

Report of the North Carolina State Bar Lawyer Assistance Program

October 1, 2006 – September 30, 2007

LAP Board

Samuel F. Davis, Jr., Chair, LAP
Fred J. Williams, Vice Chair, PALS
Nancy S. Ferguson
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LAWYER ASSISTANCE PROGRAM

The North Carolina State Bar

Lawyer Assistance Program Board

Samuel F. Davis, Jr.
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October 15, 2007

Dear President Michael,

It has been my privilege to Chair the Lawyer Assistance Program for the past year. Attached is our yearly report. It has much good news. The data on cases handled since 2000 has been collected and sifted and provides significant information on the good work of the LAP. Each success comes one lawyer at a time with a unique story, but we can count a number of them that show the huge overall benefit to the Bar of this program. At the end of September, 2007 there were 434 lawyers in the LAP caseload.

One of the primary ways that the LAP helps lawyers to maintain their recoveries is through training programs that enable them, in turn, to help other lawyers. Our LAP training programs, both for FRIENDS and PALS, were well attended this past year. We have well over 200 PALS and FRIENDS volunteers now, and the great majority of them were involved in actively helping other lawyers during the year. A conservative estimate is that at least 5000 hours of volunteer time was expended during the year by LAP volunteers helping other lawyers.

The LAP's participation in numerous CLE programs and law school presentations contributed substantially to the education of the Bar about the mental health and addiction risks that face lawyers. Thousands of pieces of literature were distributed to North Carolina lawyers as a part of the LAP's outreach.

After you and the members of the Bar Council have had a chance to review this report, please do not hesitate to contact me or either of the other Councilor Board members, Mark Merritt and Nancy Ferguson, to obtain further information and to make suggestions about the LAP's work this past year and how it may more readily serve the lawyers in each Council district this next year. Thank you for giving me the opportunity to serve on the LAP board.

Sincerely yours,

Samuel F. Davis, Jr.
LAP Board Chair

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 1,321 lawyers, which are about 6% of the Bar and often include the Bar's most disadvantaged and distressed members.

LAP has closed 806 files since 2000. During 2007 thirty-three active files were closed.

During the year, the Bar experienced a suicide triggered by a discipline investigation. In response, the LAP Board has considered how the LAP might help in reducing the risk of discipline-triggered suicides.

Suicides have occurred at the time of service of a subpoena seeking trust account records and just before the Bar Council meeting at which the Council would have entered an Order of disbarment. Experience shows that lawyers, who live in relatively small towns, are the ones most at risk for suicide when investigated by the Bar. In small towns, the lawyer's self-image is often wrapped up in what members of the community think of the lawyer. The shame of disbarment seems overwhelming. Facing the loss of self, as one has seen oneself, is more than the lawyer can bear. If the lawyer does not have good emotional resilience or already suffers from depression, suicide is an act to affirm what has already happened or is just about to happen to the image of the self. This is different from the context in which progressed alcoholism or chronic major depression creates the despair that makes suicide seem the only way out. The Discipline-triggered suicide is not unlike the situation where the triggering event is the loss of a loved one that occurs in the context of poor emotional resilience or a depressive state. Suicide is also many times more likely to occur where there is some family history of suicide.

If the lawyer involved is a scoundrel or has real criminal intent, there is much less risk of suicide; it is in the discipline-triggered context in which the lawyer stands to lose the image he has of himself as upright that the danger of suicide arises.

Bar Discipline controls the timing of the triggering event, the exposure of the lawyer's defalcation. The disciplinary proceedings at this stage are confidential, so LAP has no knowledge that any particular lawyer may be at risk.

One way LAP can be helpful is to offer suicide-prevention training and provide LAP volunteers. The suicide-prevention training would be provided to Bar investigators and others, who serve subpoenas and are involved in other triggering events, and to LAP volunteers, who have agreed to meet with at-risk lawyers, who have been identified to the LAP by Bar Discipline. To that end Towanda Garner, a

LAP clinician, has been receiving training to be certified to teach a basic suicide prevention course to Bar investigators and LAP volunteers.

The LAP Board also explored the idea of providing a letter to Discipline for use to inform lawyers under investigation of the LAP's role in helping lawyers. Research of other Bars showed that many do provide such letters and that these letters emphasize that the Lawyer Assistance Program is separate from Discipline that the process of responding to a grievance can be stressful, in and of itself, and that confidential assistance is available if the lawyer wishes.

