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## What we can learn from the medical profession about increasing EQ

Attorneys are more likely these days to face a malpractice claim for having poor relationship skills than for overlooking a statute of limitations.

The successful practice of law requires a high level of emotional intelligence, or EQ for emotional quotient, Randy Kiser, attorney and decision science scholar, writes in his recent article "The Emotionally Attentive Lawyer: Balancing the Rule of Law with the Realities of Human Behavior," from the recent symposium on law and psychology hosted by the Nevada Law Journal.

EQ, defined as self-awareness, self-management, social awareness and relationship management skills, is important not only in avoiding malpractice, but also in excelling in the legal profession.

Kiser cites a study of 2,000 attorneys and law students by law professor Marjorie Schultz and psychology professor Sheldon Zedeck at the University of California, Berkeley, demonstrating that the most successful attorneys have strong competencies in "networking, building relationships, practical judgment and ability to see the world through the eyes of others."

Unfortunately, many other lawyers are less able when it comes to dealing with their own emotions or the emotions of their clients, as indicated by the legal malpractice claims data (and as supported by our own experiences with many lawyers we know and, er, love).

Surprising as it may sound in this era of doctors who seem to practice medicine with their backs to their patients (as they type required data into medical records systems), the medical profession may be ahead of the legal profession in taking steps to improve EQ across the board.

What physicians have discovered is that patient outcomes are affected by skills previously believed to be "extraneous to the

practice of medicine." Kiser cites research showing that about half of all causes of morbidity and mortality in the United States are linked to behavioral and social causes. Many of the reforms in medical education are therefore aimed at developing skills in these areas, including problem-solving and communication.

The legal profession could use similar reform. Attorneys are in the conflict management business after all. Emotions are what drive conflict and the decision-making involved in most client outcomes. It is time for attorneys to get more comfortable with emotions and to overcome the bias that handling emotions skillfully is contrary to "thinking like a lawyer."

Kiser provides several examples of initiatives to ensure that physicians have better EQ.

First, the Medical College Admissions Test now includes a section that tests the "soft" skills, including questions on perception, attention, cognition, emotion, stress, personality, psychological disorders, motivation, heuristics, intuition, culture, socialization, behavior change, identity and bias.

Kiser gives the following example of a test question:

"Which statement is NOT compatible with the hypothesis that self-serving bias can account for participants' explanations of their body weights?"

"A. Obese participants view their unhealthy weight as a result of having too many fast food restaurants near home.

"B. Non-obese participants view their healthy weight as a result of having strong will power.

"C. Obese participants view their unhealthy weight as a result of not having time to exercise regularly.

"D. Non-obese participants view their healthy weight as a result of not having any fast food restaurants near their home."

The answer is D.

Many medical schools also have devised multiple mini-interviews,

### BEYOND DISPUTE



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or MMI, to assess the problem-solving and decision-making styles of applicants, including listening, problem-solving, maturity, creativity, persuasion, tolerance of ambiguity or dissident opinions, flexibility, resilience and empathy.

For the MMI, applicants are subjected to six to 10 assessments where the applicant reads a scenario posted outside a door and then meets briefly with an interviewer. The scenario might involve discussing a medical policy dispute or playing the role of physician in a simulated patient interaction. According to the studies cited by Kiser, research shows that the MMI is a highly reliable predictor of later clinical performance.

In many medical schools, students are taught self-awareness and empathy skills through a variety of methods, including workshops on communication and empathy, 360-degree evaluations, writing assignments regarding traumatic emotional events and a number of self-assessment instruments that measure EQ.

There are even opportunities to watch videos of discussions with patients while the patient is undergoing monitoring for emotional responses as indicated by skin moisture levels.

The most interesting example

offered by Kiser is the observational skills workshop for helping medical students improve their perception and diagnosis skills. Invented in a collaboration between Yale's law and art schools, the exercise involves having a group of four medical students view for 15 minutes a painting "chosen for its rich gestures, vivid expressions and ambiguous setting" and then give a narrative of what they think the painting is all about. The students learn to "listen to and discuss other students' perceptions and interpretations."

Students who were part of these classes demonstrated significant improvement in diagnosing diseases, and the exercise is now used at more than 25 other medical schools as well as business schools.

Lawyers also need to do a better job observing and listening to others. Kiser points out that "just as physicians lose diagnostic acuity as their attention shifts from patient observation to laboratory tests, lawyers lose evaluative capacities as their attention shifts from human expression to contracts and briefs."

In the dispute resolution field, this is known as paying attention only to positions and ignoring interests.

Even if a lawyer has enough EQ to understand a client's interests, she must also help the client untangle his emotions and priorities, understand the other party's interests and be aware of her own biases, weaknesses and default approach to conflict.

While some law schools, including the one where I teach, have been increasing training in client counseling, negotiation and mediation skills, all of which necessarily involve learning listening and other EQ skills, and many schools already have an interviewing process, more needs to be done across the profession.

Fortunately, brain plasticity studies show that with practice, emotional intelligence can be improved.