



THE STATE BAR OF CALIFORNIA

Lawyer Assistance Program
180 Howard Street
San Francisco, CA 94105-1639

(877) LAP 4 HELP
(415) 538-2355

Report title: 2012 Annual Report of the Lawyer Assistance Program of the State Bar of California

Statutory Citation: Business and Professions Code Section 6238

Date of Report: March 1, 2013

The State Bar of California has submitted a report to the Legislature in accordance with Business and Professions Code Section 6238. Pursuant to Section 6238, the State Bar shall report, each year by March 1, to the Legislature on the implementation and operation of the Lawyer Assistance Program. The report shall include, but is not limited to, information concerning the number of cases accepted, denied, or terminated with compliance (completed) or noncompliance, and annual expenditures related to the program.

The following summary of the report is provided per the requirements of Government Code Section 9795.

During 2012, the LAP continued to provide effective early intervention consistent with the program's mission of supporting recovering attorneys in their rehabilitation and competent practice of law while enhancing public protection. Specific initiatives addressed during the year included: (1) at the direction of the State Bar Board of Trustees, continuing to reduce program expenditures, (2) continuing to expand education to the membership regarding the problems addressed by the program, and (3) continuing to expand the resources available to address those problems before client interests are jeopardized.

The Program conducted 179 intakes with attorneys during 2012. Thirty-two attorneys completed three years of participation in the Monitored LAP in addition to meeting all of the criteria for successful completion. Twelve attorneys were denied acceptance into the LAP as a result of not meeting the acceptance criteria. Four attorneys' participation in the Monitored LAP was terminated due to one or more of the reasons identified in the termination criteria.

The full report is available for download on the State Bar's web site at <http://www.calbar.ca.gov/AboutUs/Reports.aspx>

A printed copy of the report can be ordered by calling 916.442.8018.

2012 Annual Report
of the Lawyer Assistance Program
of the State Bar of California

--MISSION STATEMENT—

The mission of the Lawyer Assistance Program is to support recovering attorneys in their rehabilitation and competent practice of law, enhance public protection, and maintain the integrity of the legal profession.

March 1, 2013

MESSAGE FROM THE CHAIR:

After Ten Years, the LAP is Very Different Today

The California Legislature authored Senate Bill 479 (Burton), which became law in August of 2001. The purpose of the Bill was to enhance public protection by supporting and facilitating the rehabilitation of attorneys who are impaired by abuse or dependency on alcohol or other drugs, or by mental illness or emotional distress, so that they are able to practice law competently. Subsequently, the Board of Governors (today referred to as the Board of Trustees) of the State Bar of California established a Lawyer Assistance Program ("LAP") to carry out the mandate of that legislation, and the program became operational in March of 2002.

The LAP of today is very different from the program that was in place several years ago when I became Chair of the LAP Oversight Committee. While today's program is smaller and more streamlined in operation, it is also more flexible in design and in the forms of assistance available to the membership. The population of participants in the LAP today is on average much younger than it was during the early years of the program; thus, we have greater opportunities to help arrest the progression of substance abuse, chemical dependency, and other mental illnesses at earlier stages of the disease. By helping attorneys and applicants to the Bar along the path of recovery early on, the program helps prevent the more serious consequences that are usually associated with later stages of these diseases.

We Are Not a Treatment Program

A commonly held misconception is that the LAP is a treatment program. Rather, our program is an adjunct to the various forms of treatment and self-help recovery available in communities throughout California. Our program is an evolution of the employee assistance program (EAP) model that

emerged during the 1980s. Employee assistance programs came into existence because employers discovered that their employees entered treatment sooner, returned to full work productivity sooner, and maintained long-term recovery longer when they had a consultant (an EAP case manager) to manage and guide them through the process—and to encourage follow-through with aftercare services.

This “case management” model of support and monitoring has been the mainstay of the LAP since its inception. The premise for this model of assistance was that treatment services were widely available in the community, but that individuals seeking help had difficulty determining exactly which services were appropriate for their needs, locating those services, and continuing to engage with those services consistently enough to receive the long-term benefits. Case management was a strategy to fill this gap—i.e., to connect people seeking help with sources of individually appropriate treatment and self-help groups and to encourage and monitor long-term, consistent participation.

