



Lawyer Assistance Program

SURVIVAL GUIDE FOR LAWYERS

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INTRODUCTION

As a lawyer, you occupy a unique position in society. You are called upon to handle the most delicate matters of great importance to your clients. Your well-being and that of your client rest upon the quality of your professional performance, and your performance does not rest solely upon your legal expertise. Your physical health, mental health, and overall quality of life directly affects your performance, and thus directly affects your clients. Any impairment of your performance ultimately impairs the client, the profession, and society. While a license to practice law may provide many opportunities and open many doors which otherwise might be closed, it unfortunately does not protect you against common “career killers,” such as alcoholism, drug addiction, depression, burnout, and stress. While most lawyers will never suffer from substance abuse or depression, virtually all lawyers will interact with another who does. To get an idea of how rampant these problems are among lawyers, consider the following:

The American Bar Association (ABA) estimates that 15 to 20 percent of U.S. lawyers suffer from alcoholism or substance abuse.

A 1990 Johns Hopkins study of 12,000 people in 103 occupations reported that attorneys lead the nation in depression.

A recent empirical study in the state of Washington revealed that 18 percent of the lawyers who practiced two to 20 years have become problem drinkers. The number grows to 25 percent among lawyers who have practiced 20 years or more.

Alcoholism and other chemical dependency are estimated to be a factor in at least 27 percent, and possibly as much as 70 percent, of professional discipline cases. In one Idaho study, 60 percent of the lawyers who accessed the Idaho Attorney Assistance Program for alcoholism and chemical dependency problems, had malpractice claims prior to accessing the program. After two years of sobriety the rate of malpractice was 2-3 percent.

A Florida study revealed that 32 percent of the attorneys surveyed reported feeling depressed at least once a week.

Researchers at Campbell University in North Carolina found that 26 percent of the lawyers in North Carolina were clinically depressed and that 11 percent of the attorneys in the state think of taking their own lives at least once a month.

A Maryland Bar Association study found one in three lawyers intended to leave the practice of law within five years.

A study by the ABA found that 40 percent of lawyers were dissatisfied with their jobs.

The above list does not include the stress that affects virtually all attorneys on a daily basis. If not effectively managed, stress can, and does, grow into paralyzing distress or debilitating burnout.

As a member of the legal profession, you simply do not have the luxury of treating these problems as “none of your business.” You owe it to your profession and your clients to seek help if you need it, and to do what you can to extend help to other lawyers whose problems impair their ability to adequately represent their clients.

On the public front, at some point in your career you will undoubtedly encounter a client who has been affected dramatically by chemical dependency or depression. In a 1992 report, the National Center for Health Statistics estimated that 43 percent of adults in the United States have experienced some of the effects of exposure to alcoholism, either personally or in their families. And depression affects an estimated 17.6 million Americans each year. You may represent clients on matters directly or indirectly arising from these problems (e.g., DUI's and other criminal offenses; divorces and child custody actions; personal injury cases; bankruptcy and business failures; and employment disputes). By ignoring a client's alcohol or chemical dependency problem or emotional distress you could be doing that client a fatal disservice.

To fulfill your duty to the legal profession and clients you should do more than just recognize and commit to your professional obligations. You should have at least some baseline knowledge about alcoholism, chemical dependency, compulsive gambling, and depression; you should have at least a minimal ability to identify the signs and symptoms of these problems; and you should have some idea how to access help. You would also do well to understand the nature of stress and how to manage it in a way that can prevent distress and burnout.

This publication presents a basic introduction to the dynamics of alcoholism and chemical dependency, depression, and stress, and offers guidelines for getting help for yourself, or a client or colleague whose life is impaired by such difficulties. Chapter II describes the scope of the LAP, issues of confidentiality, as well as, how to access the program. The last section of this publication includes a brief examination of the impact these problems can have on admission to the Idaho State Bar.

SUBSTANCE ABUSE, ALCOHOLISM AND CHEMICAL DEPENDENCY: A SHORT PRIMER ON THE DISEASE

Alcoholism and Chemical Dependency

In 1956, the American Medical Association officially recognized alcoholism as a primary disease. Until that time, it was viewed as a weakness, a sin, a lack of character, or a symptom of some other emotional or psychological problem. Indeed, some people still hold these views, despite research and medical literature to the contrary.

