Tennessee Commission on Continuing Legal Education & Specialization

LAWYER TO LAWYER MENTORING PROGRAM

WORKSHEET L

SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

Worksheet L is intended to facilitate a discussion about substance abuse and mental health issues in the legal profession, including possible warning signs, what to do if the new lawyer is faced with a substance abuse or mental health issue, and resources for assistance.

YOUR STRENGTHS

What Signature Strengths of Character will you bring to this session? ____________________

____

What Strengths that you are developing will you bring? ________________________________

____

ACTIVITIES FOR TODAY

- Discuss the goals of mandatory substance abuse instruction, which include raising the attorney population's consciousness regarding the problems of chemical dependency, informing all attorneys of how to detect, prevent and assist impaired attorneys, and increasing awareness of available assistance programs. Make sure the new lawyer understands a lawyer's obligation to obtain a required number of continuing legal education credits in substance abuse instruction every reporting period.
- Review the attached article by Timothy J. Sweeney, J.D., *Statistical Demographics and Outcome Study of Chemically Dependent Attorneys*, and discuss the statistics regarding substance abuse and mental health problems among lawyers.
- Share with the new lawyer experiences, if any, that you have had dealing with an impaired lawyer or judge and how you handled (or should have handled) the situation(s).
- Discuss with the new lawyer your experience (if any) with noticing the signs and symptoms of chemical dependency in someone with whom you worked. Talk about how one might professionally address this type of situation.
- Discuss a lawyer's duty to decline or withdraw from representation if a physical or mental condition materially impairs his or her ability to represent a client. See Tennessee Rules of Professional Conduct 1.16.

- Discuss your duty to report the misconduct of a colleague when a substance abuse problem or mental health issue affects his or her fitness to practice law. See Tennessee Rules of Professional Conduct 8.3 and 8.4.
- Read the attached article by Suzanne Robertson, *Lawyers' Assistance Program is Free, Confidential and Waiting for Your Call*. Identify local assistance programs and direct new lawyers to the Tennessee Lawyers Assistance Program website at http://tlap.org/ for information. Discuss the confidentiality of referrals to the Tennessee Lawyers Assistance Program or other bar association assistance committee.
- Discuss the signs and symptoms of chemical dependency in the attached chart. Ohio Lawyers Assistance Program, Signs and Symptoms of Chemical Dependency. Review the attached self-tests for alcohol/drug and depression problems to learn the signs and symptoms of these problems.
- Read the attached article by Myer J. (Michael) Cohen, *Bumps in the Road*, and discuss how to deal with the significant problems resulting from impairment of lawyers.
- Discuss the most professional ways for dealing with the following situations:
  - The judge before whom you appear seems to be impaired.
  - The opposing counsel in your case attempts to negotiate with you while s/he appears to be impaired.
  - The opposing counsel in your case appears with his or her client at a deposition or hearing and you suspect s/he is impaired.
  - Your client appears for a hearing impaired.
- Discuss a lawyer's personal and professional duties to assist their colleagues if they suspect impairment.
- Discuss a lawyer's heightened responsibility to a client who is mentally impaired. See Tennessee Rules of Professional Conduct 1.14 below.

IN-HOUSE MENTORING RELATIONSHIPS

- Share with the new lawyer any policy your firm has for dealing with an employee who exhibits symptoms of chemical dependency or mental health problems. Discuss what the new lawyer should do if such problems are suspected of partners, other associates or support staff.
- Discuss any support plans your firm has in place for assisting an employee with chemical dependency or mental health problems.
- Discuss the importance of protecting clients' cases from an impaired lawyer.

GOOD THINGS ABOUT TODAY'S SESSION

Take a few minutes to individually complete the following, then discuss briefly.

Some good things about today's session for me were:

____

____

I attribute those good things to:

____

____

We can make more good things happen in future sessions by:

____

____

RESOURCES

Tennessee Lawyers Assistance Program: http://tlap.org/

TENNESSEE RULES OF PROFESSIONAL CONDUCT

I. CLIENT-LAWYER RELATIONSHIP

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in a violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or imprudent;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unanticipated and substantial financial burden on the lawyer or has been rendered unreasonably difficult by the client;

(7) other good cause for withdrawal exists; or

(8) the client gives informed consent confirmed in writing to the withdrawal of the lawyer.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) A lawyer who is discharged by a client, or withdraws from representation of a client, shall, to the extent reasonably practicable, take steps to protect the client's interests. Depending on the circumstances, protecting the client's interests may include: (1) giving reasonable notice to the client; (2) allowing time for the employment of other counsel; (3) cooperating with any successor counsel engaged by the client; (4) promptly surrendering papers and property to which the client is entitled and any work product prepared by the lawyer for the client and for which the lawyer has been compensated; (5) promptly surrendering any other work product prepared by the lawyer for the client, provided, however, that the lawyer may retain such work product to the extent permitted by other law but only if the retention of the work product will not have a materially adverse effect on the client with respect to the subject matter of the representation; and (6) promptly refunding any advance payment of fees that have not been earned or expenses that have not been incurred.

VII. MAINTAINING THE INTEGRITY OF THE PROFESSION
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 in other respects, shall inform the Disciplinary Counsel of the Board of Professional Responsibility.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the Disciplinary Counsel of the Court of the Judiciary.

(c) This Rule does not require disclosure of information otherwise protected by RPC 1.6 or information gained by a lawyer or judge while serving as a member of a lawyer assistance program approved by the Supreme Court of Tennessee or by the Board of Professional Responsibility.

View complete rule and comments at: http://www.tsc.state.tn.us/rules/supreme-court/8

VII. MAINTAINING THE INTEGRITY OF THE PROFESSION
RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(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) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(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 to influence a tribunal or a governmental agency or official on grounds unrelated to the merits of, or the procedures governing, the matter under consideration;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.

View complete rule and comments at: http://www.tsc.state.tn.us/rules/supreme-court/8

STATISTICAL DEMOGRAPHICS AND OUTCOME STUDY OF CHEMICALLY DEPENDENT ATTORNEYS

By Timothy J. Sweeney, J.D., CCJAP

"John" was a trial lawyer. He was estranged from his wife and children, and his once thriving solo practice was all but destroyed as a result of the alcoholism that drove him into treatment in 1996. John was diagnosed with continuous and severe alcohol dependency as well as major depression. Following detoxification (which was especially difficult due to a history of seizures and delirium tremens), it was recommended that John undertake long-term residential-type treatment in an impaired professionals program. John's treatment experience was tumultuous, marked by revocations of consents, threats of lawsuits against the provider, and numerous voiced plans to leave treatment against medical advice. John eventually did leave treatment AMA, and immediately recommenced drinking alcoholically. Over the next number of months, he continued to contact the treatment center, asking for and then refusing proffered help. Finally John was convinced to reenter treatment, but only stayed one day before leaving again. Two weeks later the treatment center was contacted by local police and advised that John was found deceased in a flop-house hotel, having apparently bled to death from the virtual disintegration of his liver. The treatment center was contacted because, when the police found John, he was wearing a placard around his neck listing his vital statistics and various phone numbers of people to be called in case of emergency. John was 51 years old.

