

Comments From the Editor...

Welcome to the new members of the Commission and Advisory Commission as well as to our new chair Judge Butch Childers. Please read about our new Commission members in this issue. Goodbye to the departing members and to Richard Soden, our past chair. His only unfilled duty is to ride his bicycle with me and my cycling group on our annual bike ride across Iowa. Get that knee fixed Richard!

But with the passing of the old and the welcoming of the new, kudos and thanks must be given to those who are the “nuts and bolts” of CoLAP. Those folks are the members of the ABA staff who work so hard and so diligently to make CoLAP the great organization that it is. They are as dedicated to our mission and to our success as are all the volunteers who contribute their time and energy to our organization.

I'll take the liberty, on behalf of all of the members of CoLAP, to thank Donna Spilis, Stephanie Watson, Gail Thompson, and Angela Gwizdala. Without them, Highlights wouldn't happen nor any of the other wonderful and beneficial programs and activities of our organization.—Hugh Grady

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Highlights

of the American Bar Association
Commission on Lawyer Assistance Programs

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My Story

by Justice Michael J. Murphy

I have struggled with allowing this story to be published. Part of me wants this part of my life to be forgotten. I am certainly not proud of what I did and did not do while I was under the influence of alcohol. I also realize that there are still many who view alcoholism as a moral failure and not as a disease. I do not intend to hold myself out as a moralist or as the model recovering alcoholic. Let me make it clear that I am not asking anyone to say no to anything. I don't pass judgment on those who use. Most people can use and never get into trouble or get addicted. Neither do I claim to be the model person in recovery. I do claim progress, not perfection, in my recovery.

Recovery has not always been easy and I more than once asked the question, “Why me?” There is always the fear of a possible relapse. I realize that I could remain anonymous and not be subject to the watchful eyes and the judgment of others. In allowing this to be published, it is my prayer that those who read this who suffer from the disease of addiction will see themselves, and seek help

You will not find this on my resume but all who know me, know my story. In 1979 I walked into my first 12-step meeting. I have been on the neverending road to recovery ever since. What this means is that I don't drink. I go to 12-step meetings.

Now it is your turn to know my story and how it is that I became a recovering alcoholic. And to know that I don't drink and, with the grace of God, I will not drink for the rest of today.

The going hasn't always been easy. My struggle with alcohol lasted about a decade. During law school I drank, but seldom excessively. I was committed to the study of law. My grades reflected my efforts. And, in hindsight, reflected my absence from heavy drinking.

When I got out of law school in 1970, I found myself alone. As a young prosecutor I became attracted to a crowd that would stop after work for a few—a few too many. Soon, when the others would stop, I kept going.

I started drinking every day. At some point I felt I could not, not drink. I no longer drank for the taste. Whether you call it a willing servitude or an overwhelming compulsion, I needed to drink. I was an alcoholic.

I began to preemptively stock up on alcohol. I feared that I would have no liquor and the stores would be closed. I could not bear to run out. I lived alone, yet I found myself hiding bottles in the bathroom and in closets. I feared that if I had a visitor, I did not want that person to know how much booze I had around. I carefully disposed of the emptied bottles in the garbage. I didn't want my cleaning person to know how much I drank.

If I were out with friends or on a date, I would excuse myself and sneak off to the bar for a quick shot or two. I was ashamed of how much I could and did consume. My tolerance increased at an alarming rate.

I found myself going to different bars and different liquor stores so the bartenders and storeowners would not detect the copious amounts I was downing. When I was drinking, I tried to

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attracted to a crowd that would stop after work
for a few—a few too many.*

My Story

(continued from page 1)

avoid people I knew. Normal drinkers would not understand my remarkable ability to immerse myself in the strong waters, which drain the soul rather than cleanse it.

At some point I realized that I had lost control over my drinking. Alcohol had me in a cruel vise. Drink became my closest friend, my lover, and my life. Too often I promised others or myself that I was quitting, only to break that promise and fall into depression over my failure. I would often say to myself that I was only going to have one or none at all, then wake up hungover in the morning.

Then the blackouts started. A blackout is a permanent or temporary loss of memory caused by alcohol. An alcoholic can act quite normally and carry on a logical conversation and not recall it the next day. The person need not be drunk. I would drive home and have no recollection of the drive or where I parked my car.

One incident stands out over the others. I was stopped on Lake Shore Drive going 45 in a 40 zone. It turned out that I knew the officer well. He had messed up with his commander and was placed on traffic detail as a result. We talked for some time and then I went on my way. The next day I didn't recall either the stop or the ride home. I found my car, and to me it was just another memory loss. The next week I ran into the officer at a social gathering. He began talking of our meeting on Lake Shore and how he was now off of the traffic detail. The more he talked, the more my memory came back. I asked him if he thought that I had too much to drink that night and he replied that he did not think I had been drinking.

During this time I continued working and, apparently, I did an acceptable job. I spent twice as many hours producing the same amount of work as a sober lawyer. I tried to do routine things in the morning, and as my mind cleared in the afternoon, I would take on more challenging tasks. Like many alcoholic attorneys, the last thing to go is the professional pride.

The end did come. And it came quickly. I needed more and more alcohol. Blackouts occurred too frequently. My health began to deteriorate. I was depressed over the drinking and faced periods of anxiety over the prospect of stopping. I remained alone drinking for five days and then on a Friday afternoon I picked up the telephone. I called for help. That night a man picked me up and took me to my first 12-step meeting.

What happened to me is not normal. Nor-

mal people do not act the way I was acting. But I was a normal alcoholic. Most normal people do not hide bottles, do not sneak drinks, do not go to different bars and stores to purchase booze so they will not be noticed, and they most certainly do not have blackouts. Most people can elect to drink or not to drink. Alcoholics cannot, not drink. Alcoholics act the way I acted because it is the nature of the illness.

Recovery and helping others has shaped my personal and professional life.

