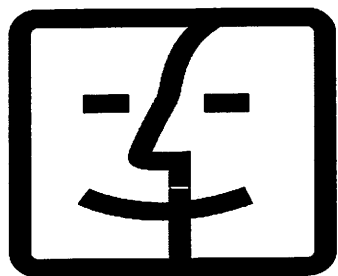


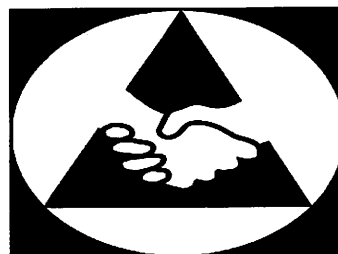
# **Report of the North Carolina State Bar Lawyer Assistance Program**

**October 1, 2005 – September 30, 2006**

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**FRIENDS**



**PALS**

## Introduction

It has been a busy and productive year for the LAP. The State Bar's rule governing the Lawyer Assistance Program provides:

### .0601 Purpose

The purpose of the lawyer assistance program is to: (1) protect the public by assisting lawyers and judges who are professionally impaired by reason of substance abuse, addiction, or debilitating mental condition; (2) assist impaired lawyers and judges in recovery; and (3) educate lawyers and judges concerning the causes of and remedies for such impairment.

The LAP is fulfilling its mission. Since 2000 the LAP has assisted over 1100 lawyers, or around 5% of the Bar; often including those most disadvantaged and distressed members.

There have been distractions. In December 2004 Alan Pugh, a lawyer from Asheboro, wrote then Bar President Bud Siler and alleged that referrals by the LAP to AA programs were not constitutionally permissible. At the request of the officers, the LAP Board undertook a review of the law and the practices of the LAP in regard to establishment clause issues and on October 1, 2005 it adopted a policy entitled: "LAP Guidelines to Avoid Conflict With the Establishment Clause." At the same time the LAP Board asked if the services of an outside law firm could be obtained to opine as to the constitutionality of the practices of the LAP. President Murphy obtained the service *pro bono* of Adam H. Charnes and Chad D. Hansen of the firm of Kilpatrick Stockton to provide this opinion to the Bar for the benefit of the LAP

Concerned about Pugh's allegations, the Bar officers in the fall of 2005 directed Bar discipline lawyers to refrain from involving the LAP in cases as it had in the past, where LAP worked with and monitored lawyers whose problematic behavior arose out of addiction or mental health issues. On November 9, 2005 Pugh filed a lawsuit against Ed Ward, Assistant LAP Director and Harold Lilly, an addictions counselor in Asheboro, alleging his establishment clause rights were violated. Pugh had also brought a suit against Fellowship Hall, one of the treatment centers where he was a patient for addiction treatment. The suit against Fellowship Hall was dismissed by the Court on March 17<sup>th</sup> 2006. After much written discovery had occurred in the case against Ward and Lilly, Pugh, following dismissal of his suit against Fellowship Hall on the merits, took a dismissal of his second lawsuit against Ed Ward and Harold Lilly.

In early May the opinion of Charnes and Hansen was received by the LAP Board. This opinion found the practices of the LAP to be constitutional and made suggestions to strengthen those policies.

At its July, 2006 meeting the LAP Board reviewed the Charnes and Hansen suggestions and revised the LAP's policies in a manner felt to be most constructive in dealing with any possible establishment clause challenges.

After overcoming software difficulties that had hindered the closing of files, the LAP closed 773 files during the year. The result of these closing for the first time gives us a summary of the results achieved by the LAP in accomplishing its mission. The bottom line is that in files closed since 2000, the rate of successful outcomes is 84 %.

