

The Journal of
Employee Assistance



Working with
Impaired Executives

| Page 10



PLUS:

**EAPs Around
the Globe**

Page 14

**Inaugural
CIR Summit**

Page 18

**Is That an
Elephant in
the Room?**

Page 26



Impaired Executive Cases Can Be Complex

| By Maria Lund, LEAP, CEAP

Impaired executive cases are often the most complex and highly visible cases we work with as EA professionals. Whitney Stone, LPC, and Robert Mines, PhD, an EA expert with more than 30 years' experience working with C-Suite clients, address this seldom-reported topic in our headline article. Due to the complexity of these cases, the authors explain that it may be necessary for the EAP to form a multi-disciplinary team to address all of the necessary concerns. They also use a case study to illustrate the psychological, legal, HR, and ethical intricacies often involved when an executive is impaired.

Highlighting a landmark event that took place at EAPA's 2015 World EAP Conference in San Diego, Jeff Gorter, MSW, follows up on the first EAP Critical Incident Response (CIR) Summit. The goal of the summit was to begin a dialogue around the question, "What do corporate customers *really want* when they ask for a CIR?" Through keynotes, a customer panel, and workgroups, participants examined CIR from an organizational perspective. Several key themes emerged that should prove very useful as EA professionals seek to expand the value of their services.

Employee assistance professionals in Portugal, South Africa, and China share important EAP findings and trends from their respective countries that shed important insights about EAP challenges and evolution around the globe. Liliana Dias, Lourie Terblanche, PhD, and Peizhong Li, PhD, respond to questions such as, "*What is the greatest challenge you currently face in your job?*" and, "*What is the greatest opportunity you see for the EAP field in your country?*"

Jennifer Sumiec, CEAP, writes about workplace culture, pointing out that many employer programs and benefits, including EAPs, are sometimes too focused on the individual and fail to consider the broader cultural climate of an organization. She describes how assessing workplace culture is crucial to delivering effective EAP services.

Bern Beidel, M.Ed., CEAP, states that applying a decision-making model with demonstrated success in resolving ethical dilemmas brings consistency to EAP consultations while also being of considerable value to corporate clients. Bern adds that this model works

in both organizational and individual cases.

Elsewhere, Mark Attridge and Marina London offer useful insights and observations in their respective columns. Happy New Year, and happy reading! ❖

EAPA Communications Advisory Panel

Maria Lund, Chair – Columbia, SC
maria.lund@firstsuneap.com

Nancy R. Board – Seattle, WA
nrboard@gmail.com

Tamara Cagney – Livermore, CA
tcagney@sandia.gov

Mark Cohen – New York, NY
mcohenintlcons@aol.com

Donald Jorgensen – Tucson, AZ
donjorgensen@comcast.net

Eduardo Lambardi – Buenos Aires, ARG
eap@eaplatina.com

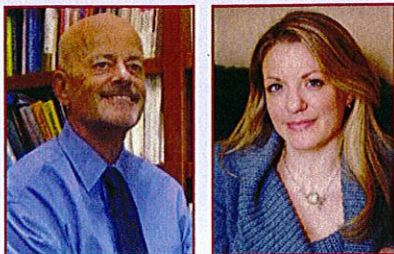
Peizhong Li – Beijing, China
lpeizhong@eapchina.net

John Maynard – Boulder, CO
johnmaynard@spirehealth.com

Bernie McCann – Waltham, MA
mccannbag@gmail.com

David Sharar – Bloomington, IL
dsharar@chestnut.org

Michelle Zadrozny – Austin, TX
michelle.zadrozny@gmail.com



Working with Impaired Executives

What EA Professionals Need to Know

“Because cases like these are more intricate, it may be necessary to form a team to address all of the necessary concerns.”

