abilities are fading is related to their financial circumstances. “With the hard economic downturn of the last five or 10 years, a lot of lawyers feel trapped and keep going. Attorneys may be significantly impaired but have someone to shepherd them and have their work be done by others. Those are the cases that are concerning.”

OAAP can work with law firms to help them head off future disciplinary problems with an affected lawyer, but the key is to act sooner rather than delaying, Querin says. The bar’s intention is to carve out a compassionate way to deal with these individuals, he says, to distinguish these cases from those related to, say, deliberate misconduct.

Cases involving cognitively affected individuals referred to SLAC probably need to be addressed at the regulatory level, Lusk says. “We’re aiming to fix problems that are fixable. At SLAC, what we’re trying to do is formulate some protocols, trying to figure out what makes sense.” Such cases need to be handled with some tact and diplomacy, he says.

Intervening Protects Everyone

To the extent it can, the bar wants to avoid having cognitive cases end up in discipline, yet to still make sure the affected lawyer doesn’t pose risks for the public, says Hierschbiel.

The bar Rules of Procedure allow the OSB to petition the Supreme Court to transfer an attorney involuntarily from active status to inactive status. This represents an emergency procedure to short-circuit the disciplinary process to effectively suspend the

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The ABA’s Senior Lawyer Assistance Committee’s 2014 “Working Paper on Cognitive Impairment and Cognitive Decline” contains a Cognitive Impairment Worksheet. The entire paper can be found online in a search using that wording, or at www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/lsl_colap_working_paper_on_cognitive_imp.authcheckdam.pdf.

The worksheet offers signs and symptoms to watch for. Some examples include:

- Deteriorating performance at work
- Making mistakes on files or cases
- Difficulty functioning without help
- Committing obvious ethical violations
- Failing to remain current on changes in law; over-relying on experience
- Exhibiting confusion about timelines, deadlines, conflicts, trust accounting
- Inappropriately dressed, or poor grooming or hygiene
- Sexually inappropriate statements or behavior uncharacteristic for the lawyer
- Denial of any problem or highly defensive or paranoid
- Forgetting conversations, events, details of cases
- Frequently repeating questions and making requests for information
- Trouble staying on task or topic
- Difficulty adjusting to changes
- Problems with verbal expression, digression, distraction
- Confusion, lapses in attention, concentration
- Emotional distress, rapid mood shifts