INTRODUCTION

In the spring of 2002, a retrospective study was conducted of 75 clinical case files of chemically dependent attorneys, judges and law school graduates treated at HealthCare Connection of Tampa, Inc. ("HCC"). HCC is a continuum of services treatment facility specializing in the care of impaired professionals, e.g. physicians, attorneys, nurses, pharmacists, etc., and persons with dual disorders. The continuum ranges from primary and extended care treatment, to halfway, three quarter and aftercare services. Detoxification, when necessary, is typically handled on an outpatient basis by the on-site medical clinic of David P. Myers, M.D.

The study collected and examined demographical data including median age, gender, marital status, practice type and drug of choice. The study also considered the incidence of psychiatric dual diagnosis as well as personality disorders/configurations as interpreted by the MCMI-III. Finally, data was collated regarding law enforcement and state bar association complications, as well as history of prior treatments.

The outcome statistics considered how treatment was concluded (patients leaving treatment against medical advice versus successfully completing treatment and following aftercare recommendations) with comparison of discharge types before and after formal institution of recovering attorneys' program track in October of 1999. Where available, follow up data was collected concerning Program participants' recovery progress following treatment.

METHODS

Collection of data on select professional groups is well known[1]. The data presented in this study was collected by the author, a Florida-licensed attorney and Certified Criminal Justice Addictions Professional. The data was obtained from the attorney/patients' clinical charts. Treatment was based on American Society of Addiction Medicine's Adult Patient Placement Criteria[2], and executed via the HCC Impaired Professionals' Program under the direction of Dr. David Myers. Consistency of information and measures to control for misclassification were enhanced by the fact that each patient was evaluated by the same Addictionist, all Axis II personality data was derived from the Millon MCMI-III[3], and each biopsychosocial interview and history was conducted pursuant to the same format. Post-treatment, follow up data is always difficult to obtain and, when obtained, is suspect to a degree, given the natural prevalence of denial and deception exhibited by those treatment alumni not actually in recovery. However, corroboration was obtained, when possible, through lawyer assistance program monitoring agencies, culling of public records, recovery support systems, and anecdotal evidence.

RESULTS

1. Patient Profile

Seventy-five clinical case records were examined for attorney/patients treated from 1994 through 2002. Forty-one of the seventy-five (54.66%) were treated following creation of the specialized track, the Recovering Attorneys' Program, in October of 1999. Of the seventy-five, sixty-five were men (86.7%) and ten were women (13.3%). The age of the male attorneys ranged from 27 to 65, with a median age of 43.9 years. The median age for female attorneys was slightly younger at 41.9. Thirty-eight of the lawyer/patients were married, twenty divorced and seventeen single. Nearly all reported significant marital or relationship difficulties. Forty-four (58.6%) were litigators, eight (10.6%) were transactional attorneys, seven (9.3%) were law school students or graduates awaiting admission to the bar, three (4%) were judges, four (5.3%) were disbarred and nine (12%) fit some other category.

The drug of choice for the seventy-five lawyers treated was as follows:

Drug of choice	Number	Percentage (Rounded)
Alcohol	43	57
Cocaine	19	25
Opiates[4]	6	8
Benzodiazapenes[5]	2	3
GHB[6]	2	3
Methamphetamine	2	3
Marijuana	1	1

Most engaged in polysubstance use/abuse. Forty-four of the lawyers (58.6%) had prior treatment. Of these, nineteen had one prior treatment, five had two previous experiences, and twenty had three or more, with the most being one lawyer with eight prior treatments.

Thirty-eight, or just over half of the lawyers treated, reported a history of criminal arrests. The most common offense was driving under the influence (18), followed by drug possession (12), domestic violence (10), trafficking (3), and assault and battery (3). [Note: some lawyers reported multiple offenses.] Thirty-four of the lawyers had bar complaints or other problems. These included nine suspensions and four disbarments.

2. Psychiatric Data and Personality Testing

Forty-five of the attorneys (60%) presented to treatment with a co-occurring psychiatric disorder (dual diagnosis). This percentage is higher than that for health care professionals at HCC, and significantly higher than the non-professional treatment population at HCC. Of the forty-five, twenty-four (32%) were diagnosed with Major Depression, eleven (14.6%) with Bipolar Disorders and ten (13.4%) with Anxiety Disorders.

The MCMI-III personality testing scores were most interesting. Of a total of 119 personality configurations identified among the lawyers tested (some had more than one), the Antisocial Personality Classification (disorder, trait or feature), not surprisingly, was returned highest, with twenty-one lawyers (17.6%) testing as Antisocial. Predictable also were the high number of attorneys (14) with a Narcissistic Personality configuration. This is consistent with the lawyer stereotype: rule challenging, maverick, somewhat self-absorbed, egotistical. These characteristics in measured doses can define a successful attorney. When unchecked, however, these personality configurations are typical among the chemically dependent attorney population.

Three results, however, seem quite surprising. The second most frequent personality configuration identified was the Dependent Personality, with twenty lawyers (16.8%) so classified. The DSM-IV defines Dependent Personality Disorder as “a pervasive and excessive need to be taken care of that leads to submissive and clinging behavior and fears.”[7] This seemingly flies in the face of the popular conception of attorneys as *caregivers*, solvers of other peoples’ problems.

High frequency was also found in the Schizoid (10.9%) and Avoidant (10%) Personality Classifications. The DSM-IV defines Schizoid Personality Disorder as "a pervasive pattern of detachment from social relationships and a restricted range of expression of emotions in interpersonal settings."[8] Avoidant Personality Disorder is defined as "a pervasive pattern of social inhibition, feelings of inadequacy, and hypersensitivity to negative evaluation."[9] Certainly, trial lawyers (who comprise a majority of the treatment patients) would be significantly hindered by these types of personality configurations. And yet most of the lawyers entering treatment reported having very successful and lucrative practices, and these reports are confirmed by collateral contacts.

The Axis II personality data breaks down as follows:

Type	Number	Percentage	DSM Prevalence[10]
Antisocial	21	17.6	3% to 30%
Dependent	20	16.8	high
Narcissistic	14	11.7	2% to 16%
Schizoid	13	10.9	uncommon
Avoidant	12	10	10%
Borderline	9	7.6	10%
Obsessive-Compulsive	9	7.6	3% to 10%
Paranoid	7	5.8	2% to 10%
Depressed	6	5	n/a
Histrionic	4	3.4	10% to 15%
Sadistic	3	2.5	n/a
Passive-Aggressive	1	.8	n/a

OUTCOME

The average length of stay in treatment was 10.6 weeks, with a range from one day to nine months. Of the seventy-five patients, forty-eight (64%) successfully completed treatment and twenty-seven (36%) left AMA. [For the purposes of this study, the term "against medical advice" is given a broader meaning than is typical in the therapy setting, and includes all patients other than those who entirely accepted clinical recommendations for treatment, length of stay, and aftercare. For instance, a lawyer who came seeking and was admitted for one week of treatment, and who successfully completed that week, is herein nevertheless designated "AMA" if, at the end of the week he declined a recommendation for continued care.] Of the twenty-seven AMAs, eighteen occurred prior to institution of the formal Recovering Attorneys' Program; thus, 79% of the lawyers in the Recovering Attorneys' Program successfully completed treatment and followed aftercare recommendations, versus 47% successful completions pre-Recovering Attorneys' Program.

