

BRINGING RESOURCES AND AWARENESS TO THE PREVENTION AND TREATMENT OF ALCOHOL AND SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES AMONG MEMBERS OF THE LEGAL PROFESSION

Twelve-Step Program



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Upcoming Events

August 14–16, 2009

Erie County Lawyers Helping Lawyers Committee 12-Step Seminar, Buffalo, NY. For more information, contact Chuck Beinhauer at (716) 204-1055.

September 11, 2009

NYSBA Lawyer Assistance Program Peer Assistance Volunteer Training to be held at the Bar Center, Albany, NY, from 10 a.m. to 4 p.m.

September 25–27, 2009

Annual Fall Retreat to be held at the St. Ignatius Retreat House in Manhasset. For information please contact Henry Kruman at kruman@mindspring.com.

Treatment works — there is hope.

LAT NEWS NEW YORK STATE LAWYER ASSISTANCE TRUST

LAP Volunteer Recognition & Gavin Award Presentation

VOLUNTEERS, STAFF AND FRIENDS of the New York State and New York City Bar Associations' Lawyer Assistance Programs gathered at the City Bar headquarters on Monday, June 29 to celebrate the experience, strength and hope that LAP Committee members so generously provide.

Chief Judge Judith S. Kaye (retired) received the Franklin P. Gavin Memorial Award from the NYSBA Lawyer Assistance Committee, in recognition for her support for the lawyer assistance movement in New York. Her initiatives to identify issues, seek resolution and promote systemic change included: establishing the Commission on Alcohol and Substance Abuse in the Legal Profession (the "Bellacosa Commission"); establishing the Lawyer Assistance Trust in 2001 to provide statewide leadership and financial assistance to lawyer assistance programs addressing alcohol and substance dependency and mental health concerns; supporting changes in court rules to expand the ethics category of CLE requirements to include lawyer assistance-related subjects and to permit "diversion to monitoring" in certain cases where alcohol or substance abuse are factors in misconduct; and establishing a NYLAT-Judge Advisory Panel to recommend opportunities for education, outreach and policy change to facilitate delivery of assistance services for judges.

NYSBA established the Gavin Memorial Award in the memory of Franklin Gavin, an attorney who devoted himself to lawyers who had alcohol problems, and bestows it annually to a person who has demonstrated outstanding interest and support of the goals of the Lawyer Assistance Committees and Lawyer Assistance Programs in New York State. NYSBA LAC Chair Lawrence Zimmerman quoted from

the award's inscription which stated: "To Chief Judge Judith S. Kaye: For extraordinary courage in being the one willing to 'go up the river' to address the cause" (of alcoholism, substance abuse and mental health issues in the legal profession).

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Top: New York City Bar Association officials recognized; pictured [L–R]: Eileen Travis, Lawyer Assistance Program Director; Alan Rothstein, NYC City Bar Association Counsel; Gary Reing, Lawyer Assistance Committee Chair; Barbara Berger Opatowsky, NYC City Bar Association's Executive Director. Lower Left: Current and past LAT chairs meet at awards event; David Pfalzgraf (left) and Michael Cooper. Lower Right: NYSBA LAC Chair Lawrence Zimmerman and Chief Judge Judith S. Kaye (retired).



INSIDE THIS ISSUE

by

BARBARA F. SMITH
NYLAT Director

THE ENERGY of the Lawyer Assistance Program staff and Lawyer Helping Lawyer Committees is amazing, as shown by the many activities reported in these pages.

I would like to share a wonderful experience I had recently, not otherwise reported here. Former NYLAT Trustee Terrance Bedient, himself a Vice President and Director of the NY Committee on Physicians Health, invited me to join NYSBA LAP Director Pat Spataro and LAC Chair Larry Zimmerman on a tour of the A.A. World Services offices at 475 Riverside Drive, New York, NY.

I highly recommend the tour to all those interested in the organizational structure of Alcoholics Anonymous, not to mention the archive of A.A. materials on display.

Mark your calendars to attend the NYSBA LAP Volunteer Training event on September 11 in Albany. Subjects to be addressed include the latest on addictions, treatment and research; suicide prevention and the “question, persuade and refer” process; motivational interviewing; and meditation. CLE credits will be offered, too.

Also, plan to attend the Nassau County Bar Association’s LAP Retreat September 25–27; details will be available soon. Contact Peter Schweitzer, LAP Director, at pschweitzer@nassauabar.org.

FROM THE CHAIR By Michael A. Cooper

One Challenge Among Many

ALCOHOLISM, OTHER SUBSTANCE ABUSE AND MENTAL ILLNESS spare no segment of society at large or of the legal profession. Lawyers in private practice, public service (governmental and non-governmental) and academia are all susceptible to these illnesses. The pressures that drive lawyers to drink, to use illegal substances and to overuse prescription drugs are probably greater now than at any time in the past half-century. And those pressures, while felt throughout the legal profession, may be taking their heaviest toll in the large law firms of New York City and the State’s other urban centers.

The large corporate and financing transactions in which these firms specialize have dwindled in number and size during this economic downturn. Firms find that they are overstaffed to meet the current demand for their services. And increasingly clients are becoming more sophisticated and demanding as to how their affairs are handled and how much they will pay for legal services. It was saddening, but not as surprising as it would have been two years ago, to read that a partner in one large law firm had taken his life, as had an associate in another major firm.

No one knows how prevalent abuse of alcohol and other substances and mental illness are in large law firms. But it is a statistical certainty that these problems exist within their walls. The sheer number



of lawyers in an office may increase the likelihood that an individual’s problems will go unnoticed. It is easier for an individual wishing to escape attention to do so when he or she is one of a few hundred in a multi-storied office.