Yes, when I started in recovery in 1979, I fought it. I was addicted to alcohol. My body and my mind craved it. I was being asked to give up the number one thing in my life. It came before my friends, before my work, and before my family. I loved it, but hated it for what it was doing to me. That personal struggle was difficult and intense. Yet with the help of other recovering alcoholics, I was able to get dry and then work on changing my life.

In recovery I learned that I was powerless not only over alcohol but over so many other aspects of my life. I began to accept this powerlessness, and my life became more manageable. I came to accept that there was a higher power and I turned my problems over to that power. In the beginning that higher power was the 12-step program and the people in the program. As time passed I accepted the

spirituality of the program and now the higher power is God, as I understand God.

Today, each day, I make a conscious decision to turn over my will, my life, and the many problems that I face to God's care. This does not mean that I don't continually strive to solve the problem, but by turning the problem over I am accepting the outcome.

I embraced the 12 steps and integrated them into my life. As a result, my life changed. I found myself in a more peaceful, accepting place. I returned to my family. I united with old friends and made new ones who accepted me the way I am, for what I am. My work improved, and I was promoted. I reached out and began helping others in the program.

In my early recovery I learned of the newly formed Lawyers Assistance Program (LAP). I was attracted to it and its basic goal. LAPs then, as now, offer help and hope to the impaired attorney, law student, or judge. All of the help and hope is given in the strictest of confidence. As long as I have been associated with LAPs I have never heard of a breach of this confidence. In LAPs, I have seen professions saved. I have seen families saved. I have seen lives saved.

Recovery and helping others has shaped my personal and professional life. I was elected as an associate judge in 1985 and elected a circuit judge in 1994. I joined the appellate court in 2005. I am most grateful not only for the opportunities I've had since recognizing my inner-storm but also for the strength to overcome it and again live in a way that expresses my deepest values.

With the help of my higher power I shall always have my door and my heart open to someone in need of assistance with his or her recovery.

For Students in Recovery

A listserv has been developed by the ABA Commission on Lawyer Assistance Programs (CoLAP) to provide a confidential e-mail vehicle for law students who want to get, or stay, clean and sober while in law school. This is a chance for students to connect with and ask questions of their law student peers throughout the United States and share their experience, strength, and hope. To be added, interested law students should email CoLAP's director, Donna Spilis, directly (spilisd@staff.abanet.org). Students should be prepared to talk a bit about their history and about their need and desire to communicate with other law students facing similar challenges. Ms. Spilis will make the final determination to add the student to the listserv and will provide each student with the rules and regulations regarding use of the "Students in Recovery Listserv." When a student graduates and is admitted to the bar, he/she will be removed from the listserv.

Drugs, Alcohol, and the Americans with Disabilities Act: Balancing the Interests of the Legal Profession between the ADA and Recovery of the Individual

by Rick B. Allan

The Act

The American Disabilities Act (ADA) defines disability as a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment. In order to be protected under the ADA in an employment setting, (or admission to the bar) the person with a disability must be "qualified" meaning that they can perform the essential functions of the job, with reasonable accommodations if needed.

The ADA is quick to address alcohol and illegal drug use and starts by stating that the term qualified does not include any employee or job applicant who is currently engaging in the illegal use of drugs. In accordance with its intent to promote recovery, the ADA carves out three exclusions for a qualified individual with a disability. An individual can provide proof that they have successfully completed a supervised drug rehabilitation program and that they are no longer engaging in the illegal use of drugs or that they have been rehabilitated successfully and are no longer engaging in such use. If unable to provide evidence under the first exclusion, under the second they are allowed to show that they are participating in a supervised rehabilitation program and are no longer engaging in drug use. Lastly, if appropriate, an individual may submit evidence and prove that he/she has been erroneously regarded as engaging in drug use in the first place.

The act attempts to balance the rights of the employer (or bar admissions) and the employee (or bar applicant). The employer may prohibit the illegal use of drugs and the use of alcohol at the workplace by all

employees. This is obviously not possible for bar admissions. The employee can be required to not be under the influence of alcohol or engage in illegal use of drugs at the workplace. Often employees are required to behave in conformance with the requirements established in the Drug-free Workplace Act of 1988. The employer may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment, job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee. There are additional federal regulations regarding alcohol and the illegal use of drugs for employees in safety sensitive positions.

Under the ADA, an alcoholic is a person with a disability and may be entitled to a reasonable accommodation if she or he is qualified and can perform the essential functions of the job. If the use of alcohol affects job performance or behavior to the extent that the alcoholic is not qualified, the employer may discipline, discharge, or deny employment to the alcoholic.

Balancing the Integrity of the Bar with Promoting Recovery

In our search for a balance between integrity and recovery, where do lawyers and future members of the bar fit in? A lawyer's license signifies to the public that the lawyer has been qualified as honest, reliable, and competent to practice law. The courts, bar admission, and discipline authorities have a legitimate, if not paramount, interest in assuring the character and fitness of lawyers. One method of assurance is to screen applicants to the bar.

In the context of drug, alcohol use, and mental disability, how can this assurance be achieved while not making inquiries that will inhibit persons from seeking recovery or counseling?

The Michigan experience is illustrative of the problem and solution. Traditionally, the application for state bar licensure in Michigan had included the following questions: Are you now or have you ever been addicted to, dependent upon or undergone treatment for, or obtained professional counseling concerning the use of, intoxicating liquor or narcotics or other drug substances, whether prescribed by a physician or not? If so, identify the involved substance, the nature and use, and the names and addresses of involved physicians or other health care professionals and institutions or consultants.

Bar application questions similar to Michigan's have been found to violate the ADA. Most of the challenges have been to the mental health questions. Title II of the ADA, which applies to governmental entities such as a State Bar Character and Fitness Commissions, provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Courts have found that states that ask broad mental or physical health questions or substance abuse questions are acting in a discriminatory manner because the questions focus on the person's status as a person with a disability, not on the current ability to practice law.

Broad inquiries into a person's mental health or substance abuse history may also have an insidious and detrimental effect.

