

CONFERENCE REPORT: Lawyer Well-Being and How to Help

By Nancy Kisicki 2023-10-18T17:32:42000-04:00

Despite progress made in recent years recognizing lawyer well-being as an important issue, the problem has actually been getting worse, according to observers.

Speaking in Chicago at an Aon Law Firm Symposium session titled “The Mechanics of Colleague Well-Being: Intervention and Aftermath,” Patrick R. Krill, principal and founder of Krill Strategies, LLC, said this subject “needs to be on every organization’s radar.”

Krill and fellow panelists discussed prevention and detection, as well as intervention and return to work issues.

Michele A. Coffey, partner and general counsel at Morgan, Lewis & Bockius LLP in New York, said her firm’s efforts to promote well-being include having a dedicated well-being director, active programming, and a website offering resources and articles.

Coffey said that as her firm approached having employees return to work after the pandemic, it held town halls with an epidemiologist and offered a program on anxiety about returning to work.

Robin Belleau, director of wellbeing at Kirkland & Ellis LLP, explained that there is no “one size fits all” approach to well-being. She observed that different things work at different times and that “you never know what’s going to reach someone.”

She said her firm provides individual consultations, live presentations on topics like fitness, nutrition and sleep, “monthly one-pagers,” and websites that let someone who might be intimidated about engaging “dip a toe in the pool.” She noted that she brings in speakers with clinical backgrounds and has them provide their contact information as a way of “sneaking in the resource” without coming at a person directly.

Belleau also said it’s important to use words like stress, depression, anxiety, substance abuse, and suicide, and to put the concepts out in the open and talk about them.

Krill explained that lawyers are very good at hiding their struggles. He said detecting problems can be complicated by a “halo effect” where having a positive opinion of the lawyer compromises the ability to evaluate the lawyer’s behavior objectively.

Coffey pointed out that pre-pandemic, “we saw each other all the time” and could see if someone was late, intemperate or disorganized. Now, however, if you don’t see someone, you don’t know if it’s absenteeism or just their work from home day.

One strategy used by Morgan Lewis to detect problems is monitoring billable hours for any significant increase or decrease. Belleau recommended reaching out to all departments of the firm and asking them to say something if things don’t seem right. For example, she said, staff handling travel and conferences might notice someone using a lot of alcohol.

Once a problem comes to light, Coffey consults with employment counsel and formulates a plan based on several things: what the problem is, how deep the problem is, how to keep the person involved, clients, and other employees safe, and who should deliver the message to the person involved.

When there is a concern that a lawyer has a substance abuse problem, Krill advised fighting the tendency to defer the conversation. He recommended putting yourself into the person’s shoes and approaching them in the same way you would want to be approached. You should be empathetic and sincere, respect their dignity and avoid even inadvertent accusations.

Krill indicated that it’s very common for the person to respond “I’m fine” and to resist the conversation, but he advised, “don’t let that be the end of the inquiry.” He suggested letting the person know both that you plan to check back to be sure they are okay and that you are always there to talk or to help them find resources.

Belleau said that although you may not think your first conversation with the person has gone anywhere, it “will start to seep in.” She added that some people who have reached out to her for help said they did so after a manager spoke with them, with the manager never knowing how important their conversation was.

All three panelists agreed on the importance of setting expectations when a colleague returns to work. Krill said some firms use a formal return to work agreement to ensure “matched expectations” on issues such as monitoring. He discouraged allowing the lawyer to dictate their own terms,

explaining that while a lawyer returning after inpatient treatment might want to come back without missing a beat, the firm should get a “big picture summary” of the person’s ability to return and serve clients.

Belleau stressed the importance of picking the right person to monitor the returned lawyer, advising “they can’t be too close, because then the halo effect comes in.” The person providing the monitoring should be as empathetic as possible, stressing that they are not the police but are there to support the lawyer and to make sure the lawyer is getting what they need,

Krill said that although progress has been made in talking more openly about mental health and providing resources that didn’t exist before, “that’s only gotten us so far and will only take us so far.” He maintained that it is time to move to the next phase, modifying the systems “that tend to precipitate these problems in the first place.”

Often, he said, “there isn’t a belief that this can happen without compromising the success of the firm, but it can.” He added that if law firm culture stays the same and risk factors are not modified, “you won’t see the benefit you’re looking for.”

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