There is reason to believe that the pervasiveness and seriousness of these issues are not fully appreciated. I am the only large firm lawyer on the 21-member Board of the Lawyer Assistance Trust, and the Lawyer Assistance Committees of the New York State and New York City Bar Associations, which between them have more than 100 members, include only a handful of lawyers who practice in large law firms.

The challenge is two-fold. First, and perhaps more difficult, the leaders of large law firms must be sensitized to the seriousness and extent of these problems; they must be made to realize that their most prized asset — their human capital — is jeopardized by the threat of these illnesses, and that a problem recognized only when

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The Lawyer Assistance Trust News

This newsletter is published periodically to increase knowledge about the impact of alcohol and substance abuse and mental health issues in the legal profession and to provide information concerning activities of the Lawyer Assistance Trust, lawyer assistance services, and local lawyer assistance committees. The Trust welcomes letters to the editor and/or news articles that:

- expand knowledge of access to lawyer assistance services;
- describe programs and initiatives

concerning alcohol and substance abuse and/or mental health issues in the profession;

- help to promote and advocate for lawyer assistance services in New York, and/or
- provide critical commentary and observation on current professional issues, social problems or legal/policy matters affecting access to lawyer assistance services.

Readers are also encouraged to send brief comments on issues covered in

this newsletter or other points of interest that will extend dialogue on the topic of alcoholism and substance abuse and mental health issues in the legal profession. Please note submissions may be edited for style and length. Articles, letters, questions and comments should be directed to Barbara F. Smith, Executive Director, Lawyer Assistance Trust, 54 State Street, Albany, New York 12207; 518-285-4545, fax 518-432-8885, email: bfsmith@courts.state.ny.us.

an individual has injured himself, his family and/or his client has been recognized too late. When a lawyer — partner or associate — shows signs of inebriation at a social function with colleagues or clients, those signs may be symptomatic of an illness that cannot be shrugged off as having “one too many” or a “good time.” One sizable law firm, Hiscock & Barclay, held a two hour Lawyer Assistance Program CLE for all attorneys and staff with lunch provided. All of its offices from Boston to Buffalo were video linked so everyone participated in the

program at the same time. I hope other firms will follow that example.

Once it is realized that a lawyer may be in need of assistance in addressing alcohol or other substance abuse, help is only as far away as the telephone. The lawyer assistance programs at the New York State and New York City Bar Associations, and the Nassau County Bar Association, can arrange for appropriate professional counseling and, if indicated, in-patient treatment, as can the Executive Director of the Bar Association of Erie County. Their contact information can

be found elsewhere in this newsletter.

If you practice our profession in a large firm, do not assume that alcoholism, abuse of others substances and mental illness may be an issue in other settings, but not in your paneled hallways. You will be wrong. ■

This article first appeared in the New York Law Journal on July 10, 2009, under the headline “Substance Abuse Hits Large Firms Too,” and it is reprinted with permission ©2009 Incisive US Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For more information, contact 877-257-3382, reprints@incisivemedia.com.

Trustees Meet With Law School Administrators

PACE LAW SCHOOL IN WHITE PLAINS hosted a meeting of law school student services professionals, gathered to discuss how best to address issues of alcohol abuse, drug abuse and mental health issues among law students. Representatives from 12 law schools attended in person or participated via videoconference.

Juanita Bing Newton, the recently appointed Dean of the Judicial Institute, which is housed at Pace University, warmly welcomed those gathered and underscored the need for the legal profession to address wellness issues at every level.

Dr. Kipnis gave an overview of drugs of abuse, new addiction medicines and recent findings in neuroscience about addiction and the brain. For example, Adderall, an amphetamine prescribed for the treatment of attention deficit hyperactivity disorder (ADHD), is also reportedly widely used as a “study drug” at many American universities to help focus energy and concentration to a much higher level than normal. However, Adderall is among the group of legally approved drugs classified as having the

highest potential for dependence or abuse. Nearly 90 percent of full-time college students who used Adderall nonmedically in the past year were past month binge alcohol users, and more than half were heavy alcohol users (citing the National Survey on Drug Use and health, April 17, 2009). Both stimulants such as Adderall and cocaine increase a person’s risk for heart attack or stroke. Students who use Adderall nonmedically may also need to take central nervous system depressants such as pain relievers or tranquilizers — which carry their own risk of dependence or abuse — to counteract the stimulant effects of Adderall. [For further information visit <http://oas.samhsa.gov>]

LAP Directors Patricia Spataro and Eileen Travis discussed the services available through their programs, with presentations to students, programs at orientation and ethics classes

being very popular.

Prof. Marjorie Silver noted the several projects that the Trust has coordinated with the law school population in mind: encouraging law student LAP representatives (with training offered); development of brochures on the character and fitness process as LAP issues relate; how law students may utilize LAPs; and the latest effort, development of a model Alcohol and Substance Abuse Policy for the law schools’ consideration and adoption.

Law School administrators present agreed to share ideas about wellness initiatives at their schools, with the Trust as the clearinghouse.

Plans are underway for a follow-up meeting next year. ■



Pictured [L-R]: Eileen Travis, New York City Bar Lawyer Assistance Program Director; Patricia Spataro, New York State Bar Association Lawyer Assistance Program Director; Barbara Smith, LAT Director; Prof. Marjorie Silver, Touro Law Center and Chair of the Trust’s Law School Outreach Committee; Steven Kipnis, MD, Medical Director at NYS Office of Alcoholism and Substance Abuse Services; and Tomas Gonzalez, Senior Assistant Dean at Syracuse University College of Law and LAT Law School Outreach Committee Member.