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Highlights is a quarterly newsletter published by the American Bar Association Commission on Lawyer Assistance Programs for the news and information exchange needs of the lawyer assistance programs community. Comments and proposed articles should be directed to spilisd@staff.abanet.org. Staff Director of the ABA Commission on Lawyer Assistance Programs, Donna Spilis; Chair of the newly created Publications Board and *Highlights* Newsletter Editor, Hugh Grady; Staff Editor, Angela Gwizdala; Layout & Design, Gail Thompson; Events Editor, Leigh Stewart. All reprint rights are reserved. American Bar Association ISSN Pending. © 2007 American Bar Association. For reprint permission contact Manager, ABA Copyrights & Licensing, ABA Copyrights and Contracts Department, Fax: 312/988-6030 or Email: copyright@abanet.org.

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The Big Picture

by Jim Brady

I was very busy pondering the meaning of life and cosmic consequences when my wife reminded me that I needed to pick up the dry cleaning. What a great snapshot of life. We are forever bouncing back and forth between the sublime and the ridiculous, between the grand and the petty. I keep a couple to-do lists on my desk, with a careful accounting of all the tasks that are mine to do. I even have one at home, to make sure I don't forget about some of those little chores that keep the place running. But is that all there is? Of course not! We shall ever be far more than the sum total of all our accomplishments, whether grand or petty.

With the pace of life today, with the demands on us to produce, it's common to hear someone urge us to keep our nose to the grindstone. What does that mean? I have seen an old farmer sitting at a large stone grinding wheel. He pushed the pedals to make the wheel spin, then set his hand scythe against the wheel to grind its edge fine. He watched intently, keeping the angle just right against the stone, and slowly moving the blade along as the stone did its work. This fellow was oblivious to the barn yard around him as he focused on the task. That's the origin of our expression. The image is not so much of extremely hard work, but of close focus on small

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details to get something just right.

But I say it's not enough. I say that we all need to look up, probably frequently, and search out the big picture. How does our grinding make sense to our great mission? What are you really about in your community and your family?

Any lawyer with a decent practice will be grinding away, on the phone, researching, drafting, moving documents here there and everywhere, rushing to court, rushing back to meet someone, and taking calls along the way. That's grinding! So what's it for? Is it just to pay the bills and build the college fund? Is it to get some people squared away with each other so the community is better? Is it just to check those items off on that infernal and eternal list? I suspect that a few lawyers do all they do just to see if they can actually do it. The famous psychiatrist Victor Frankl wrote that people could stand anything as long as they saw the meaning in it. I think we'd best be looking for some meaning.

I came across this observation by a fellow named Robert Holden: "If you think you need to get it all done before you can be happy, consider that on the day that you die, you will have e-mail in your inbox." Sounds right to me. I'm sure there will still be some unfinished items on my to-do list, and I'm pretty certain that my list at home will still have 'clean the garage' undone. There will always be more to do.

So what does it mean? That's a tougher puzzle to solve than just ticking off the items on today's busy list. But it's time to look up, to look around, and find the meaning in it all. Our friends in recovery fellowships have a big head start on us in this regard. In their famous

twelve steps, they deliberately take the time to establish a conscious contact with God, and seek out his will for their lives. They have hammered out an assurance for themselves that there is a higher power that is adding meaning to all the grinding, and maybe even some guidance along the way.

I suspect that some grinders don't want to look up, for fear they won't find that sort of meaning. Best to stay busy, and keep your head down. Others can barely breathe, and must take their glimpses of the big picture in snapshots only. Others can take the time to ponder, to read, to listen to the wise as they make sense of things for themselves.

There's an old joke about a traffic cop who stops a snazzy convertible on the highway. "You were going really fast," says the cop, "where are you going in such a hurry?" "I have no idea," says the driver, "but I'm making great time!"

My meaning may not be the same as yours, but that's just fine, too. Perhaps you are busy fashioning a legacy, or living out your convictions about a higher power's mission for you. Perhaps you have a vision about your part in the mission of justice. Perhaps you grind away for the sake of future generations. Fine by me. But I think it's awfully important that you know what shapes that big picture for you.

I have to run get the dry cleaning, so I can check it off the list. But I can think about things on the way.

Jim Brady has been director of the Missouri Lawyers Assistance Program since 2005. He is a licensed clinical social worker with a background in both mental health and chemical dependency treatment.

Drugs and the ADA

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They may inhibit individuals from seeking treatment for a disability because they fear that a record of having sought or received treatment may be an obstacle to admission.

Michigan initially resolved the issue with the following questions: Have you ever used, or been addicted to or dependent upon, intoxicating liquor or narcotics or other drug substances, whether prescribed by physician or not, the use of, addiction to, or dependency

upon which permanently, presently, or chronically impairs or distorts your judgment, behavior, capacity to recognize reality or ability to cope with the ordinary demands of life? Have you ever used, or been addicted to or dependent upon, intoxicating liquor or narcotics or other drug substances, whether prescribed by a physician or not, the use of, addiction to, or dependency upon which permanently, presently, or chronically impairs your ability to exercise such responsibility as being candid and truthful, handling funds, meeting deadlines, or otherwise representing the interests of others?

State bar examiners, working through the National Conference of Bar Examiners, have adopted similar language and questions.

The ADA supports referral of lawyers, judges, and law students to rehabilitation programs. It is imperative that each member of the bar ask themselves whether they do enough to assist fellow members or potential members with substance abuse and mental health problems.

Rick B. Allan is the director of the Nebraska Lawyers Assistance Program and a Commission member.

