



Addressing Mental Illness in the Legal Workplace

By Andrew J. Imparato

According to the National Institute of Mental Health, more than one in five adults experiences a diagnosable mental disorder in a given year. Four of the 10 leading causes of disability in the United States and other developed countries are mental disorders—major depression, bipolar disorder, schizophrenia, and obsessive-compulsive disorder.¹ Hence, a significant percentage of lawyers and legal workers experience mental illness.

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—Andrew J. Imparato

When researchers at Johns Hopkins compared the experience of 12,000 workers in more than 25 occupations, attorneys were found to have the highest rates of depression—more than three times the average rate of depression compared with other occupations studied. A study of more than 2,500 lawyers in North Carolina found that one in four attorneys reported clinical symptoms of depression, such as loss of appetite, lethargy, suicidal thoughts, or insomnia, at least three times a month during the past year.²

Some of the factors that might lead to higher incidences of depression among lawyers were listed by Michael J. Sweeney of the American Bar Association Division for Bar Services and his lawyer-turned-psychologist colleague, Dr. Standish McCleary. These included:

- time constraints and deadlines;
- the high stakes involved, including a loss of property, freedom, and even life;
- the high expectations of expertise;
- the constant scrutiny and critical judgment of one's work from opposing counsel or the courts;
- the inherently conflict-driven nature of the legal process;
- the threat of malpractice;
- a tendency to assume a client's burdens;
- the demise of professional cordiality and camaraderie;
- the strain that a lawyer's advocacy skills can create when applied in personal relationships;
- the group norms or culture in a law firm, carrying expectations such as high billable hours; and
- the depletion of energy that comes from high demands at work.

Some might argue that legal jobs are inherently stressful, and that people with depression and anxiety issues should look for less stressful work. But if the legal profession were to try to rid itself of the high percentage of lawyers with mental health issues, the profession would be impoverished in the process. Abraham Lincoln³ and Judge Learned Hand—the former Chief Judge of the U.S. Court of Appeals, Second Circuit⁴—are two good examples of lawyers whose life perspectives were formed in part by their experience with chronic depression.

Responding to Mental Illness in the Legal Profession

Mental illness, like other potentially disabling conditions, is a natural part of the human experience, and a part of human diversity. According to the National Mental Health Association, the five major categories of mental illness include anxiety disorders (the most common type of disorder, including phobias, panic disorders, and obsessive-compulsive disorder); mood disorders (for

example, depression and bipolar disorder); schizophrenia; dementias; and eating disorders.

As more and more state and local bar associations recognize the need to account for the reality that many attorneys experience mental health issues, there has been an increase in the number of Lawyer Assistance Programs (LAPs) to help practitioners dealing with issues ranging from alcoholism and drug addiction to gambling, burnout, depression, and other psychiatric issues. Most importantly, these programs connect newly diagnosed attorneys with peers who have personal experience with some of the same issues. Just as peer support networks have helped women and members of diverse racial and ethnic groups gain a stronger footing in the legal profession, these types of networks are critical for people living with impairments and conditions that often carry a heavy stigma. Without a peer support network, the risk of suicide and/or long-term unemployment and lost productivity would be much greater.

Other than ensuring that employees are aware of LAPs and other community-based resources, what can legal employers do to create supportive work environments and maximize productivity for workers dealing with mental health issues? Supervisors at Cornell's Program on Employment and Disability within its School of Industrial and Labor Relations⁵ developed the following suggestions, which many good managers incorporate instinctively:

- approach each employee with an open mind about his/her strengths and abilities;
- clearly delineate expectations for performance;
- deliver positive feedback along with criticisms of performance in a timely and constructive fashion;
- ensure availability regularly during the workday for consultation with employees; and
- demonstrate flexibility and fairness in administering policies and work assignments.

The Canadian Psychiatric Association emphasizes the importance of flexibility and understanding from employers, including a willingness to engage in joint problem solving, and the importance of respecting the employee's desire for confidentiality and specifically identifying the form and degree of confidentiality.⁶

While these practices reflect good management, they can be particularly important for employees with depression, anxiety, and other mental health issues. In addition to high quality supervision, some workers with psychiatric conditions will benefit from specific accommodations, including:

- flex-time schedules;
- part-time positions or job sharing;

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- time off for scheduled medical appointments or support groups;
- use of break time according to individual needs rather than a fixed schedule;
- physical arrangements (such as room partitions or an enclosed office space) to reduce noise or visual distractions;
- additional leave to allow a worker to keep his or her job after a hospitalization or change in medication;
- permission for workers to telephone supportive friends, family members, or professionals during the work day;
- work assignments that are delivered in writing; or
- reassignment to a different supervisor or team.

Supervisors will be much more likely to consider these kinds of accommodations, and employees will be much more likely to ask for them, if key leaders at the firm or company emphasize that such practices are encouraged as a way to maximize productivity and retain legal talent in a competitive environment. Whereas the ADA and other laws permit employers to ask for medical documentation that an employee has a covered disability when the employee requests an accommodation, an inclusive environment encourages supervisors to evaluate the request first without consideration of what is required by federal, state, or local disability non-discrimination laws. If the accommodation is something that the employer would typically afford any employ-

ee, and will facilitate greater productivity, medical documentation might not be necessary. This paperwork is important, however, when the request falls outside standard operating procedures for the firm.