Four clients were re-treated at a later date; one was re-treated twice. Three of the re-treated patients had no further relapses. No follow up information was available relating to nine of the AMAs. Three are believed to be sober, per the monitoring agency. Eight have either self-reported or are reported to be in relapse since treatment. Four had periods of or are currently incarcerated, three have been subsequently disbarred and two suffered substance abuse-related deaths.

Of the forty-eight successful completions, forty-one (85.4%) are reported sober, evidenced by compliance under monitoring contracts, or having successfully completed a contract. Four are believed to be in relapse and no information was obtainable on the other three. Four of the successful completions currently have five or more years of documented sobriety; five have four plus years documented, one has three plus, five have at least two years sober; twelve have over one year sober, eight have six months or more and six are in their first six months of sobriety. Of the forty-one currently sober, twenty-nine report no relapse following treatment, while twelve report one or more relapses following treatment prior to achieving their current sobriety.

DISCUSSION

1. Profile

Based on the foregoing, the typical attorney entering treatment is a male trial lawyer in his early forties, with a polysubstance addiction (often alcohol and cocaine), and who has a co-occurring mood disorder as well as a personality disorder complicating treatment. He is a veteran of multiple prior treatments, is often successful at work but rarely enjoys a satisfying home life.

The rate of psychological dysfunction and personality disorders were higher than one might expect, given the strenuous screening process inherent in becoming a member of the legal profession. With respect to the personality testing, lawyers not surprisingly tested high on the antisocial and narcissistic scales. However, a large percentage of attorneys entering treatment tested high on dependent, schizoid, and avoidant scales. As described above, these are personality configurations one would anticipate hindering the successful practice of law. But such was not the case. That means these individuals compensated for their personality proclivities by acting in a fashion contrary to their nature. Their success was tempered by an inner conflict that they in turn medicated with drugs or alcohol. In some cases this balancing act lasted for years until overtaken by the consequences of uncontrolled substance use and the lawyer sought (or, more often, was compelled to seek) treatment.

2. Outcome

Treatment outcomes improved significantly following institution of the Recovering Attorneys' Program in the Fall of 1999. It is believed that the basis for this improvement may be found in the framework of the Program:

--impaired professional treatment with additional, lawyer-specific overlay services;
--Program oversight by director with both legal and clinical background;
--proactively addressing work, Bar and criminal (if any) issues.

The Program and treatment community are well-served by keeping lawyer-patients extra busy. Boredom and ennui are counterproductive in any treatment population; with attorneys too much downtime is often a recipe for clinical disaster. Lawyers in the Recovering Attorneys' Program have three extra group activities, an additional five hours, per week.

A Program director or case manager with both legal and clinical experience is most helpful. Lawyers typically enter treatment with practice issues that must be addressed. The lawyer/patient will advise that every case requires immediate attention, to the neglect of the recovery process. This is a tailor-made way of avoiding the pain and fear inherent in getting clean and sober. Give the lawyer his way and he will never engage in treatment, being so busy running his practice from the treatment center. On the other hand, there often are real problems that must be addressed, in order to avoid new or additional Bar grievances for client neglect. The key is to accurately discern between problems that need immediate attention, versus "smokescreen" issues that are raised only as distractions or as ways to prevent or impede the treatment process. The conundrum is that the typical clinician can not and really should not be expected to know the true state of a lawyer's practice: which trials really are going forward on the next docket, which closings really can no longer be continued and so on and so forth. And even if a therapist was able to discern crises from non-crises, what to do? The truth is, judges, mediators, opposing counsel, and even clients are usually accommodating if approached in the right way. This is why having dual disciplines is effective: the legal background aids in deciding which matters are urgent and who needs to be contacted, and the clinical background is helpful in convincing of the paramount importance and need for prioritization of treatment.

CONCLUSION

Further studies of a prospective nature are needed in order to identify the causal relationship between chemical dependency/mental health problems and the legal profession. However, both ethics and compassion dictate that aggressive intervention cannot be withheld, but rather must be initiated immediately, given the large number of lawyers that may be suffering from either active or occult dependency or other mental disorders. This intervention should be initiated by state bar associations, which need to adopt a more active and confrontational role relating to its members' substance abuse and mental health issues. The intervention should then take the form of comprehensive chemical dependency and mental health assessment followed by, when dictated, lawyer specific primary and extended care treatment, and aftercare monitored by the state's lawyers' assistance program.

BIBLIOGRAPHY

1. Talbot GD, Gallegos KV, Wilson PO, Porter TL: The Medical Association of Georgia's Impaired Physicians Program-Review of the First 1000 Physicians: Analysis of Specialty, *JAMA* (1987); 257: 2927-2930.
2. Mee-Lee D, Shulman GD, Fishman M, Gastfriend DR, and Griffith JH, eds. (2001). *ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders*, *Second Edition-Revised* (ASAM PPC-2R). Chevy Chase, MD: American Society of Addiction Medicine, Inc.
3. Millon T, MCMI-III Interpretive Reports, (1994) Dicandrien, Inc.
4. Opiates include prescription pain medication such as oxycodone (Percoset, Oxycontin), hydrocodone (Lortab, Vicodan), and hydromorphone (Dilaudid) as well as heroin and methadone.
5. Benzodiazapines, or tranquilizers, include Valium, Xanax, and Clonipin.
6. Gamma-Hydroxybutyrate
7. American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition. Washington, DC, American Psychiatric Association, 1994. (Page 665).
8. Id. at 638.
9. Id. at 662.
10. Id. at 629-673.

Volume 18, Number 5
July/August 2001

Bumps in the Road

By Myer J. (Michael) Cohen

What a difference a little over a decade makes. In 1988, when the ABA created the Commission on Impaired Attorneys (changed in 1996 to the Commission on Lawyer Assistance Programs, or CoLAP), there were only four states that had formal, statewide lawyer assistance programs (LAPs). Most of the organized state bars and their members were either unaware of or unconcerned about the issue of lawyers impaired by substances, psychological problems, or addictive disorders. Disciplinary response to a lawyer with a chemical dependency or psychological impairment often consisted of suspension or disbarment. Today, all 50 states, the Canadian provinces, and Great Britain have comprehensive lawyer assistance programs (many with a paid director and staff).

The decision by the General Practice, Solo and Small Firm Division to dedicate this issue of GPSolo to the matter of lawyer impairment marks another milestone in the shift of how these conditions are perceived by the legal profession and the American Bar Association. ABA President Martha Barnett has acknowledged the problem of attorney impairment and has made addressing the issue of substance abuse inside and outside the profession one of her presidential initiatives. A number of states now require CLE hours in substance abuse and mental health awareness. Many states have adopted the ABA Model Rules for Imposing Lawyer Sanctions, which regard efforts at rehabilitation as mitigation in lawyer discipline cases. Several months ago, the General Practice, Solo and Small Firm Division began devoting a column in this publication, entitled "In the Solution," to the matter of attorney impairment. Clearly, most, if not all, lawyers now regard the question of impairment as one that may affect them both personally and professionally.