As a disease, alcoholism, like chemical dependency in general, has certain recognizable characteristics and presents certain predictable symptoms. First, it is a primary disease. It does not arise from another illness or an underlying emotional or psychological problem, much as the flu does not result from fever and congestion, but is likely to cause both. Second, the disease follows a predictable and progressive course. Left untreated, alcoholism or other chemical dependency will pass through progressively worse stages, each with its characteristic symptoms, until finally it leads to death. How rapidly each stage progresses may vary widely from person to person. Third, alcoholism or chemical dependency is a multi-phasic disease. That is, it affects all aspects of a person's life: physical, mental and emotional health deteriorates; family, relationships and social life suffer; and professional performance declines. Fourth, the disease is permanent and chronic. While it may be arrested through treatment, it cannot be cured. And finally, alcoholism and chemical dependency are treatable. While the success rates vary and controversy continues about what is the "best" treatment method, millions of recovering alcoholics and chemically dependent people can attest that the disease can be treated and arrested.

One aspect of the disease that is still not completely understood is its origin. Some people seem to be born with it, unable to drink moderately from their very first drink. Others seem to develop the disease later in life, after drinking or using moderately for years. Evidence strongly suggests that those who have the disease of alcoholism or chemical dependency are genetically predisposed to develop the disease. Others suggest that alcoholism or other chemical dependency is the result of a combination of genetic and environmental factors. Ultimately, how or why a person acquired the disease is less important than diagnosis and treatment.

Whatever the origin of the disease may be, it is generally accepted that alcoholics and chemically dependent people physiologically process (from metabolic action to neurochemical response) alcohol and other mood-altering substances differently from non-chemically dependent people. Alcoholics and other chemically dependent people experience an overriding compulsion to use alcohol or other drugs, eventually lose control over that use, and continue to use despite negative consequences.

Substance Abuse

The medical community distinguishes between substance abuse and dependency. Essentially, there is a continuum from substance abuse to substance dependency. Most people who use alcohol, for example, never move from use of the drug, to abuse or dependency. They drink alcohol occasionally and never experience any resulting problems. However, when the use of alcohol begins to cause or exacerbate problems in a person's life (e.g., job, marital, or legal problems) and the person continues to use, or if the person repeatedly uses alcohol in physically hazardous situations (e.g., while driving), that person has shifted into the abuse stage, and the warning flags should fly. Some people are able to back out of this abuse stage and never return. Many, however, cannot, and their use eventually leads to physical dependence.

Signs and Symptoms

Many tests and diagnostic tools can determine the presence of substance abuse, chemical dependency, or alcoholism. However, you need not be a trained diagnostician to recognize when alcohol or other drug use might be a problem for a colleague or a client. A simple understanding of how the disease progresses and how this progression is manifested in a person's life, coupled with a willingness to look with a discerning eye, are all you need to determine at least whether the situation warrants a professional assessment.

While substance abuse, alcoholism, or other chemical dependency manifests itself differently in each individual's life, the following are some common and predictable problems. For simplicity, they are described in the second person:

You drink or use to "manage" emotions or stress (e.g., to celebrate winning a case, to relax after a stressful day, to deal with anger). Eventually the alcohol or other drug becomes your primary stress reduction tool.

Your behavior becomes less and less responsible. Your work quality may decrease; you may miss appointments; you may begin drinking or using "on the job" or at lunch; you may fail to return phone calls or to show for appointments or hearings.

Your drinking or using begins to intensify negative emotions. You may experience increased anger, resentment, guilt, depression, or anxiety.

Your behavior begins to conflict with your values and ethics (e.g., lying, mishandling funds, getting DUI's).

The alcohol or other drug begins to take center stage in your life. You quit socializing unless it involves drinking or using; you are preoccupied with drinking or using; you "protect the supply" to avoid "running out"; you begin drinking or using alone.

You may engage in efforts to control your use. You may try to control the substance used (e.g., beer rather than hard liquor). You may try to control the amount used (e.g., only two drinks per day). You may try to control the time of use (e.g., drinking only on the weekends). These attempts may be effective for periods of time, but eventually they fail.

Your mental functioning is affected. Your thought system becomes delusional; your behavior may become grandiose; you may have difficulty concentrating; your ability to handle stress decreases; and you may experience blackouts (memory gaps).

Your tolerance of the alcohol or other drugs increases (that is, more of the substance is needed to obtain the same effect). In late-stage alcoholism, the tolerance becomes wholly unpredictable.

Your physical health deteriorates. You experience sleep difficulties, weight changes, malnourishment, intestinal problems, ulcers, and liver problems. Ultimately, the disease is fatal.