NYSBA LAP Spring Retreat Held

SPRING SHOWERS DID NOT DAMPEN SPIRITS of those attending the 21st annual Spring Retreat sponsored by the NYSBA Lawyer Assistance Program and Lawyer Assistance Committee at Silver Bay, Lake George, May 15–17. NYSBA LAP Director Patricia Spataro and her assistant, Linda McMahon, organized the successful event.

In keeping with tradition that has the incoming NYSBA President attend to learn first-hand of the work of the Committee and Program, Michael Getnick joined this year's event and offered remarks at Friday night's dinner.

Saturday's program included a CLE session entitled "Stress Hardiness to Resilience: Thriving in the Legal Profession," with featured speaker Nancy Stek, New Jersey LAP's Assistant Director.

Lawyers and judges have distinct roles in a highly stressed profession. Recognizing and building "resilience" or "stress-hardiness" provides needed protective factors that enhance legal careers despite stress.

Building stress hardiness goes beyond the usual directives to "meditate, exercise, manage your time and learn how to relax." It targets the heart of the stress response and utilizes strengths shared by judges — the ability to think critically and objectively and seek solutions. Strategies to build and reinforce resilience were offered.

Three characteristics of people who maintain their health in the face of change and high stress have been identified. One characteristic is based on an individual's view — those who look at life as a challenge



Pictured are former Chairs of the NYSBA Lawyer Assistance Committee and the incoming NYSBA President [L–R]: Timothy Foley, Kenneth Ackerman, Larry Zimmerman, incoming NYSBA President Michael Getnick, Charles Beinhauer, and David Pfalzgraf. [Absent when photo was taken was current Chair, Sallie Krauss]

and welcome situations as opportunities are "hardier." Having a commitment to a meaningful purpose in life is a second characteristic. Those who are fully involved in what they are doing feel worthwhile and curious about their work, not detached or isolated.

Finally, those with a sense of control find ways to influence the outcome of stressful changes, rather than lapsing into helplessness and passivity. They have a realistic perspective on changing the things they can and accepting the things they cannot. The related attribute of connection has proven to be a crucial factor in

individuals who bounce back and resist stress.

Fortunately, the steps to building stress-hardiness may be learned. Information may be found at www.hardinessinstitute.com. The Hardiness Institute evolved from a landmark study by Dr. Salvatore R. Maddi and his team of researchers at the University of Chicago.

Later in the weekend's schedule, a tribute to former NYSBA LAP Committee Chair Bill Dugan, who passed away during the last year, recognized the many lives he touched. (The presentation of the Franklin Gavin Award to Chief Judge Judith S. Kaye, which usually occurs at the Spring Retreat, instead took place on Monday, June 29 at the New York City Bar Association's Annual Volunteer Recognition Dinner.)

Other aspects of the weekend included a meditation workshop, a yoga workshop and twelve-step meetings.

The activities of the weekend were supported in part by a grant from the Trust, which funded some scholarships for attendance and costs related to the CLE program. ■



The ABA Commission on Lawyer Assistance Programs maintains a list-serv for recovering law students. If you are interested in joining this group online, contact Donna Spilis at spilisd@staff.abanet.org

A Call for Help

By Patricia Spataro, Director of the New York State Bar Association Lawyer Assistance Program



THE FOLLOWING GLIMPSE INTO A CONFIDENTIAL CONVERSATION, though fictitious, is characteristic of exchanges between LAP staff and lawyers in crisis. By sharing this scenario I hope to demystify the process and let members of the legal community know what they will encounter when they call LAP.

I answer the phone and there is a long silence on the other end. After a long pause I hear a faint female voice say “things are out of control; I don’t know what to do and I am embarrassed to have to call for help.”

I do my best to normalize her feelings by telling her that most people who make the call feel that way. I also congratulate her for recognizing she has a problem and for having the courage to call. She relaxes a bit and asks if her conversation with me is confidential and I tell her it is — and that the only exceptions to this confidentiality are when a person is at risk for harming themselves and/or others.

I invite her to share her concerns. I say a quick little prayer that I can help her and then I become intent on listening carefully. She begins to tell me about the problems and the crisis that prompted her call to LAP.

There are few jobs that cause you to drop everything and focus all your attention, at whatever cost to all else, on the person on the other end of the phone. The call may keep me from a scheduled meeting or conference call but there is nothing to be done, for the caller is the most important job for me. Gratefully,

those with whom I would have the conference calls or meetings fully understand the nature of my work.

In the process of this critical conversation I establish rapport, most importantly, by not judging. Not passing judgment on a person creates a climate of trust and people tend to get more honest — sometimes sharing long-time burdens and secrets for the first time... I can hear their breathing loosen up. Sometimes I hear a sigh and the words “I’ve never shared that with anyone before.”

I ask questions that probe more deeply into the severity and complexity of a problem. “Has anyone else in your family ever suffered from an addiction? At what age did you start drinking? How is your drinking affecting your ability to practice law or meet other responsibilities?” And the all important question... do you have thoughts of suicide?” The questions are deliberate and round out the bigger picture of what’s going on; the answers help me determine the best recommendations and referrals to make.

Since LAP is a voluntary program I do my best to engage the person so the individual will see the value of following through with the plan we develop together. If feasible, I will offer to meet with the person face-to-face, but I know that I might have one — and perhaps only one — chance to intervene so I see the phone not as my best option but as my only option. I have no leverage other than compas-

sion and information. I take time to carefully assess the issues and make the best referrals. I do everything I can to help at that very moment because it might be the only moment I get.

I ask permission to get a phone number so I can stay in touch and provide whatever assistance the person might need in the process of getting help, whether that is to attend a twelve-step meeting or contact a treatment provider. I then ask them if I can introduce them to a lawyer who volunteers to assist their colleagues and who has faced similar issues and difficulties. Most say yes to this, and I explain that their confidentiality will be preserved with the volunteer; I tell them this is guaranteed by Judiciary Law 499. LAP staff and volunteers ultimately provide comprehensive support, guidance, and referrals.