A Good Example from the State Bar of Texas

A Resolution Supporting Texas Lawyers' Commitment to Wellness

Whereas we acknowledge that lawyers experience one of the highest rates of depression of all the professions and that depression is frequently associated with substance abuse,

Whereas we believe it is important to work toward the goal of decreasing the rate of depression and substance abuse among Texas lawyers and encouraging our members to make an overall commitment to good health and wellness,

Whereas we acknowledge that long work hours are generally the norm in the legal profession,

Whereas we recognize the need for lawyers to find outlets to eliminate the stress that comes with the practice of law that can lead to depression and substance abuse,

Whereas we recognize that good mental health and wellness will not only enhance the reputation of the profession and the well-being and work product of attorneys across the state of Texas but will also further the goal of protecting the public from attorneys whose performance is impaired by stress or mental health and substance use disorders,

Whereas we believe it is important to strive for the mutual goal of setting expectations for lawyers that will simultaneously meet the needs of their clients and the needs of the lawyers for maintaining good mental health and wellness,

Be It Therefore Resolved that the State Bar of Texas is committed to the goal of decreasing the rate of depression and substance abuse among its members and supports Texas lawyers' commitment to wellness. We urge law firms, corporate legal departments, courts, agencies, legal services organizations, government offices, and all other employers of lawyers to sign a statement supporting lawyers' commitment to wellness. We ask these organizations to work with local bar associations, the State Bar of Texas, and the Texas Lawyers' Assistance Program to increase education and understanding about mental health and substance abuse problems in our profession. We commit to working together to find creative solutions that will continue to achieve the highest quality work product possible in an atmosphere that recognizes and supports the needs of attorneys to maintain and sustain a healthy mind, body, and soul

ADOPTED this 26th day of January 2007 by the State Bar of Texas Board of Directors.

Martha Dickie
President
State Bar of Texas

Gib Walton
President-elect
State Bar of Texas

witnessed by

Robert A. Black
Chair of the Board
State Bar of Texas

John P. Edwards
Executive Director
State Bar of Texas

CoLAP and Advisory Commission President William H. Neukom Appointments

2007–2008

Commission on Lawyer Assistance Programs

1. Robert L. “Butch” Childers, Chair 2007–2008

Judge Childers, a native Memphian, has been the presiding judge of Division 9 of the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis since 1984. He is a graduate of the University of Memphis, School of Business and the Cecil C. Humphreys School of Law. He is a past president of the Tennessee Judicial Conference and the Tennessee Trial Judges Association. He has served as special judge of the Tennessee Supreme Court Workers’ Compensation Panel and the Tennessee Court of Appeals.

Judge Childers is a commissioner for the Tennessee Lawyers Assistance Program (TLAP) and is the vice-president of the Memphis Lawyers Helping Lawyers, Inc. He has also served on the American Bar Association Commission on Lawyers Assistance Programs (CoLAP) and is currently a member of the CoLAP Advisory Commission. Judge Childers is a charter member of the Leo Bearman Sr. American Inn of Court.

Judge Childers has incredible leadership qualities, an understanding of bar association work, as well as experience working with addictions, stress, and depression in the profession. He was instrumental in the development of the three-year Law School Assistance Committee, which has resulted in a Tool Kit for Law School Administrators, a listserv for recovering law students. For all these reasons, Judge Childers is an outstanding leader for CoLAP and representative of the ABA.

2. Betty M. Daugherty

Mississippi Lawyers and Judges Assistance Program, Jackson, Mississippi—Reappointed

3. Hugh G. Grady

In addition to the work he does for CoLAP, Hugh’s full time position is director to the Iowa Lawyer Assistance Program. He is a certified alcohol and drug counselor. He has been one of the great gifts to the Advisory Commission because of his passion for saving lives and careers in the profession.

Hugh has done an incredible job of increasing and improving the content of the CoLAP newsletter, *Highlights*, by soliciting

articles from the treatment facilities on substantive topics that are of interest to the readers. He has convinced them to do this with little marketing opportunity other than recognition of the facility they represent under their name. Hugh has contributed many hours to CoLAP by writing summaries of discipline cases rooted in addictions (alcohol, drugs, gambling, sexual) and mental health illnesses (stress, depression, etc.) since 2001 for the CoLAP annual National Conference.

4. James O. “Jim” Heiting

Jim is the managing partner of Heiting and Irwin and has been practicing law since receiving his doctorate degree in law in 1976. He was admitted to practice before all courts of the state, the federal courts, the United States Court of Federal Claims, and the California and United States Supreme Courts.

Jim has served as a judge pre-term in Superior Court, appointed mediator in Federal District Court, and continues to serve as a privately requested and court appointed arbitrator and mediator in state courts and the California Court of Appeal. He has been an invited speaker, lecturer, and panelist for the state bar and a variety of legal and community organizations across the country.

Emphasizing civil litigation in his career, Jim represents clients throughout the state in bringing and/or defending a wide variety of claims, with the usual emphasis being in wrongful death, serious injury, professional malpractice, and similar litigation. He is recognized as a successful, tough, and tenacious lawyer.

5. W. Terry Sherrill

Sherrill and Emehel, PA, Charlotte, North Carolina—Reappointed

6. Orgena “Gena” Singleton

South Texas College of Law, Houston, Texas—Reappointed

7. Barbara F. Smith

New York State Lawyers Assistance Trust, Albany, New York—Reappointed

8. James E. “Jim” Smith Jr.

Jim has engaged in the private practice of law in Little Rock since 1982. He received his JD from the University of Arkansas. Jim was a

law clerk to the Hon. Arnold M. Adams, U.S. bankruptcy judge. His practice areas include bankruptcy and construction law, and general business litigation. In addition to being a member of the ABA and a few Sections and forums, he is active in the Arkansas Bar Association where he has chaired the Lawyers Helping Lawyers Committee and is a member of the Arkansas Supreme Court Lawyer Assistance Program Committee and chair of the Arkansas Lawyer Assistance Program Foundation.

He has served on the Advisory Committee to the Commission on Lawyer Assistance Programs for three–one year terms and will be the local arrangements chair for the 2008 National Conference for Lawyer Assistance Programs, which will be held in Little Rock. His participation on the Commission is needed to provide insight from the solo practitioner and as a practicing lawyer.

9. Frederick B. “Rick” Allan Jr.

Rick was appointed in January 2006 by then-ABA president Greco to fill a vacant position on the Advisory Commission due to a resignation, and he was again appointed for the 2006–07 year. Rick has been the original and only director for the Nebraska Lawyers Assistance Program. He is a certified interventionist and has been actively involved as a volunteer with the Nebraska State Bar Lawyers Assistance Committee and its predecessor, the Advisory Committee on Alcoholism and Drug Abuse. He is an active volunteer on two governing boards of local treatment facilities.