By Robert A. Mines, PhD, and Whitney Stone, LPC

The unique relationship between employee assistance professionals and the so-called C-Suite has complexities beyond the standard protocols most EAPs have in place for assisting impaired employees. In large corporations an impaired executive may never come to the attention of the EAP as they have resources and access to care that other employees may not. However, the EAP *may* be utilized to assist in impaired executive situations.

While elements of this article have been discussed previously (Mines, Kimlinger, Moore, Hiester, Kent & Hull, 2013; Stone & Mines, 2015), this particular article expands on the organizational psychology aspects, human resources implications, and other risk factors related to this population. The case study is a composite that protects the identity of the individuals and organizations discussed.

What is Impairment?

What is impairment? Impairment is defined as any inability to perform one’s job duties due to cognitive, emotional or physical problems such as addictions, medical conditions, or psychological problems (Jacobson & Kominoth, 2009). Impairment

of an executive affects the individual executive and the organization, as well as having implications for the EAP and others acting in the roles of counselor, case manager, and consultant.

Organizational Impact

The CEO and other C-level executives have the most influence on organizational well-being in core business areas such as finance, structure, culture, operations, and strategic direction (Hiester & Kimlinger, 2015). Regardless of the organization’s size, the impact of an impaired C-level employee can be far reaching (although the smaller the organization, the more pronounced its relative impact). Reasons an organization should be concerned about an impaired executive include

- Legal liability in business contracts or in human resources;
- Mismanagement of financial and other resources due to poor operational planning;
- Lost business due to lack of attention to contracts or business development;
- Flawed decision-making regarding strategy and allocation of resources;

- Public relations problems; and
- Lost intellectual capital due to executive impairment or resulting employee attrition.

Individual Impact

The consequences of impairment to the *individual* (executive) can also be significant. The financial impact of losing one’s salary and compensation at this level of employment is higher than the average employee and harder to replace. The psychological impact on self-esteem, confidence, and self-efficacy may negatively affect how the executive leads while still employed or how he/she interviews if let go. The social impact can lead to damaged personal and professional reputation, which puts a further burden on the executive and his/her family.

EAP and Staff Impact

As noted, impaired executive cases are more complex than the usual mandatory referral or voluntary self-referral of a typical employee. For instance, the senior executive is often an important decision-maker with a direct bearing on the EAP’s contract. Also, when working with the “average employee,” the EAP operates more behind the scenes, but with a high-ranking officer the EAP

is highly visible in the organization, such as with the C-Suite and Human Resources (HR). All told, this may add considerable stress to the EA professional managing the case.

Because cases like these are more intricate, it may be necessary to form a team to address all of the necessary concerns. A team might include the individual EA counselor, HR, the Board of Directors (board), and professionals specializing in treatment, organizational psychology, and law.

Along with increased complexity comes the potential for not only dual, but *multiple* role relationships and corresponding ethical implications (Mines, Anderson & Von Stroh, 1991). The EAP also faces potential legal entanglements in the form of testimony, either in individual or class action suits.

Case Study

The following case study illustrates the organizational psychology, legal, HR, and ethical complexities involved when an executive is impaired.

The CEO of a mid-sized manufacturing organization (125-250 employees) had increased revenue by 300% over seven years and had personal friendships with some of the board members. However, she had not provided financials to the board for seven quarters. (Board members later admitted they had not intervened earlier out of a sense of obligation to the CEO.)

Other employees suspected she may be drinking on the job. There were reports of company/client dinners at which the CEO

appeared intoxicated, after which male staff reported to HR that they had received unwelcome comments from the CEO. The HR manager had been marginalized years before by the CEO and had no influence in the organization or with the board.

The board president contacted the EAP for consultation. The CEO was mandated to report to the EAP for an evaluation. Initial reports found that the CEO was moderately depressed, struggling with marital problems, and was abusing alcohol at both work and home. The CEO admitted to drinking most days as soon as she arrived at the office and was increasingly absent and unavailable at work. The EAP recommended that the CEO receive substance abuse treatment. She resisted treatment until the board directed her to follow the EAP's recommendations.