In-between the calls, LAP staff focus on educating lawyers, judges and law students. We invest in our volunteers through committee work, retreats, recognition dinners and training. We remain steadfast in recruiting volunteers and building connections among members of the legal community. There are many opportunities to experience job satisfaction but none as great as what we get when we say the words “I am here to help and I want you to know there is hope.” ■

**NEW YORK
LAWYER ASSISTANCE
PROGRAMS**
LAPs



**FOR
LAW STUDENTS**

Free Confidential Help
For alcoholism, drug abuse
and other mental health
problems, including
chronic stress, anxiety
and depression.

Please mark your calendar for

**NYSBA Lawyer Assistance Program
Peer Assistance Volunteer Training**

Friday, September 11, 2009
10:00 a.m. – 4:00 p.m.



NEW YORK STATE BAR ASSOCIATION
One Elk Street
Albany, NY 12207



NYSBA Lawyer Assistance Committee meets in Cooperstown

THE NYSBA LAWYER ASSISTANCE COMMITTEE met on June 19 in Cooperstown, in conjunction with the NYSBA House of Delegates summer meeting.

Lawrence Zimmerman, Committee Chair succeeding Sallie Krauss, welcomed Committee members from throughout the State and thanked Sallie for her years of dedicated service to the Committee and the Lawyer Assistance Program in New York. New Committee Secretary, Henry Kruman from Malverne (Long Island) assumed his responsibilities.

NYSBA LAP Director Patricia Spataro recapped activities since the January gathering. She provided copies of the Annual Report for 2008 and reported that a volunteer training session is set for Friday, September 11 in Albany at NYSBA headquarters. [See next page.]

Committee activities are booming, with a

veritable kaleidoscope of programs and services. Representatives recounted numerous LAP-related CLE programs taking place, e.g., in Buffalo, Elmira and Binghamton. The Nassau County Bar Association's LAP will host its retreat September 25–27 in Manhasset.

New York City LAP Director Eileen Travis reported on a new six-week summer program offered by Sylvan Shaffer, plus plans for a wellness support group spearheaded by Marjorie Silver addressing the psychological health of lawyers. She and Committee members make presentations to new admittees, about 250 each month.

Peter Schweitzer, Nassau LAP Director, distributed copies of their program's new informational brochure and wallet cards (funded by the LAT).

NYLAT Director Barbara Smith reported on the progress of the Judge Panel project

and a new law firm outreach effort.

In general business, the Committee heard presentations on the topic of conditional admissions and adopted a revised standard monitoring agreement.

Chair Zimmerman encouraged all members to welcome others to attend the Lawyer Assistance Committee meetings; individuals who are not Committee members may attend as guests. He also noted plans to prepare a CLE program on the topic of how law firms deal with impaired attorneys, and he suggested that a theme for the 2010 Spring Retreat might address the varieties of spiritual journeys.

The next LAC meeting will take place in Albany on November 6. ■

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NYSBA Lawyer Assistance Committee News

By Lawrence Zimmerman, Chair



AS INCOMING CHAIR OF THE NYSBA-LAC I am charged with the stewardship of a large and vibrant organization that has been strengthened, expanded and nurtured over the last four years by the Honorable Sallie Krauss, the immediate past chair. Sallie's leadership has been an inspiration to me, and I hope to continue the Committee's work with the same energy that Sallie always brings to any task.

Local committees are active from Erie to Suffolk County, from New York City to Old Forge, New York. Under the guidance of the Honorable Sallie Krauss and with the incomparable assistance of Pat Spataro, the executive director of the NYSBA-LAP, Eileen Travis at the New York City LAP and Barbara Smith at the Lawyer Assistance Trust, it is my privilege to serve as the new chair of the NYSBA-LAC. The NYSBA-LAC fosters and supports local committees throughout the State where dozens of volunteer attorneys assist in our ongoing efforts to educate, destigmatize and provide support for attorneys seeking help in overcoming drug and alcohol addiction, depression and a variety of other mental health problems. These local committees send representatives to the NYSBA-LAC where we develop policies and share ideas and support each other in our mission.

Any organization such as the NYSBA-LAC, with its critical mission to assist impaired attorneys and to protect the public, and with its far-flung and varied volunteer membership must constantly undertake efforts to renew and refresh itself. Committee members come and go, retire, move out of state and, unfortunately, pass away. Many of our committee members are on the front lines of intervening with and assisting impaired attorneys and their families in the transition to recovery. These efforts have a certain emotional toll. Simply stated, volunteers themselves often need to be refreshed and renewed.

Therefore, one of my goals for the upcoming year will be to expand the local and state committees' volunteer base and to continue to provide opportunities for our committee members to renew their commitments to the Committee's larger mission.

In addition, over the last several years we have presented numerous CLE's dealing with alcohol and drug addiction, gambling disorders, stress reduction and depression. Those efforts are ongoing and we have committed ourselves to presenting such programs throughout the state. The committee is constantly looking for opportunities to educate the legal community on issues related to attorney impairment. However, it is important that the legal community not only be educated about the issues of attorney impairment, but also that the Committee can be of assistance to firms and employers in the development of policies that are put in place in order to handle attorney impairment issues humanely and with compassion.

With the encouragement of Michael Getnick the incoming President of NYSBA, the LAC will be developing a CLE on these policy development issues for presentation at the Annual Meeting in January in New York City. In addition, President Getnick has

encouraged us to work with other N Y S B A committees such as the Lawyers in Transition Committee chaired by Lauren Wachtler, and we have done so. We also see opportunities in working with the Professional Discipline Committee and the Senior Lawyers' Committee.