No one disputes that the profession has changed dramatically during the past 20 years. More lawyers are chasing basically the same amount of business, invariably resulting in greater competition and more stress. Both new and established lawyers and law firms find themselves working an ever-increasing amount of hours, often for fewer dollars, at the expense of their personal and family lives. The demands and expectations placed on them by their clients, colleagues, and judges have never been higher and are often unrealistic and unobtainable. This is a guaranteed recipe for stress, burnout, depression, and substance abuse.

What Do We Mean?

Back to Top

Throughout this issue, you will see the words, "chemical dependency," "addiction," "alcoholism," "substance abuse," and "mental health disorders." Before discussing what these conditions *are*, it is appropriate to review what they *are not*. Chemical or substance dependence (which is largely synonymous with "addiction" or "alcoholism") is not a moral failing, a result of a lack of willpower, or an indication of "bad character." Since the mid-1950s, the American Medical Association has defined the condition as a progressive, incurable, and fatal disease, having biopsychosocial and genetic components.

The medical community has established a number of guidelines for the identification of substance use, abuse, and addiction. The American Society of Addiction Medicine (ASAM) defines addiction as "a disease process characterized by the continued use of a specific psychoactive substance despite physical, psychological or social harm" (*Principles of Addiction Medicine*, 2d ed., 1998). The American Psychiatric Association's *Diagnostic and Statistical Manual* (*DSM IV*) defines "substance dependence" as a pattern of substance use leading to clinically important distress or impairment during a single 12-month period, shown by three or more of the following:

- Tolerance, shown by either: (1) a markedly increased intake of the substance is needed to achieve the same effect; or (2) with continued use, the same amount of the substance has markedly less effect.
- Withdrawal, shown by either: (1) the substance's characteristic withdrawal syndrome; or (2) the substance (or one closely related) is used to avoid or relieve withdrawal symptoms.
- The amount or duration of use is often greater than intended.
- Repeated attempts without success to control, reduce, or stop using the substance.
- An increasing or inordinate amount of time is spent using the substance, recovering from its effects, or trying to obtain it.
- The reduction or abandonment of important social, occupational, or recreational activities because of substance use.
- Continuing to use the substance, despite the knowledge that it has probably caused physical or psychological problems. The term "substance abuse" is defined in the DSM-IV as a substance use causing clinically important distress or impairment in a single 12-month period as shown by one or more of the following:
- Failure to carry out major obligations at work or at home due to the repeated use of a substance.
- The use of substances even when it is physically dangerous.
- Repeated legal problems from substance use.
- Continued use of the substance, despite knowing that it has caused or worsened social or interpersonal problems.

- The patient has not previously been diagnosed as dependent on this class of substance.

Mental Health Disorders

Advances in psychiatry have determined that many psychological conditions, including schizophrenia, depression, and bipolar disorder (manic depression), are not solely psychosocial issues or the result of childhood experiences, but rather are indications of imbalances in one's brain chemistry that often can be successfully treated with medication and therapy. Other psychiatric conditions, known as "personality disorders" (including narcissistic, borderline, avoidance, and antisocial personality disorders), do not respond as well to medication, but may respond to therapy and behavior modification techniques.

Together, chemical dependency, abuse, and mental health disorders affect a substantial portion of the general population. Contrary to the legal profession's self-perception that it is immune to these conditions, several studies indicate that we may actually be especially prone to these disabling illnesses. While generally accepted figures estimate that 10 to 11 percent of the general population in this country suffers from the disease of chemical dependence, surveys in Arizona, Washington, and Maryland indicate that 15 to 18 percent of lawyers are affected by this illness.

A study done by Johns Hopkins Medical School in 1990 found that of all the professions surveyed, lawyers had the highest rate of clinical depression, a statistic that has probably not improved in the intervening years. Suicide currently ranks as one of the leading causes of premature death in the legal profession.

The Good News

That's the bad news. The good news, as will be discussed throughout this issue of *GPSolo*, is that the problems have been recognized, the organized bar is involved, and measures can be taken to successfully restore lawyers to health, saving their licenses, salvaging their families, and protecting their clients. The ABA Commission on Lawyer Assistance Programs has been instrumental in providing help to already functioning state lawyer assistance programs and to state bars wishing to create such programs.

Bar association programs, including lawyer assistance, law office management, and quality of life committees, have carried a message of recovery, education, and prevention to lawyers in their jurisdictions. These programs include interventions for affected lawyers; assessment and referral to treatment; weekly attorney support meetings; and CLE presentations to state and local bar associations, law firms, and private organizations. Some state LAPs also provide monitoring

and reporting services, including random urinalysis, which may mean the difference between a suspension or disbarment and a probationary period during which lawyers are permitted to maintain their licenses and practices. All of these efforts have resulted in a greater recognition and understanding of the problems of impaired lawyers. This recognition has, in turn, allowed for earlier interventions for affected lawyers, thereby reducing harm to the lawyers themselves, their families, their clients, and the public's perception of the bar as a whole.

All in all, this is a hopeful time. Awareness that a public health crisis exists is the first step toward reducing the harm it causes. This issue of *GPSolo* is itself another indication of that awareness and the fact that our profession is willing to come to grips with a difficult problem and find a solution. After all, isn't that what lawyers are supposed to do?

Myer J. (Michael) Cohen is a member of the Florida and Massachusetts bars, and practiced primarily criminal defense in Boston and Florida. In 1986, he entered Florida Lawyers Assistance (FLA), the program created by the Florida Supreme Court to aid lawyers impaired by alcoholism, drug addiction, or psychological problems, as a client and a volunteer. In 1994, he joined the FLA staff as assistant director, and became its executive director in 1995. He also serves as the Southeast Regional Commissioner for the ABA Commission on Lawyer Assistance Programs.

The author of this article has granted permission for reproduction of the text of this article for classroom use in an institution of higher learning and for use by not-for-profit organizations, provided that such use is for informational, non-commercial purposes only and any reproduction of the article or portion thereof acknowledges original publication in this issue of GPSolo, citing volume, issue, and date, and includes the title of the article, the name of the author, and the legend "Reprinted by permission of the American Bar Association."

< /

A Way Out

By Suzanne Robertson on Tue, 09/06/2011 - 3:55pm

Lawyers' Assistance Program is Free, Confidential and Waiting for Your Call

Note: Names have been changed of people in recovery who were interviewed for this story to protect their identities.

Lawyers argue, bargain and negotiate for a living, so it's not a surprise that what makes lawyers good at their jobs makes them poor patients.

"Addiction and mental health issues are not negotiable. Either you have them or you don't," says Stephen Watts, a counselor with the Foundations Recovery Network. Often when lawyers come to treatment, they are argumentative, he says, with an attitude of "You have to show me, to prove to me that I have that disease."

A big step in that direction is often taken through the Tennessee Lawyers Assistance Program (TLAP), a state-funded — yet confidential and free — impaired lawyers program, which was set up by Rule 33 of the Rules of The Supreme Court of Tennessee.

But statewide help like that has only been available for about 12 years — and its impetus was the suicide of a prominent Memphis lawyer.

'We didn't know what to do'

"My law partner committed suicide in 1986," Tennessee Supreme Court Justice Janice Holder says. "We all knew there was something wrong, but we didn't know what to do about it. There wasn't anybody to call. He was seeing a mental health professional, but it wasn't enough. You don't know what you are seeing, but you know something is wrong." Holder pauses, recalling her partner and Memphis lawyer, John Dice.

