) operate with a cognitive distortion that continuously tells them they are unworthy of being helped, they are beyond help, no one can possibly understand how they feel, and no one is to be trusted. These states of denial and distorted thinking often prevent the individual from seeking help. As the illness worsens over time, the personal and professional functioning of the impaired judge or attorney dramatically declines. The addict and the depressive tend to isolate and may eventually disappear entirely from sight. Our opportunity to help is lost.

LCL exists to assist judges and attorneys in distress but we cannot help if you do not call us. Furthermore, the sooner you call the sooner we can put a halt to the harm being done and the better the likelihood of a successful outcome. If you begin to notice changes for the worse in someone's appearance, hygiene, moods, ability to concentrate, judgment, memory, comprehension, professional skills, personal behavior and attitude, call LCL – even if you do not have hard evidence of alcohol or drug use, gambling, depression, etc. We will begin a confidential conversation with you to help you to better understand the nature of the illness which may be affecting the individual and determine what can be done which is both appropriate to his or her condition and acceptable to you. Even if you cannot be directly involved, call LCL and discuss your concerns. It is likely you know someone who is able to assist. Following our conversation you may be able to encourage another concerned colleague (who can get involved) to contact us.

### **Making the Initial Call to Assist a Troubled Colleague**

#### Once I call, am I obligated?

Simply calling LCL does not obligate you to be further involved. We answer your questions and explain our services. We offer literature, peer support and, if appropriate, a referral to a professional interventionist. You have the right to decline any or all of our assistance (and the right to call us back later to resume the discussion).

#### Is this any of my business?

The bottom line is that an individual's life may be at risk (not to mention his or her marriage, family and career). We have a moral obligation to help the individual and a professional responsibility to protect the profession and the public from being harmed by impaired judges and lawyers. It is your business. If you are going to err, err on the side of caution and call LCL.

Will my call to the LCL harm the reputation of the judge or lawyer?

Their reputation is already in jeopardy. If action is not taken to address the impairment, sooner or later, there will be professional misconduct and members of the public will be injured. The reputation of the impaired judge or lawyer as well as the local Bench and Bar will be harmed. Your call to the LCL can prevent or mitigate the damage.

Will I get the judge or lawyer in trouble? Must I report him or her to discipline?

Your call to LCL will not get the judge or attorney in trouble; we do not report any identifiable information to any court, disciplinary agency, state or local bar committee, the Supreme Court or any agency of the Court. (Our disclosures concern finances and operations.)

A judge's duty to report professional misconduct is established by Canon 3 of the Code of Judicial Conduct. A lawyer's duty to report professional misconduct is established by Rule 8.3 of the Rules of Professional Conduct. Both address misconduct that raises a substantial question as to a judge's or lawyer's honesty, trustworthiness, or fitness as a judge or lawyer in other respects. LCL cannot advise you on whether or not to report; however, we know ethics experts who can address your concerns regarding your duty to report misconduct.

I am unsure what to do. I am uncomfortable being involved. Why can't LCL contact him (her)?

Our staff and volunteers (and, if necessary, a professional interventionist) are available to answer your questions and assist you throughout the whole process. Remember, trust and confidentiality are the keys to opening the door of willingness to acknowledge that a problem exists and then to accept the offer of help. A colleague can more readily establish the requisite trust rather than a well-intended LCL volunteer or staff member who is a stranger. Also, some will obsess on "who dined me out?" and miss the point of why LCL has reached out to him or her. They become angry and resentful. Opportunities for future outreach may be compromised. Nevertheless, on occasion LCL has successfully reached out to an individual in distress when no one else was available. Call and discuss your concerns in confidence; then decide if you can be further involved.

What will happen during the meeting / intervention? What is expected of me?

Either LCL or an experienced interventionist can advise you on how to approach someone in distress. The exact nature of the approach depends upon several factors including:

- who will be involved;
- the perceived risk of harm to self and others (physical, emotional and legal);
- the nature and severity of the presenting problem; and
- the perceived receptivity of the distressed judge or lawyer to the approach.

A structured intervention facilitated by a professional interventionist is often used to address late-stage addiction. This type of approach is commonly known as the Minnesota Model or the Johnson Model intervention. This may be your best course of action if previous approaches have failed, or the denial is strong. They often utilize a “surprise” meeting and employ leverage. Because these types of interventions can appear confrontational, they are inappropriate when trying to help an individual who is not severely impaired or who may be depressed or suffering from another mental health disorder. There are, however, other intervention models which are invitational and educational in nature (e.g., ARISE, Family System models); thereby, reducing the potential for a counter-productive intervention.

### I tried talking to him or her before and it did not work. Why bother?

Call LCL anyway. We need to know two things - (1) what happened: who was present, who said what and how was it said, how did the judge or attorney respond, and how did the meeting end; and (2) what has happened since: what changes have occurred in the judge’s or attorney’s life – marital status, health, employment and financial situation, arrests or warnings, any other signs of mounting problems? From this information, we can (a) determine if it is appropriate for you or someone else to re-approach the judge or attorney and (b) discuss how best to do it. There may come a time when you have done all you can - allow LCL to help you to make that determination. Until then it is always worth another effort to save the person’s life. One never knows when the individual will be receptive to another offer for help – *and if the offer is not made we may never know if he or she was ready and just needed one more chance.*

### Will he or she become angry with me?

Express genuine concern – let her see that you are not critical, accusing, demeaning, shaming, condemning, judgmental or threatening; do not label her as depressed or alcoholic; and do not tell her what she must do. If presented correctly, the risk of anger, resentment and defiance is minimized. You will have planted a seed that may later germinate into the person reaching out to you for help.

Approaches, tailored to the specific needs of the individual, should not produce detrimental results. For instance, if the individual is “merely” stressed out, your approach may motivate him or her to rest, relax or reevaluate his or her lifestyle and make appropriate changes. If, on the other hand, he or she is suffering from substance abuse, addiction, depression or other mental health disorder, you may be able to plant a seed which eventually leads the person to treatment before his or her condition worsens and more harm is done. Or, if they are struggling with a loved one who is ill or disabled, you may be able to direct him/her to the appropriate social services for assistance.