Finally, over the last decade the legal community in New York has made enormous strides in bringing attorney impairment issues out of the darkness. Given the enormous pressure and stresses under which all attorneys operate, these efforts must, per force, be continuous. Several studies have shown that the incidence of attorney impairment due to alcohol and drug abuse is higher in our profession than in the general public. Therefore, as Pat Spataro often reminds us, doing nothing is not an option. ■



Twelve Steps for Lawyers

Sponsored by the Capital District Lawyers Helping Lawyers Committee

Speakers: Ken A., Syracuse, and David P., Buffalo

The Capital District Lawyer Helping Lawyer Committee held its first Twelve-Step weekend in June, with great success.

One participant noted, "It was a great opportunity for fellowship and reinvigorating my connection with the program. The speakers were inspirational."

CDLHL anticipates sponsoring the weekend as an annual event.

The Erie County Lawyers Helping Lawyers Committee will host its Twelve-Step Weekend August 14-16. For more information, contact Chuck Beinhauer at 716-204-1055.

Franklin Gavin Award Remarks

By Hon. Judith S. Kaye



THANK YOU, LARRY, FOR THAT GREAT INTRODUCTION, and thank you all for this spectacular evening and wonderful award.

Larry reminds me of two intertwined points I want to make right at the outset, two “quibbles” with Larry’s generous introduction. First is his praise for my long-continued efforts, as Chief Judge, on behalf of lawyer assistance programs. And second is the utter perverseness of your honoring me.

One thing I discovered during my fabulous Chief Judge days was that it’s one thing to have good ideas and quite another to implement them. And therein lies the quibble and the perverseness: it is you and not I, who fully deserve the credit and the thanks for the outstanding success of New York State’s lawyer assistance programs. It is without doubt among the initiatives of which I am most proud. But you did it! You did it! You are genuinely the most wonderful group of kind, caring effective people.

I have attended several of the eighteen prior Frank Gavin Award ceremonies in past years, appreciating the achievement of this great man but never really knowing his full story. So tonight I’d like to tell you a bit about our hero, through the words of Albany attorney Michael Friedman:

On January 8, 1940, Frank Gavin was admitted to practice law in New York. He became one of the most celebrated attorneys in the Capital District in the 1950’s and 1960’s. Allegedly, he could also quote Shakespeare, in Latin, backwards. Well, Frank Gavin liked to drink a little too much, and this led to tax problems, his suspension and eventual disbarment in 1972. Ultimately, he became a model citizen and devoted himself to lawyers who had alcohol problems. When the Appellate Division gave him back his license in 1979, we all went to watch his trials. Although older, his mellifluous, baritone voice had lost none of its impact and juries were enthralled with his skills. His appellate career was spent defending claims of excessive jury verdicts resulting from his trial and oratory skills.

Today, an organization known as the Lawyer Assistance Program of the New York State Bar Association devotes its energies to lawyers with alcohol and substance abuse problems.... So the next time you’re tempted to jump off the juggernaut known as your legal career, think of Frank Gavin. He didn’t jump off so much as fell off. Yet he rose from the ashes and made a lasting impression on countless lawyers and litigants. He rewarded the Appellate Division for giving back his license, and we are all the better for it.

My involvement in the subject of alcohol and substance abuse among lawyers actually began more than two decades ago, while I was still in private practice. I was appointed one of seven Trustees of newly formed Clients’ Security Fund, now known as the Lawyers’ Fund for Client Protection. The State Legislature established the Fund to reimburse client losses resulting from lawyer dishonesty in the practice of law.

I saw many cases — I still remember names and faces — with heartbreaking stories of life savings lost when a lawyer misappropriated the proceeds of a house closing, or absconded with settlement funds or insurance proceeds. Clients had a difficult time even believ-

ing that their most trusted counselors had betrayed them that way. Far too often, as it turned out, alcohol or substance abuse was a significant factor in the lawyer malfeasance, but our focus was on the clients.

Bad as the situation was back then, the ensuing years have intensified the demands—more competition, more tension, more stress. But I have also seen an enormous evolution in our profession’s understanding of alcohol and substance abuse within our own ranks, and its determination to find ways of addressing it.

About fifteen years ago, for example, I saw the ABA Commission on Lawyer Assistance Programs established to support bar association programs dedicated to helping lawyers with “drug, alcohol and psychiatric problems.” I saw the New York State Bar Association become a national leader, with its Lawyer Assistance Program spearheaded by the incomparable Ray Lopez, followed by the City Bar Association, our host this evening, and many local bar associations all through the State.

But as Chief Judge, a turning point came in 1999 — just ten years ago — triggered by the growing accumulation of information and pressure for programs that offer help to our professional colleagues. Studies showed that the rate of chemical dependency among lawyers was higher than among the general population, and the problem reached the Bench as well. How to assist these individuals, and how to protect the public against breaches of trust, became a long-overdue challenge for profession. At the same time, we saw that education, and early intervention and treatment, could make an enormous difference and avoid tragedy — going (as my beautiful Franklin Gavin Award states) “up the river” to the very source of the problem, instead of simply standing by to catch people already floating in oblivion.

So a decade ago a high-level Judicial Branch commission was convened, chaired by my Pal Joey (also known as former Court of Appeals Judge Joseph Bellacosa), with a mandate to identify potential resources for addressing the problem within the Judiciary and the Bar.

The Commission came up with a great recommendation: that we not displace the extraordinary existing lawyer assistance programs, committees and other voluntary efforts, but rather that we build on them with an overarching Statewide program. Most significantly, the Commission proposed creation of a Lawyer Assistance Trust financed by the profession (through portion of attorneys’ biennial registration fees) and administered by a blue-ribbon panel of Trustees appointed by the Court of Appeals. Bravo! A great idea coupled with tangible suggestions for implementing it.