C.A.G.E.S. Test

Lawyers are skilled in problem identification. The following test will assist you in identifying whether you, a colleague, or a client, has a problem with alcohol. If so, a more detailed confidential assessment can be done by the LAP at no cost.

The acronym **C.A.G.E.S.** represents the following five test questions:

Have you ever felt the need to **Cut** down on your drinking?

Have you ever felt **Annoyed** or **Angered** when people criticized your drinking?

Have you ever had feelings of **Guilt** about your drinking?

Do you ever take a morning drink as an **Eye-opener**?

(Additional question for **women only**.) Do you **Smoke**?

Two or more positives for males represent a 90 percent accuracy rate for alcoholism. Research is not as advanced regarding women's drinking patterns and two positives on the first four questions are not enough, because questions #1 and #2 are not as pertinent for women as for men. But when adding an additional question regarding smoking, then two positives **plus** smoking for women equal a diagnostic accuracy rate of 85 percent.

Denial

To fully understand substance abuse, alcoholism, and chemical dependency, you must understand the phenomenon of denial. Alcoholism or other chemical dependency is one of the few diseases whose hallmark is denial of the disease itself despite overwhelming evidence to

the contrary. This denial is a natural defense mechanism against unacceptable reality. It takes many forms - from minimizing the amount used or the extent of the resulting problems to rationalizing the drinking or use, to diverting any confrontation on the problem to another topic, or to hostility, avoidance, and isolation. All chemically dependent people engage in denial to some extent, and this denial is their primary obstacle to obtaining help. Your ability to help someone who has an alcohol or other drug problem increases substantially if you are aware of the dynamics of denial.

Treatment

To repeat an important point, while chemical dependency or alcoholism is permanent and chronic, it is treatable. Treatment takes many forms, from intensive long-term inpatient treatment to participation in Alcoholics Anonymous or a similar group. Generally, the extent of treatment is based on factors such as the affected person's physical condition, motivation, ability to remain abstinent, history of previous treatment, and the degree to which the disease has progressed. Withdrawal or detoxification from an addictive substance, can be at best, uncomfortable and, at worst, fatal, particularly in the case of alcohol withdrawal. Therefore, medical supervision is often imperative.

Whatever type of treatment is indicated, it is generally accepted that abstinence from mood-altering chemicals is necessary. Chemically dependent people are susceptible not only to addiction to their substance of choice, be it, alcohol, cocaine, or prescription drugs, but they are susceptible to addiction to any mood-altering or psychoactive chemical. For this reason, it is important that any medical treatment be conducted by a professional well versed in the disease of chemical dependency.

Taking Action

If you begin to suspect that your colleague or your client might have a problem with alcohol or chemical dependency, you must recognize that alcoholism or chemical dependency is not one of those problems that will just solve itself over time. If it is not addressed, it will get progressively worse. Fortunately, there are steps you can take to get help. As officers of the court and advocates of clients, lawyers should extend help to other lawyers and to clients when needed. Following are some principles you can follow and some actions you can take to help a chemically dependent colleague or client.

Avoid Enabling

First, avoid enabling. An enabler is someone whose actions shield a chemically dependent person from experiencing the full impact of the consequences of their addiction. An enabler, by words or actions, helps the affected person continue to deny the disease and continue spiraling downward in his or her disease. Enabling can take many forms, but the most common are:

Denying that the affected person has a problem ("Old Joe doesn't have a drinking problem.");

Rationalizing the person's drinking, using, or resulting behavior ("Susan works hard—she deserves to party hard.");

Making excuses and lying for the person ("Jack's been sick a lot lately.");

Doing for the affected person what he or she should be handling personally (Carrying most of Ellen's workload, making sure her cases get handled properly, paying her bills, etc.);

Rescuing that person from the consequences of his or her behavior (Lending Mark

money, “cleaning up” his problems for him, etc.);

Avoiding confronting the problem at all (avoiding the person or the topic).

Ultimately, the issue becomes the *effect* of your well-meant behavior. If your actions allow the chemically dependent person to continue in that dependence, you are hurting that person, not helping.

Intervention

As discussed above, for treatment of chemical dependency and substance abuse to be effective, the delusional nature of the disease (the denial) must be penetrated. In some cases, the consequences of the disease itself will break down the chemically dependent individual's denial. The family problems, job problems, legal problems, and/or health problems all finally become too much to deny, and the chemically dependent person admits he or she has a problem and seeks help. For some people, however, this realization may come too late or may never happen at all. Fortunately, the chemically dependent person need not always “hit bottom” before getting help. Often, an intervention is appropriate and effective.

