



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: 2014 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, 2015

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 2014 the LAP provided effective early intervention consistent with the program's mission of enhancing public protection while supporting recovering attorneys in their rehabilitation and competent practice of law. Specific initiatives addressed during the year included:

1. Encouraging more law students to be evaluated for participation in the LAP prior to applying for membership. In terms of protecting the public through prevention of future attorney misconduct, the work of the LAP with applicants to the State Bar may have the greatest impact.
2. Continuing to expand education to the membership regarding the range of problems addressed by the program, including cognitive issues commonly encountered in later life. The program is now available to advise colleagues and family members regarding competency concerns in the senior lawyer population.
3. Posting two videos on the State Bar YouTube page that use moving testimonial statements from graduates of the program to explain the components and benefits of the LAP experience. The videos have been viewed over 800 times.

The Program conducted 179 intakes with attorneys during 2014. Ten attorneys completed three years of participation in the Monitored LAP in addition to meeting all of the criteria for successful completion. Fifteen attorneys or State Bar applicants were denied acceptance into the LAP as a result of not meeting the acceptance criteria. Two 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.

LAWYER ASSISTANCE PROGRAM
STATE BAR OF CALIFORNIA
2014 Annual Report

MARCH 1, 2015

LAWYER ASSISTANCE PROGRAM

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

WEBSITE: www.calbar.ca.gov/lap

In Memory of Philip F. Belleville (1934 – 2014):

This annual report of the Lawyer Assistance Program (“LAP”) is dedicated to the memory of Philip F. Belleville. Phil was a retired senior partner at the firm of Latham and Watkins and a very respected substance abuse counselor who began serving the LAP first as a member of a LAP Evaluation Committee in 2004. He then was appointed to the LAP Oversight Committee by the State Bar Board of Trustees in 2006, and he continued his service to the LAP as Chair of the Oversight Committee for the previous six years from 2008 until his untimely death on October 3, 2014. Altogether, Phil served the LAP for more than ten years, providing unparalleled support and deftly leading the Committee through periods of program growth and evolution. He will be greatly missed by everyone associated with the program, and most especially by those of us who considered him both a good friend and a trusted advisor.

Message From the Acting Chair

As the LAP begins its 14th year, it is appropriate to reflect on our past and our future. It bears noting that the LAP continues, as an integral part of the State Bar of California, to adapt to the changing forces in the practice of law. To put this in proper context, it is important to recall the program’s origins.

The Board of Governors (today referred to as the Board of Trustees) of the State Bar of California established a Lawyer Assistance Program to carry out a mandate of the California Legislature. The legislation was designed 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. Since the LAP became operational in March of 2002, it has met this goal of assisting attorneys who voluntarily sought its services or were referred for support and monitoring — including 179 new participants during 2014. Additionally, the program once again provided consultation and education services to a host of entities throughout California.

The LAP is working to protect the public while assisting members of the Bar at all stages of their careers.

Preventing More Serious Consequences

The LAP of today is very different from the program that was in place when I joined the LAP Oversight Committee in 2002. 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. More information on how the LAP assists applicants to the Bar is available in the "Preventing Future Harm to Clients" section on page 5.

Connecting People With Services and Monitoring Recovery

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 4*.

Meeting the Budgetary Target

Continuing a trend since 2009, the program operated below budget during the 2014 fiscal year. Further details are provided on *page 9*.

Enhancing the Public Protection

The Lawyer Assistance Program continues to actively encourage both applicants to the State Bar and members 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 by all 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.

Stewart Hsieh, JD
Acting Chair, LAP Oversight Committee

— **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.

How the Program Works

Attorneys may enter the LAP during a pending disciplinary proceeding or voluntarily by self-referral. All participation in the LAP is 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 closes LAP professionally-facilitated support group and other self-help groups as appropriate. Shortly thereafter, the new participant completes a comprehensive assessment with the Case Manager and is referred to medical and psychiatric professionals for further evaluation if indicated.

Experience shows that these early interactions are essential to help 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 (clinicians and attorneys 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 a recommended long-term recovery plan are then determined and proposed to the participant.

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

This level of LAP participation is called **Monitored LAP**.

To further encourage attorneys to seek assistance prior to their problems having an impact on their practice of law, attorneys have the opportunity to receive the support of the LAP and the LAP support groups in situations where monitoring and extensive staff resources are not needed. This level of LAP participation is called **Support LAP**.

To further assist attorneys who may only need short term assistance, while at the same time introducing them to the resources the LAP has to offer, the LAP offers the **Orientation and Assessment** service component. The assessment is completed by one of the LAP's licensed clinicians and includes referrals to outside resources in addition to providing an opportunity to participate in several meetings of the LAP support groups.