The Court of Appeals greeted the report enthusiastically, and a few months later the Lawyer Assistance Trust was born. In addition to providing leadership and financial assistance to individual programs for treatment and prevention, the Trust includes special education programs, recommends rules and grant programs; and it reaches

continued on next page

out to law schools — addressing issues “up the river,” before they become massive problems, thus bringing awareness and financial support to both prevention and treatment.

And there, in a nutshell, are the underlying reasons for my quibble, or disagreement, with Larry about the honor and credit you give me. What a record of perseverance, persistence and dedication you all have displayed!

So I end where I began, by thanking you. Next time you hear of anyone tempted to jump off the juggernaut known as his or her legal career, remember Frank Gavin and the extraordinary program he, and all of you, inspired and developed to help that person rise from the ashes and regain a life dream. And finally, thank you for all you have done to help the Chief Judge see the realization of one of her own life dreams. ■

Chief Judge Kaye thanked all participants in the lawyer assistance movement whose “decades of commitment define what it is to be a member of this great profession. I am so proud of all of you; I shall treasure this award.” (For a full transcript of Kaye’s remarks, see page 8.)

Also recognized at the event were Barbara Berger Opatowsky and Alan Rothstein, the NYC Bar Association’s Executive Director and Counsel, respectively. NYC Bar Lawyer Assistance Committee Chair Gary Reing thanked both individuals who go “above and beyond” their job duties to help the Committee and lawyers in need. He noted that Alan Rothstein, from the inception of the original Lawyers Committee on Alcoholism and Drug Abuse, supported the work of the committee; and he later also supported the hiring of a treatment professional/program

director to enhance the services provided by the NYC Bar Association. Director Barbara Berger Opatowsky helped to spearhead the effort which led the executive board to approve the funding for the staff position of LAP Director held by Eileen Travis. “Throughout the existence of the NYC Lawyer Assistance Committee and Program, both have given us outstanding and unwavering support as we have expanded our services and mandate.”

Director Opatowsky said, “I don’t think there’s any other program of the Bar that does so much for individual lawyers... it transforms lives. The committee members combine effectiveness and commitment with an attitude of true graciousness, which is unique.”

Closing the program, Chair Reing spoke for all: “We’re here to help; that’s what makes us happiest.” ■

Reading Up to Calm Down

By Steven Keeva From the *ABA Journal*, September 2006

Assistant managing editor Steven Keeva discusses his top five titles for learning more about coping with stress.

The Lawyer’s Guide to Balancing Life and Work: Taking the Stress out of Success, by George W. Kaufman (ABA Publishing, 1999). There aren’t many stress-management resources written specifically for lawyers, and this one is outstanding. And because Kaufman is a lawyer, this lesson-based book has particular resonance.

Stress Management for Lawyers: How to Increase Personal & Professional Satisfaction in the Law, by Amiram Elwork (The Vorkell Group, 1995). Elwork not only knows the science behind lawyers’ physical and emotional challenges, but he also demonstrates a kind and caring concern.

Transforming Practices: Finding Joy and Satisfaction in the Legal Life, by Steven Keeva (Contemporary Books, 1999). I don’t want to be self-promoting, but lawyers across the country have contacted me about the book to tell me how it changed the way they approach their work, allowing them to more successfully and more mindfully integrate their personal and professional lives. That definitely was my goal in writing it.

Full Catastrophe Living: Using the Wisdom of your Body and Mind to Face Stress, Pain and Illness, by Jon Kabat-Zinn (Delta, 1990). Kabat-Zinn is the founder of the Stress Reduction Clinic at the University of Massachusetts Medical Center, and he is a titan in the field of meditation and dealing with stress and illness. In this book, he approaches meditation in a very straightforward and accessible way, without using touchy-feely language or religion.

Love & Survival: 8 Pathways to Intimacy and Health, by Dr. Dean Ornish (HarperCollins, 1999). This book has more of a general appeal. Ornish uses good interviews and interesting people to illustrate the relationship between health and humanity. ■

Join us in Phoenix in 2009!



ABA 22nd National Conference for
Lawyer Assistance Programs
Phoenix, AZ — October 6-9, 2009

For more information, contact Janice Jones at the ABA
312-988-5787; janicejones@staff.abanet.org

ILAA Annual Conference - October 9-11, 2009 - Arizona Grand Resort
Visit www.ILAA.org for additional information.

Save the Date

22nd National Conference for Lawyer Assistance Programs

October 6–9, 2009

The Arizona Grand Resort, Phoenix, Arizona. For more information, visit the website www.abanet.org/legalservices/colap/conference.html

ILAA Annual Meeting

October 9–11, 2009

The Arizona Grand Resort, Phoenix, Arizona
ILAA Contacts: Hal M. Nevitt, www.ilaa.org

If you have an event you would like to post, please contact
Sue McDougall at 518-285-4547 or smcdouga@courts.state.ny.us

Report by the Superintendent of Insurance on the Cost and Effectiveness of New York's 2006 Mental Health Parity Legislation ("Timothy's Law")

Executive Summary, May 2009 • New York State Insurance Department, Eric Dinallo, Superintendent