However, the CEO failed at each step of care, including outpatient, intensive outpatient program (IOP), and eventually inpatient. A number of complications arose (including the CEO's strong sense of entitlement, wherein she balked at having to be treated at competent local facilities with "those kind of people"), making management of the case increasingly complex.

Against the EAP's counsel, the board agreed, as a "last chance," to send her to an out-of-state treatment facility, at a cost of over \$100,000 for one month paid by the company. Upon completing treatment, the CEO resumed drinking immediately on the plane ride home.



SUCCESSFUL
SOFTWARE SOLUTIONS

DAYBREAK 2014

- Client Management
- Integrated Appointment Scheduler
- Affiliate Management w/Portal
- Behavioral Health Management
- E-Signature



- Client Management
- Integrated Appointment Scheduler
- Flexible Setup
- Browser Based
- Flexible Reporting

www.daybreakeapsoftware.com
amy@daybreakeapsoftware.com
1-800-782-6785

During the CEO's absence, problems within the organization became apparent. The EAP recommended that organizational psychologists conduct an evaluation at the systems level, which the board approved and funded. The extent of the CEO's financial mismanagement was discovered at this point. Staff reported that workplace culture had turned into a "reign of terror" prior to the intervention and during the functional absence of the CEO, which was perpetuated by the marketing director, a friend of the CEO. The organizational psychology team recommended that the board fire the marketing director on the grounds he had sabotaged and threatened the organization. The interim CEO did not act on this recommendation.

Six weeks later the impaired CEO was terminated for violating the last chance agreement. Upon learning this, the marketing director claimed that he was being forced into a constructive discharge situation and was working in a hostile environment. An employment attorney was consulted, and advised that terminating the marketing director at this point could be interpreted as retaliation.

Eventually, the marketing director and CEO each received negotiated severance pay that cost the organization significantly, not to mention the attorney and organizational psychology fees. The CEO was terminated, the marketing director resigned, and both were replaced. Ongoing organizational psychology was initiated with the remaining managers and directors. Reporting mechanisms were put in

place for the board, and the board hired outside counsel to assist them with bylaw changes that were needed to give them more latitude in the future if they had similar problems in their C-Suite.

Additionally, the marketing director threatened litigation against the EAP for breach of confidentiality. However, the EAP's thorough documentation verified that the marketing director had self-disclosed the information in question. The EAP continued its contract with the organization, and board members were appreciative of the EAP's work during this difficult time.

Considerations

This case had a number of important considerations and potential pitfalls. In addition to the significant financial impact to the organization, costs included

- Substantial amount of hours spent by the board in dealing with the situation;
- The costs of recruiting and on-boarding new leadership;
- The loss of intellectual capital in the terminated employees; and
- The loss of productivity, morale, and industry reputation.

There was also great personal cost to numerous managers and employees affected by the circumstances over the nine months this EAP intervention took place, as many employees accessed the EAP to cope with the resulting stress.

This case required a sizable team of EA professionals and many hours of consultation and behind-the-scenes work. The team

included the evaluating clinician, a behavioral health case manager, two organizational psychologists, the EAP's clinical director, an external employment law attorney, and EAP clinicians who worked with affected employees.

The EAP evaluator had the support of the board to assess the CEO and make recommendations. However, the CEO's lack of adherence to treatment recommendations made the process difficult. Moreover, the board ignored the recommendations, which cost the organization additional money. Due to the complexity of the CEO's treatment, a case manager was assigned to support the EAP counselor and the organizational psychologists.

Numerous HR considerations further complicated this case. The CEO was eligible for accommodation under the Americans with Disabilities Act (ADA), even though she did not request it. The organization made numerous accommodations for her in order for her to get treatment. The Family and Medical Leave Act (FMLA) could also have been a factor; however, it was not requested, as the board allowed whatever leave the CEO needed.