After his death, Holder and others realized that they "each had had bits and pieces of the puzzle, and we should've talked to each other. We could've helped."

With no network, nowhere to turn, Holder and several other Shelby County lawyers created a local program, Lawyers Helping Lawyers (LCL). That was one of the pieces of what is today the nationally respected program within the state Supreme Court, TLAP. Without it, the following stories likely would have had very different outcomes.

Undiagnosed Bipolar Disorder Led to Work and Drug Addictions

"Jim," a Tennessee lawyer at a "fairly senior career level" in a private civil litigation practice, fits Watts' description, trying to work the system even after he was in treatment. Now Jim talks comfortably about his hellish past, as if it happened to someone else.

"Like most people with bipolar disorder, I'm very obsessive and compulsive. A control freak. Perfectionist. Hypercritical. The mind tells you if you can control things you'll be safe," he explains.

"You put somebody like that into the rough and tumble of life, and especially the rough and tumble of the adversary system — like a litigator in private practice — and we don't react too well to that. We tend toward addictive behavior."

Of course he didn't know all of that — or even that he was bipolar — when it was raging years ago. Not knowing what was driving his moods, he threw himself into his work, and then when the "work high" was no longer enough, he began self-medicating with drugs and alcohol. His work addiction, he explains, involved using a stressful work environment as a drug.

It's a fine line between being a hard worker at your job because you like it or to make a good living, and working for the purpose of emotional sustenance, Jim says. "It becomes an addiction just like anything else. You are working hard to

Journal Links

About the Journal
Advertising Info
Submit an Article
Send a Letter to the Editor
Journal Archive

Table of Contents

A Way Out
A Cautionary Tale Community Property Trusts
The Arsenic Murder Trials of Katie Browder Stricklin
Some Things Change and Some Stay the Same
John Adams' Legacy Is Subject of Law Day Contests
The Voice of the TBA, Sharon Ballinger, Says Goodbye
Disciplinary Actions
Never Enough
New Rule Amendments
Put it in Writing? Effective Judgment of Acquittal Motions
The Ups and Downs of a Tall-Building Lawyer
Classifieds
Links for July 2011

change your brain chemistry to trigger the release of chemicals to make you happy. If you work to be happy, then you may have a problem."

At first, it achieved the purpose. "If I was feeling the effects of the depressive side of the bipolar, it took away the pain," Jim says. "Not the best way to do that, but it worked."

At least for a time. "After a while you are not choosing anymore to use the stuff. It becomes a dependence. If one pill is good, 10 is better. That's what makes an addict different. It takes more and more to achieve the same feeling of well-being, so the more you have to have."

Although he was not arrested, fired or in trouble with the Board of Professional Responsibility, by that point he says it "was just a matter of time." His wife was dealing with similar issues of her own, and she and their kids – ages 13, 15 and 20 at the time — did not want to have anything to do with him. He was 49.

In late 2003, he says his behavior was spiraling down so much that in the beginning of 2004 his firm performed an intervention on him.

"Everybody around me could see I had a problem," Jim says. "I didn't think so. My firm said 'we like you, but not the way you are now. If you want to have a future here, you're going to have to do something about your problem." The members of the firm had talked to TLAP already and they had given guidance, so they knew to take him to a psychologist who ran the local recovering lawyer group.

"I was pretty far gone, but by the grace of God there was barely enough left in me that cared, that the thought of going the rest of the way down the tubes — job, license, making a living — was just still there barely enough that I realized I better do what they were saying. So I said OK."

Or at least appear to do what they were saying. "I was in major denial," he says. "My plan was to do what people were making me do and get them off my back. I thought 'I'm not going to stop living that way but I won't go so far again that it gets everybody riled up.'"

What TLAP Does ... and Doesn't Do

The Tennessee Lawyers Assistance Program (TLAP) will help you deal with any issue, including (but not limited to):

- alcohol and drug abuse
- suicide
- depression
- anxiety
- bipolar disorder
- thought disorder
- parenting issues
- burnout
- compassion fatigue
- career changes
- aging/cognitive impairment issues
- "process addictions," such as sex, food, gambling and pornography addictions
- marital discord/divorce
- grief/loss counseling, including loss of relationships and even loss of pets

TLAP staff or volunteers cannot and will not report you to the Board of Professional Responsibility.

You don't need a diagnosis to receive help from TLAP.

Most clients are not disciplinary referrals but are connected to them by family members, law partners, anonymous reports, or they are called by the person seeking help. All calls are confidential, unless such disclosure is authorized by the member of the legal profession to whom it relates or as provided in Tennessee Supreme Court Rule 33.07(B). If a referral comes to TLAP from the Board of Professional Responsibility, it likely is no longer confidential. This is another reason to seek help early.

The services are free, confidential and available to lawyers, judges, law students and bar applicants who are dealing with the issues themselves or have family or partners with the issues. Being in a relationship with someone who has these issues can make you as sick as if you had that same condition, they say, so they'll help you with that, too.

Jim says he was foggy when he started treatment but continued to try to be in charge. "I didn't deny that I'd made a lot of bad decisions but I didn't understand that I didn't have control anymore, that it had a grip on me all the way down to a subconscious level." In the second week of treatment the doctor told him that if he wanted to live he could never use any kind of mood-altering substance again. Never.

“My reaction was from deep in the chest — it was like telling me that all the oxygen would be gone. It was panic. That’s when I started to realize I was in the grips of something much more powerful than me and I was not going to be able to fix it on my own. After that I became a better patient and started listening. I quit thinking I could be my own doctor.”

After seven weeks in treatment, Jim signed a TLAP agreement, worked with a monitor, went to 90 Alcoholics Anonymous (AA) meetings in 90 days, and did what people told him to do. Like many who come through the program, Jim is now friends with the man who was his monitor, and he brings a message of hope to others as he now volunteers with TLAP and sponsors lawyers newer to recovery. But he stays away from bars and continues to go to AA meetings even though he says it’s been years since he has had any desire to do drugs.

“Some people have euphoric memories of good times. I really don’t. The strongest memory I have is from waking up from a time I crashed and was controlled by this incredible appetite — having my day completely overcome by one specific craving. That’s my memory, and I don’t want to go back to that.”

These programs work, Jim says. “I believe in them. I can’t explain why they work, but they do.” He cautions that it is a life-long process, though, and that once in recovery a person must continue working the program. “Someone will quit working the program — they’ll think they’re cured — and we won’t see them for a while. Or we’ll read that they died.”

On the day Jim returned to work at his old firm in 2004 after treatment, he was nervous. “You talk about shame. I don’t know how I made it into the building,” he says, recalling the lunch meeting they had planned for him as a welcome. “Everything was out of my control. I had screwed up. I felt such shame.” So when he walked in and everyone in the room stood up and applauded for him, he could not believe it.

“They treated me better than I deserved,” he says of the firm where he still practices today.

The day of the interview for this story, Jim’s grown daughter had just been to his law office, bringing him lunch that they shared together. His wife, who received help for her addictions soon after he did, is also in recovery. He says his family has completely turned around. “My children tell me all the time how proud they are of me,” he says.

