

# A Trial Like No Other: Confronting and Managing the Disease of Addiction

By Patrick R. Krill, J.D., LL.M., MA, LADC

**"They always say time changes things, but you actually have to change them yourself."**

**-Andy Warhol**

Part one of this series explored the concept of addiction as a disease and highlighted both the exacerbated prevalence of addiction in the legal profession and also the unmistakable danger it poses. Having noted that attorneys struggle with alcohol addiction at more than twice the rate of the general population and that the consequences of their addiction can be especially perilous for themselves, their clients, their careers, and the entire legal profession, the article then discussed the diagnostic criteria for identifying alcohol dependence as well as some of the less-clinical but equally telling behavioral signs that accompany a drinking problem.



With that groundwork underfoot, we've reached something of an informational boundary between knowledge for the purpose of understanding and knowledge for the purpose of action—a border-crossing between the land of “getting it” and the potentially more daunting terrain of “doing something about it.”

Part two of this series will now briefly examine some salient issues surrounding the confrontation and management of addiction while underscoring some important strategic considerations to bolster the odds of both a successful recovery and a smoother post-treatment workplace reintegration. And while it will never be easy per se, taking action against addiction is, in fact, many times unavoidable from a business and human perspective—times when doing nothing would simply fail to qualify as a legitimate, ethical, or financially responsible decision.

Perhaps more so in the legal profession than anywhere else, a duty to confront addiction should arguably attach, with ignoring the problem or participating in a cover-up amounting to tacit consent or, worse, involved enablement. While different jurisdictions employ different specific standards regarding the duties of attorneys to report themselves or others for misconduct, blatantly disregarding a colleague's chemical impairment is widely acknowledged to violate the spirit, if not the letter, of the Model Rules of Professional Conduct. To that point, the ABA Ethics Committee has stated in a formal opinion that a mental condition which materially impairs an attorney's ability to practice law gives rise to a duty to report and, furthermore, that such impairment may be the result of alcoholism, drug addiction and substance abuse. Indeed, a “head in the sand” approach to a lawyer's chemical impairment is an unwise flirtation with debacle—an invitation to disaster whose acceptance is all but certain with the passing of time. Assuming that doesn't

sound good to you, there is another alternative; approached thoughtfully and resolutely, there is a solution. In order to get to that solution, however, you need to start with a plan.

Your plan should reflect deliberation and care, but also a clear predisposition towards action: analysis paralysis is just as unhelpful in this situation as hasty effort. You must prepare, but then act—don't let perfect be the enemy of good. One of the most widely known facts about the disease of addiction is that the sooner it is arrested, the better the chances are of lifelong recovery taking hold. As with all chronic and progressive diseases, early detection is key, but detection alone gets you nowhere in terms of achieving recovery or remission—you must then get professional help and go on the offensive to confront the disease.

At this point, it's important to clarify that “confronting” the disease of addiction should not necessarily conjure the type of hostile or ag-

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gressive mood sometimes associated with a confrontation in its most basic sense. Rather, I refer to confrontation as standing or coming in front of; this distinction is important as an atmosphere of dignity, respect, confidentiality and empathy is critical to successfully standing or coming in front of a legal professional's addiction. In fact, these four principles should arguably be the framework around which any plan for addressing this issue is constructed, and something as basic as a checklist might be a helpful tool for evaluating a proposed course of action. In other words, ask yourself if each step you are taking is designed to maximize an environment of dignity, respect, confidentiality, and empathy, under the circumstances. (Remem-

ber, we're talking about a serious brain disease, some of whose hallmark characteristics include denial, minimization, dishonesty, and rationalization; hauling it into the light and exposing its malevolent rancor will undoubtedly involve some level of collateral discomfort and unpleasantness. Doing the best you can in these four areas will have to suffice).

With your aspirational checklist in hand, it's time to move forward with four flexibly linear goals: assessment, intervention, treatment, and reintegration. By flexibly linear, I mean that an assessment will typically precede an intervention (formal or informal) but not always; treatment should come next and workplace reintegration will frequently—but not necessarily—be the end goal. For the sake of clarity, defining our terms is helpful:

- assessment refers to a chemical dependency assessment. A thorough assessment should involve a telephonic or in-person interview

with a licensed clinician in which the individual's chemical use is reviewed in tandem with the impact of that use on their daily life, relationships, and so-called “global functioning.” The assessment may also include an individual diagnostic test such as a questionnaire, a review of relevant medical, legal, mental health, and prior treatment records, a physical screening and assessment for detoxification needs, and interviews with other people in that individual's life. Ideally, an assessment should address an individual's unique needs (i.e. their profession as an attorney) and the associated challenges it may present to their potential treatment and recovery.