Vernon Johnson, M.D., in his book *INTERVENTION: HOW TO HELP SOMEONE WHO DOESN'T WANT HELP*, defines intervention as “a process by which the harmful, progressive, and destructive effects of chemical dependency are interrupted and the chemically dependent person is helped to stop using mood-altering chemicals and to develop new, healthier ways of coping with his or her needs and problems. It implies that the person need not be an emotional or physical wreck . . . before such help can be given.” Anything that interrupts the process of the disease and guides the chemically dependent person to help is an effective intervention.

In the 1960s, Dr. Johnson formalized a process that is often referred to as the “Johnson Institute Model” of intervention. This model involves a structured and rehearsed conversation with the chemically dependent person by a group of family members and concerned others (e.g., law partners, other colleagues), led by an intervention specialist. Each member of the intervention group addresses the chemically dependent individual with specific instances of the individual's drinking or using, and describes how the individual's behavior affected that member of the group. The intervention is intended to bring the reality of the disease into focus and to motivate at least some measure of desire for help. This type of intervention is highly specialized and can be very delicate. It should be undertaken only under the direction of an experienced intervention professional. The LAP provides intervention services in a caring manner.

How to Access Help

Outpatient and inpatient treatment facilities are scattered throughout the state and the country. They vary widely in services provided, the experience and expertise of the professional staff, treatment philosophy, and cost. The LAP can assist in finding the appropriate treatment program or in making referrals to other resources in the community.

In Idaho, a majority of the insurance policies provide limited coverage for chemical dependency treatment.

Financial assistance may also be available from treatment facilities. If an individual's financial position is an impediment to receiving treatment, contact the Idaho Lawyer Assistance Program.

DEPRESSION

The Impact

With studies showing law students and lawyers leading the nation in the incidence of depression, it should go without saying that this is a problem demanding our attention. All of us, at one time or another, feel “blue” or “down in the dumps.” We all get sad or feel grief after a loss. Depression, though, is more than this. It is a medical disorder that affects one’s thoughts, feelings, health, and behavior, day in and day out. It affects an estimated 17.6 million Americans each year, twice as many women as men, and yet only about 20 percent of those afflicted ever seek help.

Lawyers seem particularly reluctant to seek help for depression. Some are unwilling to admit their depression for fear they will be seen as weak or unreliable. Others believe they should be able to handle their personal problems just as they handle their clients’ legal problems. And many simply do not recognize that there is even a problem.

Signs and Symptoms

Obviously, the first step in addressing a depression problem is acknowledging its existence. Someone with major depressive disorder will present a number of symptoms nearly every day, all day, for at least two weeks. These include at least one of the following:

- Losing interest in things you used to enjoy; or,
- Feeling sad, blue, down in the dumps;

And at least three of the following:

- Feeling slowed down or restless and unable to sit still;
- Feeling worthless or guilty;
- Gaining or losing appetite or weight;
- Thinking of death or suicide;
- Having problems concentrating, thinking, remembering, or making decisions;
- Having trouble sleeping or sleeping too much;
- Experiencing loss of energy or feeling tired all the time.

What To Do

If you meet these criteria, it is important that you not ignore the problem and hope it goes away. The longer serious depression goes untreated, the more likely it is to become chronic and damaging. Left alone, depression can cut short a promising legal career, destroy a loving family, and ultimately, lead to suicide. True depression typically is not something you can “self-treat,” “shake yourself out of,” or simply “wait out.” Even between depressive episodes, most of those who go untreated continue to experience negative effects, such as inability to concentrate, disorganization, and apathy. And often, it is only a matter of time before the next depressive episode begins.

Getting treatment is often easier and less painful than you might imagine. It is important, though, that you see a professional trained in the treatment of depression. Usually, treatment will consist of medication, psychotherapy, or some combination of the two. Often, people with depression begin to see positive results within a month of beginning treatment. If you are not sure where to start, the LAP can help. The program can get you in touch with lawyers who have recovered from depression, and refer you to a number of professionals in your area who can assess your condition and help you get treatment.

GAMBLING: YOU BET YOUR LIFE

A generation ago, legalized gambling was rare, limited to the casinos in Las Vegas or Atlantic City, some racetracks and a few state lotteries. Today, gambling opportunities are as close as the local convenience store or your laptop computer. Many experts equate internet “day trading” as a form of legalized gambling, rather than investing.

