

How to Approach Cognitively Impaired Colleagues

1. Partner with individuals who are trusted by the lawyer and who have observed the lawyer's behaviors that are raising concerns about his or her continued competence to practice.
2. Consider using the Cognitive Impairment Worksheet to gather and organize concerns regarding the impaired or declining attorney.
3. Have a nonconfrontational meeting with the lawyer and concerned individuals; actively avoid confrontation.
4. Open with words such as:
 - *I am concerned about you because... We have worked together a long time, so I hope you won't think I'm interfering when I tell you I am worried about you...*
 - *I've noticed you haven't been yourself lately, and I'm concerned about how you are doing.....*
5. Get the lawyer to talk. Listen, don't lecture. While listening, add responsive and reflective comments.
6. Express concern with gentleness and respect.
7. Share firsthand observations of the lawyer's objective behavior that is raising questions or causing concerns.
8. Review the lawyer's good qualities, achievements and positive memories.
9. Approach as a respectful and concerned colleague, not an authority figure.
10. Act with kindness, dignity and privacy, not in crisis mode.
11. If the lawyer is not persuaded that his or her level of professional functioning has declined or is impaired, suggest assessment by a specific professional, and have contact information ready.
12. When appropriate, offer assistance and make

recommendations for a plan providing oversight.

13. When appropriate, propose a voluntary transfer of attorney status to an available option such as taking "inactive," "retired" or "emeritus" status.
14. Remember that this is a process, not a one-time event.

Do:

- Be direct, specific, and identify the problem.
- Speak from personal observations and experience.
- Report what you actually see.
- Be respectful and treat the lawyer with dignity.
- Act in a nonjudgmental, and not in an accusatory, manner.
- Offer to call the lawyer's doctor with observations.
- Refer for evaluation; have resources at hand.
- Suggest alternative status such as inactive status or disability leave.
- Suggest the potential consequences for inaction: malpractice or disciplinary complaints.

Don't:

- Ignore and do nothing.
- Attempt to diagnose.
- Insist or threaten if lawyer directs you to back off; attempt to discuss it again at a later date.

Source: "Working Paper on Cognitive Impairment and Cognitive Decline." Adapted from the Texas Lawyer Assistance Program's "The Senior Lawyer in Decline: Transitions with Dignity — ABCs of Helping the Senior Lawyer in Need."