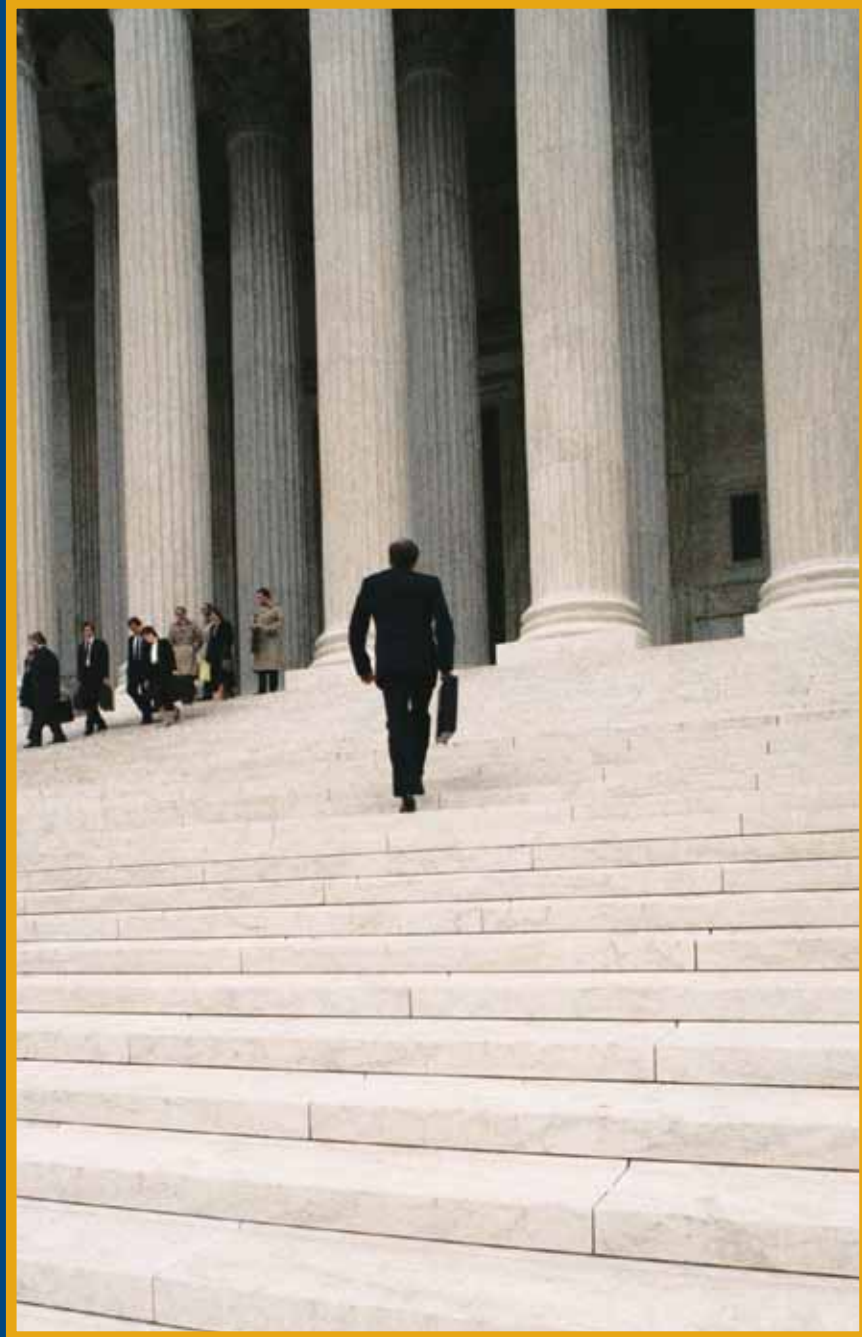




2009 ANNUAL REPORT



LAWYER ASSISTANCE PROGRAM
of the State Bar of California



**THE ATTORNEY DIVERSION AND ASSISTANCE ACT
(BUSINESS AND PROFESSIONS CODE §§6140.9, 6230-6238)
WAS PASSED BY THE CALIFORNIA LEGISLATURE IN 2001
TO ESTABLISH THE LAWYER ASSISTANCE PROGRAM.**

**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.**



LAWYER ASSISTANCE PROGRAM

Assistance program of the State Bar of California



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Enhancing participation while spending less

Left unattended, the issues addressed by the Lawyer Assistance Program (“LAP”) can quickly lead to an adverse impact on the interests of the public as well as on personal and professional lives. The LAP addresses this risk with a new design for the coming year and several new approaches. The new design deals with the protection of all concerned while being responsive to economic realities.

EVOLUTION OF THE LAP

In accordance with the Board of Governors, during the past 12 months the LAP prepared for substantive changes to the design of the program, its resources, and the rules that govern the operation of the program. My colleagues on the LAP Oversight Committee and I are dedicated to broadening the scope of services while maintaining efficiency in the existing program operations.