### What if he or she is very intoxicated, very depressed or manic?

If risk of harm to self or others is imminent, call the local crisis center or police. Do not place yourself or others in harm's way. In those situations where the threat of harm is not present, consult LCL, a crisis resource center or healthcare professional prior to making an approach. They can help you to think through the best way to handle a situation. Sometimes, taking the individual to the nearest hospital emergency room is the safest course of conduct. In these situations, it is recommended that you find someone to accompany you – provided, however, they understand the situation and will be supportive and caring and has no prior history of conflict with the individual in crisis.

### He or she seems to be doing better. Perhaps I am being too hasty. Let's wait and see.

It is the nature of these illnesses to periodically appear to be in remission. He looks better, feels better and functions better. And, in fact, maybe he is doing better. But if the individual is suffering from an addiction or a mental illness, sooner or later, the symptoms will return with a vengeance. Over time, a pattern will emerge. You may even begin to recognize what events will precede a return of the symptoms; e.g., pre-trial stress, post-trial relief, other work related deadlines, holidays, family events, sporting events, etc. The impaired judge or attorney is on an emotional and behavioral roller coaster that will eventually run off the rails and crash. Hence, the earlier these illnesses are addressed the better; although, you may need to wait for a mini-crisis or other negative event to improve the likelihood of having the person's full attention.

### **A Primer on Substance Abuse, Addiction, Depression and Bi-Polar (Manic-Depression)**

It is very important to remember that we are dealing with illnesses that have gradually altered the individual's way of thinking and his or her behavior over a long period of time. Addiction to alcohol or other drugs, pathological gambling (a/k/a gambling addiction), depression, bipolar disorder<sup>6</sup> and other mental health disorders often result from a combination of genetic vulnerability, early life trauma and current lifestyle. These men and women did not choose to become addicted or mentally ill. Like everyone else they grew up and experienced life under certain conditions over which they had no control. Science indicates that being raised in a loving and nurturing environment influences the development of the brain in a way that promotes healthy feelings and thinking coupled with a greater ability to cope with life's difficulties and disappointments. Conversely, being raised in an environment involving physical, sexual or emotional abuse influences the development of the brain in a way that promotes a state of chronic stress and anxiety; become more easily frustrated; have poor coping skills; and are at higher risk for impulsive reactions rather than a reasoned response when confronted with a perceived threat. (Also, these individuals are more likely to perceive a threat than those

---

<sup>6</sup> These are the most common illnesses addressed by LCL; however, lawyers suffer from the same variety of mental health disorders, substance abuse, behavioral problems, etc. as everyone else.

raised in a relatively normal family environment.) Most people's experience falls somewhere in between these two starkly different types of childhood environments. Nevertheless, combine genetic vulnerability with some "family of origin" issues and throw in an unhealthy life style (poor nutrition, inadequate sleep and lack of exercise) and we have the perfect formula for developing substance abuse or addiction, mental health disorders, and behavioral problems.<sup>7</sup>

Genetic-based vulnerability plays a large role in developing an addiction. It is the inherited predisposition for addiction which primarily accounts for why only some people who drink alcohol or use mood altering drugs or gamble become addicts; whereas, most people do not. The initial alcohol or drug use or gambling triggers a pre-existing neuro-biological condition in those who are genetically vulnerable. Whereas most people can drink, drug or gamble and still maintain control, the fledgling alcoholic or addict or pathological gambler will sooner or later find him or herself unable to fully control his/her behavior. This creates a credibility gap for those of us who used to drink, use drugs or gamble but chose to cut back or quit altogether and did so on our own. We fall prey to believing that the addict is weak or lacks sufficient moral character to choose not to drink, use drugs or gamble. "We quit. They can too, if they really want to." Nothing is further from the truth. Similarly, genetics plays a role in developing certain mental health disorders. It is widely accepted that bipolar disorder is caused by an imbalance of neurotransmitters and must be treated, at least initially, with medications. Some individuals suffer from anxiety, depression and other mood disorders which have affected other family members and previous generations (e.g., grandparents, parents, aunts and uncles, cousins, siblings). This strongly suggests an inherited causal factor.

Addictions are chronic illnesses (i.e., there is no cure) which progressively worsen over time and, left untreated, will eventually result in a premature death. Depression may be progressive and chronic or it may be temporarily triggered by certain events or conditions in a person's life. Bipolar disorder is also a chronic and progressive illness which carries a high risk of suicide. All of these are brain-based illnesses that involve our conscious thoughts, our subconscious thoughts and memories, our emotions and our survival drives. As these illnesses progress, they express themselves in different ways<sup>8</sup> but they all involve some form of neurological dysregulation which requires treatment if the individual is to recover. And, keep in mind, oftentimes the individual suffers from two or more of these illnesses which complicates obtaining an accurate diagnosis and receiving proper treatment.

"Substance abuse" and "problem gambling" are considered illnesses but are distinguished from addictions because, for the most part, they are missing the impaired control element and the obsessive preoccupation component which are the key indicators of addiction. Substance abusers and problem gamblers may respond well to brief treatment, education, risk reduction strategies and coercion. They curtail or quit entirely their gambling, drinking or use of drugs. The question remains, however, whether these individuals are merely "abusers" or if they are early or mid-stage addicts. Anyone who has experienced a problem with alcohol, drugs or

---

<sup>7</sup> Both PBI.org and Lawline.com offer Internet CLE programs on stress, alcoholism, depression and gambling.

<sup>8</sup> General warning signs and symptoms are listed at the end of this paper.

gambling and whose family history includes addiction or mental illness should stay away from the use of alcohol, mood altering drugs, tranquilizers, or pain killers (even if prescribed by a physician) and gambling to be safe. At the first sign of being preoccupied with drinking, drug use or gambling or of experiencing impaired control, the individual should be evaluated by a qualified and experienced, addictions specialist. Compliance with the specialist's recommendations for treatment is the safest course of action.

A comment upon "responsibility" and "accountability" - the individual did not willingly cause his or her illness and, in that sense, is not responsible for having contracted the illness. As explained above there are many causal factors over which the individual had no control. That said, however, the individual is accountable for his or her inappropriate behavior and/or professional misconduct. Being held accountable is often the starting point for recovery.

The Disciplinary Board utilizes sobriety and mental health monitoring programs to achieve a balance between responsibility and accountability. Thus, a lawyer whose illness was a causal factor contributing to the professional misconduct but who is now in treatment and/or recovery may be permitted to practice law under certain conditions designed to ensure the continuation of his/her recovery. With regard to disciplinary proceedings, the causal connection between illness and misconduct coupled with recovery is presented for the purposes of mitigation not defense.