There could also have been Equal Employment Opportunity Commission (EEOC) issues at numerous levels in the organization, such as *age and gender* (the CEO was over 40 and female), *harassment* (CEO comments to male staff when she was allegedly intoxicated), *hostile work environment complaints by staff* (although there is mixed legal opinion on this), *setting precedence in severance considerations* for future

employees, and the *role of HR* in the organization's future.

Ethical and legal considerations for the EAP were related to confidentiality and releases from the CEO to the board, the marketing director's alleged breach of confidentiality, and ethical considerations related to the CEO's autonomy and whether she could make informed decisions regarding her care. The EAP also considered the business risk when asked for its recommendations regarding treatment and employment.

Conclusions

When working with an impaired executive, the EAP should consider the following points:

➤ *Know the environment.* What type and size of organization is the EAP supporting? Has the EAP taken into account general organizational psychology considerations such as the organization's finances, structure, and culture; the developmental life span position of the organization; work process constraints; and strategic planning considerations (Hiester & Kimlinger, 2015)?

➤ *Know your client.* Who are the stakeholders in the outcome of the intervention?

➤ *Be efficient.* What (if any) additional resources does the executive and/or organization have access to, and how can these existing resources be of assistance?

➤ *Know your role(s).* How many "hats" (roles) is the EAP wearing?

➤ *Be organized and accommodating* (as appropriate). Who is the EAP reporting to? Who is the EAP's contact for the organization/executive?

Availability/accessibility of the EAP may need to be greater for impaired executive cases than is typical.

➤ *Be thorough.* What documentation and releases does the EAP need? Are there additional considerations beyond the usual releases? Pay special attention to transparency and informed consent related to any information that will be shared with the board or other executives.

➤ *Be resourceful.* When should the EAP expand its team to bring in additional resources such as organizational psychology consultants, legal, HR or financial?

➤ *Know the obligations and risks.* What state/federal laws may be relevant? By what professional and ethical codes is the EAP bound?

➤ *Be crystal clear.* The foundational relationship elements of trust and rapport can be enhanced in impaired executive cases by making clear the roles and expectations of the EAP. Clarification of boundaries with the executive related to the EAP relationship is necessary and may need to be re-established from time to time over the course of care. ♦

Robert Mines is the CEO of Mines and Associates in Littleton, Colorado. He previously served on the International EAPA Board of Directors. He has been professionally involved with C-Suite clients for over 30 years. Whitney Stone is the president of the Colorado EAPA and is a Behavioral Health/EAP Consultant with Anthem, Inc.

References

Hiester, P. J. & Kimlinger, D.C (2015) *The OWIE: A Brand New Approach to Organizational Well-Being.* Presentation to EAPA's 2015 World EAP Conference. San Diego, CA.

Jacobson, J.M., & Kominoth, C. (2009) Impaired professionals: Unique challenges for employee assistance programs. In M.A. Richard and W. Hutchison (Eds.) *Employee Assistance Programs: Wellness/Enhancement programming*, 4th ed., PP. 319-327. Springfield, IL: Charles C Thomas.

Mines, R.A., Kimlinger, D.C., Moore, Y., Hiester, P., Kent, M. S., & Hull, S.B., (2013), The Organizational Impact of Impaired Health Care Executives or Physicians: A Review and Recommendations. *Journal of Workplace Behavioral Health*, 28: 1-12.

Mines, R.A., Anderson, S & Von Stroh, P. (1991), EAP Ethics and the Professions. *EAP Association Exchange*, 21: 26-29.


Stone, W. C. & Mines, R. A. (2015) *EAP in the C-Suite: Working With Impaired Executives.* Presentation to EAPA's 2015 World EAP Conference. San Diego, CA.

SAPs:
need your 12
hours?

SAPlist U
setting the standard for SAP education

Recent changes,
updated guidance,
and interpretations
to the rules

It's online...
It's convenient...
It's friendly...
It's affordable!



www.saplist.com
click on the apple