Over 80% of Americans participate in some form of gambling, according to the Florida Council on Compulsive Gambling. This number is likely to increase with the proliferation of new forms of legalized gambling, including scratch games, video keno, sports wagering, local casinos, bingo and video poker. For many people, gambling is an occasional recreational activity that doesn't present a problem, but for some people it is a debilitating disease which can cost their careers, their families and their lives.

Problem Gambling is defined as *gambling behavior that causes disruptions in any major area of life: psychological, physical, social or vocational*. The term "Problem Gambling" includes, but is not limited to, the condition known as "Pathological," or "Compulsive" Gambling, described by the American Psychiatric Association as a progressive addiction characterized by increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behavior in spite of mounting, serious, negative consequences.

The 1999 National Gambling Impact Study estimates that of the 125 million Americans who gamble at least once a year, approximately 7.5 million have some form of gambling problems, with another 15 million “at risk” of developing a gambling problem. The study indicated that problem gamblers cost society approximately \$5 billion per year, and an additional \$40 billion in lifetime costs for productivity reductions, social services and creditor losses. Other addictive behaviors such as alcohol or drug abuse, generally coexist with problem gambling, and may be a contributing factor to the compulsive gambling or relapse. (For example, after going out and getting drunk, an individual may – contrary to their earlier intention – decide that it would be a good idea to place a few bets.) Unlike drug or alcohol abuse, however, there are no telltale physical symptoms (like slurred speech or stumbling) characteristic of gambling addiction.

Problem gamblers typically fall into two general types: **Action** gamblers are typically men who prefer “skill” games like poker, craps, horse racing and sports, who believe they are smart enough to beat the odds and win consistently. **Escape** gamblers tend to be women or elderly people who gamble to escape problems, preferring “hypnotic” games like slots, bingo, scratch tickets and video poker. According to a study done in December 2000 by the online research firm PC Data, women make up the majority of Internet gamblers.

Experts believe that problem gamblers follow a cycle of progressive stages as they fall into the grip of compulsive gambling. Not all of the stages progress in an exact order, nor are they limited to a specific time period. However, they do manifest specific financial ramifications.

In the *Winning* stage, the gambler still has money and feels in control. Gambling enhances their self-esteem and ego, and winning seems exciting and social. The gambler may shower family and friends with gifts, or take expensive vacations.

Eventually, the winning stages turns into the *losing* stage. As losses pile up, the gambler becomes preoccupied with gambling and makes larger and more frequent bets, “chasing” losses in the hopes of breaking even. At this point, the gambler will “max out” credit cards, cash in insurance policies, pawn or sell personal property, and dip into retirement or investment accounts. Lies, loan fraud, absenteeism, family disputes and job changes are frequent danger

signs.

Some problem gamblers will seek professional help at this stage, but others proceed to the next stage before getting help. At the *desperation* stage, the gambler experiences health problems, like panic or insomnia as debts pile up and relationships deteriorate. Having exhausted their financial resources, some gamblers turn to crime, and action gamblers begin gambling like escape gamblers to avoid their misery and feelings of hopelessness. Others simply run away from their family and debts, or attempt suicide.

Help, including treatment, counseling, and financial assistance is available. A first step is to call the Idaho Lawyer Assistance Program, if you are concerned about a possible problem for yourself, a colleague or a family member. Our assistance is private and, like all aspects of our program, your confidentiality is assured by statute.

National Council on Problem Gambling 10 Questions About Gambling Behavior

Have you often gambled longer than you had planned?

Have you often gambled until your last dollar was gone?

Have thoughts of gambling caused you to lose sleep?

Have you used your income or savings to gamble while letting bills go unpaid?

Have you made repeated, unsuccessful attempts to stop gambling?

Have you broken the law or considered breaking the law to finance your gambling?

Have you borrowed money to finance your gambling?

Have you felt depressed or suicidal because of your gambling losses?

Have you been remorseful after gambling?

Have you gambled to get money to meet your financial obligations?

If you or someone you know answers "Yes" to any of these questions, consider seeking assistance from a professional regarding this gambling behavior.