While streamlining the program to account for a greatly reduced operating budget and with a view toward serving the needs of public protection and the needs of the Bar, members of the Oversight Committee collaborated with staff toward a revision of the program’s structure. Among the changes to be implemented as a result of this effort are the addition of a new participant-driven support component, a new stand-alone assessment component, additional limits to the financial assistance plan, and a corps of volunteer peer counselors to assist LAP participants. The historical monitoring component will continue to be available, but now as a three year program.

NEW SUPPORT LAP

It is well established that assistance early in the process has a positive impact on preventing future harm to the public. We encourage attorneys to seek assistance prior to their problems having an impact on their practice of law. We are very pleased that, effective in 2010, we will offer an opportunity called “Support LAP” for attorneys to have the support of the LAP and the LAP groups in situations where monitoring and extensive staff resources are not needed.

ORIENTATION AND ASSESSMENT

We are adding a new component to the LAP with the intention of helping attorneys who may only need short term help, while at the same time introducing them to the resources LAP has to offer. An assessment will be completed by one of our clinicians located throughout the state. Referrals to outside resources and an opportunity to participate in the LAP groups will also be provided.

IMPACTING CAREERS

The LAP has offered career counseling services for quite some time, and we expanded those services in 2009. In response to the tremendous impact of the recession on attorneys, we offered two different career-focused workshops in both the northern and southern parts of the state. The response was beyond capacity and overwhelmingly positive. The Board of Governors has supported the continuation of these workshops and further expanded this service in the coming year, including a free webcast for those attorneys unable to attend a workshop in person.

ECONOMIC TIMES

Responding to tough economic times and budgetary constraints, the State Bar Board of Governors directed the LAP to significantly reduce its budget in 2009. Having already made cuts of nearly five percent in 2008, the LAP made a similar reduction in expenditures in 2009. The program expects to implement further budgetary reductions next year. Furthermore, the LAP anticipates operating at the statutory funding level in 2011; this will reflect a reduction of \$800,000 in annual expenditures compared to 2007, our highest cost year. The program is successfully meeting its budgetary challenges and I am confident that it will continue to do so.

REDUCING FINANCIAL ASSISTANCE

By statutory requirement, financial assistance is available for attorneys who would not otherwise be able to enter the program. In alliance with the Board of Governors, the LAP Oversight Committee continued its work of previous years to further limit the availability of financial assistance. Moving into 2010, loans will be limited to participation costs and will cover a period of no more than one year. The small loans that had been available to assist with treatment costs have been eliminated. Repayment of loans by past recipients has been disappointing. In collaboration with the ongoing work of Alliance One, we are implementing all appropriate collection measures including credit bureau reporting and the pursuit to judgment.

LAP VOLUNTEERS

Triggered by the creation of the Support LAP, we will be developing a network of volunteers who are willing to offer peer support to LAP participants. During 2010, we will recruit and train the first group of attorney volunteers who will serve in this capacity. We look forward to reporting on the added value and benefit these volunteers provide to the LAP.

LOOKING FORWARD

The LAP is poised to focus resources towards the mission of supporting recovering attorneys in their rehabilitation and competent practice of law, enhancing public protection, and maintaining the integrity of the legal profession. We are looking forward to another successful year.

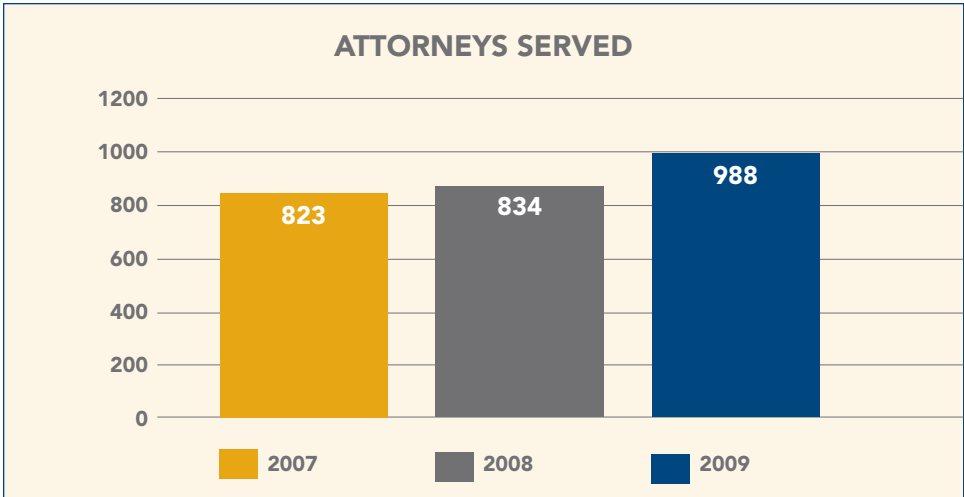
PHILIP BELLEVILLE, J.D., PSY.D.
CHAIR, LAP OVERSIGHT COMMITTEE

WHILE STREAMLINING THE
PROGRAM TO ACCOUNT FOR A
GREATLY REDUCED OPERATING
BUDGET AND WITH A VIEW
TOWARD SERVING THE NEEDS
OF PUBLIC PROTECTION AND
THE NEEDS OF THE BAR,
MEMBERS OF THE OVERSIGHT
COMMITTEE COLLABORATED
WITH STAFF TOWARD A REVISION
OF THE PROGRAM'S STRUCTURE.

