
ESTATE PLANNING AND WILL DRAFTING 2016

Wednesday, April 6, 2016
Melville, L.I.

Thursday, April 7, 2016
Albany

Wednesday, April 20, 2016
New York City & Webcast

Wednesday, April 20, 2016
Rochester

CLE Course Materials and NotePad[©]

*Complete course materials distributed in electronic format online in
advance of the program.*

Co-sponsored by the Trusts and Estates Law Section and the
Committee on Continuing Legal Education of the New York State Bar Association

This program is offered for education purposes. The views and opinions of the faculty expressed during this program are those of the presenters and authors of the materials. Further, the statements made by the faculty during this program do not constitute legal advice.

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New York State Bar Association**

Lawyer Assistance Program 1.800.255.0569



Q. What is LAP?

A. The Lawyer Assistance Program is a program of the New York State Bar Association established to help attorneys, judges, and law students in New York State (NYSBA members and non-members) who are affected by alcoholism, drug abuse, gambling, depression, other mental health issues, or debilitating stress.

Q. What services does LAP provide?

A. Services are **free** and include:

- Early identification of impairment
- Intervention and motivation to seek help
- Assessment, evaluation and development of an appropriate treatment plan
- Referral to community resources, self-help groups, inpatient treatment, outpatient counseling, and rehabilitation services
- Referral to a trained peer assistant – attorneys who have faced their own difficulties and volunteer to assist a struggling colleague by providing support, understanding, guidance, and good listening
- Information and consultation for those (family, firm, and judges) concerned about an attorney
- Training programs on recognizing, preventing, and dealing with addiction, stress, depression, and other mental health issues

Q. Are LAP services confidential?

A. Absolutely, this wouldn't work any other way. In fact your confidentiality is guaranteed and protected under Section 499 of the Judiciary Law. Confidentiality is the hallmark of the program and the reason it has remained viable for almost 20 years.

Judiciary Law Section 499 Lawyer Assistance Committees Chapter 327 of the Laws of 1993

Confidential information privileged. 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 a 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 privileges may be waived only by the person, firm or corporation who has furnished information to the committee.

Q. How do I access LAP services?

A. LAP services are accessed voluntarily by calling **800.255.0569** or connecting to our website www.nysba.org/lap

Q. What can I expect when I contact LAP?

A. You can expect to speak to a Lawyer Assistance professional who has extensive experience with the issues and with the lawyer population. You can expect the undivided attention you deserve to share what's on your mind and to explore options for addressing your concerns. You will receive referrals, suggestions, and support. The LAP professional will ask your permission to check in with you in the weeks following your initial call to the LAP office.

Q. Can I expect resolution of my problem?

A. The LAP instills hope through the peer assistant volunteers, many of whom have triumphed over their own significant personal problems. Also there is evidence that appropriate treatment and support is effective in most cases of mental health problems. For example, a combination of medication and therapy effectively treats depression in 85% of the cases.

Personal Inventory

Personal problems such as alcoholism, substance abuse, depression and stress affect one's ability to practice law. Take time to review the following questions and consider whether you or a colleague would benefit from the available Lawyer Assistance Program services. If you answer "yes" to any of these questions, you may need help.

1. Are my associates, clients or family saying that my behavior has changed or that I don't seem myself?
2. Is it difficult for me to maintain a routine and stay on top of responsibilities?
3. Have I experienced memory problems or an inability to concentrate?
4. Am I having difficulty managing emotions such as anger and sadness?
5. Have I missed appointments or appearances or failed to return phone calls?
Am I keeping up with correspondence?
6. Have my sleeping and eating habits changed?
7. Am I experiencing a pattern of relationship problems with significant people in my life (spouse/parent, children, partners/associates)?
8. Does my family have a history of alcoholism, substance abuse or depression?
9. Do I drink or take drugs to deal with my problems?
10. In the last few months, have I had more drinks or drugs than I intended, or felt that I should cut back or quit, but could not?
11. Is gambling making me careless of my financial responsibilities?
12. Do I feel so stressed, burned out and depressed that I have thoughts of suicide?

There Is Hope

CONTACT LAP TODAY FOR FREE CONFIDENTIAL ASSISTANCE AND SUPPORT

The sooner the better!

Patricia Spataro, LAP Director

1.800.255.0569

PROGRAM AGENDA

8:30-9:00 a.m.

Registration (outside meeting room)

9:00-10:00 a.m.

I. Estate Planning Overview and Basic Will Drafting

- A. Checklists and Worksheets
- B. Fundamentals
- C. Specific Bequests
- D. General Bequests
- E. Residuary Bequests
- F. Survivorship Requirements
- G. No Contest Clauses
- H. Administrative Provisions
- I. Will Execution Ceremony
- J. Drafting Pointers and Sample Wills

10:00-10:50

II. Will Drafting Overview

- A. Marital Dispositions- Outright Distributions versus Marital Deduction Trusts
- B. Spousal Right of Election
- C. Credit Shelter, Generation-Skipping and Disclaimer Trusts
- D. Trustee Appointments and Succession
- E. Drafting Pointers and Sample Language

10:50 – 11:00 – Coffee Break

11:00-12:00 p.m.

III. Planning With Revocable Trusts

- A. Particular Trust Provisions: Lifetime v. Distribution At Death
- B. Pour Over Wills
- C. Trustee Appointments and Succession
- D. Trust Protectors
- E. Funding
- F. Execution
- G. Drafting Pointers and Sample Language

12:00-1:30 LUNCH (on your own)

1:30-2:15

IV. Lifetime Giving, Minors and Incapacitated Beneficiaries

- A. Inter Vivos Gifts
- B. Trusts for Young Beneficiaries and Uniform Transfers to Minors Act
- C. Guardians of the Person and/or Property
- D. Trusts for Spendthrifts
- E. Testamentary Supplemental Needs Trusts
- F. Funding Testamentary Trusts by Beneficiary Designation
- G. Drafting Pointers and Sample Language

2:15-3:00

V. Tax Implications and Drafting

- A. Federal Estate and Gift Tax: An Overview
 - 1. Property Includable in Decedent's Gross Estate
 - 2. Estate Tax Deductions
 - 3. Estate Tax Credits
 - 4. Unified Credit Against Gift and Estate Taxes
- B. New York Estate Tax and the Financial Cliff
- C. Generation-Skipping Transfer Tax
- D. Income Taxation: Income Shifting Techniques
- E. Drafting Tax Allocation Provisions

3:00-3:15

Coffee/Soft Drink Break

3:15-3:45

VI. Digital Assets

3:45 – 4:10

VII. Charitable Estate Planning

- A. Income and Estate Tax Considerations
- B. Contemplating Attorney General's Office PostMortem

4:10 – 5:00

VIII. Ethical Considerations

- A. Goals and Responsibilities of an Estate Planner
- B. Conflicts of Interest and Dual Representation
- C. Legal Fees
- D. Putnam/Satterlee/Weinstock Considerations
- F. Attorney-Fiduciary Issues under SCPA 2307(a) and Rule 207.16(e)
- G. Drafting Retainer Agreements

5:00 p.m.

Adjournment

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