“If I had to go through everything I went through to get what I’ve got today, I’d do it.”

The Roots of the Program

Tennessee Supreme Court Justice Janice Holder explains that the early, all-volunteer assistance programs in the state’s major cities were very different models than today’s Tennessee Lawyers Assistance Program (TLAP).

“[Memphis’s Lawyers Concerned for Lawyers program] was just a group of people who received referrals. I would get a call and if it looked like something that needed to be addressed we would go talk to the person, do an intervention. We found it was a good way to get people’s attention.” Holder was chair of the Memphis group, followed by Hon. Robert L. (Butch) Childers, who now is chair of Amercian Bar Association Commission on Lawyer Assistance Programs.

Holder recalls that Judge Harry Wellford of the 6th Circuit was part of the original group, and she saw that having a judge involved helped a lot when setting up meetings with people who otherwise might not want to meet.

“I mean, you weren’t going to say you weren’t going to see Harry Welford. It was a powerful tool,” she says.

It’s a tool she did not forget after she became a judge and was named to the Tennessee Supreme Court 10 years later. “When I got to the Supreme Court one of my goals was to get a statewide [assistance] program. I don’t think it was looked on particularly with favor by our court at the time,” Holder says, but she recounts a retreat with the members of the court in 1998 where a leader from Texas’s lawyer assistance program spoke.

“It was a very powerful presentation. When he left, everyone looked at each other and said ‘how fast can we get this done?’” The court immediately began the process of creating what would become Rule 33, which was adopted just months later, in January 1999. [For more on this, go to http://tlap.org/history.htm.]

It Really Is Confidential

Holder talks about the program as if she is still in the middle of it, but she is not — at least not with the details. So if you are concerned that one of your Supreme Court justices would know about your involvement if you ask for help, don’t be. Although TLAP is a state agency within the Administrative Office of the Courts, by rule, the people who work there cannot and will not disclose your information to anyone. They take that very seriously.

“The beauty of what we have is that it is confidential. It is a vast improvement over the previous models across the state,” Holder says. Where they used to rely on people on the committees to field referrals and do interventions, now there is a group of professionals who handle the day-to-day operations. “They are not lawyers; they are professionals in their field. That’s the strength of our system,” Holder says. And although TLAP is part of the court system and Justice Holder is the organization’s liaison to the court, it has its own separate space, nowhere near the courthouse.

"Names are not discussed with TLAP commissioners," Holder points out. "It's not necessary to know who the clients are. The commission is the policymaking arm that makes recommendations to court for changes. But there is a wall there.

"You can't emphasize that enough," she says. "It's confidential."

Casinos and Cocaine

Driving from his downtown Memphis law office to Horseshoe Casino in Tunica, Miss., took exactly 39 minutes, "Thomas" recalls, at least the way he did it. Speeding west on I-40, he was not focused on anything but placing that first bet. It started relatively small — $200 bets — but like any addiction, after a while he needed more.

Thomas explains that for someone addicted to gambling, the brain releases dopamine just like when you take drugs, and you get high off the dopamine.

"I would bet on anything. In the end of my addiction I ended up betting $2,000 a hand for Blackjack. I would put $5,000 or $10,000 on one spin of the roulette wheel," he says. "And I don't have that much financial means."

The folks at TLAP, whom Thomas did not know at the time, report that the only calls they get that involve gambling are from West Tennessee. Right across the Mississippi, of course, the glitzy and alluring casinos are legal and thriving.

Thomas's law partners, at first, were impressed. They would all go to Tunica to play golf for the weekend and do a little gambling while they where there. They thought he was a whiz, winning fortunes. "But you never tell people when you lose money," he says.

One time he went to the casino with $1,000 and walked out with $47,000, he recalls. "I was high as anything," he says. He thought he then had the system figured out, that he "knew how to be a gambler." But within five weeks he had lost all that plus another $25,000. "Even in the moments when I lost money, I was so high from the experience I believed I could win it back."

It took about a year for the gambling highs to not be enough, but he found that cocaine had a similar, more powerful effect. "You don't start out with excessive gambling. You might even be responsible. That first rush of gambling eventually wears off, much like a drug." He only used a little bit of cocaine the first time.

It was a slow crash, so slow that he didn't see it happening. In fact, in law school he was just a casual drinker and was involved in athletics as a college baseball player.

"I was always running 100 miles per hour," he says, and then he sustained a sports injury. He was given prescription pain medications and liked them.

"I had a very high-energy, very stressful job in a large Memphis law firm. I was a young associate, moving up to become partner. That energy from working those long hours felt good to me; I didn't get stressed out by it," Thomas says. "Partners could count on me. [The work] was done, and done right. That kept me going, but when the crisis situation would go away, I would feel completely empty."

What he didn't know then was he had bipolar disorder that was causing him to cycle in and out of depression and mania.

"When I was in manic modes, I was very productive as a lawyer, at home, and I felt like things were in order.

When I went into the depression stage, I needed something to get me going. I would use exercise, athletic events," he says. "Then I discovered gambling."

Thomas had not noticed the cycles because they would typically flow with his work — he'd be manic during a trial or conclusion of a case, and then he would crash, sleeping for an entire weekend. He told himself he was just exhausted from the trial or from a recent argument with his wife. "I had no idea there was this other diagnosis, because I'd been productive," he says. "I would tell myself 'This is just the stress of life, of being a lawyer.'

"As lawyers we are trained to focus on and fix other peoples' problems. We are not supposed to have issues; we're supposed to fix things."

Thomas depleted his 401k account, $60,000 equity in a house, a $25,000 equity line of credit with a bank, and took out loans directly from casinos. He estimates he owed casinos more than $40,000, losing a total of more than $200,000 — in addition to losing everything he won.

Eventually he "crashed," and was found on the floor of a casino, overdosed on alcohol and cocaine. "Right before that I had made a $15,000 wager on one hand of Blackjack, drank a bottle of bourbon, and passed out on the floor."

A Memphis lawyer intervened upon him with his family and with support of TLAP, Thomas says. He was hospitalized and sent to treatment. After that he was working in Memphis again, with a different firm, and was struggling, “trying to maintain sobriety; lying about drug tests and secretly going to casinos.”

For about a year or two, he says, he was “in and out of sobriety and in and out of treatment.”

During that time he thought of killing himself at least three times, and acted on it once. “I thought many nights, ‘I don’t want to live anymore.’”

Who Is Getting Help?

Of the legal population seeking assistance from TLAP, *66% are lawyers, 3% are judges and 31% are law students*. Since TLAP’s inception in 1999, 377 lawyers, judges, bar applicants and law students have signed a monitoring agreement. Currently, there are 318 active files. The people seeking help are *74% male, 26% female; 51% are from Middle Tennessee, 23% are from East Tennessee, 22% are from West Tennessee* and 4% are from out of state. Substance abuse makes up 46% of clients, with 54% presenting with mental health issues. Of those with substance abuse issues, *40% are alcohol-related, 22% are cocaine-related and 30% are from prescription drugs*. Referrals come from many sources: *48% are third-party* (family, law partners, law schools, etc.), *36% are self-referrals, 13% come from the Board of Law Examiners and 3% are from the Board of Professional Responsibility*. TLAP’s annual budget is $415,900.