2009: Another Busy Year

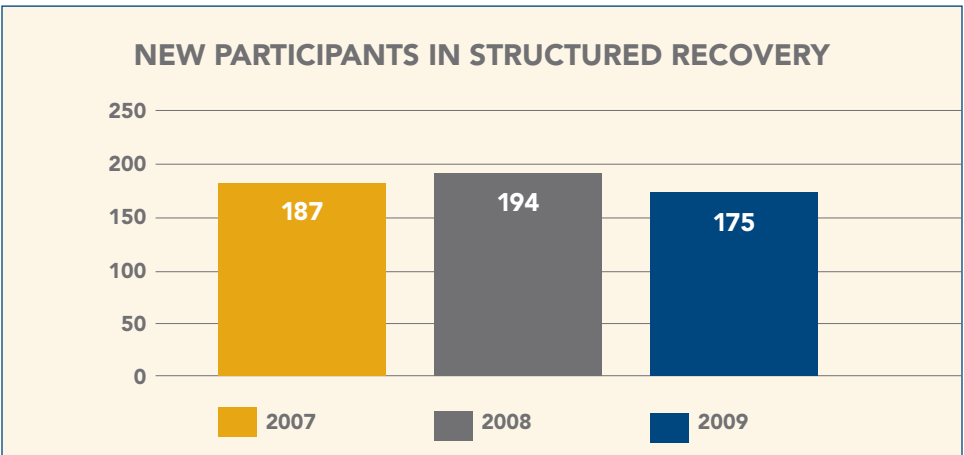
THIS YEAR NEARLY 1,000
ATTORNEYS RECEIVED
ASSISTANCE FROM THE LAP—
AN 18 PERCENT INCREASE
OVER THE PREVIOUS YEAR.

ATTORNEYS SERVED



There were 988 attorneys who received assistance from one or more program services during the year.

PARTICIPANTS IN STRUCTURED RECOVERY



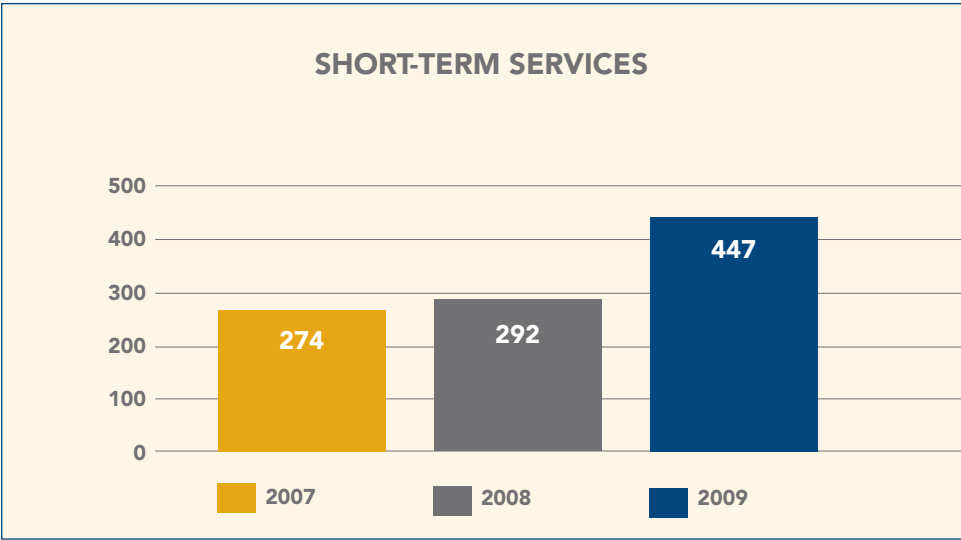
Five hundred forty-one attorneys participated in the structured recovery component, including 175 participants who were new in 2009.

Four attorneys were denied acceptance into the structured recovery program as a result of not meeting the acceptance criteria.¹

Seventeen attorneys' participation in the structured recovery program was terminated due to one or more of the reasons identified in the termination criteria.²

Twenty-eight attorneys completed five years of participation in the structured recovery program in addition to meeting all of the criteria for successful completion.³

SHORT-TERM COUNSELING SERVICES



Four hundred forty-seven attorneys received short-term counseling for personal or career concerns.



¹ An applicant shall meet the following criteria for acceptance into the Program:

1. The applicant shall be an active or inactive member, or former member of the State Bar of California;
2. The applicant shall be found to have a substance-related disorder or a mental health disorder;
3. The applicant shall voluntarily agree to participate in the Program;
4. The applicant shall agree in writing to comply with all the elements of the participation agreement; and
5. The applicant shall cooperate with the Program by providing access to medical information, disclosure authorizations and releases of liability as may be necessary for participation in the Program.

