

TRANSITIONING LAWYERS COMMISSION

What's it all about?

History

- ▣ North Carolina Bar Association
- ▣ Senior Lawyers Division
- ▣ Solo, Small Firm and General Practice Section
- ▣ Mike Wells

Retiring with Dignity Task Force

- ▣ Lawyers who need to retire, but resist
- ▣ Lawyers who want to retire, but face obstacles
- ▣ Caregivers (lawyers, paralegals, staff)

Intervention Program: Overview

- ▣ Will be known by initials TLC
- ▣ Aimed at lawyers who need to retire
- ▣ Result of initial Senior Lawyer Division work
- ▣ Warm blanket approach

Intervention Program: Why?

- ▣ Cognitive Impairment
 - Pat Summitt
 - Chief Judge Karen Williams
- ▣ Aging Issues
 - It's not simply about age

TLC: The Model

- ▣ Team Leaders = volunteers, bar leaders
 - Trained by HRC Behavioral
 - Confidentiality (Rule 8.3 exemption)
 - LAP designation

TLC: Training

- ▣ Full-day training led by HRC Behavioral
- ▣ Testing, lecture-discussion, role plays
- ▣ Purpose: Provide NCBA volunteers/ team leaders with full medical/psychological support system

NCBA Mission Statement

- ▣ “to serve the public and the legal profession by promoting the administration of justice and encouraging the highest standards of integrity, *competence*, civility and *well-being* of all members of the profession”

Goal of TLC

- ▣ Honor mission of NCBA by serving lawyers and public
- ▣ Seeking to protect the well being of all members of the profession
- ▣ Available to *all* licensed attorneys in the state

Operating Hypothetical

- ▣ A well-respected and often honored member of the Greenville bar begins missing court dates or appears, but is relying upon outdated law, is cantankerous with opposing counsel, and generally “missing a step.” A pattern is seen by a local lawyer (or the judge). The question is how to address the issue? No one is sure, but no one wants him to go out via a grievance process.

WHO DO YOU CALL?

- ▣ 800 number will ring at the North Carolina Bar Center
- ▣ Trained bar staff member will create intake sheet
- ▣ Caller will be required to provide name and contact information

What Next?

- ▣ Bar staff member will identify closest team leader and contact to assign:
 - Team leaders will include past presidents of NCBA; members and past members of NCBA Board of Governors, local bar leaders, judges (more on this to come)
 - Keys to selection as leaders: geographic location; status

Team Leaders: Initial Duties

- ▣ Initial Investigation
 - Communicate with referral source
 - Process will vary depending upon situation, but anticipate several of the following will also be interviewed initially:
 - Law partners
 - Local attorneys
 - Local judges
 - Staff members
 - Family members

Confidentiality

- ▣ TLC granted LAP status by NC State Bar
- ▣ Team leader and intervention team participants exempt from Rule 8.3 (Duty to report ethical violations)
- ▣ Key to encouraging friends and family, as well as subject attorney, to be completely candid in conversations

Next Step: HRC Behavioral

- ▣ Team could determine that there is no cause to continue and report same to NCBA
- ▣ If there is information indicating potential cognitive issues, then Team Leader reports finding to assigned clinician with HRC Behavioral for further assessment
- ▣ Team Leader and clinician will formulate strategy for intervention

Intervention

- ▣ What happens next could vary widely but here are some of the options:
 - Team Leader and clinician will identify best options to participate in meeting with subject attorney (may be local lawyer, member of firm or at times a family member)
 - In consultation with other team member(s), determine course of action

Cognitive Testing

- ▣ Team Leader will have access to the following:
 - Self-administered, computer-based self-assessment
 - Self-administered, paper assessment
 - Clinician administered self-assessment, with HRC clinician, followed by consultation with HRC clinician

Each assessment tool will be tailored to individual based upon Team Leader/Clinician consultation

Follow Up Evaluations

- ▣ TLC has funding to permit basic clinical evaluation of subject attorney (medical/psychological) by HRC Behavioral
- ▣ Result of this level of evaluation could lead to medical referral for full neuro-psychological (specialist) evaluation – medical referral essential to obtain insurance or Medicare coverage for this level of testing

Practical Aspects of Intervention

- ▣ Team Leader and team will meet with subject attorney to discuss concerns raised and to encourage winding down practice (or if situation warrants, shutting down practice)
- ▣ Neither Team Leader nor lawyer member of team allowed to serve as trustee in closing down subject attorney's practice

Results of Intervention

- ▣ Desired result: Subject attorney will agree to wind down practice and plan for winding down will be put in place
- ▣ Emergency result: Subject attorney will retire immediately and a local judge will be asked to appoint trustee to close practice if necessary
- ▣ Poor result: Subject attorney refuses to stop practicing and is left for the court or State Bar to deal with when occasion arises

Judicial Involvement

- ▣ Judges may well be primary referral source
- ▣ Judge may provide Team Leader with an extra "arrow in the quiver" ("tell him he can stop on his own or I will stop him")
- ▣ Judge may be asked to appoint trustee to close practice

What is a Judge needs to be intervened with?

- ▣ Reason for training at least one Superior Court Judge and one District Court Judge, along with Paul Ross, in first class
- ▣ Same concept as previously set out, but likely that Team Leader will be a judge and/or Paul Ross

Time Table

- ▣ Training sessions should occur in October time-frame
- ▣ Interventions could begin as early as November, no later than first of year

Additional Tools

- ▣ "Inactive Retired Status" – NC State Bar rule change in process
- ▣ Will permit attorney who is granted this status to identify self as "retired attorney" or "retired lawyer"
- ▣ Existing "inactive status" does not permit lawyer to identify self as "lawyer" or "attorney"

Turning Out the Lights

- ▣ NCBA publication – created by Solo, Small Firm and General Practice Section
- ▣ Designed to provide road map for attorney winding down practice or for trustee charged with closing down a practice
- ▣ “User’s Guide” being created for 3rd edition of book

Rule 1.17 – Sale of Practice

- ▣ Revision/Clarification of rule to insure that attorney wishing to wind down a practice can negotiate a sale over time and can continue to practice as employee or of counsel with remaining/new firm

What’s Next for TLC?

- ▣ Developing CLE programming which will include:
 - Financial planning for retirement
 - Preparing for Life’s Transitions, including retirement
 - Suggested clauses for partnership agreements to provide processes for winding down and ending career

More Information

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