



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: 2015 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, 2016

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 2015 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 certain 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. Expanding education to the membership regarding the scope of the problems addressed by the program and the range of support services available. Nearly 100 continuing legal education presentations were delivered by or through the auspices of the LAP to bar associations and law firms during 2015. Additionally, two videos are posted on the State Bar YouTube page that use testimonial statements from graduates of the program to explain the components and benefits of the LAP experience. The videos have been viewed nearly 1400 times.

The Program conducted 127 intakes with attorneys during 2015. Fourteen attorneys completed three years of participation in the Monitored LAP in addition to meeting all of the criteria for successful completion. Thirteen 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
2015 Annual Report

MARCH 1, 2016

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

Message From the Chair

The Lawyer Assistance Program (“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 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 or 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 slightly below budget during the 2015 fiscal year. Further details are provided on *page 9*.

Enhancing 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
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 closest 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 State Bar also offers all members two sessions of short-term counseling free of charge with a local therapist who specializes in working with legal professionals. This Program is called **Transition Assistance Services ("TAS")**. TAS 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. At the end of 2015, close to 50 percent of LAP participants were applicants to the Bar.

2015 Activity

The program conducted 127 intakes during 2015.

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

Thirteen 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 Participant Diagnoses During 2015:

- Thirty-five percent of diagnoses were mental health issues only.
- Forty-one percent of diagnoses were substance abuse issues only.
- Twenty-four percent of diagnoses were dual diagnoses (mental health and substance abuse issues).

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.

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 2015 offered a 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.

Organizations Receiving LAP Presentations in 2015

(partial list)

- Contra Costa County Bar Association (two presentations)
- Eastern LA County Bar Association
- El Dorado County Bar Association
- Lake County Bar Association
- Los Angeles County Bar Association (two presentations)
- Marin County Bar Association (two presentations)
- Mendocino County Bar Association
- Merced County Bar Association
- Orange County Bar Association
- Placerville County Bar Association
- Sacramento County Bar Association
- Santa Clara County Bar Association
- Sonoma County Bar Association (two presentations)
- Ventura County Bar Association
- West Orange County Bar Association
- Antelope Valley Bar Association
- Beverly Hills Bar Association
- Desert Bar Association
- Hemet Bar Association
- Long Beach Bar Association
- Newport Beach Bar Association
- Southeast District Bar Association
- Alameda County Adoption Lawyers
- Alameda County Law Library
- California Association of Water Use Agencies
- California Workers' Compensation Defense Attorneys
- Consumer Attorneys of California
- Federal Public Defenders (Sacramento)
- Fresno Public Defender
- JAMS (two presentations)
- Napa Women Lawyers
- National Institute of Trial Advocacy
- Practising Law Institute (two presentations)
- Sacramento Public Defender's Office / Sacramento District Attorney's Office
- Sacramento Women Lawyers
- San Francisco Lawyers Network
- San Joaquin Law Alumni Association
- State Bar Annual Meeting (three presentations)
- USC Gould School of Law
- Whittier Law School
- Arent Fox LLP
- Baker Botts LLP
- Hirschfield & Kraemer LLP
- Jones Day
- Lubin Olson LLP
- Manatt Phelps
- Norton Rose LLP
- Shepper Kim & Harris LLP
- Tucker & Ellis LLP

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 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.
- In 2015, \$1.5 million was budgeted and \$1.5 million was spent.

The majority of operating expenses in 2015 were for employee expenses. The breakdown of expenses was:

- 67 percent for employee expenses
- 23 percent for internal allocation
- 3 percent for professional services
- 5 percent for travel and catering
- 2 percent for supplies/postage/telephone/outside services

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

2015 Members of The Oversight Committee

- Stewart Hsieh, JD, *Chair*
- Robert Burchek, MD, *Vice Chair*
- Kellie Condon, PhD
- Justin Delacruz, JD
- Alicia Fowler, JD
- Sara Giroux
- Jason Kletter
- Robert Lehner
- Tracy Lesage, JD
- Philip Spiegel, MD
- Honorable Lawrence F. Terry
- Sandra Wood

2014 – 2015 State Bar Board of Trustee Liaisons to the LAP Oversight Committee

- James P. Fox
- Joanna Mendoza

2015 LAP Staff Roster

- Richard Carlton, MPH, *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 O'Brien, MFT, *Case Manager (contractor)*
- Jennifer Cantore, *Program Coordinator*
- Matt Adams, *Administrative Assistant*