

LEGAL MANAGEMENT
THE MAGAZINE OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

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BEST

of LEGAL MANAGEMENT

Your guide to trending topics in law office management

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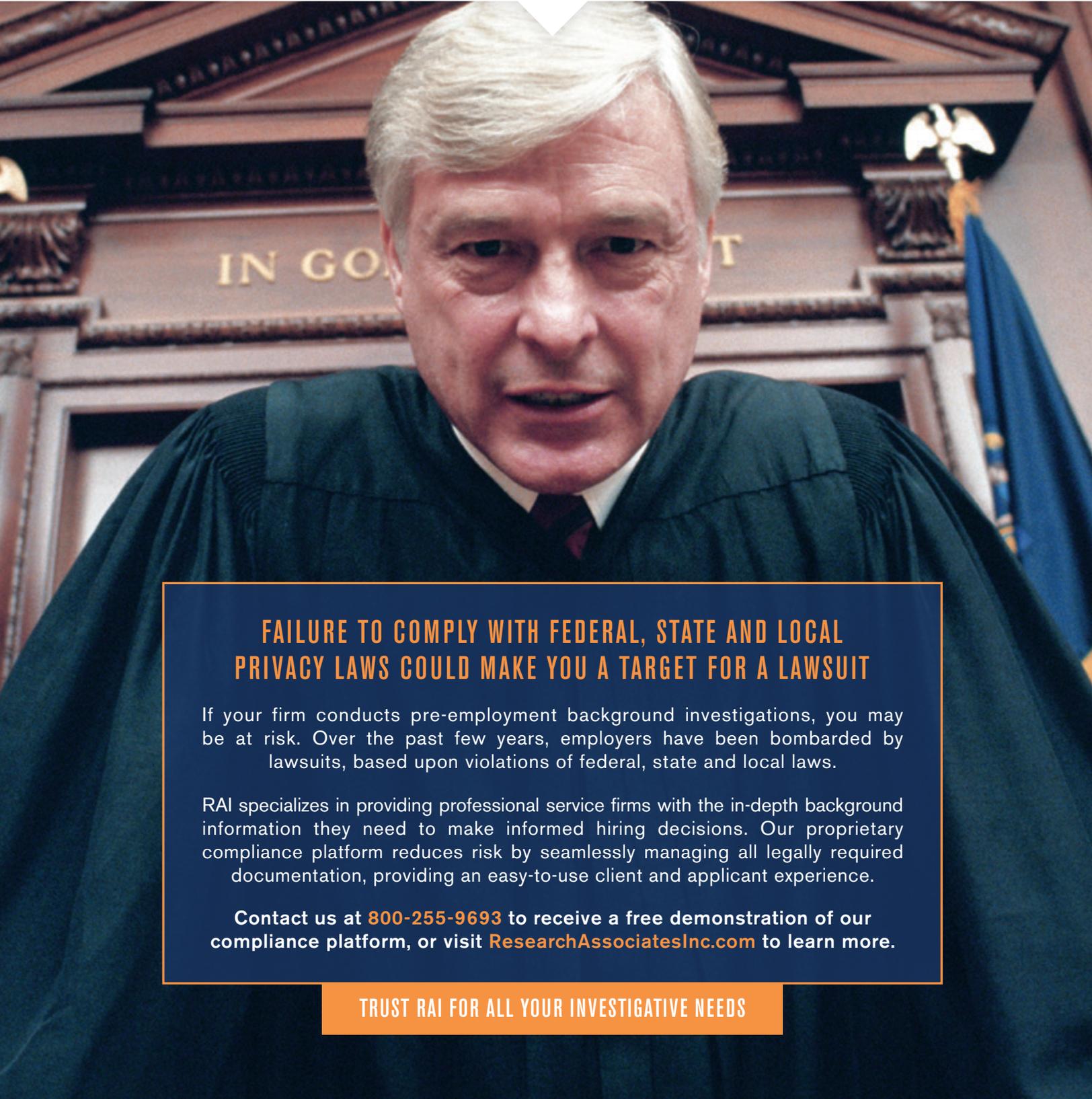
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8 | 10 STEPS TOWARD PROTECTING YOUR LAW FIRM'S DATA

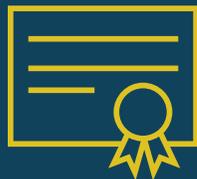


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2017
CONFERENCES



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My overall theme as your 2017–2018 ALA President is to keep working to elevate the legal management profession. It's something I still feel passionate about after nearly 25 years in this field.

By now, we're all familiar with the constant changes our industry is facing. While it's that change that makes us want to pull our hair out someday (and I can't afford to lose much more!), it's also that same change that keeps me inspired to continue learning. And ALA has always been the primary way I stay abreast on all things legal management. One key piece of that is *Legal Management*.

As we hit the halfway point on 2017, we thought it'd be a good time to highlight some of the best articles we've published in the digital magazine this year. It's just a small sample of the content that's delivered to your inbox 10 times a year. That's why we're pleased to present this first annual "best of" *Legal Management* in print.

For example, you'll notice we have an article called "Confronting Addiction in the Law Firm," by Link Christin. It highlights just how prevalent addiction is among attorneys. It's based on a 2016 study published in the *Journal of Addiction Medicine* in 2016 that found that of the attorneys surveyed, 20.6 percent could be considered "problem" (potentially dependent) drinkers — **20.6 percent**. The figure is staggering, and it's one that should alarm every legal management professional. This article not only offers tips on tactfully dealing with addiction issues in the workplace, but it also offers you a way to earn one CE credit hour in substance abuse. Details are listed at the end of the article.

“By now, we're all familiar with the constant changes our industry is facing. While it's that change that makes us want to pull our hair out someday (and I can't afford to lose much more!), it's also that same change that keeps me inspired to continue learning.”

We also tackle diversity in law firms and offer tips on protecting your data — a must-read, given that law firms are consistent targets for cyberattacks. And you've likely heard us mention the UPBMS in the last couple of years. The ALA Uniform Process Based Management System is poised to have a significant impact on the industry, and the feature in this issue helps break it down.

This is just a small sample of the content that's being published in *Legal Management* each issue. And if you're like me and like to read a hard copy, in January, *Legal Management* launched a redesigned website. One of my favorite features of the new site is that you can click just one button, and a fully designed PDF downloads for easy printing. If you haven't checked out the new site, I encourage you all to visit legalmanagement.org and give it a look. It's just another way to help you to keep elevating!

Enjoy the issue!



10 Steps Every Law Firm Should Take to Protect Its Data and Create a Secure Environment

by Bryan Gregory, President, Aldridge

As technology develops, so do the methods used by hackers to infiltrate networks and obtain valuable information. Law firms, especially, have become prime targets for hackers attempting to access and profit from sensitive information. Firms can face severe penalties if they fail to follow compliance standards specific to their organization.

More to the point, however, a data breach can cost a firm on average \$6.4 to \$7.5 million. This cost includes the expenditures accrued from the investigation, notification expenses, credit monitoring and crisis management — but does not cover the resulting damages to the firm's reputation and client relationships.

