

WisLAP receives calls about struggling lawyers from a variety of sources: colleagues in the community, people at the same firm, judges, paralegals, legal secretaries, families, etc. This section is an overview of the types and prevalence of cognitive impairments, associated signs and symptoms, and strategies for approaching an impaired attorney and those who care for him/her. We are not suggesting that the most senior members of the profession have nothing to contribute or are likely to lose all functionality. Qualifying as a senior lawyer does not mean a lawyer is impaired. We are specifically talking about helping lawyers who are clearly struggling with what appears to be a progressive decline.

Remember, mild memory loss is a natural part of the aging process and is not necessarily a pathological cognitive impairment. Rather, the impairment is associated with an emerging pattern of regular occurrences (not a one-time occurrence) characterized by a severe interference with daily social and occupational tasks or interactions.

What do we mean by lawyer in decline?

A lawyer who has departed from their previous high level of functioning or competence in personal and/or professional matters, such as:

- Increased/Regular occurrence of unexpected errors;
- Failing to meet deadlines, problems with communication;
- Inability to learn new practice standards;
- Growing interpersonal problems with office staff, colleagues, etc.;
- Irrational/impaired decision-making; and/or
- Client, court, and co-worker complaints and grievances.

Causes of cognitive impairment:

The causes of the impairment may include:

- Depression, anxiety, or other mental health issues;
- Drug or alcohol use, or medication interactions;
- Physical health issues: strokes, infections, diabetes that may not be well-managed, sleep apnea, heart or lung conditions, etc.;
- Grief, loss, family problems, being overwhelmed, too much stress;
- Cognitive changes related to aging;

Dementia is a loss of cognitive functioning due to brain disease or trauma. The changes may occur gradually or quickly, and how they come about is the key to determining whether the condition is reversible or irreversible.

In Wisconsin, in 2015, it was estimated that 115,000 persons had dementia. By 2040, that number is expected to increase to 242,000 persons with dementia.

Symptoms of Dementia

- Erosion of recent and remote memory (amnesia)
- Impairment of one or more of the following functions:
 - Language: misuse of words or inability to remember and use words correctly (aphasia);
 - Motor activity: inability to perform motor activities even though physical ability remains intact (apraxia)
 - Memory: inability to recognize objects or people; and/or
 - Executive function: inability to plan, organize, think abstractly.

Causes -More than 50 conditions are associated with dementia, including:

- Degenerative neurological disorders (e.g., Alzheimer's disease). Alzheimer's disease causes 50-70% of all cases of dementia;
- Vascular disorders (e.g., multi-infarct disease);
- Inherited disorders (e.g., Huntington's disease); and
- Infectious diseases (e.g., HIV/AIDS)

Some types of dementia are irreversible.

Those that may be reversible include:

- Alcoholism, chronic drug use;
- Viral, bacterial, fungal infection;
- Structural abnormalities (operable benign brain tumors, chronic subdural hematoma); and
- Metabolic disorders such as hypothyroidism, hypoglycemia, hypercalcemia, liver disease.

Differential Diagnosis

Delirium is a temporary but acute mental confusion due to heart or lung disease, infection, poor nutrition, hormone disorder, or reaction to medication. Emergency treatment is vital. Pseudodementia is a type of severe depression with cognitive changes that resembles dementia. It occurs mostly in elderly people and may exist with dementia. The depression is treatable.

Diagnosis of dementia involves a complete medical and neuropsychological evaluation, including a complete history, and brain scan (e.g., CT, MRI, PET, SPECT) to rule out treatable causes. A definitive diagnosis requires an autopsy. When symptoms of dementia are present it is best to refer the person to their primary care physician for a complete medical work up to rule out any underlying causes or conditions. Support can be very beneficial for the affected person and for the family during this time.

If You Decide to Address the Issue:

1. Have a non-confrontational meeting, include a witness;
2. Work with someone the lawyer trusts (partner, advisor, close friend);
3. Possible openers: "I am concerned about you because..." or x, y or z;
4. Try to leave the conversation open so the lawyer can talk (may not talk, may be guarded);
5. Express your concerns respectfully, while reviewing some of the positives of that lawyer's career, happy memories, etc.;
6. This is not the kind of conversation you have only one time; be planful; try to leave the door open for further talks; this is a process;
7. Suggest solutions: talking with family member about seeing a doctor for an assessment or testing; limiting your practice; having co-counsel; and
8. Overall, your purpose is to act in this person's best interest, and you try to communicate that concern.

One third of people with cognitive impairment do not recognize their decreased cognitive functioning; this is one of the many frustrating things about this condition. The lawyer you are talking to may not remember the conversation no matter how well you present it. They may forget what was agreed upon and keep showing up at the courthouse because that is what is familiar. They may keep on practicing (signing up new clients despite having closed the office, etc.) This is a particularly difficult topic because it doesn't end with everything going back to normal – it ends with facing a difficult reality and a transition to a different way of life with many unknowns.