The Rules of Procedure for the Judicial Conduct Board provides for rehabilitative diversion for judges where allegations are made of misconduct involving substance abuse. (Chapter 121 of the Pa. Code, Rules 36-38.) Also, the Internal Operating Procedures of the Judicial Conduct Board take into consideration whether the judge was suffering from personal or emotional problems, physical or mental disability, alcoholism or drug abuse, and stress. (IOP 4.08)

### **The State of Mind of the Impaired Attorney**

It is important to understand how addiction and depression (or other mental health disorders) alter the individual's perception of his or her world. These men and women see themselves and others through a prism that distorts reality. They either do not see themselves as suffering from an illness or they believe they still have control over their illness and their lives. The challenge we face is twofold: first, we must help them to see and understand how their addiction or depression is harming themselves and others and, second, we must convince them to accept our help.

For many alcoholics or drug addicts, the illness creeps slowly into their lives. Youthful experimentation leads to social drinking or drug use then to problem drinking or drug abuse which evolves into a full-blown addiction to alcohol and/or other mood altering drugs. This may

span five, ten, or fifteen or more years.<sup>9</sup> In the early years, the use of alcohol or other drugs may help some individuals to overcome their shyness or anxiety. This allows them to feel good and, to some degree, function better.<sup>10</sup> These positive/rewarding effects result from the fact that alcohol and other mood altering drugs mimic key neurotransmitters operating in the limbic regions of the brain which involve memory and learning, moods and emotions, and cognitive processing. Also affected are the mesolimbic regions of the brain which involve reward based survival drives as well as control over impulsive or compulsive behavior. The subconscious brain of the fledgling alcoholic or addict associates the use of alcohol and drugs with positive feelings and, later on, comes to believe they are needed in the same way as food or water is needed to survive. These subconscious reward-based survival mechanisms work their way to the conscious mind in a manner similar to thirst and hunger. We sense thirst or hunger without conscious thought or effort but eventually we become aware and either eat or drink. Question: when you woke up this morning did you say to yourself “Uh oh, did I forget to drink any water yesterday? I better put that on my ‘to do list’ so I don’t forget again.” Of course you didn't. When your brain senses that you need to hydrate your body, it automatically creates a desire (thirst) which travels from the mesolimbic region of your brain (subconscious) to your frontal cortex (conscious) at which time you make a decision whether or not to drink water (or juice, soda, etc.). The longer you go without water the thirstier you become. Go too long without hydration and your survival instincts will take over. You will eventually think only of the need to find and drink water. This preoccupation will not subside until you actually drink some water and your thirst is quenched.

Like our normal instinctual drives (hunger, thirst and sex), addiction acts upon the brain’s survival pathways. The alcoholic or addict experiences a similar subconscious sensation, often coupled with physical and emotional discomfort (withdrawal), which tells him or her that it is time to drink alcohol or use other mood altering drugs. Willpower may allow the person to delay taking that first drink or drug but for only so long.<sup>11</sup> Eventually the thought of drinking or using drugs becomes foremost in his or her mind and the need to use becomes increasingly stronger. It eventually pushes out all other thought, overrides all logic and overcomes all personal willpower. Addiction is like an undertow. You may know what is going on and try to resist but eventually it pulls you under against your will. The individual is compelled to drink or get high “in order to survive.” The alcoholic or addict cannot imagine a life without alcohol or drugs; his/her persona and ability to function are entangled in the addiction. Once the addiction has taken hold within the brain, the first drink, drug or bet triggers the “impaired control” aspect of addiction. The addict may intend only to have one or two drinks, one or two lines of cocaine, or gamble only one or two hundred dollars but once started may find he or she cannot stop. So, let me ask: “How you ever been really thirsty and found that after drinking a bottle of water you couldn’t stop until you drank the whole case of water?” That is the

---

<sup>9</sup> Adolescent brains are still developing. Using alcohol and other drugs at earlier ages leads to rapid onset of addiction; possibly, even in those without a genetic pre-disposition/vulnerability to addiction.

<sup>10</sup> For some this may be a form of self-medication for an undiagnosed mood disorder.

<sup>11</sup> How long varies with each individual. Some weather through a long period of preoccupation and discomfort and remain abstinent only to be ambushed at a later date by “denial”. They pick up the first drink or drug and re-experience impaired control over their use of alcohol and other drugs.

difference between normal behavior and addiction. Addiction hijacks the brain's reward circuits / survival system and impairs the ability to distinguish between healthy and unhealthy behavior. Impulsive and compulsive behavior overrides logic and common sense. I've never heard of anyone being addicted to water. Not so when it comes to alcohol and other mood/mind altering drugs.

The subconscious underpinnings of addiction involve learning and memory, moods and emotions, thoughts and behaviors. It makes it almost impossible for the individual alcoholic or addict to recognize that he or she has a problem until it is nearly too late. The woman (or man) whose addiction took root in high school or college and who has earned a law degree, been admitted to the Bar (or Bench) and has all the trappings of success will be hard pressed to admit that she is not in control of her use of alcohol or other drugs. What she fails to comprehend is that her increasing alcohol/drug use is not merely indicative of a professional who works hard and plays hard; rather, it is an indicator of addiction that will eventually sabotage her health, life and career. At some point, the judge or attorney may realize she has a problem with alcohol/drugs but prefers to handle it alone. She may worry that disclosure will harm her reputation and career. These fears stem from the stigma associated with alcoholism and other addictions (i.e., alcoholics are weak willed and lacking in sufficient moral character – drug addiction is worse because it often involves criminal conduct). Seeking treatment is delayed, thereby allowing the illness to worsen and making treatment and recovery more difficult. Meanwhile, her judgment and professional skills begin to decline and the likelihood of professional misconduct increases. She may recognize the need for professional help and secretly enters into a treatment center. If following treatment there is a return to drinking, she may resign herself to the prospect of being an alcoholic/addict for whom nothing can be done. This person is not in denial of her addiction; rather, she is in denial of her ability to recover – relapse is an all too common event but it is not a sufficient reason to give up.

