

The New York State Bar Association's Lawyer Assistance Program Volunteer Manual

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NEW YORK STATE
BAR ASSOCIATION

Lawyer Assistance Program - Stacey A. Whiteley, Director

Office: 518.487.5688

Email: swhiteley@nysba.org

Hotline (24/7): 877.772.8835

Website: www.nysba.org/lap

Facebook: nysbalap

Foreword

This manual has been written for use by the programs and committees that make up the Lawyer Assistance effort in New York State – helping lawyers, judges, law school students who are affected by the problems of substance abuse, gambling, and other addictions, as well as depression, anxiety and other mental health conditions. Through prevention, early identification, and intervention, problems that can affect the professional conduct of judges and the quality of life of lawyers, students and can be addressed. The users of this manual include lawyers in recovery and others who form the front lines of the Lawyer Assistance Program (LAP) effort, the numerous local bar association lawyer assistance or lawyer-helping-lawyer committees, LAP staff, and those members of the legal community who seek to support the important work of LAPs.

It is imperative that LAP service delivery throughout New York State be consistent. New York State is geographically large-spanning four Judicial Departments, thirteen judicial districts, and sixty-two counties over 54,000 square miles. The state is also a mix of very urban to very rural where the attorney population of a single urban firm can surpass that of several rural counties combined. New York ranks in the top three in the nation in terms of the number of licensed lawyers. In addition, the 2016 uniform Rules for Attorney Disciplinary Matters recognize the option for referring attorneys for treatment and monitoring by a court-approved program.

This manual contains information regarding LAPs and committee structures, LAP staff and member/volunteer qualifications and attributes, volunteer training programs, confidentiality, HIPAA consent forms, and subpoenas. It also includes overviews of Diversion and Monitoring and LAP history, as well as references for such resources as educational presentations to the bar and bench, including Continuing Legal Education (CLE) programs and modules.

Dear Potential Volunteer,

Thank you for your interest in volunteering your time and experience to the Lawyer Assistance Program. The Lawyer Assistance Program assists hundreds of lawyers every year in receiving the personal and professional help they need. With a small staff located in Albany, we truly rely on our volunteers to connect with the attorneys in need around the state. The LAP would not be as vital and as valuable as it is without volunteers like you, so thank you!

This manual outlines the various ways in which you can assist the LAP as volunteer; as a committee member, peer support person, monitor, or assist with programming and outreach. Although we attempted to explore the roles thoroughly in this manual, you will probably have additional questions. The LAP staff is here to answer those questions for you. Reach out at any time!

We encourage you to read through this manual, check out our website: www.nysba.org/lap, and join our mailing list to learn all you can about the LAP and its services and how you can help! To join the weekly mailing, email LAP Director, Stacey Whiteley at swhiteley@nysba.org. Any questions, email Stacey or call/ text the office, 518.487.5688. Thank you again for volunteering, we look forward to working with you!

The LAP Staff and Volunteers

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CHAPTER 1: Lawyer Assistance Program Goals and Guiding Principles

LAP goals are:

- To assist in the identification of lawyers who may benefit from LAP services.
- To assist those individuals in their personal recovery from addiction disorders and/or mental health conditions that impact competent practice of their profession and/or their quality of life.
- To educate the legal community on the identification, assessment, referral, treatment, and community-based resources available to meet the needs of affected judges, lawyers and law students.
- To provide a network of trained volunteers who are available to respond to the needs of New York State lawyers, judges, and law students through peer assistance.
- To provide monitoring for lawyers when indicated.
- To maintain a cooperative relationship with the Office of Court Administration, the Board of Bar Examiners, Disciplinary Committee staff, and Law School Student Services personnel, along with the legal community at large, to raise awareness and facilitate the implementation of LAP goals.

LAPs guiding principles are:

- The program is motivated by a humanitarian concern for and commitment to the legal community and protection of the public.
- Substance abuse and other addictions, and mental health problems are treatable conditions that should not be ignored.
- Impaired lawyers and judges are obligated to seek assistance and to participate in services necessary to renew their effectiveness as a lawyer or judge.
- All lawyers and judges should be able to recognize the signs and symptoms of a colleague who may be impaired, should have a willingness to act, and to be able to assist the colleague in accessing appropriate services.

At the LAP, the Director, staff, and Committee members are available to support legal professionals in achieving their optimum level of professional ability, while enhancing public protection and helping to maintain the integrity of the profession. Recognizing that it is often difficult to reach out for help during difficult times, especially about a very private matter, the LAP Director and Committee members promise confidentiality – no information about an individual's participation in the Lawyer Assistance Program is released without the individual's consent. Participation is confidential as mandated by [Judiciary Law §499](#).

The LAP Director and staff provide brief, informal assessments to determine the nature and severity of an individual's presenting problems and develop a plan to help that individual get the most appropriate help available, whether it is for substance abuse, gambling or other addictive disorders, or depression, anxiety, or other mental health problems.

The LAP also offers educational programs and CLE presentations which include information about substance abuse, depression, stress, other issues lawyers face and the services of the LAP to local, statewide and specialty bar associations as well as to law firms, and the judiciary.

Individuals may contact the LAP for more information about available services or to arrange for a presentation at a law firm, government agency, law school, local or specialty bar association, or to the judiciary.

Contact information:

For the New York State Bar Association LAP call 518.487.5688 or send a message to lap@nysba.org. Catchment area: All counties North of Westchester.

For the NYC Bar Association LAP call 212-302-5787. Catchment area: The Burroughs and Westchester County.

For the Nassau County Bar Association LAP call 888-408-6222. Catchment area: Suffolk and Nassau Counties.

CHAPTER 2: The Program and Committee Structure

Not surprisingly, New York is not typical regarding Lawyers Assistance. Many states have a single entity that licenses attorneys, oversees discipline, and supports lawyer assistance efforts. However, in New York State, the Office of Court Administration serves as the licensing entity and The Grievance Committee attends to disciplinary matters. Several county Bar Associations have provided financial and committee support for lawyer assistance staff and committee efforts.

The New York State Bar Association (NYSBA) and the New York City Bar Association (NYC Bar) both have full-time Directors, and the Nassau County Bar Association has a part-time LAP Director. As funding has been available periodically via grants, NYSBA and the NYC Bar have retained additional staff to enhance LAP services.

NYSBA, NYC Bar and the Nassau County Bar each have Lawyer Assistance Committees that support, facilitate, and implement the LAP work. Lawyer Helping Lawyer Committees have been organized by bar associations in these boroughs, counties, or regions: Brooklyn, Capital District (covering Albany, Rensselaer, Saratoga, and Schenectady); Dutchess, Erie, Jefferson, Monroe, Oneida, Onondaga, Queens, Richmond, Rockland, Suffolk, Southern Tier (covering Broome and Tompkins), and Westchester. While there are numerous specialty bars, they have not established Lawyer Helping Lawyer (LHL) Committees, although many specialty bar associations have sponsored LAP-related educational and CLE programs.