“ A data breach can cost a firm on average \$6.4 to \$7.5 million. This cost does not cover the resulting damages to the firm's reputation and client relationships. ”

Here are 10 vital precautions every firm should take to safeguard its data:

1 ENCRYPTION

Encryption is a means of protecting sensitive information by converting readable data to unreadable data. All confidential data should be encrypted at rest and in transit, including the transfer of information via email, file-sharing systems and even mobile devices. If an employee's laptop is stolen or a hacker breaks into a firm's network, data encryption will ensure the unauthorized user will be unable to make sense of the information at risk.

2 ROUTINE SECURITY TESTS AND PROACTIVE PLANNING

Law firms can institute fake security tests to identify potential security threats within the organization. If a data breach or loss does occur, a written disaster recovery policy should be in place to ensure the necessary steps are taken to prevent further damages.

3 BYOD POLICIES

A firm should have an official BYOD — bring your own device — policy in place to specify how devices will be used and handled. The technology should be encrypted, and passwords should be in place at all times. In addition, a firm should have the means to remotely “wipe” an employee's device if the individual leaves the company, or if the device is lost or stolen.

4 EMPLOYEE EDUCATION

End-users pose the highest risk for data security. Every law firm should hold routine employee education sessions to establish guidelines and uphold personal accountability, making sure every member of a firm's staff is aware of the ethical responsibility and liability that data security entails. These courses should use real-world examples of jeopardized data incidents and phishing scams to emphasize how data can be put at risk.

5 DATA CONTINUITY AND REDUNDANCY

The ability to access important data in the event of a natural disaster or network compromise can make or break a law firm. Firms are advised to store copies of vital information both on premise and off-site. Off-site storage should be located in another region, preferably out of state, to ensure the data is protected even in wake of a hurricane or tornado that could affect the firm and its surrounding areas.

6 PRIVATE AND SECURE WI-FI

Because attorneys are subject to frequent travel and likely work while in transit, law firms should instruct their staff to avoid public networks and offer alternative solutions, such as virtual private networks and mobile Wi-Fi hotspots, to be used when necessary.

7 INTRUSION DETECTION SOFTWARE

The use of intrusion detection software is vital to a law firm's data security. Firms should install antivirus, antispam, malware and intrusion detection software and perform regular updates. Law firms should also check to be sure all software is active and has not been turned off by the end-user.

8 WRITTEN PASSWORD POLICY

The Georgia Institute of Technology determined that a password with eight characters can be hacked in less than two hours, but it can take up to 17,000 years to guess a well-formulated 12-character password. By putting a written password policy in place, employees will be educated and responsible for taking the time to create a highly secure password.

6 ACCESS CONTROLS

Not every employee needs access to all data. Firms should have controls in place to limit employee access to sensitive information unrelated to their ability to do their job.

10 CLOUD SAFETY

If a law firm is using a cloud solution provider (CSP), specific questions should be asked when evaluating the CSP's security, including: How will data be encrypted in transit and at rest? Who holds the encryption keys? Do clients approve the storage of data in the cloud? Does the CSP implement litigation holds to prevent the deletion of data?

Taking the necessary steps to protect your firm's reputation and client information in and out of the office, from clerk to partner, are easier than one might think and provide an invaluable service to you, your firm and your clients. 🗝️



ABOUT THE AUTHOR

Bryan Gregory is the President of Aldridge, the IT services professionals and outsourcing company in Dallas, Texas. Gregory is responsible for the general management of Aldridge's Houston office, including marketing and sales, new business development, human resources, and oversight of day-to-day operations

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Roughly three years ago, ALA began developing a code set that could change the way the industry hires employees, evaluates efficiency and staffs back-office operations.

Find out what effect it could have on the way your organization does business.

by Erin Brereton, Owner, Chicago Journalist Media

You may have heard someone in ALA use the phrase UPBMS in the past year; if you aren't sure what it means — or what impact it stands to have on the industry — we've got the answers to your most-pressing UPBMS questions to get you up to speed on ALA's ambitious undertaking.

WHAT DOES UPBMS STAND FOR?

The ALA Uniform Process Based Management System (UPBMS) is a set of codes being developed to provide a standard framework for defining and classifying legal operations.

WHAT PROMPTED THE INITIATIVE?

In 2014, ALA's newly formed Professional Development Advisory Committee (PDAC) began examining ALA's published

and educational course content to determine if it was sufficiently serving all potential audiences.

Fairly early on in the effort, the group decided that to conduct a proper analysis of all the data, it needed to find a way to classify the various topics ALA had covered, which included identifying the specific segments of the legal industry ALA's courses and other offerings had targeted — which had been intended for paralegal managers, which were designed for HR professionals, and so forth.

Clarifying which legal industry roles comprised ALA's audience, however, wasn't easy. Titles can mean different things from firm to firm. A legal secretary at one law firm can be a vastly different role at another; some firms might want an HR course to focus on payroll procedures, whereas other firms' HR professionals may not be at all involved with that activity.

As work progressed, the committee realized the problem extended far beyond its content concerns — and that the classification system it'd been discussing could potentially provide something the legal industry desperately needed: a taxonomy that would standardize support roles, potentially improving hiring, efficiency and other aspects.

“As a result of that, we said, why don't we consider creating a new standard that would be implemented and used by the entire industry, so they were all operating off the same kind of language?” says ALA Executive Director Oliver Yandle, JD, CAE.

With support from its Board of Directors, ALA organized a Standards Development Team, with PDAC committee member Bill Mech, Executive Director, Cunningham, Meyer & Vedrine P.C., serving as Team Leader. Their goal was to promote the continued development of a role-based taxonomy, consisting of numeric codes, paired with descriptions and definitions.

“The effort snowballed into a really serious recognition in the Board and from Oliver [Yandle] that we were on to something,” Mech says. “Developing this taxonomy was not only important to ALA; it had industry-wide importance beyond even our own use.”



“By only tracking attorneys' time, and not support functions, firms can't accurately convey the true costs associated with delivering services.”

HOW CAN THE CODE SET BE USED?

The codes have a number of potential applications — for example, to strengthen the hiring process. If law firms had a uniform definition of each role, they would potentially be able to create a more accurate job description for open positions, which could help firms attract the most qualified candidates.

On an even broader scale, the codes could help law firms improve overall operations — an increased focus for many since the Great Recession prompted clients to start pushing back on annual billable hour rate increases, according to Yandle.

“Clients started demanding a lot more efficiency in the delivery of legal services, and a lot more transparency,” Yandle says. “To be more successful, you need to have a deeper, detailed understanding of all back-end processes. There may be a duplication of efforts going on; there may be ways to reduce the time it takes certain things to be done — unless you measure it and have a way to categorize and analyze the information, you're really just guessing.”

By only tracking attorneys' time, and not support functions, firms can't accurately convey the true costs associated with

delivering services. They risk losing business to clients who think they can handle the work for less.