And, unfortunately, there are judges and attorneys who are clearly alcoholic/addicted but who deny that their use of alcohol or drugs is a problem despite a history of health problems, injuries, warnings or arrests, failed relationships, legal separation or divorce, disciplinary complaints or lawsuits all of which are related to their alcoholism or drug addiction. These men and women are exceedingly difficult to help. This begs the question, "Why don't alcoholics and addicts see what they are doing to themselves and stop?" Asking that question indicates a lack of understanding of the neurological underpinnings of addiction. Once addiction-generated, survival style neural pathways are in place, they are exceedingly difficult to deactivate. The alcoholic or addict must stop triggering these pathways and develop new pathways which bypass them. For most, this requires abstinence coupled with therapy and/or a 12 Step or other recovery based program. Treatment and recovery are designed to influence changes in a person's behavior, general outlook on life, and how he or she responds to daily challenges and upsets. The individual is very slowly re-wiring his or her brain in a manner that will allow him or her to acquire good mental and emotional health. Some men and women are able to embrace recovery almost immediately; others struggle and may relapse over a period of many years; and some never recover and die.

The treatment of addiction becomes even more complicated if the judge or attorney also suffers from depression, bipolar or another mental health disorder. This is distinguished from a state of temporary depression brought on by long term use of alcohol and other mood altering drugs but eventually dissipates over time provided the individual is abstinent. An individual who has been diagnosed as having co-occurring illnesses must treat both. Failure to do so sabotages their chances of successful recovery from either illness.

Depression involves the limbic region of the brain and affects our memory, ability to learn and our emotions as well as the regulation of sleep and diet. Untreated depression disrupts every aspect of our physical, mental and emotional well-being. The causes of depression vary from individual to individual but the resulting dysregulation of the brain and day-to-day dysfunctional behavior are similar. For some, depression is an inherited time bomb just waiting to go off for no apparent reason. For others, it may be caused by long-term stress, emotional or physical trauma, illness or disease, or a change in medication - nearly anything which substantially disrupts the chemistry and functioning of the brain.

A Johns Hopkins University study published in 1991 found that lawyers suffered from depression at a higher rate than other professions. Subsequent research suggests that chronic stress may play a role. When an individual perceives a threat,<sup>12</sup> it triggers a cascading release of hormones and chemicals in the body including cortisol. Higher than normal levels of cortisol in the prefrontal cortex of the brain may be interfering with the prefrontal cortex's ability to create new ideas, exercise good judgment, form action plans, execute those plans and stay motivated to see them through to completion. Also, high cortisol levels may interfere with the frontal cortex's ability to dampen feelings of anxiety, dread and fear emanating from the amygdala. (The amygdala and hippocampus work together in learning and in forming memories especially those which involved a traumatic experience.) The chronically stressed individual finds it difficult to think clearly, concentrate, organize his or her thoughts, make decisions, initiate or follow through on required action, and maintain a positive outlook on him or herself and life in general. These are key indicators of depression. As the depression worsens, the individual may lose all sense of hope. Feelings of worthlessness and helplessness will increase because of his or her inability to function both as an individual and as an attorney. Feelings of anxiety and fear increase and generate strong feelings of distrust toward anyone with whom they come into contact. Isolation becomes a safe harbor, thereby protecting the individual from those who (to his or her way of thinking) can neither understand nor possibly help. The judge or attorney may not be aware that he or she is depressed, the affect it has on his/her life, or how it affects those around him/her. Other times he or she is aware of the onset of depression but struggles with fully acknowledging it to him or herself, much less to others. In either case, the attorney is unable to ask for help or accept an offer for help. Approaching a depressed judge or attorney requires the utmost care. A misstep, although unintentional, will increase the levels of anxiety and distrust and make future attempts to help more difficult. Our window of opportunity is very fragile and must be handled with the utmost care to avoid breakage.

---

<sup>12</sup> Perceived threats are subjective or personal in nature – what is deemed threatening varies between individuals and may even vary from day to day within an individual depending upon his or her state of mind or physical health.

The bipolar or manic depressive judge or attorney is challenged by alternating mood states of depression and mania. Manic depression is sometimes referred to as a spectrum disorder because the degree of depression and mania in any individual may range from low to moderate to very high. Also, some individuals cycle rapidly between the depressive and manic phases while others may go many months between cycles. The general consensus is that this illness is caused by neurotransmitter imbalances and, therefore, must be treated with both antidepressants and mood stabilizers.<sup>13</sup> Failure to properly diagnose the manic side of this illness can lead to prescribing only antidepressants which triggers the onset of mania. This can occur when a primary care physician sees a patient who is in the depressive phase and fails to make appropriate inquiry into the individual's personal and family history regarding mania.

Mania results in increased mental and physical activity; decreased need for sleep without fatigue; exaggerated optimism and self-confidence; grandiosity; racing speech coupled with a flight of ideas; poor judgment, impulsive and reckless behavior; and excessive impatience and irritability. Before approaching an individual who may be in the manic phase, it is advisable to consult with a qualified healthcare professional who fully understands the nature of this illness. Should, following an approach, the judge or attorney agrees to an evaluation it needs to be conducted by a qualified healthcare professional who is familiar with both mental health disorders and addiction. This is because many bipolar individuals self-medicate by using alcohol and other drugs. When depressed they turned to stimulants such as cocaine or amphetamines. When manic they may turn to alcohol, tranquilizers, pain killers or other drugs which tend to dampen their mania. Also, an individual caught up in his or her cocaine addiction or gambling addiction may appear manic but in fact is not bipolar. A good diagnostician can distinguish these illnesses.

## **Pennsylvania's Motivational Intervention Model**

***The following briefly describes LCL's intervention protocol. It is not a "do it yourself" guide. Always seek professional guidance before attempting an intervention. A botched intervention can cause irreparable harm to all involved.***

### Overview

You call the confidential helpline expressing concern about a judge or attorney (or a family member). You want to help but you are unsure about what to do. You hesitate getting involved for many reasons including not wishing to have an unpleasant confrontation with your colleague. The underlying problem is unclear. It could be stress, anxiety, substance abuse, alcoholism, prescription or illicit drug addiction, depression, bipolar disorder, eating disorder, problem gambling, sexual addiction, or any combination thereof. We engage you in a conversation. First, we listen and answer your questions. Then, we ask questions. We attempt

---

<sup>13</sup> Medication alone is generally not sufficient in treating mental health disorders. Medication addresses neurochemical imbalances or dysregulation but does not address personal relationship problems, poor coping skills, etc. Also, finding the "right" medication that works is a process of trial and error that can be frustrating.

to rule out the highest risk medical condition and form a preliminary opinion about the underlying problem. We educate you about the nature of the possible illnesses involved. Finally, we assist you in determining the best strategy for reaching out to the person in distress. We may recommend consulting a professional addiction interventionist or a psychiatrist. Shortly after your call, we send literature to you to complete the initial education process. If appropriate, we may suggest that you speak to one of our recovering volunteers. (Of course, you are under no obligation to accept our services.)