Sources: TLAP 2010 Annual Report and ABA CoLap 2010 Comprehensive Survey of Lawyer Assistance Programs; Memphis Judge Robert L. (Butch) Childers, chair.

After losing $20,000, Thomas left the casino floor, “snorted a bunch of cocaine and went out to the casino water tower. I got caught trying to climb up it. I was going to jump.”

The casino’s manager asked the police not to report him, Thomas says, because he was a “high roller.” The manager helped get him sober — and then extended him another line of credit.

His relapse that third time “was very public,” he says, and while he was in treatment, his wife filed for divorce. “It seemed like I had utterly destroyed my life and the lives of my loved ones and my career. My law practice, family life, personal relationships with friends suffered until the point that no one knew what to do,” he says.

“Then I finally decided I was ready to get clean and sober. TLAP saved my life. They really did. In spite of the wreckage I created, several lawyers and judges and others got involved and saved my life.”

When he left treatment the last time, he had no home, no car, having signed a divorce decree that gave what little was left to his wife. He moved in with his parents for a while to decide what to do. Then he moved to Nashville, living in a halfway house for more than a year.

Today, Thomas works as an admission counselor at a treatment center near Nashville. He is still licensed to practice law but chooses not to. “I am at peace with what I do. I have a good life. I’m financially responsible again,” he says.

“Initially when I decided to get sober, the focus every day and every hour and every minute was just not to take a drink. As I have gone along in my recovery I have learned that staying clean and sober and getting into recovery is not necessarily about alcohol or drugs. It’s about how to live … how to live a healthy life in every aspect.”

The night before this interview, Thomas tells how he had spent the night in the emergency room for nine hours, “holding the hand of another lawyer who was in acute alcohol detox — and years ago that was me.”

“I’m not overtly very religious,” Thomas says. “But God has given me a gift. I’m lucky to be here in this life. I’m lucky to take [my 10-year-old son] to baseball games, to play Pokemon with him. He’s got his dad. I get to see him on weekends,” he says. “I didn’t know I’d ever be able to do that again.”

You Just Can’t Fix Someone Who Doesn’t Want to Be Fixed

“Mary” sought help from TLAP because her boyfriend of 16 years was an alcoholic. “His alcohol was interfering with my life and taking an emotional toll on me,” she admits now. “I always had a crisis in my head.”

She worked on her own for a long time to fix it. “I was using what lawyer skills I had to try to mitigate his problems to help him out,” she says. “My friends’ solution was to say, ‘Get away from him.’ But it was more complicated than that. It’s not easy to step back from someone.”

Asking for help can be especially hard for lawyers. “As a lawyer, if a person comes to you, you try to intercede. There are 10,000 things you do to help if a client comes to you. You are a problem solver. Stepping back is counterintuitive to practice of law. But eventually you realize you can’t help everybody. It’s not healthy to run their lives for them.”

But Mary, a government lawyer in Nashville in her mid-50s, didn't know all that early in the process. "He kept getting sicker and I was getting sicker along with him. I didn't know what to do. The first impulse is to tell the person how to correct himself. When they don't do it, you want to do it for them. But when you try to protect a person from the consequences of their actions, you cripple them. You make them worse."

She learned that wisdom in Al-Anon, which is one of the groups that TLAP's Laura Gatrell recommended she attend. "I told her what was going on with me," Mary says. "I felt like I wasn't in control of my life anymore."

She didn't think of calling TLAP on her own, though. A lawyer friend told her she should call, but she thought it was just for lawyers with drug and alcohol problems. "[TLAP is] a whole lot more than that, though. And I was at my teachable moment and ready to listen to what somebody had to say about how I could feel better."

A Suicide Survivor Says What She Wished She Had Said

Although you may feel that things are hopeless, assume that there is relief for your problems and you can get help. Nothing is more important than getting help. You may not be doing your best thinking at the moment you are contemplating suicide given the pain and pressure you are under.That's a reason to get help before acting.

You should know that suicide has multiple victims. Suicide will not help your family. It will leave family members and loved ones forever wishing for a different result, wondering how they failed you. It hurts everyone around the victim in ways you, if you are thinking about suicide, cannot even contemplate. Suicide is not romantic. It is not pretty. It does not leave the message that you might expect: the death supersedes any message you might wish to leave. No method of suicide is any less painful to survivors than another. — *"Mary"*

After she sought help, Mary started volunteering at TLAP regularly and attended "Camp TLAP," an annual retreat for clients, volunteers, commissioners and their families. Because in her line of work she sees a lot of people with mental illness, she was interested to learn about the high incidence of suicide among lawyers and ways in which TLAP could be involved in helping with prevention. In 2006, she and others were trained to lead suicide prevention workshops called QPR (which stands for Question, Persuade, Refer). She began volunteering with the suicide prevention program, helping give workshops to law students, lawyers and judges about the warning signs, symptoms and how to ask the question "Are you considering killing yourself?" (If the person answers yes, they teach them how to get help, either by referring directly to TLAP or a hospital.)

Mary was doing better, she says, but she knew her boyfriend was getting worse. "Until a person is ready to get help, all of the insistence from people isn't going to mean much," she counsels. "You can't talk an alcoholic into sobriety."

And in 2007 — two years after she had sought help for alcoholic codependency, and after a full year of teaching others about suicide prevention — her boyfriend committed suicide.

She discovered his body. "I had to tell his mother he was dead," she says.

With his suicide, Mary was able to apply concepts she had learned two years earlier. "When I first went to Al-Anon, I had the impression it was a program to tell me how to 'fix' the alcoholic in my life," she says. "I was wrong. What I learned was that I had to work on myself. I did learn to not accept responsibility for someone else's life. I learned that I could love someone by letting him accept the consequences of his actions, and that by experiencing those consequences he has an opportunity to get better."

There are many different reasons people consider suicide, getting to a point where they don't have any hope. "Sometimes they think the people around them would be better off if they weren't there anymore. That is so wrong," Mary says. "There is hope."

For those who are left, she points out, there is a lot of guilt. "You ask yourself constantly, 'What could I have done to prevent the death? Why didn't I see the signs? Why didn't he come to me for help?' No sole incident is the cause of suicide, and no sole person is the sole influence in another person's life. Still, you always have the doubt."

There is also a lot of red tape, like dealing with the police, the medical examiner, notifying family, friends and business associates and taking care of the estate. And, Mary says, "You spend time being asked to explain the unexplainable."

Mary is using the shock, sadness and grief to help her as she counsels others through TLAP. "It has helped me to understand the profound sadness and some of the difficulties that people go through. I started looking at suicide from a different direction."

You don't have to do it alone ... even if it takes more than one try

It's that kind of empathy that you will find at TLAP. If you call, you will likely talk to one of the program's four employees first. Executive Director Laura Gatrell, Deputy Director Ted Rice, Clinical Outreach Coordinator Jessica Copeland, and Program

Coordinator Emily McClendon work with about 250 volunteers across the state who are part of the TLAP volunteer network of lawyers and judges. (Copeland points out that judges who are active in TLAP are not all in recovery. “They are just concerned, caring individuals, who happen to be in a position of power,” she says.)