For a local bar association seeking to sponsor an active LHL Committee, the following support system is most useful:

- A local bar association staff presence to provide support to the Committee.
- A supportive bar association executive committee.
- A threshold population from which to draw volunteers.
- A group of interested lawyers in recovery to spark the formation of the committee and assist in attracting members.

Funding for Local Committees:

Expenses for a local bar association's proposed LHL Committee are limited, although member dues may cover some costs, for example. A few counties (Erie, NYC, and Nassau) have foundations affiliated with the bar associations that conduct fundraising through various means, and a portion of their funds are designated for LHL purposes.

American Bar Association:

The American Bar Association has a "Commission on Lawyer Assistance Programs" (known as CoLAP), which serves as a clearing house for information, best practices, and collegiality for lawyers and LAP staff involved in the lawyer assistance effort nationwide. See the directory at the ABA link below for additional information regarding the "Model LAP," other states' (and

Canadian) programs and contact information. CoLAP meets periodically and hosts an annual conference at venues around the United States and Canada.

[ABA LAP Directory](#)

[ABA Model LAP](#)

International Lawyers in Alcoholics Anonymous (ILAA)

International Lawyers in Alcoholics Anonymous is a group of recovered lawyers and judges carrying the message of recovery within the legal profession. Their purpose is to act as a bridge between reluctant (in denial) lawyers/judges and Alcoholics Anonymous. ILAA annual meetings often coincide with CoLAP Conferences.

CHAPTER 3: Staff and Committee Member/Volunteer Qualifications and Roles

Staff

When NYSBA, the NYC Bar, and the Nassau County Bar hired its directors, it sought individuals with addiction and mental health qualifications. The ABA Model LAP suggests that a lawyer or person in recovery might provide special insights to the Director role; however, this is not required to fulfill the duties of this position. Each bar association may use their discretion and determination of programmatic needs when hiring for this position. Additional support staff, including mental health professionals, are positions that are also in place at LAPs, as funding allows.

Committee Members and Volunteers

Beyond professional staff, individuals involved in the Lawyer Helping Lawyer movement may be referred to as Committee members, volunteers, or peer support. Many individuals on regional Lawyer Helping Lawyer (LHL) Committees prefer not to be considered “volunteers” in this worthy cause, but rather, as “members.” For ease of drafting, these guidelines will more often use “volunteer” as that is the more typical characterization used by LAPs throughout the United States.

Most LHL volunteers are attorneys and judges and, occasionally, law students, who may share their personal experience of recovery from addiction or mental health treatment to provide support for their peers to get help. Other volunteers are attorneys and/or judges who are not in recovery, but simply want to help in whatever way they can to make a positive contribution to their profession. Many volunteers find that sharing their own experiences results in the enhancement of their own recovery, whether from an addiction, mental illness, or some other struggle. Volunteers support the efforts of the professionally staffed LAPS and the LHL Committees.

Such support is appropriate to help a person who recognizes that he/she has a problem and requests help. LAP staff try to match, when possible, attorneys seeking assistance with trained volunteers who share similar demographic or other characteristics.

Volunteers as Educators

LAP staff and volunteers provide education to the legal profession on a variety of issues, including addiction, mental health, stress management, the work/life balance, and the role of the law firm or judiciary in addressing such issues. LAP offers presentations for CLE credit or no credit to county and specialty bar associations, law schools, legal organizations, and the judiciary.

Volunteers as NYSBA Lawyer Assistance Committee Members

The NYSBA Lawyer Assistance Committee consists of NYSBA members who are knowledgeable and interested in the goals and objectives of the Committee and the LAP. The Committee makes recommendations regarding LAP policy and assists in implementing important aspects of the program throughout the state. Committee members assist in developing a state-wide network of trained volunteers and professionals who provide support to attorneys in need of assistance. The LAP can also address operational and marketing aspects of all LAP programs and develop and participate in educational programs and CLE presentations. The NYSBA Lawyer Assistance Committee meets quarterly and organizes sporadic regional meetings.

Volunteers as a LAP Monitor

The Supreme Court's Appellate Divisions, the Committees on Character and Fitness, and the Commission on Judicial Conduct refer individuals to the LAPs with the understanding he/she will enter into a Monitoring Agreement with the LAP as part of an Order, Consent Decree or Consent Agreement with the discipline or bar admission body. The Monitor's primary role is to have regular contact with the monitored attorney, determine the person's compliance with the conditions of the Monitoring Agreement, and complete and submit a monthly progress report to the LAP Director. The Monitor is not a friend or sponsor and is not expected to ensure the person complies with the conditions. If the Monitor learns of a breach of any of the Monitoring Agreement requirements, the Monitor is expected to immediately report the breach to the LAP Director who will inform the appropriate disciplining or bar admission body. See Chapter 9 for more details.

Volunteers as Peer Support

The most informal, yet one of the most important volunteer roles is that of a Peer Support person. Peer Support is just that, assisting a peer through support, connection, and guidance. Peer Support sometimes only consists of a few phone calls, sometimes it continues for a bit longer, depending upon the needs of the attorney. When Peer Support is requested, the LAP staff will do their best to find a volunteer who has experience with issues similar to the attorney needing assistance. The Peer Support volunteer will be contacted and asked if they are able to provide assistance, if yes, they are given general information about the attorney, including their first name. The attorney in need is given the volunteer's contact information and told to contact the volunteer. The LAP staff step away from the matter at that point and allow the volunteer and attorney to work together as needed. If there's issues or concerns the volunteer has during the Peer Support process, contact the LAP to provide guidance and resources. As with other volunteer roles, the following guidelines should be adhered to.

Volunteer Training Required

NYSBA's LAP, NYC Bar's LAP, and the Nassau Bar's LAP offer volunteer training programs, so that LHL groups, the LAC and Monitors will understand the services to be provided.

What training topics include: applicable court rules and statutes, confidentiality, the disciplinary and bar admission processes, as well as information regarding the identification of addiction and mental health disorders-including suicide. In addition, there is training regarding appropriate boundaries for volunteers and monitors, specific protocols for drug testing, attendance at self-help groups, and treatment programs and/or professionals and the importance of ongoing communication with the LAP Directors.

Volunteers are expected:

- To fully understand the LAP, its protocols, and guidelines.
- To acquire a foundation of knowledge regarding the philosophy and concepts which form the basis for peer assistance.
- To develop the capability for providing peer assistance to legal colleagues and their families.
- To be familiar with the signs and symptoms of addiction and mental health problems.

Guidelines for Volunteers

Volunteers are expected to be aware of the following possible problem areas:

Boundaries: Volunteers may get confused regarding the boundaries of being a volunteer as their relationship with a lawyer seeking assistance begins to develop. Lawyers seeking help may want to engage in other forms of relationships with their lawyer volunteer other than the LAP peer support role. This can cause confusion for lawyers seeking help who may need continuing assistance. In short, a LAP volunteer is a mentor and a support, *NOT* a friend and it is important to make that distinction.