We recognize that direct confrontation generates resistance in most people, outright defiance in some, and stress and fear in most. Therefore, we first consider using an indirect, approach tailored to the situation at hand. The approach is conversational and collaborative in nature and is designed to spark self-awareness and an intrinsic desire to change. This sets the stage for a long term alliance between the impaired judge or attorney, you, and LCL staff and volunteers. We keep in mind that we may be dealing with depression or another mental health disorder where a direct, confrontational approach is generally counter-productive. Criticism (especially reciting a long list of shortcomings) or labeling the person as alcoholic or depressed will provoke anger in the alcoholic and magnify the depressed individual's feelings of helplessness, hopelessness, unworthiness, loneliness and desire to be left alone. It will trigger resistance and defensiveness and drive the person away, not bring him or her closer to us so we can help. Our primary goal is to gently awaken the individual to the reality of his or her situation.

We start with the least intrusive approach appropriate to the attorney's needs and then move towards more direct action (if and when appropriate). From the outset, we seek to establish a relationship based upon the attorney's belief that we have only his or her best interest at heart. It is a foundation built upon compassion and trust, not threats or coercion. Our hope is to elicit from the distressed attorney an acknowledgment that something is wrong (e.g., stress, anxiety, insomnia) and agree to accept help. If the attorney accepts our help, he or she is evaluated by a qualified healthcare provider who will diagnose the underlying problem (e.g., substance abuse, alcoholism or other drug addiction, depression, gambling, eating disorders, etc.) and develop a treatment plan tailored to his/her individual needs.

Our strategy involves three types of approaches which represent a continuum of increasingly more direct action: (1) a private meeting, (2) a group meeting without the application of leverage and (3) a group meeting with the application of leverage.<sup>14</sup>

Choosing the most appropriate approach takes into consideration several questions:

- ✓ What are the warning signs? Who has first-hand knowledge?
- ✓ How likely will someone be harmed (self and others including clients)?
- ✓ Is the individual experiencing relationship, marital, financial or legal problems?
- ✓ Is he or she showing the warning signs of professional impairment?

---

<sup>14</sup> Depending upon the circumstances, a judge may prefer to not involve others. In those cases, the same principles and guidelines apply; however, the step-up approach goes from a private meeting without the use of leverage to one with the application of leverage (e.g., filing a disciplinary complaint if the party does not seek assistance).

- ✓ Are clients complaining?
- ✓ Have malpractice suits or disciplinary complaints been filed?
- ✓ How receptive is the lawyer to being approached?
- ✓ Have there been any prior approaches? If so, what took place and what happened?
- ✓ Can you / should you be involved with the approach? Are you willing to be involved?
- ✓ Who else has expressed concern? Should he or she participate in an approach?
- ✓ Does anyone have any leverage which can be applied if all else fails?

## 1. A Private Meeting

***How do you help an individual who appears stressed out or despondent or is drinking more than before but shows no signs of major depression or substance abuse nor has a known history of treatment? To the best of your knowledge he/she is still functioning competently.***

You think others are concerned but no one is openly discussing their observations. Nobody is really sure what is causing the person=s distress because there is only minimal information - mostly suppositions and hearsay with little or no meaningful evidence. Each concerned party may hold a clue but no one has the big picture regarding the underlying problem. You hesitate asking others for fear of starting rumors. What can you do?

In these types of cases, where *the perceived risk of harm to self or others appears low*, our experience suggests that you may be more comfortable and more effective using a low key, non-confrontational, first approach.<sup>15</sup> We suggest a private meeting with only you or perhaps a second person (who must be perceived as discreet and supportive). Preparation for the private meeting can proceed quickly. Sometimes you may be ready to approach the distressed lawyer soon after the call to the helpline.

*The format is conversational and supportive* – you are meeting to express your concern rather than to confront. Your tone of voice and your body language must convey empathy. You want the lawyer to confide in you and express a willingness to accept help with whatever is troubling him or her. Your success is hinged upon your ability to gain the individual’s trust. What you say is also important and it depends largely upon how well you know the person and how you think your message will be received. This can be a bit tricky. Caution is advised.

*Ease into the conversation* and at some point recall a personal or professional story which illustrates his or her good qualities, professional skills, accomplishments, etc. and your friendship or respect. For example, “Remember the Jones case which we were co-counsel? You faced an uphill battle convincing the judge to grant our motion to suppress the confession. But

---

<sup>15</sup> We may use a private meeting as an initial approach even when we think a more assertive approach (i.e., group meeting with leverage) will be required. This removes his or her ability to put you on the defensive during the subsequent intervention; e.g., “If you were so concerned why didn’t you say anything to me before?”

you found case law right on point and saved the day for your clients.” The goal is to build his or her trust in you. Once you sense he does not feel threatened by you, inquire generally as to how he is doing; ask open ended questions. Or, if the person has previously disclosed to you a problem with sleeping or stress or feeling overwhelmed, ask how he is doing with that problem. If he asks why you are inquiring gently tell him of your concerns. Disclose just enough first-hand knowledge to support your concern. Avoid both a long list of his problems or mistakes and any information gained second-hand. Do not label him as stressed out, depressed, alcoholic, etc.

*If he opens up, allow him to talk.* Don't interrupt. When an opening appears restate what he has said. This allows the person to hear his own words, pick-up on any inconsistencies (e.g. “I'm fine....I just haven't slept in 2 days”). Sometimes this is enough for him to realize something is not right. It also validates that you are listening. *If appropriate*, share a similar personal experience to help him to sense that you understand what he is going through and what he may be worried about. Share what you did to overcome the problem or what you would do now if the problem ever came back. If you have no such personal experience share what you know of another person who was once in distress and what he or she did to get better. (Don't break anyone's anonymity – by name or identifying information – or you will lose the judge's or attorney's trust.) Say to him that you want to see him feeling better and happy and that you believe he can feel better if he receives the right help. Offer your willingness to help.

