



2010 ANNUAL REPORT

LAWYER ASSISTANCE PROGRAM | STATE BAR OF CALIFORNIA

March 1, 2011



Message from the Chair

The Board of Governors of the State Bar of California established a Lawyer Assistance Program (LAP) 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. My colleagues on the

LAP Oversight Committee and I are dedicated to preserving this mission while responding to the directive of the Board of Governors to reduce expenditures to the statutory level.

Left unattended, the issues addressed by the LAP can quickly lead to an adverse impact on the interests of the public as well as on personal and professional lives. The LAP continued to address this risk by launching a new design and new approaches during 2010. This new design addresses the protection of all concerned while being responsive to economic realities.

New Services Launched During 2010

While streamlining the program to account for a greatly reduced operating budget, members of the Oversight Committee collaborated with staff to design a more flexible program structure including less resource-intensive service options. To further encourage attorneys to seek assistance prior to their problems having an impact on their

practice of law, attorneys now have the opportunity to have the support of the LAP and the LAP support groups in situations where monitoring and extensive staff resources are not needed. We call this **Support LAP** (with the more traditional form of LAP participation now called **Monitored 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, we launched the **Orientation and Assessment** service component. The assessment is completed by one of our licensed clinicians and includes referrals to outside resources in addition to providing an opportunity to participate in several meetings of the LAP support groups.

Further Reduction of Program Expenditures

Responding to tough economic times and budgetary constraints, the State Bar Board of Governors directed the LAP to further reduce

its expenditures during 2010. Having already made cuts of nearly seven percent in 2008 and two percent in 2009, the LAP made more critical cuts during 2010—*reducing program expenditures by nearly 25 percent compared to 2009.*

The program expects to implement further budgetary reductions during 2011 and to be operating at the statutory funding level by the beginning of 2012; this will reflect a *reduction of more than 35 percent in annual expenditures since 2007.*

Reducing Financial Assistance

By statutory requirement, financial assistance is available for attorneys who would not otherwise be able to enter the program. The LAP has consistently since 2007 revised the criteria and sums available to comply with statutory requirements while responding to budget concerns. In accordance with the direction of the Board of Governors, the LAP Oversight Committee further limited the scope of the available

financial assistance during 2010. Loans are now limited to a period of no more than one year or a maximum of \$2,000.

Despite focused collection efforts, the rate of repayment of loans by past recipients has continued to be unacceptable. As a result, the LAP has contracted with a new collections agency with the expectation of increasing repayments. This transition will take place in the first quarter of 2011.

Looking Forward

While aggressively pursuing a reduction of expenditures, the Lawyer Assistance Program actively encourages 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.

*Philip Belleville, JD, PsyD
Chair, LAP Oversight Committee*

Program Accomplishments

- » **The LAP provides a comprehensive program of professional support and structure including expert assessment, arrangements for treatment, monitored continuing care, random lab testing and professionally facilitated support groups.**
- » **From the inception of the LAP to date, the program has conducted 1652 intakes with attorneys entering into the structured recovery component of the LAP (now referred to as Monitored LAP).**
- » **The addition of Support LAP and Orientation and Assessment components to the program during 2010 resulted in an even more flexible program with nearly 15 percent of participants taking advantage of these options.**
- » **Studies have shown that longer periods of participation in professional assistance programs produce greater results in terms of ongoing recovery success. Forty-three percent of attorneys completing a LAP intake have participated in the program for more than one year, and 29 percent have remained in the program for at least three years.**
- » **A preliminary study of participants who remained in the program for six months or longer showed that they experienced a statistically significant reduction in depression and anxiety symptoms while in the LAP. In response to this favorable report, the LAP plans to expand the study to include all participants statewide.**
- » **Since 2003, 162 applicants to the State Bar have participated in the LAP while their moral character determination was under review by the Committee of Bar Examiners. The program conducted 53 intakes with applicants to the Bar during 2010.**
- » **More than 2,200 attorneys have received short-term and career counseling assistance from the LAP since the beginning of the program. Two hundred and eighty-nine attorneys received such assistance during 2010.**
- » **The LAP has delivered 285 MCLE presentations throughout the state since 2003. The program delivered 27 presentations during 2010.**
- » **The program anticipates eliminating an additional 10 percent of program costs during 2011 (compared to 2010 expenses) while maintaining as many of the current services as possible.**

2010 Activity

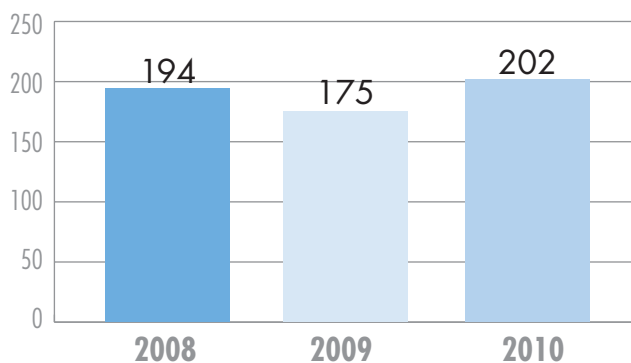
The program conducted 202 intakes during 2010, 15 percent more than the previous year and the largest number of intakes since 2006.