Confusion of Roles: Sometimes volunteers themselves are doing twelve step work as well as volunteering within the LAP. Volunteers need to be vigilant to keep the roles separate, as the programs are separate and not meant to be integrated.

Feelings of Failure: Misplaced self-criticism and blame can occur when a conversation or intervention does not succeed, or when a peer assistance assignment does not work out as well as intended. LAP Volunteers are not responsible for the behaviors and choices of the attorney they are mentoring.

De-focusing and Projection: Sometimes being overly involved in the lives and problems of others is a way of avoiding your own issues. This can result in placing your own values and beliefs about stability or recovery upon another person. It is important to be mindful of this.

Burnout and Compassion Fatigue: Lethargy and/or disillusionment that can result from too much helping, or from having unrealistic expectations.

LAP strives to help each lawyer seeking assistance to make healthy decisions, which may result in increased stability, increased quality of life, and continued well-being. Trust your own thoughts and feelings about your LAP work, discuss them with other volunteers and LAP staff to stay balanced and gain alternative perspectives. Remember, self-awareness is your greatest tool when assisting others. Be vigilant and comfortable with the differences between the LAP Volunteer Assistance role and the role of the twelve-step sponsor or someone doing twelve step work within a recovery environment.

A volunteer should never accept an LAP assignment that he or she is not comfortable with, or with an individual they are in a personal relationship with or have a current legal case involving the lawyer who is seeking assistance. If any of these circumstances arise, the volunteer must immediately bring the matter to the attention of the LAP Director.

The effectiveness of any volunteer work for LAP is never to be gauged by whether a particular peer consultation or critical conversation results in the lawyer in need of assistance obtaining an assessment, entering treatment, “getting or staying clean and sober,” or otherwise stabilizing. Volunteer work is deemed to be effective whenever a lawyer in need of assistance has been shown, through the caring, personal concern of a LAP volunteer, family member or colleague, that they are never alone in combating an illness or trouble in their life. Even in the case where assistance is rejected outright by the lawyer in need of assistance, the most frequent result is that a “seed” of hope for not having to do it alone has been “planted”; that person may later seek help through LAP or through some alternative resource.

Furthermore, the assistance LAP provides to the family members and colleagues of an attorney is deemed to have been successful even if LAP efforts have merely instilled some confidence in those concerned individuals, and illustrated they have made their best efforts to do what they could to help themselves and/or the troubled attorney.

AA Sponsorship and LAP Volunteer Services: What are the differences?

- **The AA Sponsor**

The role of the AA sponsor is to pass on the program of Alcoholics Anonymous, which they have personally experienced, by following the guidance found in the book, ALCOHOLICS ANONYMOUS (generally known as The Big Book.) They follow the ideas, techniques, methods, and suggestions that are those of Alcoholics Anonymous. In AA, it is up to the newcomer to seek a sponsor. A sponsor is someone whose quality of recovery is appealing and who a newcomer may want to emulate.

- **The LAP Volunteer**

LAP recognizes that a wide range of concerns can detrimentally influence a lawyer's performance. These may include problems with alcohol and or drugs, physical illness, emotional problems, grief, lack of career success, personal/professional life balance, or caregiving. A volunteer's primary goal is to provide support-which varies from person-to-person. LAP staff are always available to facilitate the peer support relationship and assist/support the volunteer.

The role of the substance abuse volunteer and that of the mental health volunteer are likely to differ. Those who are providing support to an attorney who is entering recovery or in need of additional care during recovery may accompany said individual to AA meetings, suggest readings and other recovery tools. Those providing assistance to the attorney who is struggling with depression or other mood issues may encourage the person in need to engage in, or accompany them to, activities that promote socialization and community reintegration. Also recommended is encouraging them to discuss their feelings and thoughts with their clinician and/or prescriber. Individual cases can be discussed with LAP for guidance.

Volunteer Process and Tips:

- When LAP staff receives the initial call from an attorney seeking assistance, the staff person will do an assessment of issues presented and a risk assessment for harm to the individual or others and explore legal problems and/or disciplinary problems. The LAP staff will make referrals to volunteers, along with recommendations.
- Depending on the comfort level of the attorney seeking assistance, the LAP volunteer may call the lawyer in need of assistance or the lawyer in need will reach out to the volunteer. When leaving a voicemail, the volunteer identifies him or herself by name with a message they are returning a call. For purposes of confidentiality, the volunteer should not state on voicemail that he/she is a LAP volunteer. Inform the lawyer in need of assistance why you are contacting them and remind them of the privileged confidentiality of all LAP communications. Do not disclose the source of the referral unless you have permission to do so. Emphasize that your only purpose is to be of assistance to them. Meeting in person is not required, often support via the phone calls is sufficient.
- LAP volunteers may communicate with lawyers in need to offer support, guidance, and resources. If meeting in person, it is recommended that volunteers meet in a safe environment such as a public setting (restaurant, library, etc.) Volunteers are discouraged from going to the home of the lawyer needing assistance, or to an isolated area where safety cannot be ensured. Volunteer safety is given equal weight within the program to client safety. Always keep the LAP office apprised of the outcome of your contacts.

- When engaging a lawyer in need, focus on what the lawyer sees as the problem and what they would like to change. Actively listen and share your own experience (if/when appropriate), along with strength and hope. If you believe your objectivity is lost, or the experience is too draining, contact the LAP office for assistance.
- Avoid discussions pertaining to diagnoses and if this does arise, remind the person in need that you are not a diagnostic professional. Instead, offer a specific solution such as: being assessed by a treatment professional, attending a meeting, seeing a primary care physician, or changing behavior.
- Be consistent. Always follow through with resources you offer or meetings you agree to attend. Do not make promises you cannot fulfill.
- LAP volunteers do not engage in romantic and/or sexual relationships with lawyers in need of assistance.
- LAP volunteers do not engage in business relationships with lawyers in need of assistance.
- The LAP volunteer **always** notifies and consults with the LAP Director for (but not limited to) the following situation: when the lawyer in need of assistance is a danger to self or others (suicidal, homicidal) or exhibits difficult or problematic behaviors. Also, the volunteer should consult with the LAP Director when the lawyer's problems are outside the scope of the volunteer's training or comfort level; when there is a conflict of interest with the lawyer; or when a critical conversation/ intervention is requested or recommended.

CHAPTER 4: LAP SERVICES

LAP referrals come from such sources as:

- Self-referrals, family, and colleague referrals, or through referrals from LAP Volunteers.
- Formal referrals from the Committees on Character and Fitness or the Disciplinary Committees of the four departments.
- Attorneys representing bar applicants or attorneys in character and fitness or disciplinary matters.
- Judges concerned about an attorney appearing before them or another judge.
- Treatment professionals and treatment programs seeking additional support for lawyers in their care.