² Participants may be terminated from Program participation when any of the following conditions exist:

1. The participant has failed to comply with the participation agreement, including but not limited to:
 - a) Failure to comply with the prescribed monitoring or treatment recommendations, or
 - b) Use of alcohol or other unauthorized drug;
 - c) Any cause for denial of participation; and
 - d) Failure to meet the criteria for acceptance into the Program.

³ Participants will be deemed to have completed the LAP when all of the following conditions have been met:

1. The participant has maintained three years of continuous sobriety or, in cases of mental health, stability;
2. The participant has made lifestyle changes sufficient to maintain ongoing recovery or stability;
3. The participant has satisfied the terms of the participation agreement; and
4. The participant has participated in the Program for a period of five years, or as otherwise deemed appropriate by the Evaluation Committee

NOTE: The above rules were revised effective January 9, 2010

FIVE HUNDRED FORTY-ONE
ATTORNEYS PARTICIPATED
IN THE STRUCTURED
RECOVERY COMPONENT,
INCLUDING 175
PARTICIPANTS WHO
WERE NEW IN 2009.



SATISFACTION WITH
LAP PRESENTATIONS IS
ALSO REFLECTED IN A
LARGE NUMBER OF REPEAT
REQUESTS FROM THE SAME
ASSOCIATIONS AND FIRMS
FOR LAP SPEAKERS.

EDUCATION AND OUTREACH ACTIVITIES

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

In addition, the program offers 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. Evaluations and feedback continue to be very positive, including many comments like “the best presentation of the day.” Satisfaction with LAP presentations is also reflected in a large number of repeat requests from the same associations and firms for LAP speakers.

Among the many organizations that received presentations from the LAP during 2009 were the following:

- Association of California Water Agencies Lawyers
- Bar Association of San Francisco
- CLE International – Eminent Domain Seminar
- California Appellate Attorneys
- Family Law Section of San Fernando Valley Bar Association
- Intellectual Property and Entertainment Lawyers
- Lake County Bar Association
- Law Seminars Incorporated
- Long & Levit
- Los Angeles County District Attorneys
- Marin County Bar Association
- Modesto County Bar Association
- Nixon Peabody
- Orange County Bar Association – Workers Comp Section
- Palo Alto Bar Association
- Practicing Law Institute MCLE Marathon
- Santa Cruz County Bar Association
- Southwestern School of Law
- State Bar Annual Meeting (3 presentations)
- Stroock & Stroock & Lavan
- University of the Pacific McGeorge School of Law – MCLE Marathon

STRUCTURED RECOVERY PARTICIPANT DEMOGRAPHICS

DIAGNOSES

Consistent with a trend that began in 2003, 60 percent of the attorneys who entered the structured recovery component during 2009 have a mental health diagnosis, either singularly or in combination with a substance abuse diagnosis. The portion of the LAP population with mental health issues has continued at a high rate and has necessitated a high level of qualified clinical staffing and intensity of services.

PRACTICE SETTING

The data reveal that nearly three-fourths of all LAP structured recovery participants are solo practitioners.

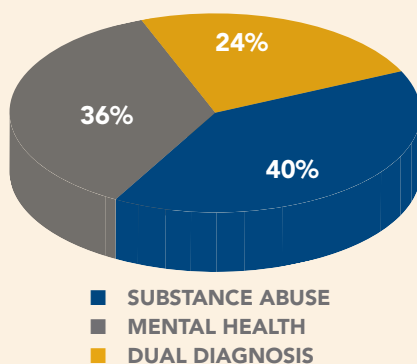
GENDER

More than four out of five participants are male.

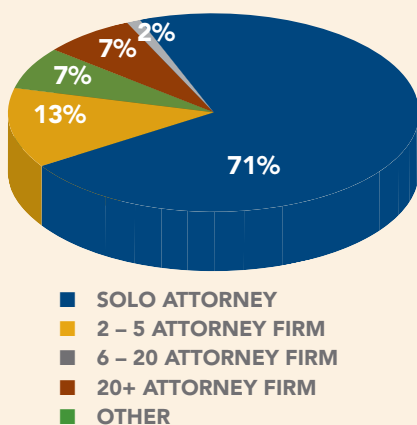
AGE

Fifty-eight percent of participants are over 50 years of age.

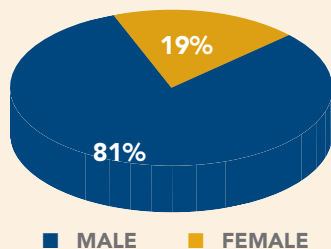
NEW PARTICIPANT DIAGNOSES 2009



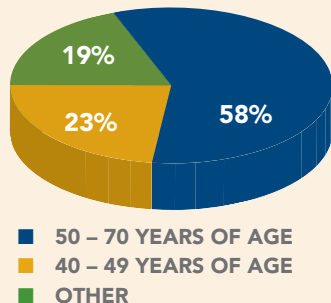
PRACTICE SETTING OF PARTICIPANTS



GENDER OF PARTICIPANTS



AGE OF PARTICIPANTS



THE COURT'S PERSPECTIVE

Judge JoAnn Remke,
Presiding Judge, State Bar Court,
knows about troubled attorneys
and how they can be helped.