Rick was responsible for expanding the Nebraska LAP from an alcohol and drug assistance program for lawyers to a comprehensive LAP providing assistance to lawyers with stress, depression, and other mental health problems as well as all process and chemical addictions. His region has seen increased use of methamphetamines among professionals, which has increased his awareness of the seriousness and devastation of this highly addictive drug. CoLAP has a need for active participation from this midwest to southwest region, and Rick can greatly meet that need.

10. Richard B. Vincent

Maryland State Bar Association Lawyer Assistance Program, Baltimore, Maryland—Reappointed

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Appointments

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Advisory Commission to the Commission on Lawyer Assistance Programs

1. Ian D. Aikenhead

As an international associate, practicing lawyer, and active member in bar association activities, Ian brings exceptional expertise to the Advisory Commission with potential for eventually serving as a commissioner. CoLAP has strong connections to the Canadian LAPs in the provinces, and Ian can serve as a liaison to that group.

He is a partner with Aikenhead Moscovich & Jones where he has practiced for thirty years. He is a trial lawyer who assists clients in personal injury, family, construction, and commercial litigation as well as labor mediations. He has been an active proponent of, and participant in, the mediation of civil cases for many years.

He states that his most fulfilling work for the past ten years has been working as a lawyer assistance program volunteer. Ian has been a long-time attendee at CoLAP's National Conference for LAPs and has participated as a presenter and most recently as part of the planning committees.

2. Joan Bibelhausen

Joan is executive director of Lawyers Concerned for Lawyers (LCL) in Minnesota. She received her JD from the University of Minnesota Law School and has significant additional training in the areas of counseling, mental health and addiction, diversity, employment issues, and management. She is a founding member and previous chair of the Minnesota State Bar's Life and Law Committee. She owned and operated a career development and consulting practice, where she developed a particular focus on lawyers with disabilities, prior to taking her position at LCL.

She is a member of the ABA, Minnesota State Bar, Hennepin and Ramsey County Bar Associations, and Minnesota Women Lawyers. She has been an active member of CoLAP's National Conference for Lawyer Assistance Programs Planning Committee for a few years, and has spoken and written on career and life balance and satisfaction, stress, diversity, marketing, and other issues of concern to the legal profession.

3. Leah M. Briick

Lifeskills of Boca Raton, Boca Raton, Florida—Reappointed

4. Myer J. "Michael" Cohen

Florida Lawyers Assistance, Inc., Ft. Lauderdale, Florida—Reappointed

5. Tim Denison

Tim is a 1991 graduate of the Brandeis School of Law. His primary areas of practice are criminal defense, disciplinary defense of judges and lawyers, and domestic relations. He is licensed to practice in all state and federal courts in Kentucky, the Southern District of Indiana, the United States Sixth Circuit Court of Appeals, and the United States Supreme Court. A frequent lecturer on professional ethics, attorney disciplinary defense, and professional malpractice, Tim is a strong proponent of local, state, and national Lawyer Assistance Programs.

6. Joyce W. Funches

Solo Practitioner, Jackson, Mississippi—Reappointed

7. Laura Gatrell

Laura is the Executive Director of the Tennessee Lawyers Assistance Program, holds a master's degree and is both certified and licensed as an employee assistance professional (CEAP). She has worked over fourteen years in the alcohol and drug field as a therapist, trainer, and educator.

She is currently the president of Middle Tennessee's Employee Assistance Professional Association (EAPA) chapter, and the vice-president of S.H.A.R.E (Songs of Hope, Awareness & Recovery for Everyone). She received the Tennessee Employee Assistance Professional of the Year Award in 2003. She has served on the Board of Directors for the Alcohol and Drug Council of Middle Tennessee, United Way, and Nashville Prevention Partnership.

8. Terry L. Harrell

Terry earned her JD from Indiana University School of Law and practiced with Ice Miller Donadio and Ryan and clerked for Judge William I. Garrard on the Indiana Court of Appeals. She continued her education and obtained her MSW, LCSW (Licensed Clinical Social Worker), and national certification as a drug and alcohol counselor (MAC) and worked for Midtown Community Mental Health Center in the areas of inpatient treatment, crisis/emergency unit, adult outpatient services as a therapist and clinic manager. She was involved in an innovative program for severely emotionally disturbed adolescents. In addition to the ABA, she is a member of the Indianapolis and Indiana State Bar Associations, and a member of the ISBA's Professional Legal Education, Admission and Development Section, and Solo and Small Firm Section. She became executive director of the Indiana Judges and Lawyers Assistance Program in 2002 after serving as clinical director for two years.

She has been a regular participant at the

ABA National Conference for LAPs in order to network with staff and volunteers of other state programs.

9. George Hettrick

George, a partner at Hunton & Williams, was chair of the Virginia Lawyer Assistance Program, when it received the funding to hire the first program director (Susan Pauley), and had the gala 10th anniversary conference in 1995 with Father Martin from Father Martin's Ashley presenting. He is an active member of the Virginia Bar Association and has extensive experience in all aspects of LAP responsibilities including education, investigations, interventions, monitoring, and advocacy. He has been a frequent speaker on addiction to alcohol and other drugs at many state and local bar forums and law schools.

10. William R. Leary

Louisiana Lawyer Assistance Program, Houma, Louisiana—Reappointed

11. Robin F. McCown

Talbott Recovery Campus, Atlanta, Georgia—Reappointed

12. Andrea L. Rocanelli

Andrea is the chief counsel of the Office of Disciplinary Counsel for the Delaware Supreme Court (ODC). Andrea's work as chief counsel also includes identifying lawyers with substance abuse and/or mental health issues and assisting them in obtaining professional rehabilitative treatment. She worked with the Delaware Supreme Court and committees of the Delaware State Bar Association to develop more effective mentor relationships for troubled attorneys. In addition, she was part of task force appointed by the court in 2006 to create and fund the Delaware Lawyers' Assistance Program for members of the bench and bar with alcohol, drug, gambling, emotional, behavioral, or other problems that effect well-being and professional performance.

