

Getting Help When You Need it

If lawyers have significant personal problems, who should they call for professional consultation and help?

By Richard Carlton

Here is a scenario frequently presented to those of us who work in the field of lawyer assistance:

A colleague or attorney friend is having major problems with his or her practice. You suspect or know that these problems result from substance abuse, depression, other psychological problems, or a combination of these conditions. You know that the road this person is on is downhill all the way, but you feel powerless. You're concerned about your friend's welfare, but you don't want to do anything that will get your attorney-friend in more trouble. Where can you call for free, strictly confidential, knowledgeable advice and assistance with such a situation?

The answer is the Lawyer Assistance Program (LAP). Established by the California Legislature (B&P Code §§6140.9, 6230-6238), the Lawyer Assistance Program is a confidential service of the State Bar of California. Staffed by professionals with many years of experience assisting the legal community with personal issues, the LAP provides assistance to attorneys whose personal or professional lives are being detrimentally impacted by substance abuse, other compulsive behaviors, and/or mental health concerns such as depression and anxiety.

The statute that created the program (SB 479, Burton) states that it is the "intent of the legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety."

The LAP is a comprehensive program offering support and structure from the beginning stage of recovery through continuing care. It includes:

- individual counseling;
- expert assessment and consultation;
- assistance with arrangements for intensive treatment;
- monitored continuing care;
- random lab testing;
- professionally facilitated support groups; and

- peer support groups.

The program also works with family members, friends, colleagues, judges and other court staff who wish to obtain help for an impaired attorney. Attorneys may self-refer into this program or may be referred as the result of an investigation or disciplinary proceeding. In some cases, monitored participation may result in a lower level of disciplinary action. When requested by an attorney who is facing disciplinary charges and whose practice has been impaired by personal problems, the LAP can monitor the attorney's continuing recovery for the State Bar Court's alternative discipline program and for the probation unit.

One of the unique characteristics of this program is that the confidential nature of participation in the program is mandated in the statute that created the program. No information concerning participation in the program will be released without the attorney's prior written consent.

Why do attorneys need their own assistance program?

SUBSTANCE-RELATED DISORDERS — A BRAIN DISEASE

Substance abuse is often referred to as a "brain disease." Although the disease has a profound impact on many of the major organ systems in the body, it is altered brain chemistry that creates the craving for mood-altering substances and explains the loss of control that occurs. The differences in brain chemistry that lead to substance abuse occur in the core of the brain where the autonomic nervous system is regulated — not in the frontal lobe area where conscious, rational decision-making takes place. This altered brain chemistry produces an obsessive, compulsive and irrational need to drink or use drugs despite adverse consequences to the user's own life and health.

DENIAL

As the disease develops, the afflicted individual becomes increasingly unable to accurately perceive what is happening. Denial, rationalization and euphoric recall are natural ego-defense mechanisms that we all utilize. These mechanisms are used in the mind of the addict/alcoholic to avoid facing the embarrassment and shame that would otherwise be overwhelming. The individual also begins to need to defend against the criticism of others and avoids admitting that he or she has a problem that cannot be overcome alone. This powerful defense develops subtly and denial strengthens as the disease progresses.

Substance-related disorders in the legal profession: the challenge

While household studies indicate that roughly 10 percent of the adult population experiences a problem at some point in life as a result of the abuse of alcohol or drugs, some studies suggest that the incidence of this abuse among legal professionals may be as much as 50 percent higher than the general adult population. This apparent occupational hazard is most often attributed to the stress of legal practice, though there may be a natural self-selection process at work as well. The same personality traits that are over-represented in the population of adults who are recovering from substance-related disorders — high achievement orientation, perfectionistic, obsessive-compulsive — also are common in the legal community.

A substance-dependent attorney in the throes of denial presents a challenge, even for the most skillful treatment professional. Many require or expect a greater level of “proof” that the problem exists or that they are no longer in control of their use. They are more inclined to argue these points with concerned colleagues and friends, and even with treatment professionals.

Getting help

The tragic result of these particularly strong ego defenses in the population of substance abusing legal professionals is that only a small percentage of those attorneys who need help with their problems are aware of their need; accordingly, few seek help. Contrary to popular myth, it is not necessary for those close to a substance dependent attorney to wait for the attorney to hit his or her own proverbial “bottom” before help can be successfully rendered. It is neither necessary nor advisable to wait until the attorney, his or her clients, colleagues or family, suffer irreparable harm.

Do not underestimate the value of expressing your concern. Many people who are currently in recovery from this disease are able to reflect back with gratitude toward those who demonstrated the courage to speak up. Many report that this courage helped to save their life. Programs like the Lawyer Assistance Program are available to help with expressing concern and finding appropriate assessment and treatment. You do not have to address these issues alone.

Depression and stress

The practice of law is a challenging experience for many legal professionals. Studies indicate that attorneys experience extraordinarily high levels of stress and depression and have a higher than normal level of job dissatisfaction with their chosen career:

- At least a quarter of attorneys surveyed in multiple studies report suffering from stress so severe it impairs their practice.