Participation in our program begins with a thorough assessment of what prior treatment, if any, the applicant to the program has received and a determination of what additional care or support the individual needs to best support long-term recovery. This assessment process may take as long as 120 days, after which the applicant to the program meets with an evaluation committee that makes recommendations regarding the applicant’s recovery plan going forward. LAP case managers then monitor compliance with the treatment recommendations made by the LAP evaluation committees through the balance of participation in the program. Attendance at weekly LAP group meetings (a core component of the program) is also intended to support attorneys in their recovery but not replace the recovery work they are recommended to do outside the program. A more thorough description of how the program works begins on page six.

Leaving the Program Early Is Not Necessarily a Bad Thing

Another commonly held misconception is that attorneys leaving the LAP voluntarily prior to completing the program is always indicative of a bad outcome or a failure to adequately address attorney participants' needs. While it is sometimes the case that attorneys stop participating in our program after two or three months because they are unwilling or feel they are unable to follow our recommendations for treatment, it is often the case that they withdraw from our program because they feel that they have made sufficient progress in their recovery and no longer feel the need for the extra support that our program provides. With regard to mental health issues like depression, length of time in our program is less of a predictor of long-term recovery success than is the case with substance abuse or dependency issues.

Meeting the Budgetary Target

Responding to budgetary constraints, and at the direction of the State Bar Board of Trustees, the LAP continued streamlining operations in 2011 and 2012 so that program expenditures in 2012 were nearly 50 percent of the amount spent in 2009. Significant payroll savings were achieved during 2012 as a result of the 2011 closure of the Sacramento office of the LAP and consolidating staff and services into the two remaining program locations—Los Angeles and San Francisco. The program operated below the statutory level of funding for the program (ten dollars per active member and five dollars per inactive member) during the 2012 fiscal year. Further details are provided on page twelve.

Continuing Progress

While having aggressively pursued a reduction of expenditures, the Lawyer Assistance Program has continued to actively encourage attorneys to seek assistance before their problems negatively affect their practice of law and lead to public harm. With an eye to the future, we anticipate continued progress among attorneys who participate in the program. In keeping with our mission, we envision their smooth transition into activities that will bolster and support their continued recovery and enhance public protection.

In response to the many changes to the program in the past few years, the LAP Oversight Committee has embarked on an updated strategic plan to ensure that the LAP can continue to meet its important mandate well into the future.

Philip Belleville, JD, PsyD
Chair, LAP Oversight Committee

HOW THE PROGRAM WORKS

The Lawyer Assistance Program was established by the California Legislature (Bus. & Prof Code §§ 6140.9; 6230-38 (Appendix A)) as a result of Senate Bill 479 introduced in 2001 by then Sen. John Burton, president Pro Tem of the California State Senate. SB 479 was passed by the Legislature and signed into law effective January 1, 2002. Shortly after its startup, the LAP implemented an optimal assistance model.

Attorneys may enter the LAP during a pending disciplinary proceeding or voluntarily by self-referral. All participation in the LAP is completely voluntary and strictly confidential. An attorney who calls the LAP is assigned to a local Case Manager who is a licensed clinician experienced in the areas of substance abuse and mental health. The Case Manager immediately addresses any life-threatening issues, handles medical needs and provides emotional support.

A new participant immediately begins attending the closest LAP professionally facilitated support group and other local self-help programs as appropriate. Within a week the participant begins the LAP comprehensive assessment with the Case Manager. The newcomer is referred to medical and psychiatric professionals for evaluation if indicated.

Experience shows that these early interactions are essential to helping break through the denial that often characterizes these disorders, fostering the formation of critical personal alliances and friendships to lessen the isolation and shame that is typical in those afflicted, and reinforcing central elements of early recovery.

The participant meets regularly with the Case Manager, weekly with a professionally facilitated support group, and more frequently with other self-help groups. Inpatient or outpatient treatment begins if indicated. The attorney meets with an Evaluation Committee (a physician, a clinician, and a local attorney experienced in recovery), which has reviewed reports from the Case Manager, Group Facilitator, and often reports and assessments from other service providers. The individualized components of the participant's recommended long-term recovery program are then determined, and the attorney signs a participation plan.