13. Janis Thibault

Janis brings to CoLAP needed representation from the successful western state lawyer assistance programs in order to assist those states that are still struggling to create their programs. She is the director of the Lawyer Assistance Program of the State Bar of California. She has been a licensed marriage and family therapist and is a certified alcohol and drug abuse counselor. Prior to coming to the bar in 2002, she worked in the Physician Diversion Program of the Medical Board of California as the program manager. She is able to compare similarities and differences between the medical and legal professionals.

Janis has also worked in private practice

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Around the LAPs

ALABAMA: The Alabama Lawyers Helping Lawyers (LHL) Committee has recently appointed Sabra Barnett as the 2007–09 committee chair. She is an associate with Bradley Arant Rose & White LLP, in Birmingham, Alabama. She is a member of the firm's Construction and Procurement and Governmental Affairs Practice Groups. She has been serving on Alabama's LHL Committee for several years. We are excited to have her as chair and look forward to her leadership and guidance. Congratulations Sabra.

The Alabama Lawyer Assistance Program sponsored its second silent auction during the Alabama State Bar's Annual July meeting at the Marriott Grand Hotel, in Point Clear Alabama. More than \$6,000 and counting was raised for the Alabama Lawyer Assistance Foundation (ALAF). ALAF is a nonprofit corporation [501(c) (3)] under the management of an elected board of directors. The purpose of the foundation is to provide financial assistance for treatment to Alabama lawyers suffering from addictions and other mental health disorders that lack the resources to pay for appropriate help. ALAF helps lawyers secure treatment at the most crucial time in their lives. —*Jeanne Marie Leslie*

ARKANSAS: This quarter, Sarah Cearley, director of client services, and several Arkansas Lawyers Assistance Program (ArLAP) participants are raising awareness of ArLAP throughout Arkansas with numerous presentations to bar organizations. ArLAP participants tell their personal experiences

with ArLAP's services in addition to topical presentations by Cearley. The result has been new participants enrolling for services. The staff and committee are grateful for their willingness to share such personal experiences.

ArLAP has a new website that has resulted in nearly 500 hits since it posted in late June. Visit the new site at www.arlap.org and make note of our new e-mail addresses!

The big news from Arkansas is the Commission on Lawyer Assistance Programs (CoLAP) National Conference and the International Lawyers in Alcoholics Anonymous (ILAA) Annual Meeting in Little Rock, October 21–24, 2008. The state is beginning to organize committees of lawyers and judges willing to work with CoLAP and ILAA to make both conferences a grand southern experience. Come on down and see the William J. Clinton Presidential Center, stroll through the beautiful River Market, see Little Rock's historic sites, and enjoy golf, fishing, arts, and more. —*Sarah Cearley*

COLORADO: All is well in Colorado. Colorado Lawyers Helping Lawyers (CLHL) just completed a series of presentations to the incoming classes at the Sturm College of Law (University of Denver) and the University of Colorado Law School. Both schools welcomed CLHL, and both are very supportive. The focus of these presentations has been on stress management. These presentations have proved fruitful as we have enlisted several law students to join our peer support group. In fact one student has been so enthusiastic that we are considering adding him to our board. We have several

more law school programs scheduled later this year and in 2008.

In addition to adding a law student on our board, we have added a representative from the Association of Law Office Administrators. Our hope is to be able to make more presentations to larger firms and their staff. We also will be reaching out to minority and specialty bar associations over the next six months.

We are still on a very tight budget. We have no paid staff and rely entirely on the enthusiasm of our peer support members and other volunteers. Some may recall we have a unique relationship with another peer support program—Peer Assistance Services (PAS). We have a joint venture with PAS, which can provide peer support to other areas of the state where there is little demand for a working peer support group. PAS now provides services to sixteen lawyers throughout the state. This has been a godsend in that this relationship has provided added confidentiality and anonymity for lawyers who are reluctant to self-identify in a peer support program. We could not provide this service without the support of PAS. Barbara Ezyk who serves as director of substance abuse education for PAS is also on our board and helps keep me focused and energized.

—*John S. Holt*

OREGON: This year, the Oregon Attorney Assistance Program (OAAP) celebrates 25 years of confidential assistance to the legal community of Oregon. Over the last 25 years, the OAAP has helped over 10,000 lawyers!

—*Barbara S. Fishleder*

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Appointments

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and in substance abuse and psychiatric treatment. She has been a strong supporter of the work of CoLAP, participating on several of its subcommittees and attending many business meetings as well as national conferences. She has participated on the planning committees for these conferences, as well as facilitating panels and presenting as an expert speaker.

14. Janet Piper Voss

Illinois Lawyers Assistance Program, Chicago, Illinois—Reappointed

15. Alfred "Cal" Baker

Cal served as CoLAP's Law Student Division Liaison and was an active participant on the Law School Assistance Committee. He has been a regular attendee at CoLAP business meetings and National Conferences, and has presented reports on the progress of the "Substance Abuse in Law Schools: A Tool Kit for Law School Administrators." This tool kit was co-authored by Cal and Dean Gena Singleton. He presented on a panel at the Association of American Law Schools (AALS) Annual Meeting this past January instructing the attendees on how to use the Tool Kit in setting up a student assistance program. This publication produces revenues for CoLAP and was distributed to ABA's Package Plan. He developed the peer

assistance program at South Texas College of Law. He was interviewed by ABA's *Student Lawyer* magazine and the *National Jurist* about substance abuse in law schools. Now as a law school graduate, he continues to be a valuable asset to CoLAP because of his recent law school experience, but also because he has been a licensed Chemical Dependency Counselor since 1994 and was formerly the executive director of one of the largest men's treatment centers in Texas. He has worked as a program coordinator for an adolescent and family program, and sits on the boards of two local non-profits. He is a strong supporter of CoLAP and ABA and brings the academic perspective to the Advisory Commission, which currently is not represented, in addition, to clinical experience and skills.

