

Dark Secrets

As a young prosecutor, one of my responsibilities was to pursue the involuntary commitment of men and women with mental illness. If it could be shown that they were a danger to themselves or others, more often than not they would be sent to a psychiatric hospital for evaluation and treatment. At that time, it did not even occur to me that my own profession would, according to a Johns Hopkins study, be the most likely of 105 professions to produce severe depression. I did not know that attorneys are six times more likely to attempt suicide than the general population. And I could not then have known that since Christmas of 2005, six of our Tennessee colleagues would die by suicide.

Attorneys are not bullet-proof

Clearly I was naïve in assuming my profession might be immune from mental illness. According to a 1999 report by the United States Surgeon General, about 20 percent of the U.S. population is affected by mental disorders during a given year. The surveys employed in that report estimated that during a one-year period, 22 to 23 percent of the U.S. adult population – or 62 million people if 2000 Census data are used – had diagnosable mental disorders. A smaller number of those, more than 15 million people, face major depression, bipolar disorder, schizophrenia and obsessive-compulsive disorder. With statistics like these, how could anyone seriously expect that attorneys are bullet-proof?

My naïveté about the likelihood that attorneys might face mental illness is less justifiable when one considers the positive attributes that often accompany certain mental illnesses. According to Kay Redfield Jamison, PhD., professor of psychiatry at the Johns Hopkins University School of Medicine and co-author of the definitive medical text on Manic-Depressive Illness, one of the reasons that bipolar disorder is found more often among the professional and upper social classes is that the bipolar personality is often characterized by fierce energy, high mood, quick intelligence, increased risk taking, and decreased need for sleep. An extreme attention to detail often characterizes those with obsessive-compulsive disorder. Mentally ill attorneys with these attributes join a long list of others who have made our society more colorful, more full of texture and grace, including Tennessee Williams, William Faulkner, Georgia O’Keeffe, Cole Porter and Robert Schumann.

Too many don’t get help for themselves or others

Despite these strengths, too many in the legal profession and society at large do not seek out the treatment necessary to manage the negative aspects of their conditions. Thus, they do not prevent themselves from spiraling into self-destructive behaviors such as medicating themselves with illegal drugs and alcohol or death by suicide. In fact, nearly two-thirds of all people with diagnosable mental disorders do not seek treatment. As the President said in April 2002, one of the obstacles preventing Americans with mental illness from getting the care they deserve is the stigma that surrounds these disorders of the brain.

One would think that because attorneys are good at rationally evaluating all the facts, we would be less likely than others to stigmatize our colleagues with mental illness. But that is not the case. In fact, the problem is so great that one American Bar Association publication told the story of a successful government lawyer with 20 years of experience who suffered harassment and isolation after being diagnosed as bipolar. As a result, he had a complete breakdown, lost his job and was placed on disability status. Another lawyer had to move to a different town in order to escape the stigma among judges and other lawyers.

Atlanta attorney Stephen Paskoff wrote recently that the reasons for stigma “are as old as history. Some people are afraid of mental illness; others don’t believe it exists or that it’s imagined.” One experienced Tennessee judge recently echoed an illustrative sentiment when he told me that he had never seen a circumstance in which criminal conduct was in any way related to a mental health issue. And despite brain science to the contrary, in this part of the country, it’s still not uncommon to hear the naive refrain that if people just read the Bible more, there wouldn’t be mental illness.

The power of our colleagues’ opinions is strong. As Doug Toft wrote here when he discussed substance abuse among attorneys, “Lawyers’ professional survival depends on their competence as perceived by peers and clients. This in turn creates pressure to appear invincible ...” And as an ABA editorial put it, “mental illness and compulsive behaviors remained dark secrets lest practice and reputations suffer. Impaired lawyers muddled through their lives, frequently wreaking havoc upon others, just because a whisper for help boded weakness. The standard bearers for truth, justice, and the American way have to remain strong at all times, even if that strength is spelled D-E-N-I-A-L.”

Embracing those with mental illness is now a national priority

We in the legal profession should be among the first to take up the charge issued by the President’s New Freedom Commission on Mental Health:

The Commission acknowledges the need to eliminate employment discrimination in any form; it is too often based on current or past psychiatric diagnosis or mental health treatment. In particular, the Commission recommends national leadership to end employment discrimination against people with psychiatric disabilities in the public and private sectors.

All levels of Federal, State, and local government should review their employment policies to eradicate discriminatory practices on the basis of mental health treatment or diagnosis. A great opportunity exists for all levels of government and the private sector to serve as models by hiring individuals with disabilities.

There are several reasons we should be at the forefront of this effort. First, as lawyers, we should know that it is illegal to discriminate against persons – including lawyer employees – on the basis of mental disability in the first place. The Americans with Disabilities Act defines “disability” as a “physical or mental impairment that substantially

limits one or more of the major life activities of such individual,” “a record of such impairment,” or “being regarded as having such an impairment.” Knapp v. City of Columbus, 2006 WL 1878332 (6th Cir. July 6, 2006). The recently released Eeoc Enforcement Guidance: The Americans With Disabilities Act And Psychiatric Disabilities provides helpful guidance to avoid discriminating against those with mental illness.

A second reason attorneys should be among the first to step up to the plate when it comes to mental health issues is because our profession is entrusted with much responsibility for the lives and fortunes of those around us. If our colleagues who suffer from mental illness do not feel free to get the help they need, not only do they suffer, clients suffer as well. But that doesn't have to be the case. As the National Alliance on Mental Illness explains,

[B]rain disorders are treatable. Most people with a serious mental illness can experience relief from their symptoms by taking prescribed medications. Psychosocial treatments such as cognitive behavioral therapy, interpersonal therapy, self-help and support groups, housing, vocational rehabilitation, and other community services can also provide support and stability and assist with recovery.

A third reason lawyers should reduce the stigma surrounding mental illness is found in the lives of nearly one dead attorney per month since Christmas. Each of these people mattered to those around him. To his family, his friends, his colleagues. Perhaps the question is impossible to answer, but it must still be asked: if we, as a profession, had been more informed about the signs and symptoms of depression and welcoming of our colleagues with mental illness, need they have died?

To seek help for yourself or for your colleagues, or to become more educated on mental health issues, please contact either the Tennessee Lawyer Assistance Program at (877) 424-8527 (www.tlap.org) or the Tennessee office of the National Alliance on Mental Illness at (800) 467-3589 (www.namitn.org). TLAP can provide lawyers, judges, bar applicants and law students confidential assistance statewide. NAMI has 35 affiliates across the state, each of which can put you or anyone you know in touch with confidential support groups, as well as education on mental health issues. If you are concerned that you, a colleague or family member is in danger of suicide, please call the Tennessee Suicide Prevention Network at (888) SUICIDE.

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