A. Background

In December 2006, New York State took a step toward achieving parity in mental health benefits for New Yorkers with the passage of "Timothy's Law" (Chapter 748 of the Laws of 2006, as amended by Chapter 502 of the Laws of 2007). Timothy's Law requires that, as of January 1, 2007, insurers issuing group or school blanket health insurance policies or contracts in New York must include certain minimum mental health benefits and coverage levels. Generally, for mental, nervous or emotional disorders, insurers must offer inpatient care of not less than 30 days per year and outpatient care of not less than 20 visits per year at the same cost sharing limits as applicable to other health coverages (the "30/20 benefit"). Timothy's Law further requires that large group policies or contracts (over 50 employees) and school blanket policies also provide additional coverage above the basic 30/20 minimum benefit levels for treatment of adults and children with biologically based mental illnesses ("BBMI") and for treatment of children with serious emotional disturbances ("SED"). The added level of BBMI/SED coverage is not required in small group policies or contracts (50 or fewer employees), but insurers are required to offer it on a "make available" basis (i.e., if requested by a small group purchaser). The premium cost to small employers for the 30/20 benefit is fully subsidized by an appropriation from the State's General Fund. The BBMI and SED "make available" benefits are not subsidized. Unless extended, Timothy's Law sunsets on December 31, 2009.

B. Purpose of this Report and Conduct of Evaluation

Timothy's Law requires the Superintendent of the Insurance Department ("Superintendent"), in consultation with the Office of Mental Health ("OMH"), to conduct a study on the effectiveness of mental health parity addressing, among other things, the cost of the new mandates and their impact on policyholders. The Insurance Department entered into a Memorandum of Understanding with OMH, whereunder a team of experts from the Department of Health Care Policy of the Harvard Medical School ("Harvard Research Team") and Columbia University's School of Public Health were assembled to assist the Superintendent in conducting portions of the study. The Department and OMH, in consultation with Harvard and Columbia, decided that the larger focus of this report would be on the impact of Timothy's Law on small group policies because the 2008 federal parity act could require large groups to offer mental health benefits beyond those required under Timothy's Law.

The Insurance Department, in consultation with OMH, determined that the evaluation would be divided into two principal parts: (1) a detailed claims/cost analysis to be conducted by the Harvard Research Team; and (2) a survey of all insurers to gather industry-wide statistics, to be conducted by Alicare, Inc., the Administrator of the State subsidy for the 30/20 benefit. In addition, in 2007, the Insurance Department required all insurers to provide a detailed actuarial memorandum outlining the cost of the current mental health benefits provided and the anticipated cost of the benefits to be provided in order to comply with the 30/20 provisions of the law. The Department used the data in these filings to determine the average cost (value) of 30/20 benefits in policies prior to the Law and the value of the benefits added as a result of the mandate. In addition, Alicare, Inc.'s survey portion of the study has been completed and the results are contained in this report. Additional claims data analysis by the Harvard Research Team and

work on the survey of consumers and brokers by the Columbia Research Team will continue and be reported in a supplement to this report which is anticipated to be released in June.

This report is intended to provide the governor, the Legislature and other interested parties with a cost and impact summary covering the first year of the mandate and to provide a basis for the ongoing discussion of mental health parity in New York in consideration of the December 31, 2009, expiration of Timothy's Law.

C. Key Issues the Study Seeks to Address

This evaluation and report seeks to address the following issues:

- How much the basic 30/20 mandate expanded access to mental health benefits;
- How much value consumers received in added benefits and/or reduced cost sharing;
- What percentage of groups or persons received more coverage after the mandate;
- What percentage of the 30/20 benefits were already purchased by employers in existing contracts prior to the mandate and what percentage represented new, added benefits;
- What was the overall cost of the 30/20 mandate and the cost of the portion already contained in existing contracts versus the cost of the added benefits;
- A comparison of the type and number of illnesses for which coverage has been provided during the study period;
- How many small groups purchased the optional "make available" BBMI/SED benefits; and
- What is the impact of the recent federal parity legislation on State mental health mandates.

D. Major Findings

1. **TIMOTHY'S LAW HAS EXPANDED COVERAGE OF MENTAL HEALTH BENEFITS.** Since the passage of Timothy's Law, more New Yorkers are receiving higher levels of mental health coverage.

30/20 BENEFITS. The percentage of New Yorkers with full 30/20 benefits more than doubled in both the large group and small group markets. Prior to Timothy's Law, approximately 99% of all small groups and large groups offered some type of mental health benefits, but only 42% offered full 30/20 benefits. After Timothy's Law 100% of all small and large groups offered full 30/20 benefits, with cost sharing levels equal to those for other health benefits provided under the same policies.

BBMI/SED BENEFITS. The percentage of New Yorkers with full BBMI/SED benefits increased in both large groups (where BBMI/SED benefits are mandated) and in small groups (where BBMI/SED is a "make available" benefit). In the large group market (employers with over 50 employees), the number of those with full BBMI/SED benefits increased from 11% to 100%. In the small group market (employers with 50 or fewer employees), the number of those with full BBMI/SED benefits increased from 9.6% to 43.7%. The increase in small group BBMI/SED coverage may be due in part to the savings employers realized with the State subsidizing the 30/20 benefit, or the increased visibility of the BBMI/SED benefits resulting from the requirement that these benefits be offered to all small employers.

2. TIMOTHY'S LAW ADDED SOME COST TO HEALTH INSURANCE PREMIUMS.

30/20 BENEFITS. The 30/20 small group mandate increased monthly costs approximately \$1.04 per member per month ("PMPM"), or less than one half a percent of the total monthly cost. Prior to Timothy's Law, the PMPM cost of existing 30/20 benefits for small groups was approximately \$4.76. After Timothy's Law, the cost of the full 30/20 benefit for small groups was \$5.80, or less than 2% of the average total monthly policy cost which is approximately \$312.00 PMPM. The \$1.04 increase is less than one half of one percent in the average total monthly policy cost. On a global basis, the total cost of the 30/20 benefit in policies purchased by employers prior to Timothy's Law was \$80 million (at 2008 price levels). After Timothy's Law, the total cost was \$100 million, which is about 1/70th of total 2008 small group premium of approximately \$7 billion.