LAP services are provided by LAP staff and trained volunteers. Services include:

Consultation and Assessment: Consultation and brief assessment by LAP staff to determine the nature and severity of the presenting problem(s).

Short Term Supportive Services: LAP staff may provide support and guidance that bridge the initial call and meeting with a treatment provider. The LAP staff may help identify affordable treatment options, discuss payment options, and other logistical issues.

Information and Referrals: LAP provides information on substance abuse issues, mental health problems and other social problems that may impact functioning in an attorney's personal and professional life. Referral options and recommendations are discussed with clients regarding appropriate treatment practitioners and organizations and self-help groups.

Volunteer Assistance: LAP staff attempt to match clients with trained volunteers who share similar demographics or other characteristics. These LAP volunteers provide confidential peer support to clients who identify a problem and request to meet with a colleague who has successfully managed a similar problem and can offer support and guidance. Peer assistance is also available to colleagues and family members.

Interventions/Critical Conversations: This group process is initiated by family, friends, or colleagues with the objective of reaching out to their colleague or loved one. The goal is to express current, objective concerns and encourage the person to seek an assessment or other form of help. LAP will assist in the identification of appropriate resources to facilitate an intervention.

Educational Presentations: LAP staff and volunteers provide education to the legal profession on issues of addiction, mental health, work/life balance and a variety of other topics. The program does presentations for CLE credit or no credit to county bar associations, law schools, legal organizations, and the judiciary at conferences and other venues.

Initial, Direct Calls to LAP Volunteers: LAP Volunteers are to report to the LAP Director all calls received directly from attorneys, judges or family members seeking LAP help. Volunteers may handle these calls themselves, as appropriate, providing peer assistance, or the LAP Director may assign these matters to other volunteers.

CHAPTER 5: Confidentiality, HIPAA, and Subpoenas

This chapter will address what records, if any, that LAP committees should keep, what information LAP volunteers should share with others, and confidentiality or immunity protections there are for LAP volunteers.

The New York [Judiciary Law - Section 499](#)

1. 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 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 privilege may be waived only by the person, firm or corporation, which has furnished information to the committee.

2. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed. (Added L. 1993, c. 327, §1)

Confidentiality of LAP Communications: Immunity in the course of official duties

All communications with an assistance committee, LAP staff, or volunteer, and all records of LAP assistance to a person are to be kept confidential and shall not be disclosed, except:

- With the consent of the person provided assistance.
- When required as a condition for monitoring.
- In circumstances where the client may be suicidal or homicidal. This may also result in a NYS Safe Act report.
- If the client discloses information pertaining to the abuse or potential abuse of a child.
- When reporting is mandated by other law.

LAP communications are privileged, and the program has immunity according to Judiciary Law §499, noted above.

LAP keeps no long-term records on individuals seeking assistance, although demographic data is collected, which remains anonymous. LAP volunteers are asked to keep track of the number of contacts and time spent delivering services to clients.

LAP Resources:

LAP maintains a list of LHL Committees that includes contact information for LAP volunteers and committee members. In addition, LAP compiles information regarding treatment resources, representatives of bar associations and legal organizations. This information is not shared within the LAP, NYSBA or with any other organization.

Internal Process:

Office Calls and Hotline Calls: The NYSBA LAP Director responds to calls received through the office line Monday through Friday from 8:00 am through 5:00 pm. Messages and emails are also monitored on weekends and holidays. The NYSBA LAP Hotline is managed by a third party and staffed 24/7 by mental health professionals who provide brief assessments and referrals to therapists and/or LAP programs.

CHAPTER 6: Law Firm Model Policy regarding LAP Matters

In 2010, the New York State Bar Association House of Delegates adopted a resolution regarding addressing the issue of impairment among legal professionals, as follows:

WHEREAS, the New York State Bar Association is committed to assisting persons in the legal profession who are dealing with impairment issues that affect job performance; and

WHEREAS, practice management studies have demonstrated that early intervention and treatment of law firm or legal department professionals can assist a firm or department to avoid negative consequences that can result from a failure to deal with impairment and to protect the interests of the clients; and

WHEREAS, the New York State Bar Association's Lawyer Assistance Committee has developed a "Model Policy for Law Firms/Legal Departments Addressing Impairment" ("Model Policy") to assist law firms and legal departments in addressing impairment issues;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association encourages law firms and legal departments to develop appropriate policies, tailored to their own needs and purposes and the needs and interests of the clients, to address impairment issues; and it is further

RESOLVED, that the Association hereby approves the Model Policy as a voluntary guide for law firms and legal departments to use in developing their own specific policies for legal professionals, and to encourage development of policies with respect to other employees; and it is further

RESOLVED, that the officers of the Association and the Lawyer Assistance Committee are hereby authorized to distribute and promote the Model Policy and to take such other and further action as they may deem appropriate to implement this resolution.

CHAPTER 7: Diversion and Monitoring

In December 2015, then Chief Judge Jonathan Lippman announced the adoption by the four Departments of the New York State Supreme Court, Appellate Division, of new uniform statewide rules to govern New York’s attorney disciplinary process, to take effect in 2016. The new rules, which provide for a harmonized approach to the investigation, adjudication and post-proceeding administration of attorney disciplinary matters were approved following public comment and upon recommendation of the Administrative Board of the Courts. They are promulgated as Part 1240 of the Rules of the Appellate Division (22 NYCRR Part 1240).

Pertinent to the discussion on diversion and monitoring is the following subsection:

§1240.11 Diversion to a Monitoring Program

“(a) When in defense or as a mitigating factor in an investigation or formal disciplinary charges, the respondent raises a claim of impairment based on alcohol or substance abuse, or other mental or physical health issues, the Court, upon application of any person or on its own motion, may stay the investigation or proceeding and direct the respondent to complete an appropriate treatment and monitoring program approved by the Court. In making such a determination, the Court shall consider:

- (1) the nature of the alleged misconduct;
- (2) whether the alleged misconduct occurred during a time period when the respondent suffered from the claimed impairment; and
- (3) whether diverting the respondent to a monitoring program is in the public interest.

(b) Upon submission of written proof of successful completion of the monitoring program, the Court may direct the discontinuance or resumption of the investigation, charges or proceeding, or take other appropriate action. In the event the respondent fails to comply with the terms of a Court-ordered monitoring program, or the respondent commits additional misconduct during the pendency of the investigation or proceeding, the Court may, after affording the parties an opportunity to be heard, rescind the order of diversion and direct resumption of the disciplinary charges or investigation.

(c) All aspects of a diversion application or a respondent’s participation in a monitoring program pursuant to this rule and any records related thereto are confidential or privileged pursuant to Judiciary Law §§90(10) and 499.