*If the judge or attorney expresses interest in your offer to help*, point out that LCL is safe, confidential, non-judgmental and effective resource for assistance. If you have received our help with a personal problem, and it is appropriate, tell him your story (and ask him to respect your privacy and anonymity). Provide our helpline number. If you sense the he is merely being polite and has no intention of calling or that he is incapable of calling, offer to call us while you are still with him. Emphasize that the call is confidential and he can remain anonymous. If he balks, drop it for now. Don't push. Patience and persistence pay off in the long run.

*If he does not acknowledge having any problems or you sense resistance*, don't get in a hurry and blurt out a long list of his mishaps. Keep the conversation cordial and (unless you sense he needs immediate assistance) put off a detailed explanation of your concerns until another time. Don't argue. Don't try to change his or her mind. Don't apply pressure or issue warnings or threats. **Remember, under this scenario, he is showing only signs of distress; not professional impairment.** If he acknowledges that something is wrong but thinks he can handle it himself - don't argue. Ask him what his plan is. If he doesn't have a plan, ask if he wants to discuss what he can do to improve his situation. If he doesn't want to talk about it, drop it. If he has a plan, don't criticize it. Tell him you hope he succeeds and things improve. Offer your support but don't be pushy. If receptive, ask him if he will accept your help should his plan not work.

*Conclude the meeting with a friendly reminder* that you are available if he feels the need to talk or confide in someone. He may, in fact, just be going through a rough patch. Say you want to stay in touch and ask permission to do so. This keeps the door open for you to observe any changes for the better or worse and, if necessary, to make a second approach.

A seed has been planted. Allow him time to think about what you have said. If you came across as genuinely interested in his well-being, he may reach out to you for help at a later time, or, be more receptive to your next approach. Please keep us (LCL) advised of any new developments or signs of deterioration. We may be in possession of other information which we cannot disclose but may enable us to offer you additional guidance.

## 2. A Group Meeting Without the Application of Leverage

***If it is clear that a serious problem exists that will lead to substantial misconduct or other harm and one or two private meetings have not produced results (i.e., no acknowledgment that a problem exists or there is outright refusal to seek help)***

**OR**

***If we start with a situation where the level of impairment is higher but there is no proof that anyone is in imminent risk of being harmed and it is believed that the judge or attorney will not be receptive to a private approach***

*You may wish to involve others willing to meet with the attorney as a group for the sole purpose of expressing concern without the use of leverage or ultimatums.*

LCL staff and/or an independent interventionist will assist you with preparing and, if needed, facilitating the meeting.

The group must be carefully selected, screened and qualified, and trained to ensure each member (a) has a supportive (not critical or blaming) attitude; (b) has prepared a written opening statement which is supportive and empathetic; and (c) is able to identify an opening which can be used to help the judge or lawyer see the reality of the situation and become willing to accept help. Careful consideration and planning goes into every step of the meeting - everything from who sits where to the order of presentations. You will need to select a team leader to run the meeting if conducted without a professional interventionist.

Our first goal is to create a safe environment. Begin the meeting with a brief statement of concern and support. Say you want this to be a conversation. Ask if he will allow the group to express their concerns without interruption and when finished he will have his turn to speak (and you will listen). Each member of the group takes his/her turn to share some stories to establish a baseline of the judge's or the attorney's good qualities and past accomplishments. Follow it with a few examples of how you have observed changes in him which concern you.<sup>16</sup> The purpose is to help him see discrepancies between his former self and who he has become. He may be minimizing his problems or may be altogether blind to them. Talk about how you

---

<sup>16</sup> **Caution:** Reciting a long list of personal and professional failings or labeling him as having a drinking problem or being depressed will come across as critical and fault-finding. The individual may shut down, resist or retaliate. Convey just enough information in a non-judgmental, non-accusatory manner which will minimize a defensive reaction or feelings of being overwhelmed and hopeless but will nevertheless plant the seed of discrepancy.

want to see him happy again. State your willingness to help him. Share a personal experience that will convey a sense of hope for the future –something that may convince him he will feel and function better once he gets help just as you did.

Throughout the meeting you need to read his body language and facial reactions and sense when to back off, allow him to calm down, and then resume. A defensive or defiant reaction will interfere with his ability to listen, understand and accept what you are saying. Your goal is to create a safe and supportive environment in which the distressed judge or lawyer listens and, ideally, feels comfortable with opening up about what is troubling him – even if it is simply “I feel stressed out” or “I don’t know what’s wrong.” *Whatever he discloses, use it as a starting point to acknowledge his distress.* Ask what you can do to help. Encourage him to be evaluated by a qualified healthcare provider to diagnose the underlying problem and find a solution. (See the last paragraph of this section.)

*If the judge or attorney does not open up and instead says, “It isn’t that bad” or “I can handle this on my own”, don’t interrupt and don’t argue. When he is finished speaking, simply say you are concerned for his well-being and that you just want to see him feeling better and happy. Ask him if he has a plan. If he doesn’t have a plan, ask if he wants to discuss what he can do to improve his situation. If he refuses, ask why he thinks things will change for the better. He probably lacks a reasonable answer. If he doesn’t want to talk about it, drop it. If he has a plan, ask what it is. Don’t criticize it. Tell him you want his plan to succeed. Whether he has a plan or not, ask if he will allow you to help if signs of distress or professional impairment continue or worsen. If he agrees, you now have permission to re-intervene if his condition worsens. If he balks, remind him (nicely) that you and the others have professional responsibilities which leave you no choice but to address any future misconduct. This is a sensitive situation in that you are putting him “on notice” yet trying to do so in a way that minimizes a negative reaction. This sets the stage for applying leverage at the next meeting if he fails to show noticeable, acceptable improvement.*

*We repeatedly suggest that you do not argue with the judge or attorney or recite your “bill of particulars” of his shortcomings so as to not trigger defensiveness and the closed mind that will follow. If you have come across as sincerely concerned but neither critical nor judgmental, he is more likely to listen and comprehend what you are saying. He may reflect upon what you have said and, if his condition worsens, may realize he needs help. It is human nature to minimize our problems, spend a lot of time contemplating the need to change, and to go back and forth about what to do before we decide we must change our behavior. Give him some time to think about what he has heard. You may get a call from him when you least expect it.*

*If the judge or lawyer shows interest or agrees to seek help, express your confidence in LCL as a safe, effective and confidential group who can help him or her. Explain how we specialize in helping attorneys, are discreet, will arrange a private and confidential consultation with a healthcare professional,<sup>17</sup> and can arrange contact with another judge or lawyer who has been*