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

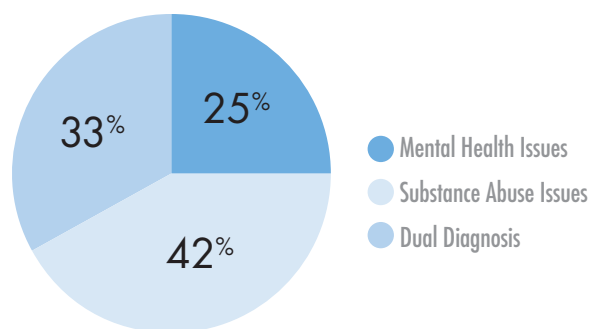
Nine attorneys were denied acceptance into the LAP as a result of not meeting the acceptance criteria.²

Eight 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



New Participant Diagnoses



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.

² 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:

- (1) the applicant does not meet eligibility criteria;
- (2) the applicant will not substantially benefit from the LAP; or
- (3) 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.

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 2010 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 following organizations received presentations from the LAP during 2010:

- CLE International *
- Conference of California Public Utility Counsels
- El Dorado County Legal Professionals
- Laughlin, Falbo, Levy & Moresi LLP
- Law Seminars Incorporated (four presentations)*
- Los Angeles County Public Defenders Office *
- Nixon Peabody *
- Northern California Workers Compensation Defense Attorneys Association
- Palo Alto Bar Association *
- Placer County Bar Association
- Sacramento Legal Secretaries Association
- Somach Simmons & Dunn
- State Bar Annual Meeting (four presentations) *
- University of the Pacific McGeorge School of Law (two presentations) *
- University of Southern California Tax Institute
- Winston & Strawn *

Among the comments received following LAP presentations:

"Highly satisfied... something all lawyers should learn about."

"Learned a lot and gained new appreciation for substance abuse issues."

"Probably one of the best substance abuse credits I attended in the last 18 years."

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

Further Changes to the LAP Financial Assistance Plan

As a result of significant changes to the rules and the comprehensive review by the Oversight Committee during 2009, the total number of LAP participants who are borrowing money from the Financial Assistance 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 2010.

The Attorney Diversion and Assistance Act, the statute that created the Lawyer Assistance Program, 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 lab testing and 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 Program prior to successful completion, the entire amount of the loan balance becomes due and payable immedi-

ately. These 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

Changes to the Financial Assistance Plan rules that took effect in early January 2010 continued to restrict the amount loaned. The new rules restricted the length of time assistance is provided to each participant. The rules also limit the type of expenses for which the loan monies may be used. The Board of Governors and executive staff further recommended that the amount of the loan be limited to \$2,000 for each individual member.

Continued reduction

At the beginning of 2010, 11 percent of LAP participants were actively receiving loans from the Financial Assistance Plan. By the end of 2010 the percentage of participants actively receiving loans from the

Financial Assistance Plan dropped to four percent. All of these changes resulted in a 70 percent reduction in the amount of money loaned in 2010 compared to 2009.

Debt Recovery

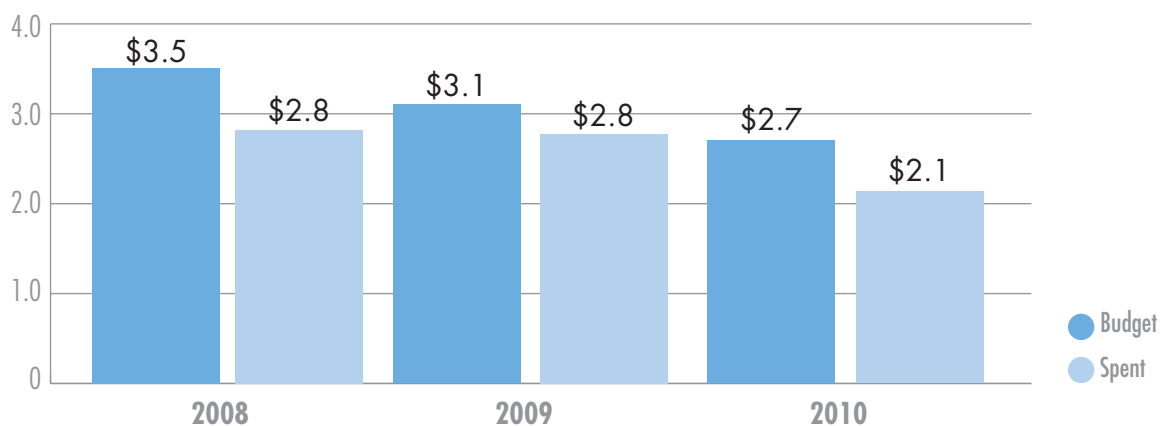
By the end of 2010, \$1,053,512 had become due and payable and was delinquent. In addition, while graduates of the program have five years to repay their loans, \$361,098 in loans to graduates was outstanding. To date \$97,287 in outstanding loans has been repaid.