State Roll Call

Please read about some of the accomplishments of a few of the LAPs this past year.

CALIFORNIA—Lawyer Assistance Program of the State Bar of California

Continued expansion to ten full-time clinical staff, nineteen licensed group facilitators, and forty-three professionally facilitated group meetings throughout the state.

FLORIDA—Florida Lawyers Assistance, Inc.

Joint initiatives with the Florida Bar Center for Professionalism and law schools on addressing stress and unprofessional behavior at earlier stages and in new ways.

HAWAII—Hawaii Supreme Court Attorneys and Judges Assistance Program

Evaluation by ABA CoLAP, which resulted in greater credibility, outreach, and budget increase.

ILLINOIS—Illinois Lawyers' Assistance Program

Significant increase in number of clients served. With a new minimum legal education requirement, Illinois LAP is providing more education programs than ever before.

KENTUCKY—Kentucky Lawyer Assistance Program

Now on law school campuses. Positive responses to mental health programming.

MASSACHUSETTS—Lawyers Concerned for Lawyers

Creation of hiring director for Law Office Management Assistance Program (LOMAP). New website which resulted in an over 100 percent increase in traffic and duration of visit.

MICHIGAN—State Bar of Michigan Lawyers and Judges Assistance Program (LJAP)

Started an initiative to involve more students with the LJAP by bringing a student on to our committee who is working with LJAP staff and volunteers to develop a presence within the law schools.

OKLAHOMA—Lawyers Helping Lawyers

Secured the services of a PhD to provide free counseling services 24/7.

TEXAS—Texas Lawyers' Assistance Program

Collaboration with state bar president and CLE department to produce DVD entitled, "Practicing from Shadows: Lawyers and Depression." One thousand copies were distributed and another thousand have been ordered!

Around the LAPs

(continued from page 8)

UNITED KINGDOM: As far as the United Kingdom is concerned, as of January 1, 2008, the Republic of Ireland is coming on board with us. That will mean that as of that date we will cover England and Wales (solicitors, barristers, judges, legal executives, and barristers clerks); Scotland (solicitors); Northern Ireland (solicitors and judges); and the Republic of Ireland (solicitors).

Advocates in Scotland and in the Isle of Man are also considering coming in, along with barristers in Northern Ireland. By the end of 2007 or early 2008, I hope to have these groups on board as well. That will have us supporting and assisting nearly all of the major legal groupings in the United Kingdom.

—Hilary A. Tilby

Case Law Corner

In *Verra v. District of Columbia Court of Appeals*, 2007 D.C. App. Lexis 484, The Board on Professional Responsibility adopted the Hearing Committee's recommendation that Verra be disbarred but that her disbarment be stayed and that she be suspended for thirty days and placed on probation for three years, conditioned on ongoing psychiatric treatment and employment supervision. The court adopted the board's recommendation.

Verra represented a client, her friend, in a personal injury suit. She failed to communicate the basis of her fee in writing, commingled and recklessly misappropriated funds, failed to deliver funds to the client and to the client's medical provider, and failed to keep records for the client.

The respondent presented evidence that her actions were the result of a major depressive episode and dysthymia as well as anxiety. The board concluded that she suffered a disability at the time of her actions and that the disability substantially affected her misconduct. They also found by clear and convincing evidence that she had been "substantially rehabilitated." The board concluded that Verra had demonstrated a causal relationship between her disorders and her misconduct.

Annual Conference Report

Halifax, October 2–5, 2007

“A beautiful hotel, in a beautiful city, with beautiful weather,” commented one of the conference attendees, “it doesn’t get better than that.”

Better only, perhaps, were the quality and variety of speakers assembled by the planning committee, under the co-chairs of Derek LaCroix (British Columbia) and Barbara Smith (New York). Some new format changes (particularly the breakfast topics) were very well received.

Speakers addressed such wide-ranging topics as “The Spiritual Revitalization of the Legal Profession” (David Hall), “Vicarious Trauma” (Donald Murray), “Finding Happiness” (Ray Baker), “The Big Book Had It Right” (Melissa Warner), and “What Works in Therapy” (Barry Duncan). Several panels considered expanding services, management topics, in addition to discipline and diversity issues.

Local hosts Blanche Keats and Sean Foreman did triple duty keeping everyone informed of the local sites of interest as well as which wonderful restaurants to frequent.

The annual conference marks the highlight of the year, when staff and volunteers of lawyer assistance programs (and related disciplines) throughout the United States and Canada assemble for several days of education, networking, and yes, even some fun.

As it was the twentieth annual conference,

a special luncheon recognized the history of the organization and honored early pioneers in the field of lawyer assistance services.

A calendar featuring photographs from past programs and events was presented to participants, along with a booklet marking the membership of CoLAP and its Advisory Commission since its beginnings. Richard Vincent, LAP Director from Maryland who will be retiring at the end of 2007, was recognized as the longest-serving LAP director.

Two awards were presented this year. The first recognized distinguished service by a LAP staff member, and second, the “Jack Keegan Award,” recognized volunteer service. Honorees were Michael Cohen, director of the Florida LAP, and William “Billy” Hoge, respectively. Cohen’s award recognized his outstanding performance in the advancement of CoLAP’s goals, the development of the Florida LAP, and for bringing honor to the lawyer assistance movement. Hoge’s award recognized his distinguished work in the field of lawyer assistance, which has been an example for others and brought honor to the movement.

Thanks also goes to ABA staff members whose planning efforts and behind-the-scenes contributions during the conference made the program flow smoothly.

CoLAP Chair Butch Childers thanked all those whose work made the conference such a success and invited everyone to next year’s event in Little Rock, Arkansas.