STRESS AND STRESS MANAGEMENT

Consider creating the perfect stress-producing situation. It should demand a high level of performance with strict time limitations. Perhaps, it would offer conflict and confrontation with a win/lose outcome. It should also require constant critical judgment of your performance while giving you only a limited amount of control over that judgment. Throw in long hours with little or no break and potentially high stakes, and you should have a perfect recipe for high stress. Sound familiar? If you've ever practiced law, it should. Ask any lawyer and, whether they love the practice or not, they will invariably tell you that practicing law is stressful. Some of them thrive on that stress and seem to perform better under it. Others respond to it less favorably—getting sick, depressed, and finally burning out. Whether you are in the former category or the

latter, or somewhere in between, learning how to manage your stress is important not only for you, but for your clients as well.

A stressor is anything that raises the stress or pressure level in our lives. Stressors can be external, such as deadlines, speaking in public, conflict with others, or other job performance demands. The more threatening we perceive them, the more stress they create.

The most significant stressors, however, are often internal. Intolerance of our own mistakes; expectations that other people, institutions and situations act or unfold in a certain way; worry about the future; and guilt about the past—all of these increases the stress in our lives. The bad news is, through these internal stressors, we create much more stress on ourselves than we get from the outside, most of the time, without even realizing it. The good news is, we have it within ourselves to change.

There may not be a lot you can do about some of the external stressors during trial. Many of them are simply built into the structure of the process and, for the integrity of the process, need to stay there. The time constraints, the constant judgment, the conflicting positions—these are all intentional parts of the process. We can, however, do a lot to change our reactions to these external stressors and to reduce the other stressors that we bring to the process.

Stress management is really about lifestyles. This is not something you can decide to do the morning of a stressful day and expect it to work. It involves living choices that must be made early and practiced daily. Consider the following seven “S’s” as stress management training for lawyers.

1) *Sleep*. Get enough of it on a daily basis. A tired mind and body are poor allies in stressful situations.

2) *Sustenance*. Treat your body like a friend. Eat well. Exercise daily. Learn some stretching techniques to help you relax. Avoid relying on the “false” stress reducers like alcohol, caffeine, nicotine, etc. When you experience illness or distress, get help.

3) *Solitude*. All of us need some time alone; some people need a lot, some only a little. But it’s not the amount of time you spend alone that matters but what you do with that time. This is time to refill your emotional reserves; to give your mind a chance to quiet down and rest. The better you can learn (through meditation, relaxation, restful activity, recreation) to quiet your mind of all the chatter about what you did, should have done, has yet to do, or should do, the more effective will be your solitude.

4) *Sharing*. Just as solitude is important, so is sharing your thoughts, your emotions, your hopes, your fears, your life, and your stress with someone else. Learn how to interact with others, particularly your family and close friends, as a genuine, present human being. Converse *with* them, don’t interrogate. Practice listening to someone else and really try to understand what they are saying. Find people you trust enough to share your failures with, as well as your victories. Your life is stressful enough without trying to do it all alone.

5) *Silliness*. Don’t take yourself so seriously. It doesn’t matter how big and important you are, or would like to be; if you can’t laugh at yourself, you’re a heart attack waiting to happen. At least once a week, do something fun that involves no competition. Nothing relieves stress and tension better than a good laugh. Try to laugh a dozen times a day.

6) *Spirituality*. Spirituality doesn’t necessarily mean religion. Find what works for you, and

then pay attention to it. If a particular religion or spiritual practice works for you, put it into action in your life. If getting out in nature is a spiritual experience for you, go regularly. Whatever you choose, let it give you some perspective on your life. A strong sense of spirituality can also provide you with guidance and direction, helping to reduce anxiety, worry, and guilt.

7) *Schedule*. Make stress management a part of your life. Schedule time for all of the other “S’s.” The less time and energy you have to devote to simply trying to find the time, the more likely you can do things like exercise, play, or enjoy some solitude.

Stress management is important to your clients, your colleagues, your family, but most of all to you. Practicing law is inefficient, ineffective, and just plain not fun if you are “stressed out.” Managing stress takes commitment. The time and energy you devote to it is an investment in yourself.

No one can do this for you. No one but you can make the practice of law any more or less stressful for you. You alone have the power. You can contact the LAP for more sources to develop your own stress management program using deep relaxation, meditation, time management, and other stress reducing techniques.

THE IDAHO LAWYER ASSISTANCE PROGRAM

The Idaho Lawyer Assistance Program (LAP) is a confidential service for all Idaho lawyers and judges. The Idaho LAP began in 1999 with the Alcohol and Chemical Dependency Program. Today, the LAP assists and supports lawyers and judges experiencing the following diseases, disorders, or challenges:

- Alcohol and chemical abuse or dependency;
- Compulsive or problem gambling;
- Depression, anxiety and other mental health concerns;

The LAP also provides support and assistance to lawyers who want to improve the balance of their personal needs and professional demands.