---

<sup>17</sup> LCL pays for the initial consultation/evaluation if it is arranged through our helpline.

through a similar experience. Encourage him to call us immediately before he changes his mind about seeking help. Emphasize, again, that you wish to see him feeling better and there is no point in delaying a call to us. "Why wait?" Offer to call us right then and introduce the judge or attorney to us. This has often worked. If he balks, however, back off. Give him our number and don't push. Many times the individual needs to feel that he is in control and therefore will insist on scheduling the evaluation. In all cases, obtain a firm commitment and deadline for setting the evaluation. Do not let the judge or attorney choose the evaluator. Insist he use one of your choosing. Explain your concern that he is evaluated by a qualified professional as that is in his best interest. Emphasize it is confidential and free of charge. You may want to give him two or more names provided to you by us (LCL) in advance of the meeting. This gives him some control over whom to use but ensures it is a qualified evaluator who can see him immediately. An unqualified or inexperienced evaluator can be manipulated by a judge or attorney. This results in a misdiagnosis and ineffective treatment recommendation.

### 3. A Group Meeting Using the Application of Leverage

***When we are dealing with a judge or an attorney who is clearly unreceptive and her conduct is causing harm to herself and others,*** she must be made aware and held accountable without further delay. Often times this is the alcoholic in denial.<sup>18</sup> More than likely she has already been confronted about her conduct. If she has not been approached before, we may recommend that you approach her privately and express your concern. This forestalls an angry challenge to your sincerity based upon you not previously saying anything to her about your concerns. If she denies any problems or refuses to cooperate with seeking an evaluation, you can proceed without delay to the group meeting with the application of leverage.

No one is well served by an impaired judge or attorney. In this example we describe an individual who is not receptive to receiving the message that her drinking (or drug use) is a problem. She may be blind to the problem; resigned to the situation; or aware that something is wrong but is feeling ambivalent about stopping drinking - she is unsure about what to do and worried about the consequences of disclosure. Delay is risky. We do not have the luxury of allowing this judge or lawyer to bottom out or self-discover that her drinking is a problem. *This is a clear case for intervening with the appropriate use of leverage, should it be needed, to help the judge or attorney understand the reality and consequences of continued drinking.*

By this time, you and the other concerned parties may be frustrated, worried and angry. Don't allow these emotions to get in the way of trying to help this person. Call us and begin a discussion about what can be done. If appropriate we will refer you to a qualified, experienced interventionist to plan and prepare for the intervention. If helpful, an LCL volunteer may be added to the team. Keep an open and ongoing line of communication with us. By keeping us informed, we can continue to assist and provide support to the concerned parties as needed.

---

<sup>18</sup> The discussion generally applies to any addiction; special comments have been added regarding depression.

The fundamentals of conducting a group meeting were covered in the previous section; there are, however, some differences. The meeting will generally start with a description of the woman you have known and respected. You do your best to convince her that you are her friend and that everyone present has his or her best interest in mind. However, because the judge's or attorney's alcoholism is causing harm which cannot be allowed to continue, you and the other members of the team must be fully prepared to cite "chapter and verse" of her inappropriate behavior and professional misconduct. This will probably trigger defensiveness and resistance; therefore, a professional interventionist can be invaluable in preparing you for the approach. The team should write out and rehearse what they are going to say and how they are going to say it until everyone "gets it right." Your tone of voice must be calm and reflect your sincerity – not impatient, annoyed, accusatory or judgmental. Stick to the facts of which you have first-hand knowledge and which illustrate how her misconduct affected you, the court, and others. These facts may include a list of performance and behavioral problems as well as a list of objective indicators of a potential alcohol problem. Do not berate the judge or lawyer and do not label her as an alcoholic, problem drinker or drunk. *If appropriate* share your own personal experience in overcoming a similar problem. Close with a statement of your wish to see her feeling better and that you believe she will if she accepts your offer of help. Ask for permission to schedule an appointment on her behalf with a healthcare provider for an evaluation to diagnose what is wrong and find a solution.

*If she refuses to acknowledge the need for help or rejects your offer of help*, you and the other team members must state your personal and professional boundaries. Enabling must end (i.e., protecting the judge or attorney from the consequences of her inappropriate behavior or professional misconduct). Leverage must be applied to "bring home" the consequences of continued drinking. She may become angry and resentful.<sup>19</sup> Explain to her the conditions which she must meet for you to consider not reporting her to the Judicial Conduct Board, the Disciplinary Board or for her continued employment with the law firm. These may include:

- an evaluation by a healthcare professional of your choosing;
- compliance with the healthcare professional's recommended plan of treatment;
- monitoring of treatment compliance;
- issuance of a fitness for duty certificate before returning to work;
- temporary restrictions on duties and responsibilities;
- random alcohol/drug testing;
- mandatory self-disclosure of relapse; and
- the consequences for non-compliance or relapse (e.g., sanctions and/or additional conditions for continued employment).

The Pennsylvania Bar Association's Lawyer Assistance Committee (not LCL) can assist with the appointment of a sobriety or mental health monitor and drafting of a monitoring contract. [The

---

<sup>19</sup> Resentment and anger often lead to relapse. Thus, using leverage to coerce the attorney into treatment is the last resort of an intervention. Nevertheless, where an individual's life is at risk or others are in harm's way, and the judge or lawyer does not cooperate - you are left with no choice.

Disciplinary Board uses this committee to monitor lawyers who have been placed on probation as a result of misconduct involving substance abuse.]

This brief discussion highlights only a few of the key elements of a professionally conducted intervention. Other components include educating, qualifying and screening the team members; script writing, review and revision; rehearsals; post-intervention debriefing of the team; addressing safety concerns if the evaluation or treatment admission is delayed; and preparing a contingency plan if the judge or attorney refuses to cooperate, fails to follow through with either the evaluation or the recommended treatment, or if she relapses. Proper planning and preparation ensure the best outcomes. Hurried and ill prepared interventions can backfire and ruin future chances to be of assistance.

***An alternative approach*** is for the concerned parties to schedule a meeting with a professional interventionist / therapist to discuss your concerns and extend an invitation to the impaired judge or lawyer to attend. He or she might be curious and show up. In that case a professionally facilitated conversation can be held which may resolve the matter. If not, the group can proceed with planning a traditional intervention.