“If you look at legal spend, what law firms sell has been stagnant, if not going down slightly. A lot was brought in house,” says ALA taxonomy team member Adam Stock, Chief Marketing and Client Services Officer at 220-attorney San Francisco law firm Allen Matkins Leck Gamble Mallory & Natsis LLP. “That means more competition for law firms, so they need to do things differently. The set of codes are about efficiency and describing what they do.”

Law firms aren't the only entities that stand to benefit from using the code set; other legal-focused organizations may also find the system useful, according to Catherine Alman MacDonagh, Chief Executive Officer and Founder of the Legal Lean Six Sigma Institute, who recently joined the code set committee.

“It would certainly fit many smaller law departments, legal aid offices and law firms that have a real interest in creating a high-performance environment,” MacDonagh says. “It's something for organizations of all sizes to use.”

WHAT WILL THE CODES COST TO IMPLEMENT?

ALA's code set is available for free. “Once public, they're for everyone to take and use,” Mech says. “That's notable; ALA is really viewing this as a way to give back to the legal community in a very, very tangible way.”

“ALA’s code set will be updated on an ongoing basis, at least for the foreseeable future, with at least one new version being issued annually.”



WHO IS ON THE COMMITTEE?

The Standards Review Committee includes a diverse array of industry professionals, including ALA members, nonmembers and law firm in-house corporate legal department representatives.

WHAT’S THE PROJECT’S CURRENT STATUS?

The development team created the initial code set partially by examining how other industries develop standards, reviewing typical structural approaches, and comparing processes with other organizations that were developing standards.

“We’re learning as much as we can from other efforts,” Mech says. “For example, there’s a whole science behind coding sequence, the numbering and creation of the codes. It took us at least three iterations before we settled on the right one — because it’s not only complex enough to reflect everything we have to say, but also flexible enough to be able to change in the future.”

Industry members were able to contribute suggestions from May to June 2016 after the initial code set was shared on ALA’s site. The input was incorporated into the second and most current adaptation, version 1.1.

WHAT’S PLANNED FOR UPBMS’ FUTURE?

Given the nature of code sets, continuous updates are somewhat necessary, according to Toby Brown, Chief Practice Management Officer at 1,000-plus-attorney firm Perkins Coie, who is involved in a separate effort to create a matter-based legal industry

standard and has spoken to ALA’s committee about its taxonomy effort.

“Standards aren’t static,” Brown says. “The world is always changing; the standard needs to be able to evolve with reality.”

ALA’s code set will be updated on an ongoing basis, at least for the foreseeable future, Mech says, with at least one new version being issued annually. “When we publish a version, we immediately start working on changes,” he says. “It’s a never-ending process. There’s no hard and fast deadline [for the next version’s release] because it’s a little bit of a judgment call to assess a volume of changes by committee.” Within a year, being in a position to publish the next version is certainly feasible.”

In the meantime, ALA is working, through its website, speaking engagements and other opportunities, to inform the legal community about the code set’s existence, how to use it — and why ALA is spearheading the effort.

“Our members are the ones who are responsible for managing all of these processes; they have the best understanding of what it takes to deliver legal services and are often at the center of responding to client demands for greater transparency,” Yandle says. “So who better than the organization that represents those professionals to come up with a uniform taxonomy in a uniform language to help firms deliver even better client service?”

With each new release, ALA will hopefully be able to further clarify each support staff members’ role — and help law firms and other organizations better understand the value firms’ legal teams provide.

“This effort is about developing and then showcasing our deep understanding of how we do our work so we can be more productive,” MacDonagh says. “We’re going to be able to explain the likelihood of each and every possible scenario happening and really show how we manage a project — and that we can do it collaboratively.”



ABOUT THE AUTHOR

Erin Brereton is a legal industry marketing consultant who has written about the legal industry, finance, business and other topics for more than 50 legal associations, magazines, websites and other publications.

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What Kids Can Teach Lawyers About Diversity and Representation

*by Michelle Silverthorn, Diversity and Education Director
Illinois Supreme Court Commission on Professionalism*

Remember that Cheerios commercial from a few years ago? It starred a black dad, a white mom and their biracial daughter. You might have heard about it — and the reactions to it.

Many Americans were indifferent. Some Americans were disgusted. And me? I was ecstatic at that ad — and so many others from State Farm, Swiffer and Old Navy — that feature interracial couples and multiracial families. I feel actual joy because I see a family portrayed in the media that looks just like mine. (Well, somewhat. We are less model-esque.)

“Finally,” I think. “We are part of the mainstream narrative. We are represented.”

THE POWER OF REPRESENTATION

It’s a powerful thing, representation: the realization that people like you are part of a narrative larger than yourself. And it struck me recently as to how early that feeling takes hold, and how it can impact the rest of your life, including, say, your tenure at a law firm.

My children, like the children in those ads, are half black and half white. Because of that — and considering only 7 percent of the country identifies as multiracial — they almost never see people who look like them represented in media. So imagine my 4-year-old daughter’s delight when she saw just that.

A few weeks ago, we were at a supermarket in Chicago. All of a sudden, my daughter leaped out of her stroller and shouted, “Look, Mama! It’s me!” She was right. There in front of us was a box of Pampers diapers with a boy on it who really did look just like her: light brown skin, hazel eyes and a curly blond afro. She was delighted.

“If you want diverse people to be a part of your organization, then there must be people at the top who look like the people you want to attract.”

THE IMPORTANCE OF SELF-ESTEEM

See, people like to see people who look just like them. “Just like me” is even the basis of one of the strongest implicit biases we have, in-group bias. We prefer people who look like us, who belong to our “tribe,” so to speak. We do it for trust, protection, safety and belonging. But most crucially, according to research, we do it for self-esteem.

Seeing someone who looks like us increases our own self-esteem. We have a more positive impression of people who look like us, increasing our own positive impression of ourselves.

So what does this have to do with representation? Self-esteem, I think, is a slightly different rationale for increasing diversity and encouraging inclusion, and another explanation of why our efforts keep stalling. If you want diverse people to be a part of your organization, then there must be people at the top who look like the people you want to attract, and who, in turn,

can build up that self-esteem and sense of belonging for the diverse people joining your organization.

If those people aren’t at the top, then the people coming in at the bottom are less likely to stay because they don’t see a space for them above.

THE NEED FOR INCREASED LEADERSHIP REPRESENTATION

We know the legal profession is not doing well in diversity, particularly at the leadership level. According to the National Association for Law Placement’s (NALP) 2016 diversity report, minorities constitute 22.72 percent of associates in large law firms but only 8.05 percent of partners. The number for minority women is even starker — only 2.76 percent of partners are minority women.

From the 2010 ABA Next Steps Report:

The legal profession has ... historically provided access to income and wealth commensurate with the ‘American Dream.’ Historically, racial and ethnic groups, women and other marginalized groups have recognized that a law degree accelerates their social and economic mobility. If any part of our profession — especially the vast and powerful fields of private practice — fails to be diverse and inclusive, we are sending meaningful symbolic messages to members of underrepresented groups, especially those of lower socioeconomic status.



Meanwhile, women account for 45 percent of associates at law firms. However, they only account for 22.13 percent of partners. Crucially, among nonequity partners who graduated law school in 2004 and later, 62 percent were men and only 38 percent were women.