There are no Bars that automatically send such a letter in the case of an initial grievance. Ohio, which has a good close working relationship with its Discipline Counsel, indicated that they considered this possibility but rejected doing so, because it would too closely identify the LAP with Discipline. Also, at this stage, there are many grievances that are not well founded, and it would risk associating the LAP with such baseless grievances or inferring to a lawyer that he needed help just because he faced a meritless grievance.

The LAP Board believes that such a letter should only be sent in cases involving show cause orders or subpoenas, which historically are triggering events for suicides. A letter developed by the LAP is being provided to Discipline for its use in appropriate situations.

Indiana has an interesting form of outreach. Under Indiana's rules, a lawyer convicted of any crime is required to report the conviction to Bar Discipline. When Bar Discipline gets notification from a lawyer that he has been convicted of driving under the influence or similar offense, Bar Discipline notifies the lawyer that this isolated incident will not be a subject of a Bar discipline proceeding but suggests that the lawyer should consult with the LAP for an evaluation.

Currently at the end of September, 2007 the LAP had 434 open files, which reflects assistance being provided on the basis of more than one new file every day and continues to place substantial time on our professional staff and cadre of volunteers. These staff and volunteer efforts prevented or limited possible harm to the public in numerous incidents. In cases, where discipline is initially deferred or the lawyer is operating under a stayed suspension, the LAP's intervention offers the opportunity to actually identify and resolve the root problem out of which the discipline problem arose and furthers the vital mission of protecting the public.

Details of the North Carolina Lawyer Assistance Program October 1, 2006– September 30, 2007

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:

- Federal Public Defenders Seminar – Wrightsville Beach, NC – October 12, 2006
- NC Institute for Constitutional Law – Raleigh, NC – January 18, 2007
- Festival of Legal Learning UNC School of Law – Chapel Hill, NC – February 2-3, 2007
- UNC Festival of Learning – Chapel Hill, February 2, 2007
- NC Bar Association CLE – Pinehurst, NC – February 9, 2007
- Mt. Airy Local Bar – Mt. Airy, NC – February 16, 2007
- Academy of Trial Lawyers Disability Advocacy Section – Raleigh, NC – March 30, 2007
- Judicial District #22 – Statesville, NC – March 23, 2007
- NC Association of Police Attorneys – Asheville, NC – March 26, 2007
- Alamance Paralegal Association – Burlington, NC - April 17, 2007
- General Practice Section Annual Meeting – Pinehurst, NC – April 20, 2007
- Hickory Local Bar – Hickory, NC – April 26, 2007
- Spring Public Defender Conference – Wrightsville Beach, NC – May 16, 2007
- Judicial district #18 – Greensboro/High Point, NC – May 18, 2007
- Lawyer Mutual - Hickory, NC – May 18, 2007
- Forsyth County Bar - Winston Salem, NC – May 24, 2007
- NCADA – Hilton Head, SC – June 1, 2007
- Attorney’s Title Insurance – Asheville, NC – June 8, 2007
- UNC Law School – Chapel Hill, NC – June 15, 2007
- NC Academy of Trial Lawyers (Legal Assistants) – Sunset Beach, NC – June 16, 2007
- NC Academy of Trial Lawyers – Sunset Beach, NC – June 19, 2007
- Attorney’s Title Insurance – Pinehurst, NC – June 20, 2007
- Attorney’s Title Insurance – Raleigh, NC -June 21, 2007
- Asheville Paralegal Association – Asheville, NC – June 22, 2007
- Guilford County Paralegal Association (Dist #4) – Greensboro, NC – July 21, 2007
- Wake County Academy of Trial Lawyers – Raleigh, NC – July 24, 2007
- Legal Support Staff of NC LSSNC – Winston-Salem, NC – August 11, 2007
- NC Child Support Council – Greensboro, NC – August 16, 2007
- Watauga County Bar - Boone, NC – August 21, 2007
- Fidelity National Title Insurance – Raleigh, NC – September 18, 2007
- Practical Skills Course – Raleigh, NC – September 18, 2007
- Judicial District 20B – Monroe, NC – September 20, 2007
- Judicial District #1 – Southern Shores, NC – September 21, 2007
- New Lawyers (Oath taken) – Durham, NC – September 28, 2007

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:

- Womble, Carlyle Law Firm – Winston-Salem, NC – November 29, 2006
- Bill Whalen – Asheville, NC – October 25, 2006
- Legal Aid of NC – Greenville, NC – December 1, 2007
- Bill Whalen – Asheville, NC – May 25, 2007
- NC Electric Membership Counsel Association – Raleigh, NC – September 21, 2007

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 2020 flyers were distributed in the presentations made this past year with 861 Welcome Flyers were distributed to new admittees.