(d) Any costs associated with a respondent’s participation in a monitoring program pursuant to this section shall be the responsibility of the respondent.”

Monitoring as part of LAP:

LAP works with trained volunteers to monitor these agreements, and thereby advance not only the system of discipline in our profession, but also help individuals find recovery. To apply to become a LAP Monitor, contact the LAP Director in your area. LAP and LHL Committee members/volunteers may be trained as Monitors if they desire to do so, however, it is not a requirement.

For those who are interested in performing the monitoring function as contemplated in the Diversion rules, know that participation in Monitor Training is a minimum requirement to serve in this capacity. Monitors serve a specialized role as they report progress of the attorney who has agreed to have information released to others regarding their rehabilitation. Monitors need to be willing to reveal noncompliance, as well as compliance, as monitored attorneys are often under strict provisions to achieve reinstatement, maintain or obtain their license to practice law.

CHAPTER 8: History of Lawyer Assistance in New York State

Adapted from “Going Up River: Lawyer Discipline, Lawyer Assistance and the Legal Profession’s Response to Lawyer Alcoholism” by Barbara F. Smith, then NYLAT Director; published in NYSBA *Government, Law and Policy Journal* Fall 2010 Vol. 12 No. 2; Note, NYLAT was not funded in 2011, and it closed. This article’s references to NYLAT as an ongoing program were accurate at the time written; certain amendments have been made to reflect circumstances as of 2016.

The history of the lawyer assistance movement necessarily is linked to the creation and expansion of the Alcoholics Anonymous movement in the United States. Alcoholics Anonymous—“AA”—as it is known, began in 1935 in Ohio, with the meeting of two alcoholics – Bill W. and Doctor Bob S. Dr. Bob, responding to Bill’s concept that “alcoholism was a malady of mind, emotions, and body,” had not known alcoholism to be a disease, but responding to Bill’s ideas, he pursued sobriety. By 1939, the three founding groups, in Akron, Cleveland and New York, had approximately 100 sober alcoholic members.

In 1939, the basic textbook, *Alcoholics Anonymous*, commonly referred to as the “Big Book,” was published, explaining AA’s philosophy and methods, the core of which was the now well-known Twelve Steps of recovery. Thanks to the circulation of the Big Book, publication of articles about AA, and the proliferation of AA groups, by 1950, 100,000 recovered alcoholics could be found. Seventy-five years after AA’s founding, in 2010, the AA General Services Office reports more than 1.2 million AA members in the United States, participating in more than 56,000 groups; and, worldwide membership totaling more than 2.1 million, in more than 115,000 groups. By sharing their “experience, strength and hope,” this fellowship of individuals has as its primary purpose “to stay sober and help other alcoholics achieve sobriety.”

The early history of “lawyer assistance” in the United States is largely the story of individual attorneys, themselves in recovery, who brought the message to other lawyers needing help. These charismatic leaders played a vital role in the founding of Lawyer Helping Lawyer Committees, which first developed in New York State’s metropolitan areas where sufficient lawyers in recovery supported their founding. By 1976, New York and Canadian attorneys in recovery met in Niagara Falls, Canada at an event that has since become known as International Lawyers in Alcoholics Anonymous (ILAA); they continue to hold annual meetings throughout the U.S. and Canada. In 1978, an attorney from Westchester County was appointed by the NYSBA as Chair of a Special Committee created to address the problem of lawyer alcoholism and drug abuse. He was integral to Lawyers Helping Lawyers groups beginning throughout the state.

In the late 1980’s, as the Special Committee’s visibility increased, and the numbers of lawyers seeking assistance continued to grow, the Committee petitioned NYSBA to hire an individual to direct the program and provide initial assessments and referrals for treatment. The first NYSBA Lawyer Assistance Program Director came on board in 1990, and a major early success for the Program and Committee was the enactment of section 499 of the Judiciary Law, which grants confidentiality to communications between Lawyer Assistance Committee members or its agents and lawyers or other persons.

In 1999, the Association of the Bar of the City of New York created its own Lawyer Assistance Program and hired its first Director. Shortly thereafter, the Nassau County Bar Association created an LAP and hired its first Director.

Institutionally latest on the scene was the New York Lawyer Assistance Trust, created in 2001 as an initiative of the Unified Court System, following the recommendation of the Commission on Alcohol and Substance Abuse in the Legal Profession. The Trust [or “NYLAT”] mission was to bring statewide resources and awareness to the prevention and treatment of alcohol and substance abuse among members of the legal profession. Its mission was later expanded to include mental health issues as well. Responsibility for the administration and management of the Trust was vested in a twenty-one-member board of trustees appointed by the Chief Judge, and the Trust worked to enhance the efforts of the bar associations’ LAPs and committees. With the advent of the Trust and its grant program, additional part-time mental health professionals were added to enhance LAP staff. Through its website and quarterly newsletters, NYLAT raised the conversation regarding impairment issues in the profession to new levels of “normalcy” and awareness.

NYLAT sponsored several conferences to raise awareness of LAP issues targeted to a particular segment of the profession. For example, the Law School Program targeted the need for education on LAP matters, early identification, and information regarding admission to the practice of law, when applicants may have a history of infractions relating to impairments. Yet another event focused on gender-based issues; and a third, on reaching lawyers of color. Staff participated with the NYSBA Committee on Law Practice Continuity, in the development of “Planning Ahead Guide,” which encouraged lawyers to prepare a strategy for facing disability, or exiting their practice. The NYLAT Judge Advisory Council convened to consider how best to reach out to those judges who faced impairment issues, and their work continues in the Judicial Wellness Committee of the New York State Bar Association.

Lawyer Assistance Programs are now found in all 50 states, and the American Bar Association has a standing Commission on Lawyer Assistance Programs (CoLAP). CoLAP has the mandate to educate the legal profession concerning alcoholism, chemical dependencies, stress, depression, and other emotional health issues, and to assist and support all bar associations and lawyer assistance programs in developing and maintaining methods of providing effective solutions for recovery.

Thanks to the work of these early LAP advocates, the current LAPs provide services for countless attorneys, judges, and law students each year.

Appendix A: LISTENING SKILLS

Listening to someone as a LAP volunteer is quite different from listening as a lawyer. As a lawyer, one is trained to take a direct or confrontational approach. Active listening is used when we want to help someone try to do something to address a problem in their life. LAP's primary purpose is to support attorneys with their troubles and connect them to appropriate resources.

Characteristics of Unhelpful Listening:	Characteristics of Helpful Listening:
Seeming impatient or annoyed	Being alert, present, and engaged
Giving advice or providing solutions	Being empathetic, acknowledging their feelings and struggles
Using logic, arguing, or lecturing	The person in need does the majority of the speaking
Interpreting, analyzing, diagnosing, or providing explanations	Ask clear, open-ended questions and wait for answers.
Moralizing, preaching, or being judgmental or angry	Reflect what the person says back to them and ask for accuracy of your statement.