“We provide a safe container for people to let their guard down and talk about what’s really going on,” Rice says. The counselors at TLAP will develop a detailed plan for how to alleviate the condition, and we will provide follow-up. “We’ll work with the person as long as they want to work with us,” he says. “You don’t have to do it alone.”

Copeland agrees. “We have been able to help. A lot of lives have been changed.”

Gatrell started her counseling career working with teens, and she admits that working with lawyers was not originally her first choice.

“I had an attitude that I had gotten into this field to help people, and in my mind lawyers were a privileged group,” she says now. “It was astounding to me how devastated lawyers can get.” She sees the bigger picture, too.

“Helping a lawyer has an impact on the community. The ripple effect is huge. I have been so moved by their personal stories — and the rewards are there every day. I see people’s lives change, and then they turn around and help others. I love coming to work every morning.”

An attorney, judge or law student who takes care of herself first is better able to care for his clients, Rice says, likening that to the instructions you get before an airline flight. “Put your own oxygen mask on first.”
TLAP’s clients generally have never sought mental health services before, and most folks who come are hesitant to see a therapist, the staff agrees. Notably, the program has gotten more clients in the last three or four years with “depression as a result of complicated stress.”

“We are seeing more folks coming in who have lost savings, who have less clients coming in; are financially more overwhelmed,” Rice says. “That obviously affects self esteem, ability to care for family and meet obligations. A person reaches out into the environment for external mechanisms — like alcohol and sex — in order to cope.”

The counselors also know that when there is one issue, there is often another — 25 to 40 percent of people who have come to them in the last two years have mood disorders, often co-occurring with various addictions. These conditions often lead to suicidal thoughts.[1]

Since 2005 there have been 15 known attorney suicides in Tennessee, Rice says. He points out though, that TLAP has had more than twice that number of what he calls nonevents. “We’ve been able to use the legal community and staff to prevent suicide.” Some reasons for the high suicide rate among lawyers are the combative nature of the work and isolation, with solo practitioners especially at risk, he says.

With early intervention, before a mood disorder spirals and begins to include substances, the outlook is pretty bright. With short-term help, people with mood disorders can often get to recovery in 12 months, Rice says. “With a psychiatrist, meds and cognitive behavior therapy, symptoms can alleviate in three to six months.” The recovery rate for mood disorders is higher than with substance dependence, he says.

Recovery doesn’t always stick the first time, but Gatrell is philosophical about relapse. “We don't call that failure. It’s part of the process. We try to shorten the time-frame of the relapse, and if the person returns to recovery, we consider that to be ongoing success.” Some people, she says, “get it” the first time and for others, it takes more times. Relapse can usually be attributed to something undiagnosed or misdiagnosed, Gatrell says. “People treated for addiction who also have bipolar disorder will often relapse until the mood disorder is identified. Sometimes there is childhood trauma, PTSD, or some other core issue that has to be discovered and addressed before they can get better,” she says.

“When someone comes back to the program, we embrace them. As they say in 12-step meetings, we tell them, ‘We’ll save your seat for you,’” she says. “Our job is to be there when they’re ready, and hope they don't die in the meantime.”

As a member of the legal profession, TLAP is available to you seven days a week, 24 hours a day, responding with its on-call service around the clock. “You don’t have to wait until Monday morning to get into the office for help,” Rice says.

Gatrell says that people sometimes think they will just do it themselves, but she stresses that TLAP has the contacts “and knows financially what’s what. It takes the pressure off of [the person]” for TLAP to handle it. She says they will coordinate all facets of treatment, working with family, firms, the court, insurance companies, whatever is needed.

“Trust us,” she says. “The call doesn’t cost you anything, and nothing ever gets worse by talking to us.”

Note

1. A 1990 study at Johns Hopkins University found that of 28 occupations studied, lawyers were the most likely to suffer depression, and were more than 3.6 times more likely than average to do so. Read more at http://lawvibe.com/depression-in-the-legal-profession-lawyers-are-the-most-likely-to-be-depressed/#ixzz1O8oz8ZGu

   A major study by the National Institute for Safety and Health found that male lawyers between the ages of 20 and 64 are more than twice as likely to die from suicide than men of the same age in other occupations.

Resources

Tennessee Lawyers Assistance Program
877-424-TLAP
http://www.tlap.org/

National Judges' Helpline
800-219-6474.
The ABA Commission on Lawyer Assistance Programs (ABA/COLAP) Judicial Assistance Initiative has established a list of judges throughout North America who are willing to share their recovery experiences with their peers on the bench. The Helpline is answered during normal business hours by the staff of the Texas Lawyers' Assistance Program in Austin.

ABA Commission on Lawyer Assistance Programs
http://www.americanbar.org/groups/lawyer_assistance.html

The William B. Cain Foundation Revolving Loan
This foundation was set up to provide financial assistance to Tennessee lawyers and judges suffering from addiction, depression and other mental health illnesses, who lack the resources to pay for appropriate help. It's a way to get treatment even if you can't afford it. More information is available from the TLAP office.

Lawyers in Recovery
http://www.recoveringlawyers.org/

Lawyers with Depression
http://www.lawyerswithdepression.com/

StressBusting
Take a test to check your stress level in about a minute
http://www.stressbusting.co.uk/

SUZANNE CRAIG ROBERTSON is editor of the *Tennessee Bar Journal*. Contact her for writer's guidelines, or to send an article for review. Suzanne works with a seven-member editorial board to decide what will and will not be published, and with the publications coordinator on design and production. In addition, Suzanne helps produce the TBA Today daily electronic newsletter.

She has a bachelor of science in communications from the University of Tennessee, Knoxville.

Member Services

- Fastcase
- Member Search
- Member Benefits
- Cert Search
- Law Practice Management
- Legal Links
- Legislative Updates
- Local Rules of Court
- Mediation
- Opinion Search
- Tennessee Rules of Professional Conduct
- TLAP
- Update Information

CLE

- Course Catalog

Programs

- Celebrate Pro Bono
- Corporate Counsel Pro Bono Initiative
- Law Student Outreach
- Leadership Law
- Public Education
- Tennessee High School Mock Trial
- TLAP
- Youth Courts
- 2012 TBA Convention

TBA Groups

- Committees
- Leadership Law Alumni
- Leadership Law 2012
- Sections
- Task Force on Judicial Conduct Rules
- TBASCUS
- Tennessee Legal Organizations
- YLD
- YLD Fellows

Publications

- Blog Listing
- Bookstore
- Current Legal News
- Disciplinary Listings
- TBAConnect
- TBAToday
- TBA All Access Network
- Tennessee Bar Journal
- Tennessee Volunteer Attorney

Access To Justice

- Access to Justice Committee
- Attorney Web Pages
- Celebrate Pro Bono
- Corporate Counsel Pro Bono Initiative
- Disaster Relief Resources
- Finding an Attorney
- Hometown Support: Legal Help For Our Military
- I Want to Do Pro Bono
- Justice for All

Contact

- Staff

Help

- Website Map
- Website Search
- Bar Center Information
- Frequently Asked Questions
- What is Where

- Member Search
- OnlineTNJustice.org

© Copyright 1996 - 2012 Tennessee Bar Association. All rights reserved.