

WHAT IF SOME PROBLEMS ARISE BEFORE WE HAVE ESTABLISHED A LOCAL RESPONSE?

The NYSBA LAP Director provides a 24/7 hotline to take calls from anywhere in the State: the number is (800) 255-0569. Similarly, the LAP Director of the ABCNY is a resource for the metropolitan NYC area at (212) 302-5787. After initial assessment of the problem, these directors may refer your call to a volunteer at one of the 11 county bar associations that have lawyer helping lawyer committees or to an appropriate medical professional for further evaluation and treatment.

HOW DO WE MAINTAIN A LEVEL OF CONFIDENTIALITY?

Members and agents of a local bar association's lawyer assistance committee have protection pursuant to New York State Judiciary Law §499,¹ which states:

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.

¹ L. 1993, c. 327, § 2.

See also, Disciplinary Rule 1-103 (22 NYCRR § 1200.4):

"Disclosure of Information to Authorities.

- A. A lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2) not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program or committee, of a violation of DR 1-102 (1200.3) that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness in other respects as a lawyer, shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.
- B. A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges."



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LAWYER ASSISTANCE SERVICES



AND YOUR ORGANIZATION

Prepared for Local & Specialty Bar Associations

Frequently Asked Questions

WHY WOULD OUR BAR ASSOCIATION WANT TO GET INVOLVED WITH PROVIDING LAWYER ASSISTANCE?

On a Personal Level –

There is a real need to plan to assist lawyers with problems arising from alcohol or drug abuse, or other mental health conditions. That plan may be to maintain strong ties with the State Bar Association's Lawyer Assistance Program, or that of the Association of the Bar of the City of New York. You may wish to establish your own committee of volunteers to be the first line of response for lawyers who need help, or you may choose to work with a neighboring county.

Surveys have estimated that about 15-18% of lawyers have problems with alcohol or substance abuse at one time or another in their careers. You can figure how many individuals that would mean in your area.

On a Professional Level –

Having local awareness of the problems and resources available will work to protect the interests of clients from harm that might result from lawyers impaired by substance abuse or dependency, physical, or mental health conditions.

Having local awareness of the problems and the resources available will educate the bench, bar, and law school community about the issues and concerns that may adversely affect clients and negatively affect the legal

profession. Hopefully, a local lawyer assistance committee will help to provide protection for the public and have a positive impact on the image of the profession.

From time to time, should an attorney abandon his or her practice due to temporary or permanent disability, it is in the interests of the organized bar to find ways to assist in the maintenance or resolution of that attorney's practice. This delivery of services may be another aspect of assistance that a local committee could provide.

OUR STAFF IS ALREADY VERY BUSY, AND WE CANNOT AFFORD TO EXPAND AT THIS TIME; WHERE WOULD WE FIND VOLUNTEERS?

The NYSBA Lawyer Assistance Program (LAP) Director has provided services for more than fourteen years, and as a result, is acquainted with many attorneys, judges and law students in recovery throughout the State. In addition, the NYSBA LAP is supported in its work by the Committee on Lawyer Alcoholism and Drug Abuse (CLADA), with its 70 active members and a network of more than 300 volunteers around the state. Similarly, the ABCNY's LAP Director and Committee have numerous contacts in the metropolitan-New York City area. From among these resources, the LAP directors may identify some individuals who may be willing to volunteer time for this purpose. You may also know others who would be willing to assist, or you may wish to advertise in your newsletter or by word-of-mouth, for additional attorneys willing to help.

BESIDES SETTING UP A COMMITTEE, ARE THERE ALTERNATIVES TO SUPPORTING THE LAWYER ASSISTANCE EFFORT?

Of course. The State and NYC Lawyer Assistance Programs, 11 county bar associations with lawyer helping lawyer committees across the State, and the Lawyer Assistance Trust are ready to work with you to provide

information for the lawyers in your locality. Here are some different projects:

- Feature an advertisement in your bar association's newsletter; templates are available through the NYSBA Committee on Lawyer Alcoholism and Drug Abuse or through the LAT – they can be tailored with local information, as appropriate.
- Present a CLE program for your members; individuals are ready, willing and able to speak on such varied topics as "Stress in the Profession" and "Ethics Implications". Others are available to serve as a speaker at committee meetings or other events, to share their story of recovery.
- Sponsor a retreat weekend. The NYSBA LAP can provide leads on speakers and materials for the retreat.
- Organize an event for the judiciary in your area to educate them on the signs, symptoms and problems of addiction. The NYSBA and ABCNY LAP Directors and volunteers can assist with this effort.
- Encourage the formation of a lawyers-only 12-step meeting in your area as a gateway to standard 12-step programs.
- Add information about LAPs to the briefing materials that incoming Bar Executives receive upon taking office, to insure continuity of awareness.
- Identify providers in your area who are professionally certified and competent to assess individuals who present problems, or at least be aware that there is a network to access, should the need arise.
- Assist attorneys who are unable to continue to practice law or appropriately manage their law practices and address the needs of clients of such attorneys who have not made other arrangement for the representation of their clients or the orderly transition or termination of their law practices; recruit attorneys willing to serve as Caretaker Attorneys; maintain a list of potential Caretaker Attorneys for consideration by the Supreme Court or Appellate Divisions when appointing Caretaker

Attorneys pursuant to court rules (when adopted); and provide such resources, as available, to facilitate the work of appointed Caretaker Attorneys.

HOW WILL MY BAR ASSOCIATION PAY FOR THESE SERVICES?

Many of the programs and services described do not cost money, although they do represent a commitment of time on behalf of the active LAP volunteers.

With the advent of the Lawyer Assistance Trust, there is now funding available for bar associations and law schools. Services or projects that may be eligible for LAT funding include: educational materials, New York State conferences or event expenses; enhancing professionalism; treatment related expenses and existing and new substance abuse prevention programs.

You may also want to consider establishing an annual event, such as a 5K walk/run to promote physical health generally, and use the proceeds to provide information and services to attorneys who need treatment.

IF WE WANTED TO SET UP A COMMITTEE, HOW WOULD WE GO ABOUT IT?

If you wish, the NYSBA or ABCNY LAP Directors or members of the Lawyer Assistance Trust may help identify some individuals in your area who may be interested. The President of your bar association could establish a committee. Members could come from any practice setting, some could even be non-lawyers, but all should have knowledge of addictions and mental health issues and other issues that may negatively affect the quality of life of legal professionals. You may wish to have your volunteers/committee members attend training sessions offered by the NYSBA and ABCNY LAPs, and NYSBA's Committee on Lawyer Alcoholism and Drug Abuse annual Spring Retreat in Lake George.