Remember, your job is not to tell someone what they need. Rather, it is to help that person determine what they think they need and help them get there.

Ambivalence and change

Ambivalence usually means a person's values and behaviors are at odds. If you argue for one side, the ambivalent person is likely to argue for the other. Resist the "righting reflex" to straighten out the ambivalence.

Motivating Change

Trying to talk someone into change does not work – it increases resistance. Instead, **get someone to say out loud what or why they want to change** – this offers the greatest likelihood of motivating change. The person needs to present the arguments for change. The person needs to appreciate that there are discrepancies between present behavior and personal values.

B. Cultural Competence in Service Delivery

By Project Liberty, New York State Department of Mental Health

Cultural competence is the ability of counselors, educators, and outreach workers to understand and respond effectively to the cultural and linguistic needs of individuals and families affected by mental, emotional and physical traumas and conditions. According to the Department of Health and Human Services, “culture bears upon whether people even seek help in the first place, what types of help they seek, what coping styles and social supports they have and how much stigma they attach to mental illness”.

Culture influences how individuals perceive and interpret traumatic and other life-changing events. It influences how they, their families, and their communities respond as well. Access to and acceptance of help may be affected by several important factors including:

- Diversity of cultural values and beliefs about illness, healing and help seeking
- Differences in language and the use of English
- Socio-economic conditions
- Suspicion of governmental programs or other agency programs
- Rejection of outside assistance
- Reluctance to seek help due to stigma
- Variations in response to loss and expressions of grief
- Lack of information about available services
- Immigration status
- Physical limitations, disabilities, or other stressors
- Location of service delivery
- History of previous abuse or trauma, mental illness, or addiction within their family

The following are significant cultural considerations:

Ethnicity
Race
Country of origin
Gender
Socio-economic status
Education
Primary language

Spirituality/religion
English proficiency
Immigration status
Literacy level
Employment
Sexual orientation
Geographic location
Physical disability or limitations

The following is important for counselors, educators, and outreach workers to do:

- Be conscious of personal cultural biases and how they may influence cross cultural interactions.

- Rely on the people served to be the best source of information about their experience with mental, emotional, or physical problems.
- Understand cultural uniqueness in expressions of distress.
- Become educated about behaviors shaped by culture.
- Maintain respect for beliefs and values that are important to people coping with stress.
- Appreciate that there is a large variation across cultures in how people respond to death and loss.
- Guard against stereotyping based on knowledge of general characteristics of a group.
- Learn about the extent of alcohol and substance abuse in community cultural groups and rely on providing assistance that is tailored to the groups that promote healthy coping.
- Be attentive to aspects of non-verbal communication (e.g., knowledge of personal space, body language).
- Acknowledge your limitations in understanding aspects of culture and language and encourage the people you are working with to let you know if you unknowingly upset them.
- Be respectful, well informed and follow through with what you say you will do.

Appendix C: NEW YORK STATE BAR ASSOCIATION: LAWYER ASSISTANCE COMMITTEE MODEL POLICY

PREAMBLE

The New York State Bar Association is committed to assisting individuals in the legal profession who are dealing with impairment issues that affect performance on the job, whether caused by substance abuse or other addictive behaviors, depression, or other mental health conditions.

The NYSBA Lawyer Assistance Committee has drafted the following Model Policy for adoption by law firms/legal departments throughout New York State, with the following assumptions: that early intervention and treatment are fundamental goals, and that adoption of the policy will help to maintain the integrity of the legal profession and the viability of the [law firm/legal department], while protecting clients.

Each law firm/legal department may tailor the policy for its purposes, taking into consideration such factors as size, resources and practice setting. The policy is best used to augment broader policies that cover work conduct, disciplinary procedures, paid leave, and health insurance benefits. It should be adopted subject to the regulations of the Family Medical Leave Act, ABA, New York State Human Rights Law, and applicable collective bargaining agreements.

MODEL POLICY for LAW FIRMS/LEGAL DEPARTMENTS ADDRESSING IMPAIRMENT

I. DEFINING THE PROBLEM

Impairment of a legal professional adversely affects not only that the individual's well-being, but it also directly and adversely affects the [law firm's/legal department's] ability to provide the highest quality legal services to its clients and may lead to professional liability, violations of ethical obligations, professional discipline, a loss of public reputation and criminal prosecution. The chief contributors to impairment of legal professionals are clinical depression and other mental health conditions, dependency on drugs and alcohol, and other addictive behaviors.

II. POLICY STATEMENT

It is the policy of this [firm/legal department] that impairment of [law firm/legal department] legal professionals is inconsistent with its mission.

Further, it is the policy of this [law firm/legal department] that impaired legal professionals are in need of assistance and treatment, and that early identification and intervention will provide the greatest hope of overcoming such impairment. This [law firm/legal department] recognizes that impairment is not a moral failing.

The purpose of this policy is to encourage self-identification, self-referral, referral, treatment, and recovery. The [law firm/legal department], consistent with applicable law and the Rules of Professional Conduct, will not tolerate unlawful discrimination against a legal professional who has availed himself or herself of the [law firm's/legal department's] resources, as further set forth in this policy.

The [law firm/legal department] shall provide a copy of this policy to all employees and legal professionals.

III. WHO IS COVERED

This policy applies to all [law firm/legal department] legal professionals, including, but not limited to, partners and managing attorneys, associates, and paralegals, subject to any applicable collective bargaining agreement.

The [law firm/legal department] will assist and support legal professionals who voluntarily seek help for impairment or who are directed, as a result of a work performance evaluation, to seek help for impairment. The [law firm/legal department] will permit impaired legal professionals to use paid time off, be placed on a leave of absence, be referred for treatment or otherwise provide accommodations as required by law and permitted consistent with [law firm/legal department] leave policies.

IV. PROFESSIONAL RESPONSIBILITY

It is the responsibility of all legal professionals of this [law firm/legal department] to provide the highest quality legal services to its clients. Impairment due to the use of alcohol or drugs or due to mental health conditions can lead to potential incompetence and/or misconduct which compromises the [law firm/legal department]'s ability to service its clients in accordance with this responsibility.

Attendance and work performance of legal professionals of this [law firm/legal department] will be evaluated.

- Frequent lateness, absenteeism, failure to be on time for meetings and other attendance issues will not be tolerated.
- Failure to meet deadlines, failure to timely return phone calls will not be tolerated
- Disrespect for, or mistreatment of, staff or colleagues will not be tolerated.

If attendance or work performance issues or behaviors are being caused by impairment, this [law firm/legal department] encourages self-referral or referral to its EAP (employee

assistance program) or to the New York State Bar Association Lawyer Assistance Program (See, Article VII, below), as appropriate, prior to the initiation of [law firm/legal department] disciplinary action if possible and appropriate. Legal professionals of the [law firm/legal department] who fail or refuse to avail themselves of the opportunity to seek and follow through on treatment will be subject to internal discipline, up to and including possible termination.