In her words: "Before the implementation of the Lawyer Assistance Program, the disciplinary system was in many ways ill-equipped to deal with attorneys with substance abuse or mental health problems. By referring attorneys to LAP, the State Bar Court has been better able to protect the public, the courts and the legal profession, while attorneys receive assistance with rehabilitation."

New Services Available in 2010

RULES OVERVIEW

The Oversight Committee of the Lawyer Assistance Program proposed revised Lawyer Assistance Program Rules to the State Bar Board of Governors in November of 2009. The Board adopted the revised LAP Rules in January of 2010 following a period of public comment. The revised rules are completely consistent with the spirit and programmatic purpose of Senate Bill 479 (Burton), Chapter 129, Statutes of 2001, the statute which created the Lawyer Assistance Program (Business and Professions Code §§6230 et seq.).

The revised rules consolidated the two sets of previous rules regulating the operations of the LAP, the Rules and Regulations Governing the Lawyer Assistance Program and the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program, and eliminated duplicative provisions. Provisions relating to criteria for acceptance and denial of acceptance, termination from, and completion of the LAP, which formerly were to be found only in an appendix to the LAP annual report, were incorporated into the new rules themselves.

In addition to simplifying and consolidating the program's rules, the programmatic changes reflected in the new rules were designed to allow the program to serve an expanded pool of participants without increasing existing staffing levels. The new rules related to the Financial Assistance Plan were designed to further slow the growth of the outstanding loan obligation owed to the State Bar and to enhance repayment of the funds loaned to participants (see page 11).

Program redesign efforts in 2009 will result in new services for 2010. Beginning in January of 2010, LAP services will now include:

ORIENTATION & ASSESSMENT (O&A)

A distinct Orientation and Assessment ("O&A") service will now be available to all attorneys, former attorneys and candidates for admission to the Bar prior to their election to participate in either the Support LAP or the Monitored LAP. The O&A is available without a commitment to long-term participation. Creating the O&A as a stand-alone service is expected to encourage more attorneys to seek assistance at the earliest possible time and prior to personal or professional consequences.

SUPPORT LAP

The most significant change is the creation of a less structured, participant-driven LAP—called the Support LAP. Aiming to attract attorneys at the earliest possible time, the creation of the Support LAP will now enable the program to provide services to an expanded pool of participants without increasing existing staffing levels. The Support LAP was designed for attorneys who do not require monitoring or verification of participation. In addition to the support of professional group facilitators and other group participants, the LAP will develop a network of volunteers who will provide ongoing support to these participants in their recovery efforts.

MONITORED LAP

A Monitored LAP will exist for attorneys who want to satisfy a specific monitoring or verification requirement imposed by the Office of Chief Trial Counsel, State Bar Court, Committee of Bar Examiners or other entity. The Monitored LAP will also be available to self-referred attorneys who wish to participate and who want additional structure. The Monitored LAP substantially duplicates the existing LAP.

A BIG TURNAROUND

Greg is a very high profile lawyer who had been charged with numerous misdemeanors for violations of California state campaign finance law and was on the verge of State Bar disciplinary proceedings when his lawyer recommended that he enter the LAP.

Now a member of the Bar in good standing, Greg will graduate from the LAP in spring 2010. While in the LAP he led a team of lawyers from 20 firms that received a favorable verdict in a multi-billion dollar case.

"My greatest professional achievements have come during the time I was in the LAP process, and I would not have been able to do that but for the counseling and insights that I got through the LAP," he says.

Greg adds that he is "living proof that the LAP is one of the greatest services the California State Bar can give to its members and to the public."

Strong Demand For Enhanced Career Development Services

California's deep economic recession of 2008-2009 has led to increased unemployment and related career challenges faced by many State Bar members. In recognition of these challenges, the LAP offered two low-cost career development workshops during the fall of 2009 to complement the two free sessions of personal career counseling that has been offered by the LAP for many years.

"Learning Strategies to Take Your Career to the Next Level" was a workshop held in Los Angeles one night per week for six weeks beginning on September 16, 2009. The program was designed to help participants identify career goals, develop a plan for obtaining the career they want, develop new skills to eliminate barriers in the way of their success, and connect with a supportive community of other legal professionals with similar aspirations and career challenges. "Learning Strategies" was presented in a small group format with a maximum attendance of 12 attorneys. The program was taught and facilitated by a team of LAP career counselors in conjunction with a LAP group facilitator.