The Case Manager, Group Facilitator, and Evaluation Committee follow the participant throughout his or her program of structured recovery, and the Committee eventually determines when the participant has successfully completed the program. This unique process ensures continuity of treatment and provides a multidisciplinary perspective. The process avoids some of the challenges faced by a sole clinician providing assessment and monitoring, which may include perceived power struggles, personality clashes and resis-

tance to authority. It also invites the participant to work actively with the multidisciplinary team on his or her recovery.

The LAP also offers all State Bar members short term counseling (two sessions free of charge) with a local therapist who specializes in working with legal professionals. This counseling service addresses common problems such as stress, burnout, relationship conflicts, and career concerns, and is intended to identify and treat potential problems at the earliest possible stage.

PREVENTING FUTURE HARM TO CLIENTS

In terms of protecting the public through *prevention of future attorney misconduct*, the work of the LAP with applicants to the Bar may have the greatest impact. The Moral Character Subcommittee of the Committee of Bar Examiners frequently makes a determination that the nature of an applicant's history of misconduct indicates that the applicant might benefit from participating in the LAP in order to further their recovery from the personal problems that likely contributed to the misconduct. The Committee of Bar Examiners will typically offer such applicants an opportunity to have their application held in abeyance while they participate in the LAP. During the period of abeyance, the LAP assesses applicants' recovery progress, recommends any additional activities needed to further that recovery, provides support while in the program, monitors participation and reports applicants' compliance with their LAP Participation Plan to the Committee of Bar Examiners.

Additionally, some applicants who have a history of substance abuse and have applied for membership to the Bar will voluntarily join the LAP while waiting for their moral character application to be reviewed by the Committee of Bar Examiners. These applicants to the Bar seek to document their recovery work and to further indicate to the Committee of Bar Examiners their commitment to recovery. Altogether, at the end of 2012 there were 61 applicants to the Bar participating in the LAP.

2012 ACTIVITY

- The program conducted 179 intakes during 2012.
- Thirty-two attorneys completed three years of participation in the Monitored LAP in addition to meeting all of the criteria for successful completion.¹
- Twelve attorneys were denied acceptance into the LAP as a result of not meeting the acceptance criteria.²
- Four attorneys' participation in the Monitored LAP was terminated due to one or more of the reasons identified in the termination criteria.³

¹ Rule 3.249 Completion of LAP:
A participant is deemed to have completed the LAP when the Evaluation Committee determines that the participant:
(A) has maintained three years of continuous sobriety or, in cases of mental health, stability;
(B) has made lifestyle changes sufficient to maintain ongoing recovery or stability; and
(C) has satisfied the terms of the participation agreement.

² Rule 3.244 Eligibility
The LAP is open to active, inactive, and former members of the State Bar and current candidates for admission to the State Bar who have submitted an Application for Registration. To participate in the LAP, an applicant must:
(1) voluntarily agree to participate;
(2) provide medical information and disclosure authorizations as required; and
(3) sign a participation agreement that includes a promise to comply with all LAP recommendations.

Rule 3.246 Application
An eligible member, former member, or candidate for admission who wishes to continue participating in the LAP must apply for either the Support LAP or the Monitored LAP. The Evaluation Committee reviews the applications and may deny an application if it determines that:
(A) the applicant does not meet eligibility criteria;
(B) the applicant will not substantially benefit from the LAP; or
(C) the applicant's participation would be inconsistent with public protection.

³ Rule 3.250 Termination from the LAP
A participant may be terminated from the LAP if the Evaluation Committee determines that:
(A) the participant will not substantially benefit from the LAP;
(B) further participation would be inconsistent with the LAP's mission of public protection; or
(C) the participant failed to satisfy the terms of the participation agreement.

NOTE: *The above (revised) rules were effective January 9, 2010.*

New Participants in Structured Recovery

| | |
|------|-----|
| 2012 | 179 |
| 2011 | 174 |
| 2010 | 202 |
| 2009 | 175 |

New Participant Diagnoses

| | |
|------------------------|-----|
| Mental Health Issues | 38% |
| Substance Abuse Issues | 35% |
| Dual Diagnoses | 27% |

EDUCATION AND OUTREACH ACTIVITIES

The Attorney Diversion and Assistance Act directs the State Bar to develop continuing legal education courses and materials related to the prevention, detection and treatment of substance abuse. As it has since 2006, the Lawyer Assistance Program during 2012 offered a free one-hour self-study MCLE package that was available to all California attorneys via download from a free-standing educational website: www.calbarlap.com. This is a popular resource for attorneys who appreciate the convenience of affordable, approved self-study material on this required topic.

