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To: The Commission on the Future of Legal Services

From: Terry Harrell, Chair of the Commission on Lawyer Assistance Programs

RE: Proposed Resolution Regarding Model Regulatory Objectives

Date: October 28, 2015

I write you on behalf of the ABA Commission on Lawyer Assistance Programs (CoLAP), which has had an opportunity to review the proposed Resolution on Model Regulatory Objectives, as posted on the Commission's website on October 19, 2015, and shares these comments.

The mission of the Commission on Lawyer Assistance Programs is to assure that all lawyers, judges and law students have access to professional resources when addressing issues of alcoholism, substance abuse and mental health concerns. CoLAP addresses this mission primarily through the support of state and local lawyer assistance programs that provide the hands-on assistance to this population.

The consequences of the issues addressed by CoLAP are quite literally life-threatening and involve the risk of undermining the administration of justice and rule of law. Our research indicates that lawyers and law students use and abuse alcohol at rates far higher than the public in general and suffer from mental health disorders, particularly depression and anxiety, leading to both debilitation and suicide in inordinate numbers. Not only do these circumstances imperil lawyers and judges directly, but they also undermine the ability of the public to turn to the legal system to fairly remedy their problems and seek justice.

Our research also demonstrates a reluctance to use appropriate help-seeking behaviors as a result of misperceptions of the risk of consequences within the regulatory systems. For example, there is a widespread belief among law students that taking formal steps to address mental health issues will create obstacles in both the process of being admitted to practice and in obtaining employment.

Even though the Commission on the Future of Legal Services has admirably included some of the issues that pertain to the matters involving impairment, such as the foremost objective of public protection, CoLAP is concerned that the Commission has not enumerated objectives that would lead to regulatory innovations addressing the needs of legal service providers to confront impairments in the most effective manners for individuals and our legal system.

Therefore, CoLAP encourages the Commission to more fully consider the list of regulatory objectives and consider an additional objective specifically addressing these concerns before moving forward with the proposed resolution. In particular, CoLAP suggests an objective promoting the well-being of legal service providers, the judiciary and law students.

Thank you for considering this important issue. If you have any questions, please contact me at terry.harrell@courts.IN.gov or Will Hornsby, CoLAP's staff counsel, at will.hornsby@americanbar.org.