

## The Lawyer Assistance Program

by Mark E. Goidell

The most comprehensive study ever conducted of alcoholism, substance abuse and mental health issues among lawyers in the United States was published in the February 2016 edition of the *Journal of Addiction Medicine*.<sup>1</sup> The conclusions are alarming: “Attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders at a rate much higher than other populations.... Depression, anxiety, and stress are also significant problems for this population...” The rate of alcoholism in attorneys exceeds 20 percent. The incidence of attorneys suffering from depression, anxiety and stress was reported at 28 percent, 19 percent and 23 percent, respectively. Although the data was insufficient to arrive at any conclusions regarding the frequency of substance abuse other than alcohol, previous studies have reported that the rate of addiction among attorneys is substantially higher than that of the general population.<sup>2</sup>

The volunteer lawyers and professional staff of the Lawyer Assistance Program of the Nassau County Bar Association (“LAP”) are well acquainted with the pervasiveness of alcoholism, substance abuse and mental illness in our profession.

Equally important, we know the paralyzing consequences and symptoms of these diseases and their effects on clients, colleagues and the reputation of the profession. Telephone calls go unanswered, emails are not returned, and deadlines are missed. Excuses, procrastination and neglect pile up while the attorney is incapacitated by the disease and unable to escape its ever-tightening grip. Many are unable or unwilling to come to terms with their ailment and refuse to ask for help until there are dire professional and personal penalties. Tragically, a far too frequent result of delay is death. Alcoholism, drug addiction and some mental illnesses are progressive and inevitably fatal if unchecked.

Alcoholism, substance disorders and mental illness cut across economic, gender, age, social, racial, and all other boundaries, although attorneys in their first 10 years of practice were found to be most vulnerable to alcoholism. They have no respect for partners in large firms, sole practitioners and those in between. These diseases do not discriminate between litigators and transactional attorneys, trial attorneys and appellate counsel.

The LAP helps attorneys to find solutions to the seemingly insurmountable problems of addiction and mental illness. We provide free and confidential assistance to lawyers, judges, law students and their family members who suffer from these diseases. We also offer free and confidential assistance to law firms who seek direction and guidance in the event an attorney becomes or may be impaired.

The confidentiality of our services and all communications with the LAP are strictly protected by statute – Judiciary Law § 499 – which provides a privilege coextensive with attorney-client communications:

The confidential relations and communications between a member or authorized agent of a lawyer assistance committee sponsored by a state or local bar association and any person, firm or corporation communicating with such committee, its members or authorized agents shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privilege may be waived only by the person, firm or corporation which has furnished information to the committee.

Members of the LAP are exempted from the mandatory reporting requirements of the Rules of Professional Conduct for certain ethical violations. Specifically, Rule 8.3(c)(2) creates an exception for “information gained by a lawyer or judge while participating in a bona fide lawyer assistance program.”

The LAP sponsored by the Nassau County Bar Association is one of three professionally staffed lawyers assistance programs in the State of New York. We have been fortunate to receive generous financial and other widespread support from the Nassau County Bar Association, the WE CARE Fund, and the NYS Office of Court Administration. As a result of these contributions, Nassau LAP has a professional Director, Elizabeth Eckhardt, LCSW, PhD (cell: 516-512-2618; email: [eckhardt@nassaubar.org](mailto:eckhardt@nassaubar.org)), who is singularly devoted to the recovery of impaired attorneys.

LAP maintains a toll-free hot line (888-408-6222) which receives calls every day, 24 hours per day, from attorneys seeking help and from others who request assistance and guidance for attorneys. Those communications are, of course, strictly confidential.

Nassau LAP provides formal and informal monitoring services for attorneys and law students seeking recovery and a solution to their alcoholism or addiction. The sources of formal monitoring are courts, the Grievance Committee for the Tenth Judicial District and the Committee on Character and Fitness. Informal monitoring is frequently requested by law firms and others, including criminal defense, family law and grievance attorneys in an effort to assist their client-attorneys through legal ordeals arising from alcoholism, substance abuse or mental illness.