While a legal professional may have a desire to assist another legal professional with an impairment avoid the consequences of his or her conduct, an attorney is nonetheless obligated under appropriate circumstances to report wrongful conduct of fellow attorneys pursuant to Rule 8.3 of the NY Rules of Professional Conduct (effective April 1, 2009), a portion of which is attached for reference. (*See*, also, N.Y. State 822.)

V. CONFIDENTIALITY

To the extent possible, this [law firm/legal department] will endeavor to maintain the confidentiality of a legal professional who has self-referred, or who has been referred, to available resources for evaluation and treatment. Please be advised that certain matters may not remain confidential (*e.g.*, a threat to harm yourself or others, future criminal conduct, child abuse), but every attempt will be made to keep a legal professional's personal issues confidential.

The [law firm/legal department] will designate an appropriate person or persons to assist the impaired legal professional with issues of insurance coverage, payment for treatment and covering client matters during treatment, as necessary, and compliance with Return-to-Work agreements. (See, Article IX, below). Cooperation in all such matters is required, and failure to cooperate may result in [law firm/legal department] discipline, up to and including possible termination.

VI. EDUCATION

The [law firm/legal department] is dedicated to providing continuing education and training to all legal professionals in relation to implementation of this and all policies as well as education related to work/life balance, stress reduction and other such topics that can support outstanding work performance and continuing success of the [law firm/legal department]'s mission.

VII. AVAILABLE RESOURCES

[Law firm/legal department]

Contact: Call (e.g. NAME at x 6021) for information about this policy, its administration and for a confidential referral if appropriate.

Referral or Self-referral to Employee Assistance Program: if applicable, insert information about the [law firm/legal department]'s health insurance carrier's Employee Assistance Program -- e.g.

Our law firm health insurance policy includes access to an Employee Assistance Program for the purpose of self-referral or referral of individuals and their co-workers who are impaired, their families. We encourage you to contact the EAP. EAP is a confidential service provided at no cost to covered employees and others who are affected by impairment.

Referral or Self-referral to Lawyer Assistance Program: The New York State Bar Association maintains a statewide confidential Helpline at 1-800-255-0569. The NYSBA LAP provides confidential assistance, including but not limited to, relevant information about impairment, identification of appropriate assessment providers, and assistance in intervention planning, assistance in identifying potential treatment providers and resources for impaired attorneys and CLE.

Confidential communications between a legal professional and a Lawyer Assistance Program are deemed privileged. Section 499 of the Judiciary Law (as amended by Chapter 327 of the Laws of 1993 and as amended thereafter) provides the following:

1. 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 that has furnished the information to the committee.
2. Immunity from Liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.

VIII. PROHIBITIONS/CONSEQUENCES

Legal professionals are prohibited from on-the-job impairment from alcohol or controlled substances. Any individual who distributes, sells, attempts to sell, transfer, possess or purchase any illegal substance while at work or while performing in a work-related capacity may be subjected to internal [law firm/legal department] disciplinary action including termination, and/or civil penalties and criminal penalties if appropriate.

[The law firm/legal department can add to this paragraph particular items relevant to the law firm/legal department]

IX. RETURN TO WORK AGREEMENTS

The [law firm/legal department] may require a legal professional (who has self-referred or who has been referred for treatment) to execute a Return-to-Work agreement.

If a legal professional -- prior to being subjected to professional disciplinary action or where internal disciplinary action has been held in abeyance during the pendency of treatment -- engages in appropriate treatment, he or she may be required to execute a Return-to-Work Agreement prior to returning to work.

Such [Return-to-Work Agreement](#) will include: (A sample agreement is attached. Appendix E).

- verification of the legal professional's participation in a treatment program,
- the legal professional's commitment to maintain the prescribed regimen for continued wellness, to adhere to the firm's code of conduct and professional responsibility, and to participate in aftercare,
- a commitment to undergo drug or alcohol testing if appropriate,
- authorization by the legal professional to appropriate firm representatives to discuss compliance with the foregoing requirement, but limited to a need-to-know basis [and] while maintaining privacy particularly with respect to medical records,
- an acknowledgement that a violation of the Return-to-Work Agreement will result in immediate sanctions.

Appendix D: 22 NYCRR Part 1200 – NY Rules of Professional Conduct (effective April 1, 2009)

Rule 8.3 Reporting Professional Misconduct

- (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.
- (b) A lawyer who possesses knowledge or evidence concerning another lawyer or a judge shall not fail to respond to a lawful demand for information from a tribunal or other authority empowered to investigate or act upon such conduct.
- (c) This Rules does not require disclosure of:
 - (1) Information otherwise protected by Rule 1.6; or
 - (2) Information gained by a lawyer or judge while participating in a bona fide lawyer assistance program.

Rule 8.4 Misconduct

A lawyer or law firm shall not:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability:
 - (1) to influence improperly or upon irrelevant grounds any tribunal, legislative body or public official; or
 - (2) to achieve results using means that violate these Rules or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;
- (g) unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Department Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding; or
- (h) engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

Appendix E. SAMPLE: TREATMENT AND RETURN TO WORK AGREEMENT

By signing this agreement I accept and agree to the following terms and conditions which will govern my [continued employment with/association with] and my return to work with [law firm/law department].

I. TREATMENT

I acknowledge that my work performance and/or behavior have resulted in the need for intervention and have provided a basis for disciplinary action, up to and including the termination of my employment (or: define nature of relationship with the [law firm/legal department]). As a consequence, and in order to avoid the termination of my employment/expulsion from the [law firm/legal department]), I voluntarily accept the terms of this agreement.

1. I agree to submit to an immediate evaluation by a health care professional of the [law firm/legal department]'s selection or approval.
2. I agree to follow all treatment and aftercare recommendations by that health care professional or treatment program.
3. I understand that I am responsible for all costs associated with the treatment program to the extent they are not covered by insurance.
4. I will authorize regular progress reports to be made to the [law firm/legal department] during treatment (tailor to specific consent).

RETURN TO WORK

Clearance for my return to work will be determined by my health care provider and the employer.

Upon my return to work, I agree to abide by the [law firm/legal department]'s policy regarding attendance and work performance, and I agree that my failure to do so may result in disciplinary action up to and including termination/expulsion from the [law firm/legal department].

Upon my return to work, I agree to review treatment and/or aftercare requirements with the designated [law firm/legal department] representative [on a need-to-know basis], and I agree to strictly comply with such treatment and aftercare requirements. My failure to do so may result in disciplinary action up to and including termination/expulsion for the [law firm/legal department].

I will ensure that, within an established time frame, my health care provider will submit regular progress reports to the designated representative at [law firm/legal department] until my treatment is complete, upon which the health care provider will submit a summary report.