Social Model vs. Medical Model

In the field of mental health, as in many other areas of disability, there is a tendency to want to reduce the problem to simply an issue of diagnosis and treatment. The idea is that if people would simply seek and obtain competent health care, the problems associated with their condition will be addressed and the problem will be solved. But for mental health issues, the medical model has limitations. Not all problems are simply about diagnosis and treatment. Some workplace issues grow out of discrimination that is grounded in deep-seeded myths, fears, and stereotypes that are associated with psychiatric and other disabilities. For example, if a supervisor has had a bad experience with an employee with bipolar disorder, she may project some of her fears on the next person she encounters with that condition—even if the second person has very different symptoms.

Current images of mental illness, especially in media and entertainment, often connect the condition with a propensity toward violence—even though people with mental illness are much more likely to be victims of violence than instigators.⁷ Yet, the stereotype is reinforced every time a “homicidal maniac” is depicted in the newspaper or television. These kinds of societal biases seep into the workplace and cannot be addressed simply by correctly diagnosing and treating the employee’s mental health

One Lawyer’s Journey

The issue of mental illness in the legal workplace is a very personal one for author Andrew J. Imparato, president and CEO of the American Association of People with Disabilities (AAPD), who graciously shared his personal story.

I graduated from Stanford Law School in 1990, the year Congress enacted the Americans with Disabilities Act (ADA). That same year, I experienced my first episode of major depression. After a series of bouts with depression intermixed with periods of high energy and sometimes excessive self-confidence, the psychologist that I saw for weekly psychotherapy diagnosed me as bipolar. In the years since, I have worked as an attorney, policy adviser, and non-profit executive in a variety of settings, while experiencing alternating periods of low energy and low self-confidence followed by high energy and high self-confidence. Fortunately for me, my disability rights work has placed me in contact with attorneys, business leaders, and many other role models who live with chronic mental health conditions.

When I disclosed my new diagnosis to one of my law professor mentors, Gerald Gunther, he responded without missing a beat, “You’re in good company.” Professor Gunther, who had just completed a biography of Judge Learned Hand, informed me that Judge Hand had lifelong struggles with depression. I was surprised and heartened by this revelation, and it felt great to be open about my diagnosis with a mentor and receive such a positive response.

As a lawyer who has focused my career on disability advocacy, I have been open and “out” with my psychiatric diagnosis at work and in my personal life. To a large extent, my condition has been a source of strength and credibility as I work to combat the many fears, myths, and stereotypes that artificially limit people with a wide range of disabilities from contributing to their full potential. Unfortunately, my experience is more the exception than the rule. Many lawyers who experience depression and other psychiatric conditions do not feel comfortable disclosing their situation to their employer, and many encounter negative consequences when they do.

In my own career, I have sometimes questioned whether I would be able to perform well in a new job given my regular several-month-long episodes of depression. My experience has been that the command-performance aspects of a fast-paced work environment can actually help me not think about the depression. In many ways, my career is the most powerful anti-depressant I have discovered.

condition. Rather, the workforce needs to be exposed to real people who are living and working successfully with mental illness.

Inviting outside speakers who have personal experience with mental illness can make people feel more comfortable discussing these issues at work, and can help demystify mental illness for employees who may not have much awareness of the issues. Additionally, offices should consider scheduling such experts during the month of May, which is Mental Health Month; around July 26, which is the anniversary of the signing of the ADA; and in October, which is National Disability Employment Awareness Month.

Local chapters of the Depression and Bipolar Support Alliance (www.dbsalliance.org) or the National Mental Health Association (www.nmha.org) can often help identify speakers. Given the high incidence of mental illness in the population, there is usually broad interest. In most workplaces, the majority of people either have personal experience with mental illness or have a family member or close friend who has had such experiences.

Ultimately, what is most needed for people with mental illness in the workplace is to cultivate a work environment where everyone is treated with dignity and respect, and all forms of human diversity are valued. These goals should be core values and they must have support from top management and should be shared with every new employee. Workplaces that are most successful in building and maintaining an inclusive work environment will enjoy a competitive advantage in recruiting and maintaining talent, and will see greater productivity from their workforce. **DB**

The author is the first full-time president and CEO of the American Association of People with Disabilities (AAPD), the nation's largest membership organization promoting the political and economic

power of people with all types of disabilities. To learn about AAPD's programs in areas like mentoring, leadership development, public policy advocacy, and civic participation, visit www.aapd-dc.org. Prior to joining AAPD in 1999, Imperato worked as an attorney with the National Council on Disability, U.S. Equal Employment Opportunity Commission, U.S. Senate Subcommittee on Disability Policy, and the Disability Law Center in Boston, Mass.

NOTES

1. See National Institute of Mental Health, "Statistics," at www.nimh.nih.gov/healthinformation/statisticsmenu.cfm.
2. Michael J. Sweeney, "The Devastation of Depression: Lawyers are at Greater Risk—It's an Impairment to take Seriously," American Bar Association, Division for Bar Services, at www.abanet.org/barserv/22-6dev.html.
3. For more information, see the Abraham Lincoln Research Site, at <http://home.att.net/~rjnorton/Lincoln84.html>.
4. Gerald Guther, *Learned Hand: The Man and The Judge*, Knopf, N.Y. (1994).
5. See Cornell University, "Employing and Accommodating Workers with Psychiatric Disabilities," at <http://www.odc.state.or.us/tadoc/ada45.htm>.
6. See Canadian Psychiatric Association, "Mental Illness and Work," at www.cpa-apc.org/MIAW/pamphlets/Work.asp.
7. James Marley & Sarah Buila, *Crimes Against People with Mental Illness: Types, Perpetrators, and Influencing Factors, Social Work*, No. 2. See also, National Alliance for the Mentally Ill-Santa Cruz County, "Violence and Mental Illness," at www.namisc.org/newsletters/April02/Violence.htm.

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