Stressed Out? Depressed? Drink too Much? Lawyer Assistance Programs Can Help

By the Honorable Robert L. Childers, Chair, ABA Commission on Lawyer Assistance Programs

John used to join his colleagues for happy hour to blow off some steam. But now he was drinking all the time to escape the realities and responsibilities of his job and relationships. John tried to attribute his ragged appearance to a video game obsession that was keeping him up nights, but the alcohol on his breath quashed that excuse. He'd started arriving late to work and then dozing off at his desk. His assistant was struggling to rouse him in time for appointments.

A colleague is pale and thin. She seems agitated, unfocused, and has trouble remembering details. She spends many hours after work exercising at the gym and making excuses for why she cannot attend lunch appointments. She has never had so much as a parking ticket, but then is arrested for shoplifting food.

Getting involved sexually with a man at work was like picking up a drink for the busy, stressed out lawyer. When she was sexually acting out, she was oblivious to how her behavior was affecting other people and herself. She threw away her self-esteem and her position at the office was in jeopardy.

It may be hard to believe that highly educated professionals would be drawn into such dangerous, self-destructive behavior. Unfortunately, substance abuse, mental illness and addictions strike across economic, educational and societal borders. That’s why Lawyer Assistance Programs (LAPs) were created and why they are so important.

LAPs exist in all 50 states and are designed to help lawyers with all types of quality of life issues including drug abuse, alcoholism, stress management, and mental health issues such as depression. Most LAPs use intervention, peer counseling, and referrals to 12-step programs to assist in the recovery process. Nowadays, because of increased education and understanding, lawyers, judges and law students are being helped earlier and often before they can harm a client or themselves.

Most government attorneys have access to employee assistance programs (EAPs) through their office. In some states, LAPs work hand in hand with EAPs, where EAPs will facilitate the services needed including assessments, counseling sessions and referral to resources if more extensive assistance or treatment is necessary. EAPs are prohibited from sharing confidential information about a case without a signed release, but situations may exist where they can refer lawyers to their LAP for support if the lawyer is facing a disciplinary complaint.

LAPs help lawyers who won’t ask for help themselves. LAP calls are usually confidential and in most instances do not require the LAP to report the lawyer to their state disciplinary board. Once a LAP receives a call, it often sends the lawyer a letter, stating that it has received information that the lawyer is having personal problems that may affect her practice. This letter will give information about the LAP and encourage her to make contact or visit her own health care...
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By Laura Gatrell

- Visit the COLAP state directory on the ABA website: www.abanet.org/legalservices/colap/lapdirectory.html. Contact numbers for every state’s Lawyer Assistance Program are listed. For states that don’t have formal LAP programs, the local volunteer committee or contracted EAP is listed.
- Visit your local LAP website. Most websites will have their confidentiality policy posted. Although each state varies in rules and statutes, every LAP’s primary focus is protecting the confidentiality of its clients.
- Most LAPs will allow you to make an anonymous referral; however, this provides some limitations on what kind of assistance can be provided. They may ask your name but reassure you that your name will not be revealed to the person in question. This way they can follow up with you if they have additional questions or concerns.
- Your LAP will listen to your dilemma, ask appropriate questions, and give sound advice. For example, how to proceed with a formal intervention or how to set boundaries and take care of yourself. You can rest assured that you or your colleague cannot get in any trouble as a result of contacting a LAP. You will always walk away feeling better equipped to confront the situation.
- Arm yourself with information. Learn about signs and symptoms of depression, substance abuse, and suicide. Your LAP director can suggest articles, books, and CLEs that will educate you about these issues.
- Involve others. Many times your friends and colleagues have noticed similar symptoms in the lawyer you are concerned about. Each of you may have a unique—but essential—piece of the puzzle. Don’t carry the burden alone.
- Tell others. Once you learn the value of your LAP, don’t keep it a secret. Other people out there need to know that there is a safe place to call when their colleagues are in trouble.