We know the many reasons for the continued lack of diverse leadership in the legal profession. Increasing representation isn't an easy task, but the reality is, if we want to increase diversity in our profession, we have to increase the representation of our leadership as well. It's a cycle, vicious and unending. And it makes a difference, particularly since our lack of diversity seems to exclude the many groups who aspire to belong to our profession.

"Meaningful symbolic messages." My 4-year-old daughter understands exactly what those are. Representation matters. Self-esteem matters. We all want to see ourselves represented, no matter how old we are, whether in a law firm board room or on a box of Pampers diapers.

So if you remain frustrated as to why our profession's diversity numbers are stalled, even after all the time and money and effort spent on diversity initiatives, look at how many women and minorities are represented in the positions of power. How many are on compensation committees and management committees?

How many are recognized as powerful sponsors? How many are given credit for high-profile clients? How many are marketed as the key partners for the firm? How many are even there in the first place?

Kids understand why representation matters. So should we. 🧠



ABOUT THE AUTHOR

Michelle Silverthorn is the Diversity and Education Director for the Illinois Supreme Court Commission on Professionalism. Through the Commission's online platform, 2Civility, Silverthorn works on blog posts, social networking sites, and online discussion groups focusing on legal education, diversity and young lawyers. She also works with law schools, law students and other legal groups, developing education courses and workshops.

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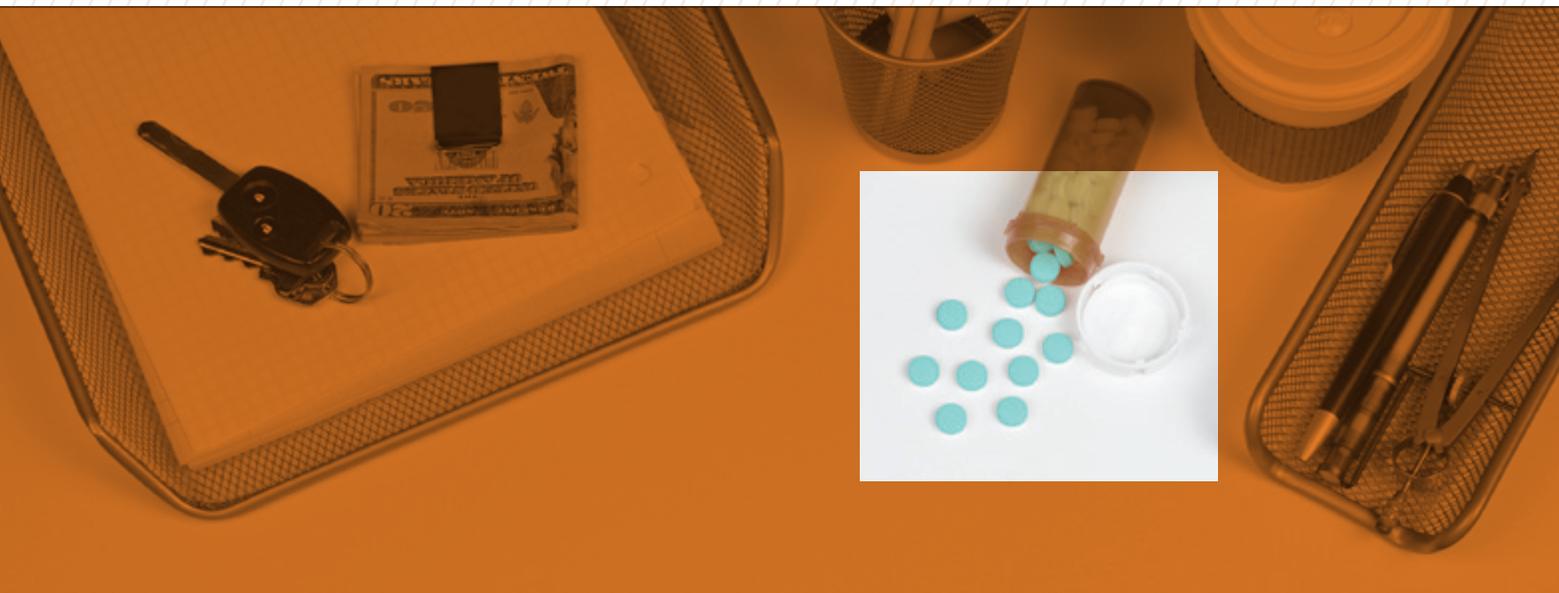
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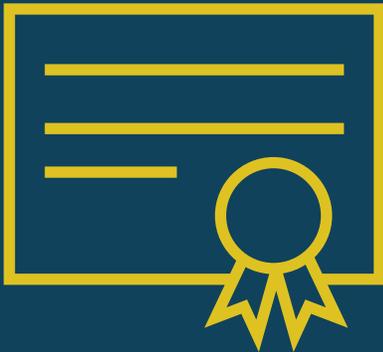
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Confronting Addiction in the Law Firm

A recent study reveals the extent of substance abuse and mental health concerns within the legal profession. Here's what you can do about it.

*by Link Christin, JD, MA, LADC
Executive Director, Legal Professionals Program, Caron Treatment Centers*



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CLM® Recertification Credit: 1 hour in the subject area of Human Resources Management (HR). This session also satisfies the 1 hour in Substance Abuse recertification requirement.

COURSE DESCRIPTION

In 2016, the *Journal of Addiction Medicine* published a groundbreaking study by Hazelden Betty Ford and the American Bar Association Commission on Lawyer Assistance Programs: “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys.” Although it has been commonly presumed that the legal profession had a heightened rate of these problems as compared to the general public and other professions, nobody expected the numbers — reported by only active, practicing attorneys — to rise to the level that they did. It has now been clearly revealed as a full-blown crisis that cannot be ignored. This course will detail the findings of the study and its potential consequences, while providing insight into the disease of addiction itself and how it presents itself in a law firm setting. Further, it will provide strategies and tools for handling both present-day concerns as well as suggestions for prevention of these problems and a necessary shift in law firm culture.

COURSE OBJECTIVES

- Review the *Journal of Addiction Medicine* study and describe the current extent of substance abuse and other mental health concerns among licensed attorneys.
- Identify the potential damaging consequences when a law firm does not confront these issues.
- Define addiction and how it typically manifests itself within a law firm.
- Explain the process of recovery from addiction, as well as the obstacles and rewards of the addict’s return to work as a sober employee.
- Break down what constitutes “high-functioning” addicts and why they so often elude detection.
- Examine strategies for confronting an employee’s behavioral health crisis when it occurs at the law firm.
- Discuss new strategies for building a culture of prevention, wellness and support.