"300 Things You Can Do With a Law Degree" was a half-day seminar conducted on October 1, 2009 in San Francisco by Hindi Greenberg, the director of an organization called Lawyers in Transition. Her seminar taught participants how to conduct a career assessment to decide whether a job or career change is necessary, how to effectuate job change strategies and avoid pitfalls, how to assess the benefits and detriments of various job choices both within and outside the field of law, and illustrated how to discover alternative career options using a legal degree as a basis for that career.

(continued on page 10)

ACCOMMODATING THE EMOTIONAL SIDE

JoAnne Robbins became a discipline defense attorney following service as a State Bar Court Hearing Judge and a State Bar prosecutor. She points to establishment of the Lawyer Assistance Program as a "monumental improvement in the State Bar discipline system because it could accommodate attorneys with emotional and psychological problems, which I believe is as big or a bigger issue with misconduct by attorneys than substance abuse."

Acknowledging that no program is 100 percent effective, she says that if the Court, the attorneys and the other support people "are able to get an impaired attorney into the LAP, then it can work wonders, because most of the time it will save lives, careers and people's futures."

LAWYERS SEEK NEW CAREERS FOR MANY REASONS

A recent article by Diane Curtis in the California Bar Journal said:

Lawyers attend Ms. Greenberg's ["300 Things You Can Do With a Law Degree"] seminar for a variety of reasons. Some just want a change from the kind of law they're practicing. Others want a completely new profession that has nothing to do with the law. Some have lost their jobs or have seen their practices diminish to almost nothing or can't find that first job and just need an entree. And still others found time away from the law only made them more eager to get back to it...

- George Main wanted to network and learn about legal opportunities in the midst of a tumbling economy that hurt his immigration practice.
- Karren Moore-Jordan wanted to get out of probate law and shift to something that frees her from court-imposed schedules and pay.
- Birgitte Gilliland wanted to test her desire to return to law after being a stay-at-home mom despite assertions by family and friends that she was crazy to want to go back.
- And Peter Shelton wanted to know what he needed to do to get back to his "passion" after taking time out to manage a family real estate business.

"From conversations I've had with literally thousands and thousands of lawyers over the past 23 years," says Greenberg, 64, "I can break them into roughly two groups — those who think their practice of law should be abandoned, the sooner the better, and those who feel that using their legal skills is desirable but wish they could lessen aspects of the practice that they dislike, or find new meaning, or rekindle lost excitement in their work."

(Excerpted, with permission, from "Looking for a Happier Legal Career, or Something Different," by Diane Curtis, *California Bar Journal*, January 2010.)

MAKING THE CALL

Grace was one phone call away from ending her life when the Lawyer Assistance Program came to her rescue.

"I reached a point where I couldn't bear answering the phone or opening my mail. I basically locked myself in my apartment for three months and contemplated ending it all permanently," she says.

"Then I became friendly with a woman who told me to call the Lawyer Assistance Program. The professionals at the LAP understood how very sick I had become. As a result, they were able to recommend a comprehensive course of treatment, which included an intensive out-patient eating disorder program, individual therapy, and an anti-depressant regimen that was managed by a psychiatrist.

"Today, I am happier than I have ever been in my entire life and doing what I love, practicing law."

(continued from page 9)

A recent article in the *California Bar Journal* (see sidebar, page 9) described the seminar and quoted the LAP's Richard Carlton on a major reason for lawyer stress: "You're expected to be right all the time and you're expected not to make mistakes."

"300 Things" was attended by 95 attorneys. More than 200 inquiries were received from attorneys expressing interest in these programs, many of whom were not able to participate this year due to geographic obstacles or scheduling conflicts. Additional sessions of both programs are planned for the spring of 2010. As a pro bono service to the membership, the Practicing Law Institute has offered to host the next session of "300 Things" in their San Francisco facility while simultaneously making the program available to any attorney anywhere via a live web cast—all for no charge.

The Board of Governors has encouraged the LAP to expand these career development services during the coming year. The short-term counseling component of the LAP also provides two free sessions of one-on-one counseling with a local therapist who specializes in working with legal professionals around any personal issue or concern impacting work productivity—stress, burnout, depression, conflicts with colleagues or family-members, etc. Demand for both forms of short-term counseling services—personal and career—were strong during 2009, with 12 percent more attorneys requesting these forms of assistance than did so during the prior year.



A RECENT CALIFORNIA BAR JOURNAL ARTICLE IDENTIFIED KATHY FREISTADT, WHO RECENTLY STOPPED PRACTICING TRANSACTIONAL, ENVIRONMENTAL COMPLIANCE, PATENT AND REGULATION LAW TO BEGIN A NEW CAREER AS A LANDSCAPE DESIGNER.

Significant Changes to the LAP Financial Assistance Plan

As a result of changes to the rules and a comprehensive review by the Oversight Committee, the total number of LAP participants who are borrowing money from the Plan in support of LAP-related expenses as well as the total amount of money loaned by the Plan declined dramatically during the course of 2009.