The high rate of delinquent debts owed to the Plan prompted the State Bar in 2008 to hire an outside collections agency to process repayments to the Plan and to attempt to collect delinquent debts. Following a collective bidding process a new agency will begin taking over collections efforts in early 2011. The State Bar believes this transition will lead to an increase in the amount of revenue that is collected.

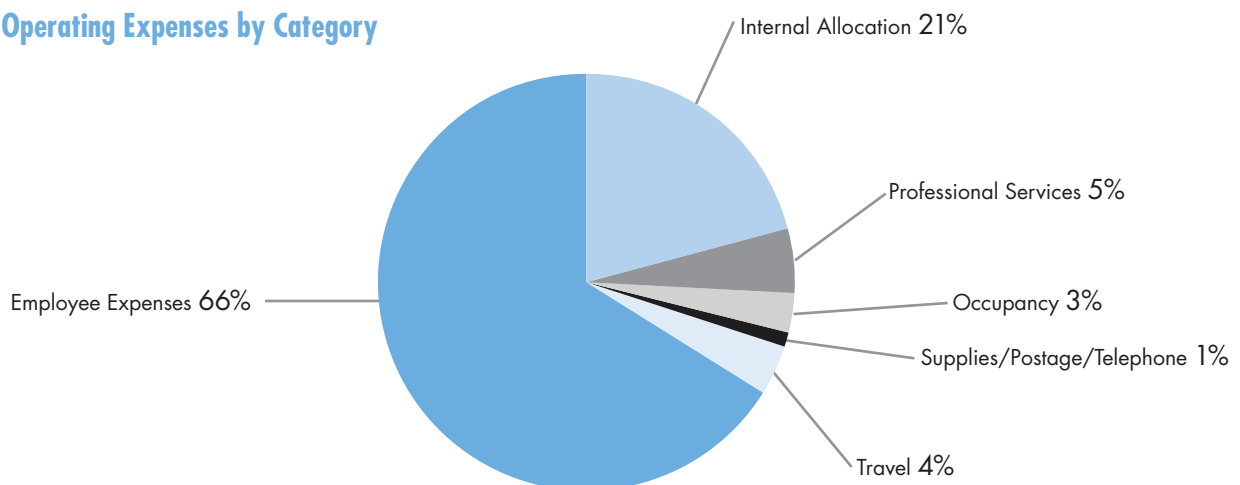
Financial Summary

As the bar chart below illustrates, spending by the LAP has been trending downward significantly over the past three years, such that the total expenditures related to the program were nearly 25 percent less in 2010 than the total in 2008. Of particular note, ***actual program expenses for all of 2010 were below budget by more than half a million dollars.*** Further significant reductions are planned for 2011, with the expectation that by 2012 the program will be operating at the statutory level of funding.

Three Year Comparison Budget vs. Spent (in millions)



2010 Operating Expenses by Category



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Lawyer Assistance Program Staff and Oversight Committee

2010 Members of the Oversight Committee

Philip Belleville, JD, PsyD
Chair

Honorable John Burton

Richard Carrillo

Kellie M. Condon, PhD

David S. Hobler, JD

Stewart Hsieh, JD

Michael Nerz, MD

John H. Shale, MD, JD

Honorable Lawrence F. Terry

Dorothy Tucker, PhD, PhD

2010 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, MFT
Case Manager (No. California)

Kara Fletcher, LCSW
Case Manager (So. California)

Robert Gastelum, MFT
Case Manager (So. California)

Anna Gray, MFT
Case Manager (No. California)

Michael Richmond, MFT
Case Manager (So. California)

Justin Ewert
Program Coordinator

Matt Adams
Administrative Assistant



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