In addition, the program continued to offer free MCLE presentations covering substance abuse, depression, stress and the services of the LAP to local, statewide and specialty bar associations as well as to law firms. Satisfaction with LAP presentations is reflected in the favorable comments received and by the large number of requests for LAP staff to speak before the same associations and firms year after year. The organizations listed in the next column received presentations from the LAP during 2012 (partial list):

- Alameda County Bar Association *
- Appellate Research Attorneys Institute
- Burbank Bar Association
- Caldwell Leslie & Proctor PC
- California Academy of Attorneys for Health Care Professionals
- Chapman School of Law
- CLE International *
- Dannis Woliver Kelley, LLC
- Equal Rights Associates
- Judicial Council of California, Center for Families, Children and the Courts*
- Lake County Bar Association
- Los Angeles County Barristers
- Los Angeles County Public Defender
- Los Angeles Women Lawyers Association
- Monterey County Bar Association *
- Monterey Women Lawyers
- Nixon Peabody *
- Practicing Law Institute*
- Sacramento Valley Bankruptcy Forum
- San Fernando Valley Bar Association
- San Mateo County District Attorney and County Counsel
- Santa Cruz County Bar Association *
- Smith Dollar PC
- Solo and Small Firm Summit

- State Bar Annual Meeting*
- United State Department of Justice

* Denotes organizations to which the LAP has delivered three or more presentations during the past several years.

FINANCIAL SUMMARY

As the bar chart below illustrates, due to streamlined operations, spending by the LAP has continued to trend downward during the past four years, so that the total expenditures related to the program were 35 percent less in 2012 than the total in 2011, and more than 50 percent less than what the program expended in 2009.

Four Year Comparison: Budget vs. Spent (in millions)

| Year | Budget | Spent |
|-------------|---------------|--------------|
| 2012 | \$1.4 | \$1.4 |
| 2011 | \$2.5 | \$2.0 |
| 2010 | \$2.7 | \$2.1 |
| 2009 | \$3.1 | \$2.8 |

2012 Operating Expenses by Category

| Category | Percentage |
|---|-------------------|
| Employee Expenses | 71% |
| Internal Allocation | 20% |
| Professional Services | 1% |
| Supplies/Postage/Telephone/Outside Services | 2% |
| Travel and Catering | 6% |

Lawyer Assistance Program Staff and Oversight Committee

2012 MEMBERS OF THE OVERSIGHT COMMITTEE

- Philip Belleville, JD, PsyD
Chair
- Honorable John Burton
- Richard Carrillo
- Kellie M. Condon, PhD
- Alicia Fowler, JD
- Stewart Hsieh, JD
- Robert Lehner
- Michael Nerz, MD
- John H. Shale, MD, JD
- Honorable Lawrence F. Terry

2012 LAP STAFF ROSTER

- Richard Carlton, MPH
Acting Director
- Alex Yufik, JD, PsyD
Case Management Supervisor
- Michelle Harmon, LCSW
Case Manager
- Louis Buchhold, MFT, EdDCP
Case Manager
- Kara Fletcher, LCSW
Case Manager
- Robert Gastelum, MFT
Case Manager
- Jennifer Cantore
Program Coordinator
- Matt Adams
Administrative Assistant

The Board of Trustees of the State Bar of California established a Lawyer Assistance Program to enhance public protection by rehabilitating attorneys who are impaired by abuse of alcohol or drugs, or by mental illness, so that they are able to practice law competently.

LAWYER ASSISTANCE PROGRAM

Assistance program of the State Bar of California

180 Howard Street
San Francisco, CA 94105-1639

TOLL-FREE: 877-LAP 4 HELP [(877) 527-4435]

E-MAIL: LAP@calbar.ca.gov

www.calbar.ca.gov/lap