The Attorney Diversion and Assistance Act, the statute that created the Lawyer Assistance Plan, directed that “the State Bar establish a financial assistance program to ensure that no member is denied acceptance into the program solely due to the lack of ability to pay.” Accordingly, a LAP Financial Assistance Plan was established allowing LAP participants who are unable to afford certain non-State Bar costs associated with participating in the program (such as group facilitator fees) to borrow those funds from the Plan. These loans become due and payable when an attorney stops participating in the program. Participants who successfully complete the program are allowed to repay the Plan over a 60-month period, amortized at a rate of seven percent interest per annum. For attorneys who stop participating in the Plan prior to successful completion, the entire amount of the loan balance becomes due and payable immediately. Those loans begin to accrue interest at a rate of seven percent per annum from the date of cessation of participation.

SLOWING THE GROWTH OF OUTSTANDING DEBT

To slow the growth of outstanding debt obligations to the Plan, the LAP Oversight Committee has proposed changes to the Financial Assistance Plan rules twice, the first time in the fall of 2007 and most recently in the fall of 2009 (with the changes to take effect in January 2010). The new rules restrict the length of time assistance is provided to each participant to less than 12 months. The rules now also limit the type of expenses for which the loan monies may be used so that in most

cases evaluation and treatment expenses are no longer eligible. Furthermore, during 2009 the Oversight Committee completed a thorough review of all participants in the Plan to ensure that those continuing to receive assistance were truly in need.

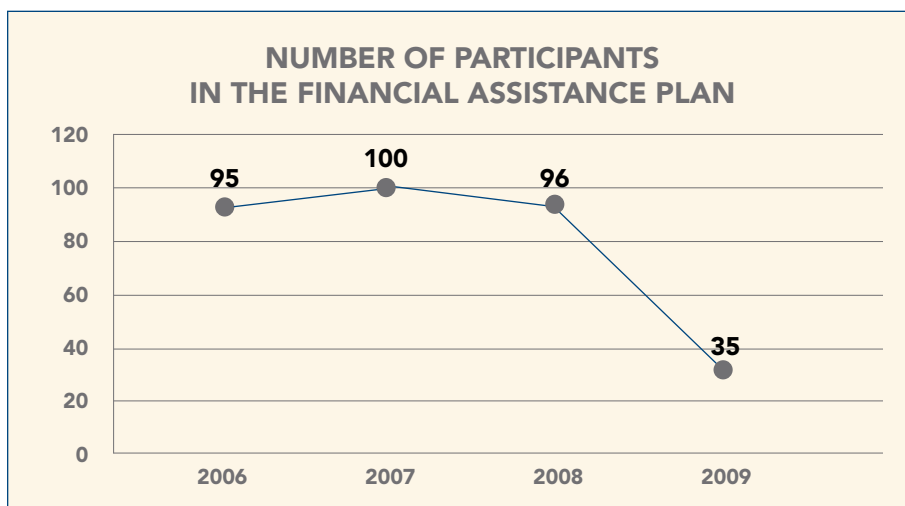
DRAMATIC REDUCTION

At the beginning of 2009 there were 96 participants actively receiving loans from the Financial Assistance Plan. By the end of 2009 the number of participants actively receiving loans from the Financial Assistance Plan was 35, a reduction of 63 percent. This reduction led to a 30 percent drop in the amount of money loaned in 2009. Beginning in 2010 the State Bar Board of Governors has cut by 50 percent the amount of new money available to be loaned by the Plan.

DEBT RECOVERY

By the end of 2009, \$739,570 had become due and payable and was delinquent. In addition, while graduates of the program have five years to repay their loans, \$122,294 worth of loans to graduates was outstanding. Only \$68,446 worth of outstanding loans had been repaid.