- A Florida study revealed that 32 percent of the attorneys reported feeling depressed at least once a week.
- A Maryland Bar Association study found that one in three of the lawyers who responded intended to leave the practice of law within five years.
- A study by the ABA found that 40 percent of the lawyers responding were dissatisfied with their jobs.
- A study of 12,000 adults by a team of researchers from Johns Hopkins University discovered that among all the occupational groups represented in that large sample, attorneys had the highest prevalence of signs and symptoms of clinical depression. The rate of depression among the attorneys studied was 3.6 times the norm for all occupations.

Emotional distress, if not managed or treated, can lead to adverse impacts on an attorney's professional practice, clients, colleagues and personal life. Concerned colleagues and friends, therefore, should encourage a depressed attorney to seek professional help from available resources such as the Lawyer Assistance Program.

Depressed and potentially suicidal individuals often exhibit changes in their mood, appetite and energy level, which can be noticed by colleagues, friends and family members and should be a matter of concern. Common symptoms of depression include:

- feelings of hopelessness;
- restlessness and irritability;
- fatigue or weakness;
- inability to concentrate; loss of appetite; and diminished interest in sex and erection.
- Treatment usually consists of psychotherapy, medication or a combination of the two. Often, people with depression will begin to see positive results within a month of beginning treatment.

Personal and career counseling

Free short-term counseling (up to three sessions) is available through the LAP for any member of the State Bar who is experiencing stress, burnout or depression that is negatively impacting their work performance. Similarly, attorneys facing career challenges may avail themselves of free career counseling through the LAP. To access either of these free services, please call (800) 341-0572. The confidentiality of attorneys accessing these resources is protected by statute.

Seeking help for a troubled friend?

Clearly, legal professionals need an assistance program specifically geared to the unique pressures of legal practice and to the unique recovery support needs of attorneys. The Lawyer Assistance Program is that resource for all legal professionals licensed by the State Bar. Call toll-free 877-LAP 4 HELP (877-527-4435) for confidential assistance for yourself, a friend, colleague or a family member.

• *Richard Carlton is in charge of program development, research, MCLE presentations and short-term counseling for the Lawyer Assistance Program.*

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1. The Lawyer Assistance Program is a confidential service of the Contra Costa County Bar Assn.
2. The statute that created the Lawyer Assistance Program is SB 479, Burton.
3. The LAP is a comprehensive program offering support and structure from the beginning stage of recovery through continuing care.
4. Attorneys must be referred as the result of an investigation or disciplinary proceeding and cannot self-refer into this program.
5. Substance abuse is often referred to as an “organ system disease.”
6. Denial, rationalization and euphoric recall are natural ego-defense mechanisms that we all utilize.
7. A person’s defense mechanisms develop rapidly and overtly.
8. Some studies suggest that the incidence of this abuse among legal professionals may be as much as 75 percent higher than the general adult population.
9. The same personality traits that are over-represented in the population of adults who are recovering from substance-related disorders — high achievement orientation, perfectionistic, obsessive-compulsive — also are common in the legal community.
10. Those close to a substance dependent attorney should wait for the attorney to hit his or her own proverbial “bottom” or help can be successfully rendered.
11. Many people who are currently in recovery from this disease are able to reflect back with gratitude toward those who demonstrated the courage to speak up.
12. At least half of attorneys surveyed in multiple studies report suffering from stress so severe it impairs their practice.
13. A Maryland Bar Association study found that one in five of the lawyers who responded intended to leave the practice of law within three years.
14. A study by the ABA found that 40 percent of the lawyers responding were dissatisfied with their jobs.
15. A study of 12,000 adults, conducted by Johns Hopkins University, discovered that among all the occupational groups represented in that large sample, attorneys had the lowest prevalence of signs and symptoms of clinical depression.
16. Depressed and potentially suicidal individuals often exhibit changes in their mood, appetite and energy level.
17. Treatment for depression usually consists of psychotherapy, medication or a combination of the two.
18. Often, people with depression will begin to see positive results within a week of beginning treatment
19. Free short-term counseling is available through the LAP for any member of the State Bar who is experiencing stress, burnout or depression.
20. The confidentiality of attorneys accessing LAP’s resources is protected by statute.

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MCLE TEST ANSWER SHEET

1. True False
2. True False
3. True False
4. True False
5. True False
6. True False
7. True False
8. True False
9. True False
10. True False
11. True False
12. True False
13. True False
14. True False
15. True False
16. True False
17. True False
18. True False
19. True False
20. True False

Name _____
Law Firm _____
Address _____
City & Zip _____
Telephone _____
State Bar # _____

Mail this completed form and the \$20 testing fee (make checks payable to CCCBA) to:
Michele Vasta, CCCBA, 704 Main St., Martinez, CA 94553.

The Contra Costa County Bar Association certifies that this activity has been approved
for one hour of Detection/Prevention of Substance Abuse or Mental Illness MCLE credit
by the State Bar of California (Provider #393).