The LAP book “A Lawyer’s Guide to Healing” has been distributed as part of the LAP’s outreach.

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, 2007 there were 126 PALS Volunteers and 106 FRIENDS Volunteers.

Training

The 27th PALS Annual Conference and Workshop was held at Carolina Beach, North Carolina at the Courtyard by Marriott on November 3-5, 2006.

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

ABA CoLAP Conference was held in Nova Scotia, Canada on October 1 - 6, 2007.

The 28th Annual PALS Meeting and Workshop was held on October 12-14, 2007 at the Broyhill Inn & Conference Center, Appalachian State University, Boone, NC. Guest speakers included John Ishee, Kristi and Todd Webb.

Upcoming Events for 2008

FRIENDS 9th Annual Conference will be held at Pine Needles Lodge & Golf Club on February 9, 2008. This conference will be in conjunction with BarCares and the NC Bar Association Quality of Life Committee.

The 29th Annual PALS Conference and Workshop will be held on November 7-9, 2008 at the Holiday Inn SunSpree, Wrightsville Beach, NC.

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
4th Wednesday Every Other Month

Wilmington FRIENDS Support Group
3rd Thursday of Every Month

Greensboro Triad FRIENDS Support Group
1st Friday Every Month

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

Wilmington PALS Support Group
1st Wednesday Every Other Month

Greensboro Triad PALS Support Group
3rd Wednesday Every Month

Fayetteville/Sandhills PALS Support Group
1st Thursday Every Month

Raleigh Triangle PALS Support Group
2nd Friday Every Month

Charlotte PALS Support Group
3rd Friday Every Month

Asheville PALS/FRIENDS Support Group
4th Friday Every Month

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

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

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

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

Boone PALS/FRIENDS Group
4th 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. 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

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. While these categories reflect elimination of potential harm to the public they do not show that a lawyer was actually helped. 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.

Since 2000, there have been 806 active case files closed. Of these, a successful outcome was obtained in 677 and an unsuccessful outcome occurred in 129, for a favorable success rate of 84%. Of these close cases 453 were for addiction issues, and 353 for mental health. For addiction cases there is a success rate of 85% and for the mental health a success rate of 82%.

The LAP is currently handling 434 files. There are 203 PALS and 231 FRIENDS files.

PALS Referrals:

Friend – Non-Lawyer - 3
Family- 8
DHC - 3
Bar Staff - 9
Another Lawyer - 59
Self - 61
Firm - 11
Judge – 8
DA – 1
Board of Law Examiners – 15
Bar Examiner - 2
Grievance – 11
Unknown – 9
Law School – 2
Local Bar – 1

FRIENDS Referrals:

Board of Law Examiners - 1
Friend – Non-Lawyer - 2
Family - 2
DHC - 6
Bar Staff - 17
Another Lawyer - 44
Self - 116
Grievance - 19
Firm - 9
Another LAP - 1
Unknown - 5
Judge - 6
Local Bar - 1
EAP - 1
Investigators/SCA – 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: Samuel F. Davis, Jr., Chair, LAP and councilor; Fred F. Williams, Vice-Chair, LAP and volunteer; Mark W. Merritt, councilor; Burley B. Mitchell Jr.; Sheryl T. Friedrichs, volunteer; Nancy S. Ferguson, councilor; Paul A. Kohut, volunteer; Dr. Al Mooney, and Barbara Scarboro.

LAP Board Meetings Scheduled For 2008

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 22-25, 2008	Sheraton Capital Center, Raleigh
April 22-25, 2008	Sheraton Capital Center, Raleigh
July 15-18, 2008	Date Not Confirmed, Site TBD