All communications with the LAP are confidential and anonymous and will not affect the attorney's standing with the Idaho State Bar (ISB). No information learned about or provided by any person will be disclosed to the ISB, including its disciplinary staff or to any person or organization outside of the LAP, unless expressly authorized to do so by the person providing the information. The LAP does not create or maintain any records or files of participating lawyers or judges names or the nature of their participation. The offices of the LAP are separate from the offices of the ISB to maintain the program's commitment to confidentiality and anonymity and to enhance participation in its programs by lawyers seeking assistance.

All LAP programs are based on the concept of peer assistance—lawyers helping other lawyers. The LAP is staffed by

Assessment and referral services provided by the LAP are free. If outside professional services are needed, the LAP will assist the lawyer to find competent, professional assistance that may be covered by regular health insurance or other benefit policies.

A majority of the lawyers and judges who access the LAP do so on their own initiative. LAP

program attorneys also reach out and offer assistance to lawyers at the request of concerned judges, colleagues, or family members. Concerned individuals requesting LAP outreach to an impaired or struggling lawyer may do so anonymously, as many do. There will be no record of their contact with the program.

CONCLUSION

The percentage of people who suffer from addiction or depression is substantial. Fortunately, most state bars recognize the problem and are taking action to address the issues through lawyers assistance programs. Programs like the LAP, however, are effective only when individuals are able to identify the signs and symptoms of chemical dependency and depression and are willing to extend help. This program not only saves the lives of many impaired attorneys and clients, but it also serves to protect the public and the legal profession as a whole from the often devastating effects of these “career killers.”

THE IMPACT OF SUBSTANCE ABUSE, MENTAL OR EMOTIONAL ILLNESS, OR PRIOR PROBLEMS ON ADMISSION TO THE IDAHO STATE BAR

An applicant for a license to practice law in the State of Idaho is required to respond to questions bearing on his/her “character and fitness” to practice law. The Character and Fitness Review, although less publicized than the Multi-state and the Essay Exam, is worrisome to some applicants because of their past indiscretions including legal convictions, bankruptcy, cheating in school, and other wrongdoings. This section addresses the questions asked on the Bar application, explains the process for review, and provides guidelines for answering questions.

Bar applicants are required to fully disclose information about the following topics:

Financial problems: These may include any bankruptcies; unpaid child support; checks written with insufficient funds within three years of the date of application; local or state unpaid fines; and overdue student loans.

Legal offenses: These may include arrests, charges or convictions of a misdemeanor or felony.

Substance abuse: The current or past dependence upon and treatment for use of alcohol or drugs.

Mental health issues: The current existence of a mental, emotional, or nervous disorder or condition that could affect the applicant’s ability to practice law.

Academic discipline: Incidents in which the applicant has been disciplined by an academic body.

Civil proceedings: These may include malpractice suits when applicants have been licensed to practice law in other states, or landlord-tenant disputes.

Suspensions or disbarment by another State Bar: If the applicant has been practicing in another state and is applying for admission to the Idaho Bar she/he must disclose these

proceedings.

Failure to disclose will weigh heavily against the applicant and could be grounds for denying admission to the Bar.

The application and the character and fitness evaluations are initially reviewed by the ISB Character and Fitness Committee, consisting of lawyers, judges and non lawyers.

When information provided by an applicant does not sufficiently address the C & F Committee's concerns about his/her character or fitness, the Committee requests additional information. The applicant may then be interviewed by a panel of two or three members of the Committee. If the Committee's issues and concerns are not resolved by this interview, the committee may recommend to the Board of Commissioners of the Idaho State Bar (BOC) that the applicant be denied admission to the Idaho State Bar. The BOC may then conduct a show cause hearing. The Commission then issues an order either allowing the applicant permission to sit for the bar exam or be admitted through reciprocal admission or denying an applicant permission to be admitted. An applicant may be represented by legal counsel at each step in this process. Applicants have the ability to appeal the BOC's decision to the Idaho Supreme Court.

