Encourage clients to eat their conflict management vegetables

Physicians routinely make recommendations to their patients to take difficult steps that involve delayed gratification to prevent and reverse disease. Americans are responding to this advice and are not only quitting smoking and getting more exercise but are giving up gluten and sugar; going to physical therapy, meditation and yoga, counting their steps and hours of sleep and trying foods such as kelp, chia seeds and almond milk.

Even with the availability of incredibly sophisticated surgical techniques, ever-increasing numbers of pharmaceuticals and amazing developments in biotechnology, doctors counsel patients to start with lifestyle changes because they know that the human body is designed to heal itself.

In many circumstances, the human community also can heal itself if those involved are willing to delay gratification and take the long, hard road in preventing and managing conflict.

What if lawyers advised clients on how to deal with, or even prevent, conflict by taking the time to communicate effectively? What if we encouraged our longtime clients not only to confirm agreements in writing, but to engage in frequent and diplomatic communications with anyone they deal with on a regular basis? What if we even recommended books such as “Difficult Conversations: How to Discuss What Matters Most” by Douglas Stone, Bruce Patton and Sheila Heen?

What if we trained our clients that when an employee, vendor, ex-spouse, landlord, co-beneficiary or neighbor is really upset, in most situations, it is in the client’s best interest to sit down with the opposing party and listen to them until they run out of things to say? And if they cannot resolve their issues, to try even harder to communicate, perhaps with the help of a neutral mediator?

None of this is more outlandish than convincing a person to drink kale smoothies or give up bread for the rest of her life.

With a new client it might seem daunting to discuss his or her manner of communication because it could seem like criticism of someone we just met. But doctors do this all the time by taking a medical history.

Lawyers could make it routine to ask clients about past communications and communication habits. Questions could include: Have you had a meeting with X to discuss this dispute? Have you talked on the phone? Have you tried to negotiate this matter? What did that entail? Do you have regular meetings or communications with this group? Does your company have a dispute resolution or grievance process? How do you prefer to communicate with others? By e-mail? Telephone? Text? Are you involved in any other litigation or conflicts?

Explain that although it may be tempting to avoid conflicts or tell people off, it is like eating a high sugar diet — it feels good now, but it might be expensive in the end.

As Benjamin Franklin once said, “Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment.”

Increasing communication competency can be even more critical with younger clients. Just as the standard American diet undermines health, the standard American communication diet of terse text messages, cowardly e-mail and television shows featuring rude personal attacks undermines conflict prevention.

One of the greatest hurdles to preventive measures — whether in medicine or law — is lack of time. Just as it takes a lot of time to cook your own dinner from scratch from organic ingredients and get to the gym three days a week, it takes a lot of time to meet with someone and have a learning dialogue or to reach out to others on a regular basis.

Americans currently do not typically take much time for either eating or relationship-building. They are known throughout the world for their fast-food restaurants and hurry to get to the business part of a conversation.

This makes it even more important that their legal counselors, who are in large part hired to help them to manage or prevent conflict, encourage them to take the long, hard route.

There will still be plenty of work for lawyers. The Internet and newspapers are full of information about how to avoid major illnesses, yet because incorporating demanding lifestyle changes is extremely difficult, many people cannot bring themselves to do it. Making information on communication skills available to clients probably will not cause widespread change either. Most clients will find it hard to change a lifetime of habits and will still end up needing a lawyer.

As professionals with clients’ best interests at heart, we should do what we can to encourage clients to do take the time to invest in preventive communication now to avoid expensive and risky conflicts later. If they ignore us, we can always tell them they have to stay at the table until they are finished.