Laura Gatrell is the executive director of the Tennessee Lawyers Assistance Program.
decided that it was time to do more to help our colleagues who were struggling with stress-related issues of substance abuse and depression. Shortly thereafter the Memphis Lawyers Helping Lawyers Committee was formed. We had the support of the judiciary and the bar leaders.

The ABA Commission on Lawyer Assistance Programs coordinates efforts with state and local LAPS. We have a toll-free helpline available for those concerned about a colleague or themselves and an email discussion group for law students struggling to stay sober through the stresses of law school. We also host programs across the country at state and local bar association meetings, as well as ABA meetings; provide speakers for programs; and write articles about stress, depression, chemical and process addictions (gambling, internet spending, etc.), and emotional health concerns.

With Baby Boomers living longer, the commission and state and local LAPS are being asked to provide information and services for age-related illness and career concerns. Many state and local LAPS report that, for the first time, they are receiving a greater percentage of calls for mental health related issues than for alcohol and drug related issues. Johns Hopkins University researchers interviewed 12,000 workers (in 102 professions) in a study on depression and lawyers reporting depression ranked number one. Recently, anecdotal evidence indicates a virtual epidemic of lawyer suicides in some states. In my own state, Tennessee, during an 18-month period in 2005-2006, nine lawyer suicides occurred.

Thankfully, the ABA takes these problems seriously and provides much needed leadership in this area.

Former ABA President Martha Barnett highlighted this issue during her term:

We have made giant strides in our awareness and understanding of the true nature of addiction, whether it is to alcohol or other substances. Substance abuse crosses all socioeconomic lines and often hides behind imposing fronts of respectability, claiming professionals, homemakers, and children alike. Alcoholism and drug addiction are diseases of denial. Often those afflicted are the last to realize or acknowledge their predicament and get the help that is now widely available. Millions remain trapped in a downward spiral of dependency and addiction that eventually will destroy their lives and many of those around them. The tragedy, however, is that the justice system cannot solve the problem if it continues to address substance abuse as if it were a crime rather than a public health issue.


The ABA Commission on Lawyer Assistance Programs stands ready to educate lawyers about the effects of stress, depression, mental health issues and substance abuse, and about how to assist lawyers or their colleagues affected by these issues.

Judge Robert L. Childers is a judge with the Circuit Court of Tennessee in Memphis and chair of the Commission on Lawyer Assistance Programs. For more information on the commission, contact staff director Donna Spilis at 312-988-5359, 1-866 LAW-LAPS, spilisd@staff.abanet.org, or go to www.abalegalservices.org/colap.

### McNulty Memorandum Withdrawn

The Department of Justice recently withdrew its 2006 “McNulty Memorandum” and issued new corporate charging guidelines that expressly bar prosecutors from forcing organizations and their employees to waive fundamental protections during investigations. The ABA fought for more than two years to reverse Justice Department policy that has severely threatened the attorney-client privilege, the work product doctrine, and employee constitutional rights in federal investigations.

While the new guidelines are a welcome improvement over the McNulty Memorandum, the ABA continues to advocate for legislation like S. 3217 and H.R. 3013, the “Attorney-Client Privilege Protection Act.” Unlike legislation, guidelines provide no certainty that critical attorney-client privilege, work product, and employee constitutional rights will be protected in the future. Also, legislation would solve the problem of government-coerced waiver.

Additionally, the Securities and Exchange Commission, the Environmental Protection Agency and the Department of Housing and Urban Development, have informal policies or practices that pressure organizations to waive their privileges and violate their employees’ Sixth Amendment right to counsel and Fifth Amendment right against self-incrimination to receive cooperation credit during investigations.

While the ABA supports and appreciates the DOJ’s new policy, that policy cannot, standing alone, reverse the widespread “culture of waiver” created by these federal policies, a culture that is seriously undermining both the confidential attorney-client relationship and basic employee rights in the corporate community. The ABA will continue to advocate for comprehensive legislation to make the department’s reforms permanent, give them the force of law, and apply them to all federal agencies.

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