

Trust

BY DON CARROLL

The legal profession is a helping profession. Most days lawyers find themselves trying to solve problems for their clients. We are paid to have answers and to fix situations that have gone awry. One of the difficulties for professionals who are supposed to have the answers for others is that it is difficult for them to seek help for themselves.

Lawyers have difficulty not having the answers for themselves when they are giving answers to others every day. This is a huge barrier to overcome for any lawyer who needs assistance. It takes great personal courage for a lawyer to reach out for help. The path of least resistance is to let some emotional or addictive issue go unrecognized and untreated.

Once lawyers overcome the initial issue of recognizing that assistance may be needed, the next issue is where do they turn for assistance. The threshold issue for a lawyer seeking help for any emotional issue is trust. There are two aspects to the trust issue. The first is, we want to be able to trust that our inquiry for assistance will be totally confidential. Second, we want to be sure that the source we are seeking assistance from can provide information that is reliable and trustworthy.

Lawyers who consult with the Lawyer Assistance Program do so within the context of the rules of professional ethics. These rules provide:

A lawyer shall not reveal information acquired during a professional relationship with a client unless a client gives informed consent...Rule 1.6(a).

The duty of confidentiality described in this Rule encompasses information received by a lawyer then acting as an agent of a lawyers or judges assistance program approved by the North Carolina State Bar or the North Carolina Supreme Court regarding another lawyer or judge seeking assistance or to whom assistance is being offered. For the purposes of this Rule, "client" refers to lawyers seeking assistance from lawyers' or judges' assistance programs approved by the North Carolina State Bar or the North Carolina Supreme Court. Rule 1.6(c).

In other words, the staff and volunteers of the

LAP are required to zealously protect the confidences of any lawyer seeking assistance from the Lawyer Assistance Program. There is simply no stronger confidentiality protection available. The attorney/client privilege, as defined by Rule 1.6, applies to lawyers receiving help from the Lawyer Assistance Program. This privilege is stronger than the privileges provided for those consulting with physicians, counselors, therapists, priests, or rabbis.

Regarding the first aspect of trust, the Lawyer Assistance Program provides the highest standard of confidentiality available under the law. The second aspect of the trust issue is reliability. The reliability of the Lawyer Assistance Program is grounded in training and experience. All of the professional staff of the Lawyer Assistance Program have clinical training and years of experience working directly with lawyers. The Lawyer Assistance Program does not provide direct treatment, but provides evaluation and recommendation for treatment that is most suitable for each individual. Because the Lawyer Assistance Program is not selling treatment or providing treatment services, its recommendations are entirely impartial. The philosophy of the Lawyer Assistance Program is to give recommendations most suited to a lawyer that will empower the lawyer who seeks assistance to be able to make the most informed decisions about what is right for his or her health. The BarCares program, available to some lawyers in North Carolina, provides the opportunity for a lawyer to get three free visits with certain therapists. This is an important benefit. If you are eligible for it, the LAP will help you utilize this benefit.

Most lawyers are somewhat aware of the high degree of confidentiality that exists for the Lawyer Assistance Program, but because the program is funded by the Bar there are often a few nagging worries that somehow information given to the Lawyer Assistance Program might get to the folks who work in discipline. First, this would be unethical. Second, there is an extremely effective firewall designed to prevent this from ever accidentally happening. Third, experience shows it does not happen. In the more than 15 years that I have been a



part of the Lawyer Assistance Program, I know of no situation where this has occurred.

Still, when you get ready to call the Lawyer Assistance Program for help, you may have a specific question that is bothering you that you need to have answered to ensure your confidentiality. You can do that anonymously by calling and talking with a member of the Lawyer Assistance Program staff. We welcome these kinds of inquiries so that any lawyer who asks about help can be absolutely assured that in seeking help, and in receiving it, the process is designed to completely protect his or her confidentiality. If you would like to further talk with a member of the clinical staff about this, please do.

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