**Caution:** *When dealing with a severely depressed individual* a group meeting with the application of leverage may reinforce the symptoms of his or her depression. Depressed individuals have a cognitive distortion that continuously tells them they are unworthy and beyond help; that you cannot and do not understand what they are feeling; and no one is to be trusted. When trying to help a depressed judge or attorney, the application of leverage is a last resort. Always treat the depressed individual with dignity and respect – he/she is ill and needs your support to recover. Nevertheless, if prior approaches have failed and others are being harmed as a result of the person’s depression-based professional impairment, your duty to the public and the profession leave you with no choice but to apply leverage. Being ill does not excuse one from the consequences of professional misconduct.

Also, if dealing with an attorney who is a member of a law firm, the firm can temporarily remove him or her from a position of responsibility in lieu of being fired. In so doing, they provide appropriate support to the attorney at a time when he or she most needs it - while reducing the likelihood of harm to the firm’s clients. Couple this with appropriate supervision and you will both protect your clients and be able to monitor the attorney’s recovery. As the attorney’s health returns, his or her responsibilities can be increased to match his/her ability to resume competently carry them out.

## High Risk Situations

Occasionally an individual is potentially violent and possibly armed. He or she may pose a real danger to him or herself and/or others. Do not put yourself or others in harm's way. Contact your local crisis intervention service. They can advise you and coordinate the use of EMS and the police. Your safety and the safety of others must be your first consideration.

## Concerns Regarding Suicide

At times the severely depressed judge or attorney (who may also be an alcoholic, drug addict or gambler) may have lost all hope. He or she may have given up and believes that suicide is the only way out of all of their troubles. We know otherwise. Lives and careers can be rebuilt.

The basic warning signs of an individual who may be contemplating suicide are:

- repeated expressions of hopelessness, helplessness and despair
- behavior that is out of character (recklessness and a normally cautious person)
- depression followed by a sudden and unexpected change to a cheerful attitude
- talking about "final wishes" in details, making preparations for death, etc.
- unusual purchase of life insurance

If you are concerned that someone may be suicidal, take immediate action:

- ✓ Call the local crisis center, EMS or the police.
- ✓ Talk directly to the person in person if possible.
- ✓ Find a safe place to meet him or her. Act calm.
- ✓ Express your concern. Assure him/her of your respect for his/her privacy.
- ✓ But tell the person you'll take any action needed to keep him or her safe.
- ✓ Be sincere and kind. Encourage him/her to discuss recent events and feelings.
- ✓ Let the person talk. Give your full attention. Do not interrupt.

- ✓ Do not minimize what he or she is feeling. Do not say: “It's not as bad as you think. Everything will be okay. Don't worry.”
- ✓ Ask if there is a “plan.” Admit your concern and your fear for his/her safety.
- ✓ Ask if there is something you can do. Talk about available resources. Help the person to make a “safe plan” for the next few hours or days.
- ✓ Help carry out the safe plan (e.g., assist the person with scheduling and attending an evaluation or therapy session, creating a support team).
- ✓ Stay in frequent contact, listen and offer positive encouragement.
- ✓ Keep a close eye on him or her during the first few weeks of starting antidepressant medication; the initial lifting of the depression may enable the person to follow through with a plan for killing him or herself.

### **Treatment, Recovery Programs and Epigenetics**

The term treatment generally refers to the utilization of healthcare providers to address the illness. Treatment should always be preceded by an evaluation conducted by a qualified healthcare professional experienced in diagnosing addictions and mental health disorders. A proper diagnosis will identify the nature and severity of the illness or illnesses present. This information is necessary to determine the appropriate type of treatment and level of care:

- short-term hospitalization to stabilize his/her anxiety, depression or mania
- detoxification in a hospital or other controlled treatment setting
- inpatient treatment at alcohol or drug rehabilitation center or mental health facility
- intensive outpatient treatment (e.g., several multi-hour sessions per week)
- outpatient treatment (e.g., variable number of shorter sessions per week)
- individual therapy and/or group therapy
- medication (anti-depressants, mood stabilizers, etc. – avoid benzodiazepines)

The term “recovery program” is generally associated with non-treatment activities which address the addiction or mental health disorder. The most commonly known are the various 12 Step recovery programs; however, there are other programs which some men and women find more suitable to their needs. A quick search of the Internet will reveal the various programs located in your locality.

Although some people appear to do well after treatment many find their recovery precarious unless they are actively involved with a recovery program and other recovering individuals. The 12 Step programs offer fellowship and guidance in learning how to live one day at a time without the use of alcohol, mood altering drugs, or engaging in other addictive or unhealthy behaviors. Some 12 Step meetings address both addiction and mental illness. 12 Step programs are founded upon personal acceptance of your illness, self-examination of your past, the making of restitution for harm done to others, and the willingness to help others with their recovery. They are deemed spiritual programs because they seek to transform the individual from being self-centered and self-absorbed to one who is considerate of others with a desire to help others to recover. It is carried out under the guidance and auspice of a “Higher Power” or a power greater than themselves but of their own choosing and understanding. 12 Step programs do not require anyone to believe a certain way, although individual members may express strongly held personal opinions and beliefs.

Treatment and recovery work for many people ... that is their addiction or mental health disorders go into remission. The man or woman begins to feel better about him or herself, others and life in general. They function at work and in society. Many begin to excel in their chosen career. Others lead exemplary lives based upon their devotion to helping others find recovery. What, then, is behind treatment and recovery? A clue may lie in the science of epigenetics.

Epigenetics is the study of how life's experiences change a person by chemically coating the DNA. This chemical influences the function of the DNA without altering the genetic code. Trauma, drug abuse or lack of affection turns off the expression of a neuronal growth protein (BDNF) thereby promoting depression. Nurturing behavior boosts the expression of a gene that modulates stress and anxiety thereby bolstering emotional resilience. Some scientists believe that the human brain continues to grow new neurons throughout our lifetimes. Someday scientists may prove that long-term recovery results in a chemical coating of DNA that promotes the development of neurons that are less vulnerable to addictions and mental health disorders. What we do know is that there are millions of men and women who are in recovery from addiction and mental health disorders who lead happy and productive lives.

## **Conclusion**

Your phone call to LCL expressing concern about a judge, lawyer, or family member may be the first step in rescuing him or her from a life of suffering and desperation followed by a premature death. Balancing what is in the best interest of the individual in distress is not easy. But it can be done. The gratification of trying to help a colleague or a member of your family at a time when he or she needs you the most is incredible. The joy of seeing an individual recover and get a second chance at life is immeasurable.