Special thanks to the planning committee members:

- Ian Aikenhead (BC);
- Joan Bibelhausen (MN);
- Michael Caldwell (IL);
- Michael Cohen (FL);
- Sean Foreman (NS);
- Joyce Funches (MS);
- Laura Gatrell (TN);
- Barbara Harper (WA);
- Terry Harrell (IN);
- Bill Leary (CT);
- Bill Leary (LA);
- Jim Leffler (VA);
- Robin McCown (GA);
- Guy Quesnel (QC);
- Richard Soden (MA);
- Nancy Stek (NJ);
- Janis Thibault (CA);
- Eileen Travis (NY); and
- Janet Piper Voss (IL).

Calendar of Events



January 28–February 2, 2008: *New York State Bar Association (NYSBA) Annual Meeting, New York Marriott Marquis—New York, New York. For more details, visit www.nysba.org.*

February 6–10, 2008: *ABA CoLAP Business and Committee Meetings during the ABA Midyear Meeting, Crowne Plaza Beverly Hills—Los Angeles, California. For more details, visit www.abanet.org/midyear/2008.*

April 30–May 4, 2008 or May 14–18, 2008: *Tentative CoLAP Spring Business and Committee Meetings—Memphis, Tennessee*

May 16–18 2008: *NYS Lawyers Assistance Trust, Annual Retreat—Lake George, New York*

July 26–27, 2008: *FLA 22nd Annual Workshop, Naples Beach Hotel—Naples Beach, Florida*

August 7–10, 2008: *ABA CoLAP Business and Committee Meetings during the ABA Annual Meeting—New York, New York*

October 21–24, 2008: *ABA CoLAP 21st National Conference for Lawyer Assistance Programs, Peabody Hotel—Little Rock, Arkansas*

October 24–26, 2008: *ILAA Annual Meeting, Peabody Hotel—Little Rock, Arkansas. ILAA Contacts: Jim Smith or Brandi Collins, www.ilaa.org*

Chair's Column

by Honorable Robert L. "Butch" Childers

I cannot begin to express what an honor it is for me to have been appointed chair of the Commission on Lawyer Assistance Programs (CoLAP) by President Bill Neukom. I have fond memories of receiving a call from Donna Spilis, while we were both attending an ABA meeting, and her reintroducing herself to me and congratulating me on my initial appointment to CoLAP. That was back in 2000. More recently I had a chance to visit with past ABA President S. Shepherd Tate, who is also from Memphis. He was also a past chair of the Standing Committee on Lawyer Competence, whose work ultimately led to the creation of the ABA Commission on Impaired Lawyers, now CoLAP. The Standing Committee on Lawyer Competence first addressed the problem of substance abuse in the profession as a result of a survey that committee conducted in 1986 or 1987. The survey indicated an urgent need to investigate the seriousness of the problem of chemical dependency in the profession. In June 1989, an article was published in the *Atlanta Journal and Constitution* in which outgoing state bar of Georgia President A. James Elliott stated, "about 25 percent of the disciplinary cases handled by the Georgia bar related to trust fund violations. In about 70 percent of those cases, the cause of the problem is substance abuse, according to bar figures. More than 50 percent of all state bars' disciplinary matters relate to substance abuse."

In 1991 CoLAP became aware of a study conducted by the Association of American Law Schools that confirmed the awareness of a problem of substance abuse among law students and young lawyers, and their fear of seeking any assistance, which resulted in hiding their problem and delaying getting help. That's when CoLAP, the ABA Young Lawyers Division, Law Student Division, and the Association of American Law Schools began to work cooperatively with the state

and local bar associations and the relatively small number of lawyer assistance programs in existence at the time to change the stigma about addiction as a moral issue, recognizing that addiction is a disease, bringing new enlightenment about mental health and its effect on members of the profession. I am delighted to see the progress that has been made and to report that the commission will submit the Model Rule on Conditional Admission to Practice Law to the ABA House of Delegates for adoption at the Midyear meeting in February 2008.

This rule has been written and fine tuned by representatives from the ABA Commission on Lawyer Assistance Programs, Section on Legal Education and Admissions to the Bar, the Commission on Mental & Physical Disability Law, and the National Conference of Bar Examiners. Comments for enhancing the rule have been provided by the Standing Committees on Client Protection, Professionalism and Professional Discipline, as well as the National Organization of Bar Counsel. Eighteen states and Puerto Rico already have a Conditional Admission Rule and at the time of this writing, four other states have expressed an interest in developing a rule. This proposed rule will be offered by the American Bar Association (ABA) as a guide for the development of an individual rule to meet each state's particular needs.

I have been involved in CoLAP's Law School Outreach Committee since its inception in 2002, first as chair of the committee, and then focusing on the Model Conditional Admission Rule, and I feel the hard work of all the experts and volunteers who have contributed has been very worthwhile. I am optimistic that the increased awareness of such a rule has been beneficial to the profession and identifies the ABA, once again, as a leader in promoting and maintaining a consistently high standard



Honorable Robert L. Childers

of excellence for the legal profession. By adoption of this Model Rule, the ABA will address its objective of promoting confidence in the self-regulation of the legal profession and implementation of policies to increase client protection. By adopting the Model Rule, the ABA will also be promoting healthier law students, which in turn results in healthier lawyers who provide competent service to the public.

As you can tell, I feel passionate about the Model Conditional Admission Rule, but I have many other areas of interest as the new chair of CoLAP. We are very fortunate to have nine Commission members and fifteen Advisory Commission members who are actively involved in other initiatives including: judicial assistance, diversity, re-energizing volunteers, an annual National Conference for Lawyer Assistance Programs, a quarterly newsletter and growing publications program, as well as ever-expanding information on work-life balance in the profession and addressing many quality of life issues. More of that will be revealed in future editions of *Highlights*. I am looking forward to enhancing our relationship and working more closely with other ABA entities and affiliated law-related organizations to assist the ABA membership and protect the public.



You Can Start Thinking About Next Year . . .

ABA CoLAP 21st National Conference for Lawyer Assistance Programs, October 21–24, 2008, and ILAA Annual Meeting, October 24–26, 2007, Peabody Hotel, Little Rock, Arkansas

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*New Advisory Commission Member

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