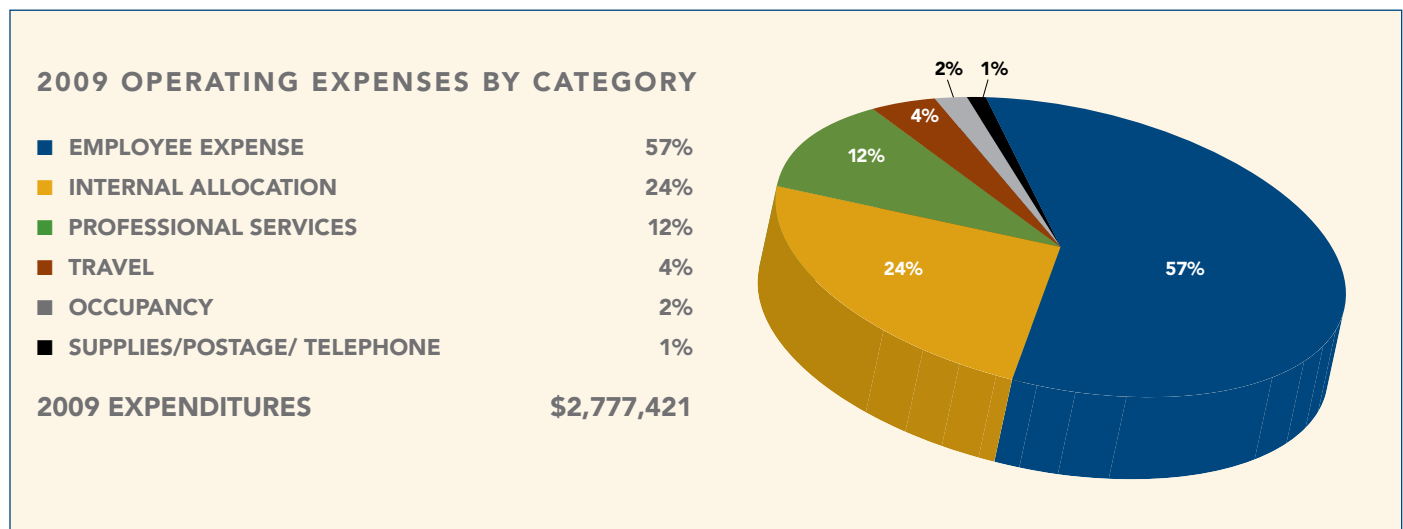
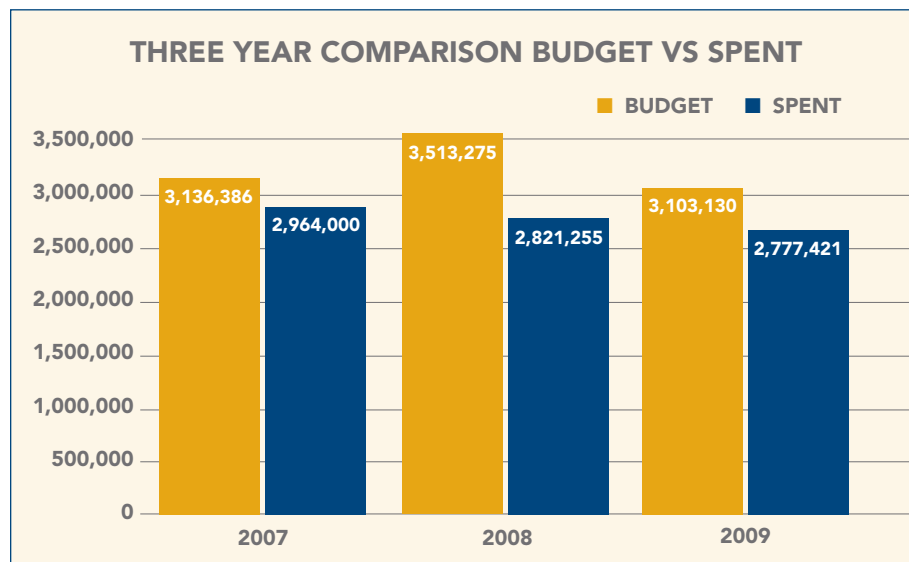
The high rate of delinquent debts owed to the Plan prompted the State Bar in 2008 to hire Alliance One to process repayments to the Plan and to attempt to collect delinquent debts. As a result, the State Bar was able to increase the amount collected in 2009 by 48 percent over the previous year. There was also a 21 percent increase in the number of former participants who made payments to the Bar in 2009 versus 2008.



Financial Summary

EXPENDITURES

As the chart below illustrates, expenditures by the LAP have been trending downward significantly over the past three years, such that the total expenditures related to the program (structured recovery component, short-term counseling component and financial assistance) were nearly 10 percent less in 2009 than the total expenditures in 2007. Expenditure reductions in 2009 included the elimination of two staff positions, including the Clinical Director position. Further expenditure reductions are planned for 2010, with the expectation that by 2011 the program will be operating at the statutory level of funding.



Lawyer Assistance Program Staff and Oversight Committee

2009 MEMBERS OF THE OVERSIGHT COMMITTEE

Philip Belleville, J.D., Psy.D.
Chair

Honorable John Burton

Richard Carrillo

Kellie M. Condon, Ph.D.

David S. Hobler, J.D.

Stewart Hsieh, J.D.

Michael Nerz, M.D.

John H. Shale, M.D., J.D.

Honorable Lawrence F. Terry

Dorothy Tucker, Ph.D., Ph.D.

2009 LAP STAFF ROSTER

Janis Thibault, MFT, CADC
Director

Richard Carlton, MPH
Special Assistant

Alex Yufik, JD, PsyD
Case Management Supervisor

Michelle Baumann, LCSW
Case Manager (So. California)

Louis Buchhold, MFT, EdDCP
Case Manager (So. California)

Carolyn Conner, MFT
Case Manager (No. California)

Doreen Diego, MFTI
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Kara Fletcher, LCSW
Case Manager (So. California)

Robert Gastelum, MFT
Case Manager (So. California)

Anna Gray, MFT
Case Manager (No. California)

Michael Richmond, MFTI
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Justin Ewert
Program Coordinator

Matt Adams
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LAWYER ASSISTANCE PROGRAM

Assistance program of the State Bar of California

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