Currently at the end of October, the LAP had 379 open files. This reflects assistance being provided on the basis of more than one new file every day, requiring very substantial amounts of time from the professional staff as well as our cadre of volunteers. These staff and volunteer efforts prevented or limited possible harm to the public in numerous incidents. Though referrals from the DHC and Grievance were suspended for most of this year for those cases in the pipeline, there have been positive outcomes in the great majority of all cases being monitored by the LAP for either the Grievance Committee or pursuant to a DHC Order this past year. In these cases, where discipline is initially deferred or the lawyer is operating under a stayed suspension, the LAP's intervention offers the opportunity to actually get to and resolve the root problem out of which the discipline problem arose. The mission of protecting the public is vitally served here.

## **Details of the North Carolina Lawyer Assistance Program October 1, 2005– September 30, 2006**

The Lawyer Assistance Program (LAP) provides assessment, referral, intervention, education, advocacy, and peer support services for all North Carolina lawyers and judges.

The LAP is designed to help lawyers find a way to address a wide range of health and personal issues, including, most commonly, alcohol/drug abuse, stress/burnout, depression, anxiety, and compulsivity disorders of all kinds, including those involving food, sex, gambling, and the Internet.

All calls are strictly confidential.

### **Educational Outreach**

#### **LAP Presentations:**

- Campbell Law School, Buies Creek, NC – October 26, 2005
- American Immigration Law (AILA) CLE Presentation, Greensboro, NC – November 18, 2005
- Mental Health & Substance Abuse Issues for Lawyers (ECU), Greenville, NC – December 2, 2005
- Mecklenburg County Bar, Harnessing Your ADD, Charlotte, NC – December 2, 2005
- Legal Aid of Boone, CLE, Boone, NC – December 16, 2005
- Mecklenburg Bar Real Estate Council – Charlotte, NC – January 10, 2006
- Orange County Professionalism CLE – Chapel Hill, NC – January 26, 2006
- Mental Health & Substance Abuse Issues for Lawyers, ECU – Greenville, NC – February 3, 2006
- 16<sup>th</sup> Annual Festival of Legal Learning – Chapel Hill, NC – February 10-11, 2006
- Winston-Salem Black Lawyers Association Meeting – Winston-Salem, NC – February 14, 2006
- Kilpatrick/Stockton – Pinehurst, NC – February 17, 2006
- NC Bar Association – Cary, NC – February 28, 2006

- NCCU – Professional Responsibility Class – Durham, NC - February 28, 2006
- NC Bar Association – CLE, Cary, NC – February 28, 2006
- 2006 Legal Services State Wide Conference – RTP, NC – March 15, 2006
- 19B District Bar Meeting – Carthage, NC – March 24, 2006
- NCCU School of Law (1<sup>st</sup> Year Students) – Durham, NC – March 27, 2006
- NCCU School of Law (2<sup>nd</sup> & 3<sup>rd</sup> Year Students) – Durham, NC - March 28, 2006
- UNC Law School – Chapel Hill, NC – April 6, 2006
- Eminent Domain Conference – Durham, NC – May 4-5, 2006
- Local Bar Meeting – Boone, NC – May 16, 2006
- Associates Deans Roundtable Law School – Durham, NC – May 17, 2006
- 9<sup>th</sup> District Bar Meeting – Henderson, NC – May 19, 2006
- NC Academy of Trial Lawyers Convention – Sunset Beach, NC – June 13, 2006
- Nexsen, Pruet, Adams, Kleemeier Law Firm – Greensboro, NC – July 13, 2006
- Elon University School of Law Orientation – Greensboro, NC – August 11, 2006
- NCCU School of Law (Student Orientation) – Durham, NC – August 17, 2006
- Charlotte School of Law – Charlotte, NC – August 23, 2006
- NC Child Support Conference – Atlantic Beach, NC – September 13-15, 2006
- Practical Skills Course – Cary, NC – September 21, 2006
- Mecklenburg County Bar Center – Charlotte, NC – September 15, 2006
- 12<sup>th</sup> Judicial District Bar – Fayetteville, NC – September 22, 2006
- Federal Public Defenders Seminar – Wrightsville Beach, NC – October 12, 2006