THE STUDY EXPLAINED

Although it's been commonly accepted knowledge for decades that attorneys have a high rate of alcoholism, little data and research had been generated since the 1990s. The research conducted at that time was limited in scope, but it did conclude that lawyers had approximately twice the rate of alcoholism and at least three times the rate of depression than the general population. The authors of those findings called for additional research about the extent of alcoholism and depression among practicing U.S. attorneys; however, until now, none had been forthcoming.¹

In 2014, Hazelden Betty Ford (HBF) and the American Bar Association (ABA) Commission on Lawyer Assistance Programs funded and initiated an evidence-based study to ascertain rates of substance abuse and other mental health concerns among attorneys, the prevalence of these concerns among licensed attorneys, their utilization of treatment services, and what barriers existed between them and the services they may need. The study was published in the *Journal of Addiction Medicine* in the January/February 2016 issue.²

A total of 12,825 licensed, employed attorneys from 19 states returned a number of questionnaires specific to alcohol use, drug abuse, depression, anxiety and stress. All of them completed the Alcohol Use Disorders Identification Test (AUDIT). The first three questions of that test are objective questions that concern how much and how often an individual drinks. The remaining seven questions are more subjective and address whether the individual has failed — as a result of drinking — to meet individual expectations, caused any injury, had periods of drinking more than intended, has needed a drink in the morning to function, has failed to remember a specific drinking episode,

has felt guilty about drinking, or had friends or family express concern about alcohol use. Based on the answers to the first three questions alone, an astounding 36.4 percent of the responding attorneys could be characterized as hazardous drinkers — more than 3.5 out of every 10. In a similar test given to doctors, only 15 percent who answered the first three questions were characterized in such a manner.

When all 10 questions are considered, 20.6 percent of all the attorneys were still determined to be problem, potentially dependent drinkers. Significantly, this compares to a rate of 11.8 percent for a broad, highly educated workforce screened with the same measure.

Not enough attorneys responded to the drug-use questionnaire to permit any scientific conclusions in that respect. However, this is meaningful because the anecdotal knowledge of the profession underscores systemic use of opioids, sedatives and stimulants, often in conjunction with alcohol. These either constitute separate instances of addicted impairment or, when used with alcohol, dangerous and medically counter-indicated use.

Attorneys were found to have a greatly heightened rate of depression (26 percent) — about four times the national average — and high rates of stress (23 percent) and anxiety (19 percent). It is also interesting to note that 46 percent of all the responding lawyers reported that they had experienced significant depression issues at some point in their careers. Likewise, 61 percent revealed experiencing high levels of anxiety at some career juncture.

Other findings were equally provocative. The study concluded that younger age predicted higher frequencies of drinking and quantities consumed. Attorneys in their first 10 years of practice experience the highest level of problematic use, as do attorneys under the age of 30. Law firms — along with bar associations —

“Attorneys were found to have a greatly heightened rate of depression (26 percent) — about four times the national average — and high rates of stress (23 percent) and anxiety (19 percent).”

“Many of the qualities that reward today’s attorney — a competitive spirit, high self-esteem, emotional detachment, an analytical skill set, high verbal skills, a win-at-all-costs mentality — are precisely the same ones that block the road to recovery.”

have the highest level of use; within a firm, the junior associates have the highest, followed by senior associates, junior partners and then senior partners.

Of the responders who acknowledged problematic alcoholic use, more than 40 percent indicated that such use began either prior to or during law school.

THE CONSEQUENCES

The *Journal of Addiction Medicine* study concluded that “although the consequences of attorney impairment may seem less direct or urgent than the threat posed by impaired physicians, they are nonetheless profound and far-reaching. As a licensed profession that influences all aspects of society, economy, and government, levels of impairment among attorneys are of great importance...”

In respect to the anticipated readers of this article, the consequences are exponential in terms of actual and potential damage. Clients approach law firm personnel with problems that can be life-or-death (capital defense). And others can certainly feel that way when related to business, estates, families, custody, health, finances, physical safety, civil rights, employment and property. And lawyers are paid by clients for their clear and robust judgment — the first attribute to desert an impaired attorney.

Although the damage lawyers may do is not as visceral as an impaired doctor botching a surgery or a pilot crashing a plane, it is nonetheless life-altering for most, if not all, of their clients.

And the law firm itself is at risk the moment one of its lawyers or staff perform services while impaired. Client relationships and trust are jeopardized. There is an enhanced potential for malpractice. The team or practice group of which that individual is a member is compromised. Productivity and quality of

work decreases rapidly. Ethical issues are raised and rules of professional conduct often breached. The investment in that employee is potentially lost.

The loss in productivity due to alcoholism alone — in law offices as well as the floors of industrial plants — is calculated to be in the billions of dollars.³

Up to this point, law firms have typically not proactively addressed this issue. Unlike doctors and pilots, who are provided a structured and lengthy path back to work, lawyers are often discarded when their addiction issues become unacceptable. They may be terminated, bought out, make a lateral move to another firm or even die. But unless the lawyer is a key rainmaker in the firm, it is rare that an attorney will admit their disease and be provided a secure path to return to the firm.

Attorneys routinely hide their addiction or mental health issues — often for decades — rather than admit and treat a problem. There is still a stigma in this field about these conditions, and often one does not know what is really going on with the partner next door.

The most profound impact of this study is that it reveals why attorneys will not ask for help and treat their conditions, while highlighting the actual numbers of lawyers hiding, in pain and isolation, behind the curtain. The two common barriers to treatment reported by the respondents were 1) not wanting others to find out they needed help, and 2) concerns regarding privacy and confidentiality.

In addition, employees of law firms are competitive, concerned for their reputations, and used to being the problem-solvers. They do not want to show weakness, and they tend to have strong egos. Add this to the overall “normalized” drinking culture of law firms — from client dinners to retreats to bar events — and a toxic breeding ground emerges.



UNDERSTANDING ADDICTION

In order to understand the study and the behavior of impaired peers in a law firm, it is essential to know what addiction is and how it is typically manifested in that environment. An understanding of this misunderstood disease is also critical to make necessary changes in firm culture and to appropriately confront the attendant stigma, behaviors and dangers.

Addiction is a primary, chronic and progressive disease of the brain's reward, motivation, memory and related circuitry. It causes compulsive alcohol or drug-seeking and use, despite harmful consequences to the addict and those in proximity. Over time, the brain continues to change, and self-control and the ability to resist substances is further eroded. Genetics and biology are now understood to account for at least 50 percent of the cause, with factors such as environment, development and mental health playing additional roles.⁴

Although addiction is a chronic disease in a class with others such as cancer, diabetes and hypertension, its symptoms manifest as behavioral in contrast to the more objective symptoms of those other conditions (often identified through blood work, X-rays, biopsies, etc.). The behaviors associated with addiction also tend to be negative and antisocial, further complicating not only the diagnosis but the perception of peers. It is not uncommon for both the addict and his or her family and friends to moralize when these symptoms appear, and feel frustration and contempt due to a perceived “lack of willpower” or a loss of moral direction.

The brain of the addict is often referred to as having been “hijacked,”⁵ and the result is often systematic denial of any problem by the addict and the creation of a “private logic” telling the addict that everything is fine. Often this presents with addicts comparing themselves to others at a more advanced

stage and believing they are not a “real addict,” or blaming their drinking on other factors, such as: “You would drink too if ...”