There are three primary reasons for the character and fitness review: 1) protection of the public, 2) protection of the administration of justice, 3) protection of the public impression of the legal profession.¹ Although the words "character and fitness" are often used together, the words have separate definitions when applied to applicants. "Character" is generally used to describe the honesty and integrity with which a person deals with others. "Fitness" is a person's competence and ability to practice law, both physically and psychologically. Thus one may be moral, yet unable to practice law, or able to practice but immoral.²

An applicant's mistakes, poor choices, wrongdoings, diseases, or disorders are not necessarily an insurmountable hurdle or barrier to bar admission. The BOC's mandate is to identify individuals who are dishonest or who are unable to discharge their fiduciary duty to the clients. Fiduciary in this sense is broader than holding a valuable physical property in trust and includes responsible upholding of the confidences and the general best interests of the client.

Many bar applicants who suffer from the disease of alcoholism or chemical dependency or who suffer from a mental, emotional, or nervous disorder fear that disclosure will hinder or prevent their admission to the Bar. This is not necessarily true. Issues of importance to the BOC include (1) when was the disease or disorder most recently active or symptomatic; (2) has the applicant acknowledged, accepted, and sought assistance for the disease or disorder; (3) has the applicant followed through with the recommended treatment for recovery; (4) has the applicant recently relapsed; and (5) if the applicant relapsed, what did the applicant do in response to the relapse?

An applicant who has acknowledged and taken responsibility for his/her disease or disorder, has conscientiously engaged in a treatment or recovery program, and whose professional level

¹ Jennifer C. Clark, "Conditional Admission of Applicants to the Bar: Protecting Public and Private Interests," *The Bar Examiner*, May 1995, p. 54.

² Ibid, p. 56.

of functioning is not significantly impaired by the disease or disorder should expect a positive result from the BOC's review. An applicant who denies a disease or disorder, does not seek help, does not follow through with a treatment program, fails to disclose information, is devious or dishonest in answering questions, or fails to cooperate with the BOC can expect a negative result from the review.

When the Character & Fitness Committee becomes aware of a current chemical dependency or mental illness, it may require an applicant to submit to a professional evaluation. If current chemical dependency or mental illness is confirmed by a professional evaluation, then the Committee or BOC may defer the admission decision pending receipt of evidence that the applicant has undergone treatment and is maintaining recovery. Pursuant to Idaho Bar Commission Rule 209A, the BOC may recommend conditional admissions; it has recommended to the Supreme Court a license conditioned on an applicant obtaining treatment, maintaining recovery, and submitting to monitoring for a specified period of time. In some instances of current chemical dependency or mental illness, the BOC has denied admission.

The Character and Fitness Review is a reflection of community standards and changes with the times. In the past, the national trend was to deny admission to all convicted felons. There is now a national trend toward a more flexible standard. In 1984, 10 states prohibited licensing of felons, the other 40 states accepted applications. In 1994, an American Bar Association survey reported that 44 states and the District of Columbia would not bar an application from a convicted felon.³ Idaho's Rules for Admission of Attorneys state that an applicant will not be eligible to apply for admission to the Bar after having been convicted of a crime, the commission of which would have led to disbarment in all the circumstances present, had the person been an Idaho attorney at the time of the conviction. *Idaho Bar Commission Rule 208(a)*. In Idaho, the term "convicted of a crime" will not automatically lead to the denial of admission. For example, juvenile offenses and convictions for actions in another state which are not actionable crimes in Idaho, do not automatically lead to the denial of admission. If you have been convicted of a crime, you may want to inquire further of the Bar in order to determine if you fall within the exceptions allowing consideration for admission.

Factors or circumstances that may result in denial of admission include:

Multiple arrests or convictions;

Multiple offenses or problems, for example, combinations of speeding tickets, DUII's, assaults, or dishonored checks;

Lying or engaging in dishonesty on application to the Bar; or

Deviousness or unwillingness to provide explanatory information.

If you are concerned that your character and fitness may be in question, be sure to keep these important guidelines in mind:

Be completely honest—otherwise you don't stand a chance;

Cooperate fully;

You will not be penalized for seeking help or assistance for problems, but you may be penalized for not getting assistance when there is strong or clear evidence that a problem exists.

³ Maureen M. Carr, "The Effect of Prior Criminal Conduct on the Admission to Practice law: The Move to more Flexible Admission Standards," *The Bar Examiner*, February, 1997, pp. 17-18.

An applicant's commitment of time and financial resources to a legal education is not considered lightly by the Board of Commissioners as it weighs the evidence of rehabilitation presented by the applicant. Board members ask themselves if the individual has demonstrated that she/he has learned from past mistakes, has taken responsibility for these mistakes, and has sought appropriate resources for resolving the problem. The answers to these questions underlie the decision to recommend for or against admission to the Idaho Bar.