#### Video Presentations

The one-hour CLE video presentation “The Science and Art of Good Lawyer Mental Health” has been available to lawyers for the CLE one-hour credit and was presented at the following:

- Durham Police Department, Durham, North Carolina
- NC Bar Association, Pinehurst, North Carolina
- US Department of Justice, Charlotte, North Carolina
- Assistant US Attorney Office, Raleigh, North Carolina
- Charlie Farris Law Office, Wilson, North Carolina
- Steve West – US Attorney Office, Raleigh, North Carolina
- US Attorney’s Office, Ethics Seminar, Greensboro, NC
- NC Electric Membership Counsel Association, Charlotte, NC

#### LAP Information Flyers

- PALS: Alcoholism and Other Chemical Addictions
- FRIENDS: Depression and Mental Health
- A Guide for North Carolina Judges: Dealing with an Impaired Lawyer
- Black Lawyers Association Leadership Urges Members Use of Lawyer Assistance Program
- Breaking the Silence – Lawyer Suicide
- A Chance to Serve
- Welcome to the Legal Profession
- Women Bar Leaders Encourage Use of Lawyer Assistance Program

- Impairment in the Legal Profession – A guide for New Bar Councilors and Local Bar Leaders

LAP flyers are used in new lawyer packages, volunteer packages, and requests for information by prospective clients and in CLE programs. Approximately 700 flyers were distributed in 2005 and 2006 presentations with 1,327 Welcome Flyers were distributed to new admittees. The LAP book “A Lawyer’s Guide to Healing” is recently being distributed as part of the LAP ‘s outreach.

A new four fold flyer has been approved by the board to be printed in 2007.

### Articles

PALS and FRIENDS columns are submitted quarterly to the *Bar Journal*. Monthly articles are submitted to the *Campbell Law Observer* to develop awareness of the Lawyer Assistance Program and impairing issues lawyers may face.

### Volunteer Development

Substantial efforts continue to be devoted to volunteer development. As of September 30, 2005 there were 127 PALS Volunteers and 101 FRIENDS Volunteers.

### Training

The 26<sup>th</sup> Annual PALS Meeting and Workshop was held on September 30 – October 2, 2005 at the Quality Inn & Suites, Hendersonville, NC. Guest speakers included Jim Emmert, Robert Turnbull and Mary Howerton.

The FRIENDS Annual Conference was held on February 11, 2006 at the Grandover Resort, Greensboro, North Carolina.

The 27<sup>th</sup> PALS Annual Conference and Workshop will be held at Carolina Beach, North Carolina at the Courtyard by Marriott on November 3-5, 2006.

ABA CoLAP Conference will be held in San Francisco, California on October 24-27, 2006.

### Upcoming Events for 2007

FRIENDS 8<sup>th</sup> Annual Conference will be held on February 10, 2007 at Mid Pines, Southern Pines, NC. The 2007 conference will be a joint program with BarCares and the Quality of Life Committee of the North Carolina Bar Association.

11<sup>th</sup> Annual Step Study Retreat for Lawyers in Recovery will be held at the Summit at Haw River State Park on May 4-6, 2007.

The 28<sup>th</sup> PALS Annual Conference and Workshop for 2007 has not been finalized for the area to be held.

Local Volunteer Meetings:

The Lawyer Assistance Program continues the development of local volunteer meetings to provide greater continuity and support in meeting the needs of lawyers new in recovery and allowing volunteers the chance to grow in their own recoveries. Local volunteer support meetings for PALS and FRIENDS are held in the following locations:

Raleigh Triangle FRIENDS Support Meeting  
Every Monday at 6:30 p.m.

Charlotte PALS/FRIENDS Support Meeting  
Every Monday at 5:00 p.m.