I agree to abide by all standards of professionalism, behavior and performance required of legal professionals at the [law firm/legal department], including but not limited to, those set out in its policy and procedure manual.

I agree that this agreement does not guarantee my employment, position or compensation for any period of time. I understand and acknowledge that strict adherence to these terms and conditions are a requirement of my continued work with the [law firm/legal department] and that any violation of the terms of this agreement (including its incorporated standards) may result in [law firm/legal department] disciplinary action, up to and including my immediate termination/expulsion.

By my signature below I confirm that I have reviewed and considered these terms and accept them voluntarily as a constructive part of my recovery. I also acknowledge that these terms are being provided to me as an alternate to the termination of my employment/affiliation. I understand that I may withdraw my consent at any time during the term of this agreement, but acknowledge that withdrawing my consent is a voluntary termination of my employment (consent to my expulsion from the firm).

Signature #1 and date (at the time of intervention):

Signature #2 and date (upon return to work, and incorporating aftercare recommendations)

Lawyer Assistance Program

The Lawyer Assistance Program (LAP) of the New York State Bar Association was established in 1990 to assist attorneys, judges, and law school students who are affected by problematic drinking, drug misuse, stress, depression, and other mental health concerns. LAP also provides support services to families, law firms and others in the legal community who are concerned about the well-being of the legal community.

Judicial Wellness

Specialized help is available for members of the judiciary.

NYSBA LAP 518.487.5688

Available Services

- Early identification of impairment.
- Intervention and motivation to seek help.
- Referral to community resources, self-help groups, inpatient treatment, outpatient counseling, and rehabilitation services.
- Referral to a trained peer support. Peer support is made up of volunteer attorneys from across New York who have faced and overcame their own difficulties. Peer support provides connection, understanding, guidance, and shared experience.
- Information and consultation for those concerned about an attorney.
- Training programs on recognizing, preventing, and dealing with addiction, stress, depression, and other mental health issues.

Seeking assistance is voluntary and confidential.

LAP is available to all attorneys in New York State, whether or not the attorney is a member of the New York State Bar Association.

For Assistance Contact:

NYSBA LAP HOTLINE 24/7 Assistance:
(877) 772-8835

Stacey Whiteley, Director: 518.487.5688
New York State Bar Association LAP

Eileen Travis, Director 212.302.5787
New York City Bar Association LAP

Elizabeth Eckhardt, Director 888.408.6222
Nassau County Bar Association LAP

Judiciary Law

Section 499. Lawyer Assistance Committees Chapter 327 of the Laws of 1993

1. 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, which has furnished information to the committee.

2. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.



NEW YORK STATE BAR ASSOCIATION

One Elk Street, Albany, New York 12207

877.772.8835 or 518.487.5688

lap@nysba.org

www.nysba.org/lap



Lawyer Assistance
Program

Free, Confidential Help for the Problems Lawyers Face



LAWYER ASSISTANCE PROGRAM
24/7 HOTLINE: 877.772.8835
NYSBA LAP OFFICE: 518.487.5688

All LAP services are confidential and protected
under Section 499 of the Judiciary Law as
amended by Chapter 327 of the Laws of 1993.



Personal Inventory

Personal problems such as addiction and mental health concerns affect a professional's ability to practice law, not to mention the difficulties experienced at home. Review the following questions. If you answer "yes" to any of these questions, you may benefit by calling LAP. Asking for help is difficult and is often the hardest part on a journey towards your well-being. The staff at the LAP is here to assist you.

1. Are important people in my life saying that my behavior has changed or that I seem different?
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 or emails?
6. Have my sleeping and eating habits changed?
7. Am I experiencing a pattern of relationship problems with significant people in my life?
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. Recently, 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?

Alcohol and Substance Use Disorders:

- Problematic alcohol and drug use can be treated. Recovery is possible.
- Addiction is characterized by a preoccupation with the substance and a loss of control over consumption.
- Often, a person's behavior appears illogical, irrational, and not in line with the person's character when they are sober.
- Addiction is a progressive disease; time enforces the physical and psychological dependence to the substance.
- The legal profession celebrates the "work hard, play hard" mindset, and from law school on, alcohol is ever present and often an integral part of the culture.
- Unsurprisingly, statistics show that lawyers are twice as likely to suffer from problematic alcohol consumption than the general population.
- Prescription drug abuse happens whenever drugs are used in ways other than prescribed.

Depression:

- Can be situational or clinical. Both are serious conditions with significant challenges and impacts on a person's well-being. Treatments will vary depending on the type of depression.
- Clinical depression is a lifelong medical condition in which a person experiences periods of hopelessness, irritability, feelings of worthlessness, sleeping disorders, and low mood with little to no feelings of pleasure or desire to participate in life activities.
- Situational depression can be related to a recent loss or traumatic event. Usually marked with overwhelming sadness, lack of interest in usual activities, sleeping disruptions, and isolation.
- Both types are treatable and manageable with the proper care.

Suicide:

- Overwhelming stress, mental health issues, substance use, and brain injuries can cause a person to have thoughts of suicide. Call the National Suicide Prevention Hotline **1.800.273.8255** if you or someone you know has thoughts of self-harm.

Stress:

- Symptoms can include fatigue, changes in appetite, headaches, crying, and changes in sleep habits.
- Unmanaged stress can lead to serious physical and psychological problems.
- Unmanaged stress is linked to increased substance use, burnout, and depression.
- With the right tools and support, stress can be successfully managed.

Doing Nothing is not an Option

Providing competent representation is an ethical duty of every licensed attorney. When you, or someone you know, is struggling with overwhelming stress, depression, addiction issues, or another mental health problem, providing that competent representation can be nearly impossible which may impact your ability to continue to practice law.

We recognize that it isn't easy for a lawyer to ask for help. The Lawyer Assistance Program has been around for over 30 years. We are dedicated to providing confidential, compassionate and competent assistance. We believe that we make it possible for a lawyer to take that critical first step and ask for help.



Confidential, Round-the-Clock Support Is Available Through Your New York State Bar Association's Lawyer Assistance Program (NYSBA LAP)

Everyone occasionally experiences problems. NYSBA LAP provides counseling resources that quickly and professionally assist you in handling problems affecting your personal or work life. Why allow problems to weigh you down? Completely confidential help is just a call away. Counselors answer the phone 24/7 to provide immediate support and assistance.

Your LAP Offers Assistance with

- Parenting Problems
- Family Problems
- Work Difficulties
- Marital Concerns
- Emotional Upsets
- Stress Problems
- Depression
- Alcohol/Drug Misuse
- Other Personal Issues

What Services Does Your LAP Offer?

- Professional and confidential counseling sessions for NYSBA members, up to 4 sessions per year
- 24/7/365 availability of Master's level therapists

Help Is Just a Call Away!
24/7 • Confidential
877-772-8835