The initial contact with LAP is frequently from the impaired attorney, but also comes from requests placed by his or her family, partners or colleagues. When necessary, we coordinate, facilitate and conduct interventions. The support we provide to the impaired attorney only begins with the initial contact. Our Director conducts an assessment and refers clients to appropriate healthcare providers for rehabilitative and other services. Our volunteer attorneys provide individual peer support for recently referred attorneys. There are monthly, well-

attended support meetings for attorneys, judges, law students and family members in recovery. We also offer training to empower attorneys to help others who are still in need.

In 2010, the Bar Association adopted a Model Policy for use by law firms and institutional entities in their employment relationships with attorneys who are struggling with alcoholism, addiction or mental health concerns. Among other things, the Model Policy is designed to provide impaired attorneys with a meaningful opportunity for recovery while maintaining their employment.

We have been very fortunate to witness, time and again, attorneys who found recovery and thereby restored their practices, reputations and professional relationships. No attorney should suffer from the isolation, loneliness, despair and hopelessness felt so deeply by the alcoholic, addict and depressed. We empathize with the obsession that afflicted attorneys mistakenly believe cannot be successfully overcome without a drug or a drink, and with the compulsion to indulge despite both the desire to stop and the recognition of horrific consequences. We also understand, however, that a solution is well within the reach of any attorney who has a willingness to recover.

The great news is that confidential and effective help is a telephone call, email or website click away.

Thankfully, the recent scientific study published in the *Journal of Addiction Medicine* offers much hope for the future of the profession. The authors express the expectation that their work will “serve to inform investments in lawyer assistance programs and an increase in the availability of attorney-specific treatment. Greater education aimed at prevention is also indicated, along with public awareness campaigns within the profession designed to overcome the pervasive stigma surrounding substance use disorders and mental health concerns. The confidential nature of lawyer-assistance programs should be more widely publicized in an effort to overcome the privacy concerns that may create barriers between struggling attorneys and the help they need.”

Consistent with these conclusions, our outreach efforts target the bar in general and law schools in the metropolitan area. Through the Nassau Academy of Law, LAP makes brief presentations at the beginning of each CLE seminar. Law schools have become keenly aware of the growing problems among law students, and now welcome our presentations to their students to discuss stress management, signs and symptoms of addiction and depression, and the path to recovery.

These efforts are still grossly insufficient to reach the many attorneys in our community who need help. We will be meeting with law firms and others who employ attorneys on Long Island to spread the word about the availability of our services, minimize the stigma still associated with these diseases, and help attorneys to overcome the fear that silences so many of the sick and suffering. Soon, our website portal will be significantly enhanced in order to provide greater educational services, treatment resources and another confidential means of reaching

out for help. In the near future, we will be sponsoring and conducting a CLE at the Bar Association that will educate and carry our message of hope and recovery. We hope that the program will empower the bar to identify potential problems and assist our professional colleagues.

The LAP has only scratched the surface of its potential to assist attorneys in need of our services. The primary obstacles were, are, and will always be misplaced fear and the stigma still perceived to accompany these diseases. Despite increased public awareness and a commitment to confront alcoholism, substance abuse and mental health concerns, these problems persist at disheartening rates. We firmly believe that we are dealing with treatable illnesses rather than moral shortcomings. Please do not permit silence or fear to separate you or anyone else about whom you care from a healthy, happy and fulfilling life and career. Let us know if we can be of assistance.

Mark E. Goidell is an attorney in Garden City, New York and is the Chair of the Lawyer Assistance Committee of the Nassau County Bar Association.

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<sup>1</sup> Patrick R Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 *Journal of Addiction Medicine* 46 (February 2016).

<sup>2</sup> Donna L. Spilis, *ABA Commission on Impaired Attorneys, An Overview of Legal Assistance Programs in the United States* 1 (1991); G. Andrew Benjamin et al., *The Prevalence of Depression, Alcohol Abuse and Cocaine Abuse Among United States Lawyers*, 13 *International Journal of Law & Psychology* 233, 233-46 (1990).