Beaufort, New Bern, Morehead FRIENDS/PALS Support Group  
4<sup>th</sup> Wednesday Every Other Month

Wilmington FRIENDS Support Group  
3<sup>rd</sup> Thursday of Every Month

Greensboro Triad FRIENDS Support Group  
1<sup>st</sup> Friday Every Month

Greenville and Down East FRIENDS/PALS Support Group  
2<sup>nd</sup> Wednesday Every Month

Wilmington PALS Support Group  
1<sup>st</sup> Wednesday Every Other Month

Greensboro Triad PALS Support Group  
3<sup>rd</sup> Wednesday Every Month

Fayetteville/Sandhills PALS Support Group  
1<sup>st</sup> Thursday Every Month

Raleigh Triangle PALS Support Group  
2<sup>nd</sup> Friday Every Month

Charlotte PALS Support Group  
3<sup>rd</sup> Friday Every Month

Asheville PALS/FRIENDS Support Group  
4<sup>th</sup> Friday Every Month

Raleigh PALS/FRIENDS Dinner Group  
1<sup>st</sup> Thursday Every Month at 6:30 p.m.

Winston-Salem PALS/FRIENDS Lunch Group  
2<sup>nd</sup> Friday Every Month

Southern Pines PALS/FRIENDS Support Group  
4<sup>th</sup> Tuesday Quarterly starting Jan 2005

Durham-Chapel Hill PALS/FRIENDS Group  
1<sup>st</sup> Tuesday Every Month

Boone PALS/FRIENDS Group  
4<sup>th</sup> Friday – Monthly

### Volunteer Communication

The Lawyer Assistance Program sends out *The Intervenor*, a newsletter, to all PALS Volunteers three to four times a year to enhance communication among the volunteer network. Volunteers have contributed by writing articles for *The Intervenor* and by sharing personal stories in the *CLO* and the *Bar Journal*.

### **Case Management**

Case management has four different stages:

1. Investigation – Initial contact with the program begins the investigative phase. All efforts at this stage are directed to determining if the lawyer has a problem LAP can assist with, the nature of the problem, and if the client is willing to get assistance.
2. Treatment/Stabilization – This phase begins when a lawyer understands that he/she needs help and agrees to obtain assistance.
3. Monitoring/Aftercare – This begins when a lawyer has completed inpatient/outpatient treatment or initial therapy consultations and is stabilized in a recovery program. In this stage the volunteer support is most active and helpful.
4. Inactive Status – A file is placed on inactive status when the active role of the LAP terminates. This may occur when the lawyer completes an initial two-year contract of monitoring and no longer needs a monitor, lawyer dies, moved out of state, is disbarred or no longer wants any assistance.

### Case Management Statistics

Statistics about the program reflect the number of people getting help; they do not reflect the time it takes to deliver that assistance. A self-referral might be appropriate for a phone evaluation and be immediately directed to a treating counselor to meet his/her needs. On the other hand, a third party initiated investigation may take weeks to complete and, even then, the file may be put on hold for months in order for there to be sufficient opportunity to ascertain if

the lawyer truly needs assistance. Every effort is made not to interfere by offering assistance unless there is meaningful evidence suggesting that it is needed or the lawyer is actively seeking help. Even then, in the addictions area, assistance when offered is often refused at first and the LAP may spend months building up trust so that assistance can be received when the lawyer finally becomes receptive. Like cases in law practice, the problem cases can often take tremendous amounts of time to move forward. Our approach is never to give up on offering help, but often that means waiting until a situation ripens. The LAP brought a new professional clinician on board in April, 2005, Towanda Garner, LAP Piedmont Coordinator. To be able to make client access to the LAP easier, the state of North Carolina is divided into three sections. Don Carroll handles cases in the western part of the state. Towanda Garner handles the piedmont section and Ed Ward the eastern part of the state. Of course any lawyer may seek the help of any member of the professional staff. The continued expansion and utilization of trained volunteers will remain key in the future to bringing assistance to more lawyers who need it.