The LAP also offers all State Bar members two sessions of short-term counseling 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 2014 there were 64 applicants to the Bar participating in the LAP, a 23 percent increase over the previous year.

2014 Activity

The program conducted 179 intakes during 2014.

Ten attorneys completed three years of participation in the Monitored LAP in addition to meeting all of the criteria for successful completion.¹

Fifteen attorneys or State Bar applicants were denied acceptance into the LAP as a result of not meeting the acceptance criteria.²

Two attorneys' participation in the Monitored LAP was terminated due to one or more of the reasons identified in the termination criteria.³

New Participants in Structured Recovery During the Past Four Years

- There were 174 new participants in 2011.
- There were 179 new participants in 2012.
- There were 176 new participants in 2013.
- There were 179 new participants in 2014.

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*

(A) 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.

New Participant Diagnoses During 2014:

- Twenty-three percent of diagnoses were mental health issues only.
- Forty-seven percent of diagnoses were substance abuse issues only.
- Thirty percent of diagnoses were dual diagnoses (mental health and substance abuse issues).

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 2014 offered a free one-hour self-study MCLE package available to all California attorneys. An updated self-study package was developed by the program during the fall of 2014. This material may now be found in the State Bar's online MCLE catalog.

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 below received presentations from the LAP during 2014 (partial list):

Organizations Receiving LAP Presentations

- ABA Labor and Employment Law Conference
- Association of Corporate Counsel
- Association of Public Defenders
- Chapman Law School
- City Attorney Association of Los Angeles County
- County Counsel Association
- Dentons (law firm)
- East/West Family Law Council
- Federal Bar Association
- Los Angeles County Bar Association Barristers
- Orange County Bar Association (two presentations)
- Practising Law Institute
- Riverside County Bar Association
- SanDisk
- San Mateo County Counsel
- Santa Clara County Counsel
- Whittier School of Law Alumni Association

Helping Our Members Plan for Their Future

Medical and legal experts told the Board of Trustees' Senior Lawyers Working Group on June 24, 2013 that far too many members of the State Bar are inadequately prepared—financially and otherwise—for transitioning out of their law practice in a manner that does not endanger their clients, should a time come when they are no longer able to practice competently.

In response, the LAP offered a series of free workshops during the fall of 2014 designed to help our members adequately prepare for their financial future and the possibility of retirement. Lifestyle choices for later life, healthcare and other financial needs, and preparing adequately for the possibility of non-income producing years was discussed.

The workshops were offered multiple times in both the San Francisco and Los Angeles offices of the State Bar. Members are now able to view one of these programs online through the MCLE link on the State Bar website or via www.calbar.inreachce.com, using the search terms “financial planning.”

Financial Summary

Due to streamlined operations, spending by the LAP has changed little during the past three years.

In a five year comparison of budgeted vs. spent dollars:

- In 2010, \$2.7 million was budgeted and \$2.1 million was spent.
- In 2011, \$2.5 million was budgeted and \$2.0 million was spent.
- In 2012, \$1.4 million was budgeted and \$1.4 million was spent.
- In 2013, \$1.8 million was budgeted and \$1.4 million was spent.
- In 2014, \$1.6 million was budgeted and \$1.35 million was spent.

The majority of operation expenses in 2014 were for employee expenses. The breakdown of expenses was:

- 66 percent for employee expenses
- 19 percent for internal allocation
- 9 percent for professional services
- 4 percent for travel and catering
- 2 percent for supplies/postage/telephone/outside services

Lawyer Assistance Program Oversight Committee, Board of Trustee Liaisons and Staff

2014 Members of The Oversight Committee

- Philip Belleville, JD, PsyD, *Chair (deceased, October 3, 2014)*
- Stewart Hsieh, JD, *Appointed Acting Chair November 7, 2014*
- Robert Burchek, MD
- Kellie Condon, PhD
- Alicia Fowler, JD
- Sara Giroux
- Jason Kletter
- Robert Lehner
- Tracy Lesage
- Philip Spiegel, MD
- Honorable Lawrence F. Terry
- Sandra Wood

2014 State Bar Board of Trustee Liaisons to The Oversight Committee

- James P. Fox
- Joanna Mendoza

2014 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*
- Robert O'Brien, MFT, *Case Manager (contractor)*
- Jacob Wickenheiser, LCSW, *Case Manager (contractor)*
- Jennifer Cantore, *Program Coordinator*
- Matt Adams, *Administrative Assistant*