A simple example is a cancer diagnosis. People are told by the doctor what the test results were, begin treatment, and have the support of family, friends and perhaps even a CaringBridge. In contrast, alcoholics who finally begin treatment (if they even do) have often angered their family, employer and friends, and are virtually alone and isolated. During a speech, I once asked all 200 patients at Hazelden Betty Ford if any of them had a CaringBridge for their condition. The audience was silent.

Addiction cannot be cured, but it can be successfully treated, typically with the assistance of professional help or support organizations.⁶ Clinical resources can range from residential treatment to outpatient groups and sober houses. Support groups can include abstinence-based programs such as Alcoholics Anonymous, less spiritually based organizations, and harm-reduction frameworks. When alcoholics accept treatment, they are said to be in recovery — the process of change through which an individual achieves abstinence and improved health, wellness and quality of life. As with other chronic diseases, it is essential to receive help and support from others, make fundamental lifestyle changes and alter many core values.

The first year of recovery is the most demanding for the addict. Often, he or she must make accommodations in career or life in order to make recovery the first priority. This is why the treatment of the disease and the return to work — or the continuation of work while now sober — is often key to building a foundation of sustained recovery.

Alcoholics are told that in their first year of abstinence their recovery must come first, above anything else. Relapse during that year is not uncommon, but it does not indicate that things



are hopeless. Rather, it is a message that the addict must get back on track with treatment and recovery resources. The same is true with all chronic diseases, where only 50 to 60 percent of patients typically comply fully with their treatment protocol.⁷

If the law firm can support its employee in recovery, the benefits can be breathtaking. Not only will the employee no longer be performing at a diminished and erratic rate, but also they can become better than ever. It is likely that this employee's attention and judgment has been compromised for some time, and it can be exhilarating for both the impaired individual as well as the firm to heal cognitively and physically and return to the level of competence for which they were hired.

THE ALCOHOLIC IN THE LAW FIRM

This study tells us about the stark reality of impairment and mental health discord behind the closed doors of our law offices. But as discussed earlier, the attorney or staff member will often conceal or deny any problem, even in the face of overwhelming evidence to the contrary. How can you identify somebody at your firm (including yourself) with a problem? And what does a “high-functioning” alcoholic look like? Why are they often invisible to their colleagues?

Numerous warning signs are consistent with an impaired employee who has a drinking problem. Before listing many of these typical signs, a word of caution: Many of these can be due to reasons besides a substance use issue. They can be due to mental health issues, situational life matters (divorce, money problems, family situation), physical challenges and various other reasons. It is important not to “diagnose” any particular situation, but to help yourself or another by addressing the matter openly, and then, if appropriate, seeking expert consultation or assessment.

The goal is simply for you and your coworkers to be healthy and productive and to provide (or access) support to help treat the temporary or chronic condition. The key is that further consequences and damage — to all concerned — do not occur, and that the individual can begin to get better and heal. If you or the individual refuse to be treated accordingly, then at least the law firm has assisted to the extent possible. Decisions can then be made as to the current and anticipated job performance.

But what if the addicted staff member is a high-functioning alcoholic and does not change routine or behavior? Up to 50 percent of all alcoholics are described in this manner,⁸ and lawyers and those in a law firm are especially skilled at concealing and manipulating the reality of their lives. Those individuals are adept at hiding their addiction and presenting

“The loss in productivity due to alcoholism alone — in law offices as well as the floors of industrial plants — is calculated to be in the billions of dollars.”

as fully functional people for up to decades, while secretly engaging in addictive behavior.

In fact, lawyers in particular will hold onto their careers for dear life because often it is how they identify themselves — addiction often takes away family, friends and health before the surrender of the career.

Because the disease is progressive, “hiding” it is not sustainable. Often the worst consequences and damage are suffered at this moment. Further, by that point, the individual has often reached a pinnacle of authority and autonomy that permits even greater isolation and less accountability — and enhanced danger to all involved, including the law firm.

I have gathered together a list of certain traits of a high-functioning alcoholic that may be helpful in viewing yourself or others at the firm:

- Does not appear as prototypical stereotype
- Has very high tolerance and seldom, if ever, appears intoxicated
- Drinks expensive wines or liquors
- Shows up for work, has a family, fulfills obligations
- Does not drink more than others at public functions but privately drinks to excess — often before and after such functions
- Still looks terrific

- Overachiever in most areas and uses this skill set to sell others that there is not a problem
- Often very successful
- Able to compartmentalize easily
- Has tried to quit (privately) on numerous occasions, but has never succeeded
- Has not had a driving under the influence (DUI) infraction, been arrested, exhibited inappropriate behavior, engaged in any public display or shown significant obvious physical infirmity
- Often can work alone without accountability to others
- Blends into a firm culture of drinking and a “work hard, play hard” mentality
- Always finishes a drink
- Secretly craves and obsesses over use and next drinking opportunity, but does not verbalize this to others

Once again, this is not an invitation to play Sherlock Holmes, but rather to gain some insight into how this powerful brain disease can transform the best of us into strangers. We try to hide the disease because we are more afraid of the stigma than we are of the disease itself (and its eventual fatal progression). This, of course, is not logical, but explains both the mystery and power of addiction.

“Up to 50 percent of all alcoholics are described as ‘high-functioning’, and lawyers and those in a law firm are especially skilled at concealing and manipulating the reality of their lives.”

HOW TO CONFRONT ADDICTION IN A LAW FIRM

What do you do if you believe a colleague is impaired to the point where the work product and behavior are negatively affected? This person may not even drink at work or during the day, but it is clear to you that their drinking (or drug use) has compromised their professional performance.

If there is not a crisis, you may wish to approach the individual in a relaxed and compassionate manner and express concern, or ask questions. Based on the response, you can consider the next step. Remember, you are not diagnosing — only trying to ascertain if the behavior is temporary and being appropriately treated, or, if more serious, that resources can be accessed to address the issue.

Your law firm might consider putting a series of protocols into place that make it safe and comfortable for you or the impaired individual to confront the situation and receive expert assistance. The firm may wish to consult ahead of time with any variety of experts: human resources, the employee assistance program (EAP), interventionists, treatment centers, recovery coaches, addictionologists, detoxification facilities, therapists or other counsel. Ethical rules and responsibilities may come into play, and counsel should be consulted.

The only thing you can do wrong is to do nothing at all. Ignoring the situation only permits the individual’s disease to worsen and assures far more damage to the individual, the family, the law firm, the client and your professional standing.

This is an entirely different matter than detecting an issue with a friend or relative: In this case, you are the professional peer of the impaired person, with fiduciary duties to your firm and client and ethical obligations to your profession. On a personal note, this is your colleague, often your friend, and whether your firm is 6 employees or 600, a member of your team.

A couple of other observations: First, do not enable or hide anything in order to assist the impaired individual in covering up any matter. This is likely an ethical violation, and it is certainly a clinical misstep. Alcoholics will only get worse if their behavior is enabled (there are hundreds of books about this codependency). Second, do not gossip about situations such as these. As a member of law firms for more than 20 years, I am not naïve about the steady flow of juicy gossip in any firm. However, this is truly a matter of life and death, and there can be unintended consequences of such gossip that are unpredictable.