### Outcome Data

After working for some time to get our software in shape to give us results of the clients that the LAP has assisted over the years, we finally have some outcome numbers that include all of the cases that we have handled since 2000. The cases that have been coded as successfully handled are a broad category that emphasizes help to the lawyer. First and foremost this includes cases where the client had a significant problem and entered into a recovery contract with the LAP and successfully completed the contract. In addition it includes cases where there was informal assistance given and a positive result achieved for the lawyer. This category also includes cases where an investigation was made, or the client contacted and offered assistance, with the results that it was determined that no further action was needed on the client's behalf, as well as cases that were investigated, the investigation was inconclusive as to the need for assistance and the case was closed after two years when there did not appear any new information that help was needed. The success category does not include lawyers who died, went on disability status, were disbarred or moved out of state. More significantly unsuccessful outcomes are the cases where a contract was entered into and the client failed in his or her efforts to achieve recovery, where a client went to treatment and left treatment and did not pursue recovery and cases found unsuitable for the LAP to seek to provide assistance. While these categories reflect elimination of potential harm to the public they do not show that a lawyer was actually helped.

Since 2000, there have been 773 active case files closed. Of these, a successful outcome was obtained in 647 and an unsuccessful outcome occurred in 126, for a favorable success rate of 84%. Of these, closed cases 435 were for addiction issues, 20 for addiction and mental health and 318 for mental health. For the addiction cases there is a success rate of 88%; for the addiction and mental health a success rate of 65% and for the mental health a success rate of 83%.



The LAP is currently handling 379 files. There are 185 PALS and 194 FRIENDS files.

**PALS Referrals:**

Friend – Non-Lawyer - 2  
Family- 7  
DHC - 3  
Bar Staff - 11  
Another Lawyer - 60  
Self - 62  
Firm - 6  
Judge – 7  
DA – 1  
Another LAP – 4  
Bar Examiner - 2  
Grievance – 7  
Unknown – 7  
Board of Law Examiners – 10

**FRIENDS Referrals:**

Board of Law Examiners - 1  
Friend – Non-Lawyer - 1  
Family - 3  
DHC - 6  
Bar Staff - 12  
Another Lawyer - 43  
Self - 98  
Grievance - 18  
Firm - 5  
Another LAP - 1  
Unknown - 2  
Judge - 3  
Therapist - 1  
EAP - 1

**Governance**

Under the rules of the NC State Bar Council, the Lawyer Assistance Program is governed by a nine member Board. The NC State Bar Council appoints the members of the Lawyer Assistance Program Board in three different groups: Three councilors of the NC State Bar; three persons with experience and training in the fields of mental health, substance abuse and addiction; and three Bar members who currently serve as volunteers to the Lawyer Assistance Program. In order to avoid any perception that the LAP Program is not entirely separate from discipline no member of the Grievance Committee may serve on the LAP Board. The current members of the LAP Board are: Victor Boone, Chair, LAP and councilor; Samuel F. Davis, Jr., Vice-Chair, LAP and councilor; Sara Davis, councilor and board member; Terry Sherrill is a volunteer board member and Chair of the PALS Committee; Sheryl T. Friedrichs, Paul A. Kohut, Dr. Al Mooney, Barbara Scarboro and Fred J. Williams serve as expert board members.

**LAP Board Meetings Scheduled For 2007**

The LAP Board meets quarterly during the time of the Council meetings except in the fall, when the LAP Board meets if necessary, at the time of the annual PALS training meeting.

LAP Board meetings are usually scheduled for lunchtime on the Thursday of the week the Council meets. The schedule for the Council is listed below:

January 16-19, 2007	Sheraton Capital Center, Raleigh
April 17-20, 2007	Sheraton Capital Center, Raleigh
July 17-20, 2007	Date Not Confirmed, Site TBD
October 16-19, 2007	Sheraton Capital Center, Raleigh