- intervention refers to a structured process or event designed to

draw the chemically dependent individual into a space of clarity and awareness about the extent of their problem and their need for help. It's important to note that while the intervention may or may not include the use of trained professionals, it should never be an impromptu pro-

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ceeding cobbled together on the fly or in the heat of passion. Instead, a successful intervention will be scripted, planned and orchestrated with forethought to maximize a climate of dignity, respect and love. For individuals who are open, receptive, and aware of their problem and need for help, intervening may be completely unnecessary and the emphasis should therefore shift to providing support and encouragement.

- treatment refers to participation in an addiction treatment program, either residential or outpatient, which could involve a variable length of time ranging from 28 days to several months.

- reintegration refers to a return-to-work following treatment and during the newly-entered process of ongoing recovery. Clearly, not all legal professionals who take a leave of absence from their employment to address their addiction will ultimately return to the same employer—sometimes severing ties is inevitable. Still, for many who do seek treatment and successfully embark upon recovery, a return to their previous employment may be in the cards.

In pursuing each of these goals—whether it be for a professional colleague, family member, or even yourself—it's important to remain cognizant of two paramount considerations: reputation matters

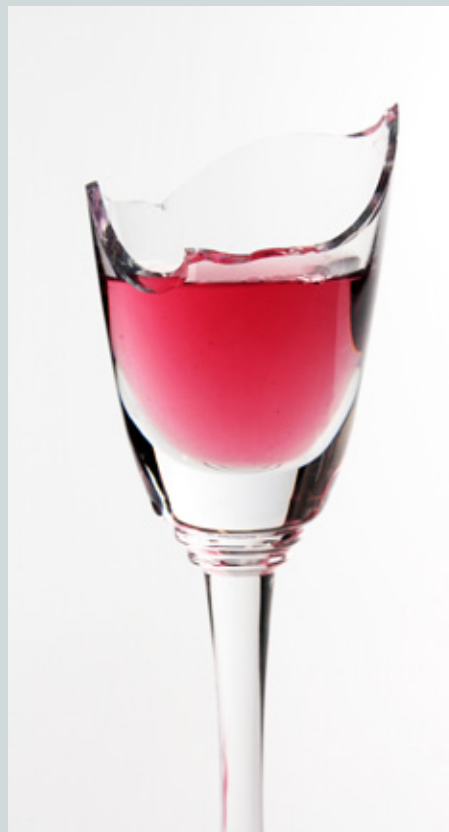
and change takes time. Regarding professional reputation, every stage of confronting and managing the disease of addiction is appropriate for the enlistment of professional assistance (with treatment unarguably taking precedence in this regard) and you should be thorough and diligent in

selecting who will help you. Just as it would be negligent to assume that “any old lawyer will do” in regard to an important legal matter, it would be equally naïve to view all professionals, programs, and available resources in the addiction field as somehow interchangeable, equal or suitable for every individual.

Among the important factors to weigh in this decision are: whether the program or professional in question operates from a widely-accepted and evidence-based treatment and

recovery philosophy or whether their approach seems more experimental, ad-hoc, or untested; licensure and credentialing; years of experience/number of years in operation; cost; consumer and peer reviews and, finally, your own reaction to their level of customer service and professionalism when you make an inquiry about what they can offer. As a rule of thumb, state Lawyer's Assistance Programs (or LAP's) are generally a good starting point for seeking input, direction, and referrals. Employee Assistance Programs (or EAP's) will typically be able to offer helpful guidance as well.

The second fundamental issue for you to remember is that change takes time. This is true not only in terms of the chemically dependent individual making important lifestyle adjustments and learning new coping skills for a successful recovery, but also in terms of their workplace reintegration. One of the most common mistakes that a legal professional attempting recovery can make is rushing back to work too soon or under too heavy of an initial workload; reintegration into the practice of law after such a profound event as getting clean and sober should be approached with patience and respect for the process. Confronting the disease of addiction in others or oneself is no small feat, no minor hurdle. Indeed, its unique challenges and sometimes intimidating dilemmas make it a trial unlike any other and, for what it's worth, this is one trial where speediness is not the goal. **LVN**



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