Finally, if there is an actual crisis in the workplace with the impaired lawyer or staff member — in the office, in court or with a client while under the influence — it is helpful to have a basic emergency template to guide the firm in how to proceed. The same is true for fire or weather or health emergencies, and should be in place for these types of matters. A few suggestions as to content:

- Get the employee to a safe and secure place.
- Have at least two people present.
- Make sure the individual is mentally, physically and psychologically safe — utilize professionals at this point who are part of this protocol.
- Know who to involve and notify at this point and to whom to release any information about this event.
- Make sure confidentiality remains paramount.
- Document everything.
- Have a plan for what to do if the individual will not cooperate and leaves.
- Create at least a short-term strategy with the assistance of necessary experts.
- Safety is essential for all concerned — do not permit the individual to drive home.
- Suspend the employee with pay if appropriate.

Building a Culture of Prevention, Wellness and Support



“What is required is a seismic shift in culture. More than just a refusal to toss the sick aside, we need a realization that it is in the best interests of the law firm to promote and sustain a culture of wellness and balance.”

BUILDING A CULTURE OF PREVENTION, WELLNESS AND SUPPORT

The staggering numbers in this study, which suggest that as many as 500,000 practicing lawyers are problem drinkers and close to 400,000 suffer from depression, will not be decreased with a tweak here or there. And the study does not even include those employees and staff of law firms subjected to many of the same stresses and demands. Many of the qualities that reward today's attorney — a competitive spirit, high self-esteem, emotional detachment, an analytical skill set, high verbal skills, a win-at-all-costs mentality — are precisely the same ones that block the road to recovery.

What is required is a seismic shift in culture. More than just a refusal to toss the sick aside, we need a realization that it is in the best interests of the law firm to promote and sustain a culture of wellness and balance.

Much of the corporate world has come to this realization. Working hours of employees have been limited. Access to company emails on weekends has been denied. Company cafeterias have become nutritionally balanced. Gyms have been



built, and yoga classes offered. Seminars on health topics have been provided, and incentives for good health have been offered. Working from home has been restricted. Additional leave has been created. Sabbaticals have been implemented. Counseling services have been supplemented. These corporations (and their insurers) have recognized that a lack of balance results in both physical and mental states that impair employees and often shorten their tenure.

By way of example, here some initial suggestions on how law firms might begin this process:

- Invest in resources and services to enhance the wellness of all employees.
- Provide speakers and materials about balance and wellness.
- Educate all personnel about stress, anxiety, depression, opioids, sedatives, alcohol, burnout and addiction and tools with which to confront or prevent problems in connection with them (with CLE credits).
- Create a retreat that focuses on learning balance, relaxation, stress-reduction, meditation, team-building and breathing techniques.
- Host nonalcoholic professional events and gatherings.
- Partner on healthy initiatives with your HR department, Employee Assistance Program (EAP), health care and malpractice providers, state lawyers' assistance program and other industry experts.
- Lower the minimum billable hours requirement and set a maximum.
- Create specific policies that permit employees to seek help for addiction or mental health issues without concern for their job security.
- Provide a back-to-work plan and path for any employee who has received help for such a problem and is treating that condition. The plan can include monitoring and accountability so that all parties can be assured there is no danger to the client or the firm, and specific conditions can be set in the event of a relapse by that employee or a failure to improve job performance.
- Use this model as a recruiting tool for law students and other lawyers and staff.

KNOW THE SIGNS

The following are some specific possible warning signs of a drinking problem at the firm:

- Isolation
- Change in regular patterns
- Disappearing at unexpected times
- Lots of excuses for unexplained issues
- Change in physical appearance
- Significant weight gain or loss
- Red eyes
- Lots of breath mints or mouthwash
- Becoming defensive when not appropriate
- Change in behavior — advent of fast talking, loud talking, loud laughter, extended periods of silence
- Mood swings
- Lateness
- Decrease in productivity
- Confused thinking
- Forgetfulness
- Being tired all the time
- Looking tired
- Extended breaks, lunches
- Leaving early, working from home
- Strained relationships with coworkers
- Increased irritation
- Borrowing money
- Unplanned “emergencies”
- Missed deadlines
- Unsteady gait
- Strange breath; smell of alcohol or something different
- Lack of concentration
- Misses work on Mondays or leaves early on Fridays
- Avoids interactions
- Door that was always open is now always closed
- Inappropriate episodes of sweating
- Unexplained bruises, injuries

The profession itself has much it can do, and that is a topic for another day. However, within the law firm itself, change can begin. Today thousands of productive law firm employees are treating chronic illnesses and mental health conditions and are assets to their firms and clients. It is the hundreds of thousands of attorneys and others who are working with untreated addiction or mental health issues who suffer daily and pose untenable risks to others.

Certainly the best minds in our country — our most talented problem-solvers — can crack the stigma that prevents them from asking for help while at the same time building a business model that sustains productivity and personal satisfaction. ☞

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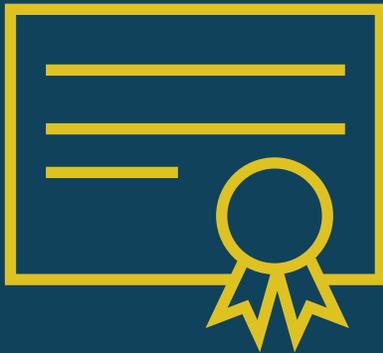
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ABOUT THE AUTHOR

Link Christin, JD, MA, LADC, is the first Executive Director of the Legal Professionals Program at Caron Treatment Centers. He is currently launching and managing this national program, which will provide pre-entry, residential, and post-residential educational and clinical services to lawyers, judges, law students, and paralegals admitted to Caron. Part of these services will include coordination with law firms, disciplinary boards, licensing and admission agencies, and state lawyer assistance programs (when agreed to by the patient). Most recently he served as the Chief Executive Officer of Heightened Performance LLC, a behavioral health consulting firm serving the legal community. After decades of practice as a trial attorney Christin obtained his master's degree in Addiction Counseling and founded and directed the Legal Professionals Program at Hazelden Betty Ford.

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EARN CE CREDIT FOR THIS ARTICLE

Members and nonmembers can read this article, then log in to take a test (members pay \$49; nonmembers pay \$69). If you pass with at least 70 percent, you will earn one CE credit hour. The goal is to help CLMs get the credits they need for recertification, but it will also count toward SHRM, HRCI or CPE credit.

Now that you've read the article, go online to take the 10-question quiz and earn one credit hour in substance abuse. Visit legalmanagement.org/features/confronting-addiction-law-firm for more details.

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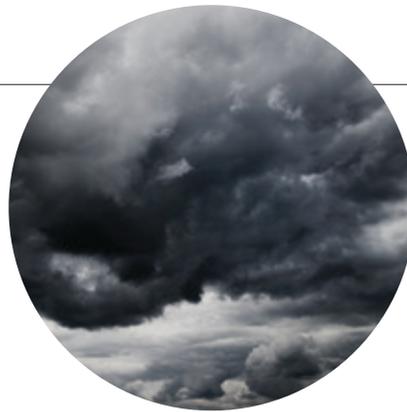


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FACTS & STATS

OPERATIONAL CONCERNS

Respondents to the 2016 Report on Trends Impacting the Legal Industry answered the question: **What area causes the greatest concern for your firm?** Here's how they responded:

Increase net profits	23.8%
Attract new clients	23.6%
Increase revenues	20.9%
Reduce cybersecurity risk	8.4%
Improve workflows	7.8%
Cutting costs	5.9%
Increase diversity	4.1%
Upgrade technology	4.1%
Other	1.4%

**2016 Report on Trends Impacting the Legal Industry, ALA in partnership with Novitex.*

ATTORNEYS MORE PRONE TO DEPRESSION AND ANXIETY

A 2015–2016 study by Hazelden Betty Ford and the ABA’s Commission on Lawyer Assistance Programs revealed that attorneys were found to have a greatly **heightened rate of depression (26%)** — about four times the national average — and **high rates of stress (23%) and anxiety (19%)**. It is also interesting to note that 46% of all the responding lawyers reported that they had experienced significant depression issues at some point in their careers.

Read more about the prevalence of the problem in “Confronting Addiction in the Law Firm” by Link Christin, JD, MA, LADC, on page 19.



\$6 TRILLION

The predicted cost estimate to the world in cybercrime damages annually by 2021.

Source: cybersecurityventures.com/hackerpocalypse-cybercrime-report-2016

FACTS & STATS

STUDY FINDS IN-HOUSE MARKETING AND BUSINESS DEVELOPMENT TEAMS UNDERUTILIZED IN FIRMS

Bloomberg Law and the Legal Marketing Association (LMA) released the results of their survey of marketers and business development professionals at law firms. The findings revealed that many law firms are failing to leverage the strategic insights of their in-house marketing and business development teams:

- 71% of respondents noted that they were highly involved in supporting their firms' top strategic priorities, but only 36% participated in actually setting those priorities.
- A majority of respondents (66%) predicted that their firms would increase spend on marketing technology more than on any other area over the next two years, including content marketing (54%) and paid advertising (50%).
- Firms with 2 to 99 lawyers had an average annual marketing and business development budget (excluding staffing) of approximately \$505,000, while that budget jumped to more than \$5.4 million for firms with more than 300 attorneys.

NOT ENOUGH BOOMERS SAVING FOR RETIREMENT



“The Insured Retirement Institute projects 10,000 Baby Boomers will retire per day through at least 2030. **Forty-five percent have nothing saved for retirement.**”

Read more from our January 2017 FM feature, “Getting in the Retirement Game,” at legalmanagement.org/features/getting-retirement-game.



The market for virtualized workspaces will grow from \$7.5 billion in 2014 up to \$18 billion by 2022.

Source: “HR Market Growth Opportunities for IT Service Providers” by HPE SLMS



MAKE AN IMPACT WITH VIDEO

According to Nielsen’s “Impact of Attention” research, attention paid to video ads on YouTube was 1.8 times higher than on social media platforms.

For more insight into how video can enhance your marketing, check out the April 2017 BP Perspective, “The Online Presence Toolkit,” at legalmanagement.org/columns/online-presence-toolkit-visual-content-marketing-tools-you-need-build-standout-online.



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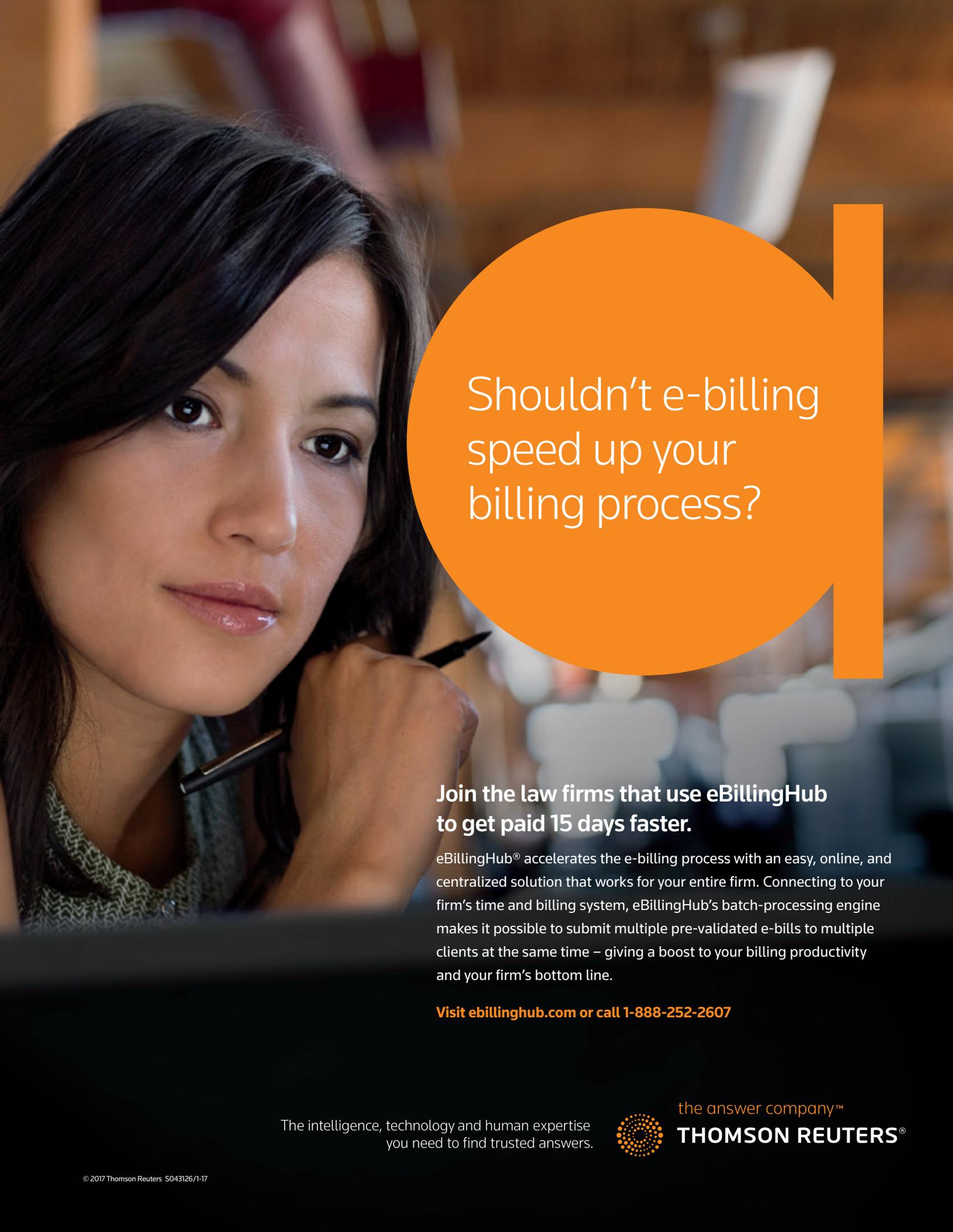
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