BBMI/SED BENEFITS. The weighted average cost of BBMI/SED benefits in small group policies based on carrier submissions received in 2007 was approximately \$1.70 PMPM, or less than one percent of the average total monthly policy cost. It should be noted that carrier pricing for these benefits included antiselection factors, which are added by carriers when a benefit is offered on an optional basis, usually resulting in more persons in need of the benefit opting for the coverage. Were BBMI/SED benefits mandated on all policies, the average cost would be substantially lower. Under that scenario, the Insurance Department projects the average cost out through 2010 at just under \$1.50 PMPM, or less than one half of one percent of the total monthly policy cost.

3. **SMALL EMPLOYERS HAD LITTLE REACTION TO THE MANDATE'S COST OR BENEFIT CHANGES.** A survey of 200 small firms across the State inquired of the groups' opinions of Timothy's Law. 18.5% of firms responded that Timothy's Law expands mental health benefits and increases costs. The remaining 81.5% noted it either expanded mental health benefits and had no effect on costs (39.5%), expanded mental health benefits and reduced costs (4%) or had never heard of Timothy's Law (38%).

4. **FEDERAL PARITY'S IMPACT IN NEW YORK IS DEPENDENT ON TIMOTHY'S LAW CONTINUATION.** The new federal mental health and addiction parity law, effective for plans commencing after October 3, 2009, requires that if a large group health plan provides both surgical and medical benefits and benefits for mental health conditions, the coverage for mental health conditions may be no more restrictive than the surgical and medical benefits (i.e., the mental health benefits must be provided at parity with the surgical and medical benefits). Because Timothy's Law requires that all large group health plans that provide surgical and medical benefits must also include mental health benefits, Timothy's Law triggers the federal parity requirement, thereby increasing the 30/20 benefit requirement to a full parity requirement. However, since the federal law does not require large group health plans to provide mental health benefits, if Timothy's Law is not continued beyond its December 31, 2009 sunset, mental health benefits would not be required in large group policies at all.

In addition to the areas discussed above, a comparison of the type and number of illnesses for which coverage was provided during the study period is currently underway and will be reported in the supplement to this report anticipated in June. ■

CoLAP Northeast Regional Meeting Held in Hartford



LAWYER ASSISTANCE PROGRAM STAFF from New York, New Jersey, Connecticut, Maine, New Hampshire and Quebec gathered at the offices of Connecticut Lawyers Helping Lawyers, Inc., in Hartford in June.

Chuck Beinhauer, CoLAP liaison for the northeast, welcomed the group to the annual meeting, and he called upon each LAP to return to the roots of the programs and reinvigorate the volunteers who serve as the backbone for services rendered. "These meetings provide a great opportunity for all of us to share our experience, strength, and hope," said Beinhauer. "There is a strength that comes through support for each other."

Citing NYSBA President Michael Getnick's dedication of his tenure to "lawyers helping lawyers" who are suffering during these difficult economic times, Beinhauer asked each LAP to consider the problems that have arisen as a result, and how best to deal with the problems and questions that are presented.

CT-LCL Director Beth Griffin and Board President Bill Leary offered a warm welcome to all. Attending were, from New York: NYLAT Vice-Chair & CoLAP liaison Chuck Beinhauer, NYSBA LAP Director Patricia Spataro, NYSBA LAC Chair Larry Zimmerman, NYLAT Director Barbara Smith, Nassau Bar LAP Director Peter Schweitzer; from New Jersey: LAP Director Bill Kane and Assistant Director Nancy Stek; from New Hampshire: LAP Director Cecie Hartigan; from Maine: LAP Director Bill Nugent; and from Quebec, LAP Director Guy Quesnel.

Beinhauer included the following as one of the program handouts:

AA IS A SPIRIT

It cannot be touched, nor can it be completely understood. It is as wide as the world, yet small enough to fit snugly into the mind and heart of a man.

It has brought light where only darkness dwelt. It has given hope to the helpless and

help to those who yearned in despair. It has nourished forgiveness in those who know pity. It has given strength to the weak and humility to the strong. It has given greatness to the common. It has brought the destitute a home. It has transformed sorrow into a weapon of happiness. It has given purpose to the trackless and shelter to the lost. It has taught patience to the hurried and action to the slothful.

To youth it has given vision. To the aged — promise. To the lonely — companions. To the restless — rest. To the sick it has been a doctor. To the dying it has revived the desire to live. To those who have fallen, it has been a helping hand. It has no judgment against the unteachable, nor has it praise for those who learn. To the outcast it has been a family. To the childless it has given children. To the ignorant — wisdom. To the wise — tolerance. It has given to all that which is most precious — it has given love for truth with enough left over to share each other. ■

Where do you turn? Friends, family members and colleagues can play a role in identification and treatment of an addict by becoming familiar with the symptoms of the disease. The organized bar has several alternatives for obtaining assistance.

Patricia Spataro is the Director of the New York State Bar Association Lawyer Assistance Program. Paul Curtin is the Coordinator in the Fourth Department. They may be reached by calling 800-255-0569. Lawrence Zinnerman is the NYSBA LAC Committee Chair; he may be reached at 518-429-4242.

Eileen Travis is the Director of the New York City Bar's Lawyer Assistance Program, Donald Hewlett is the Clinical Associate, and Gary Reing is the Chair of the NYC Bar LAP Committee. They may be reached at 212-302-5787. Peter Schweitzer is the Director for the Nassau County Bar Association's LAP; you may call him at 516-747-4070.

You need not be a bar association member to receive their Free, Confidential advice. All LAP services are confidential under Judiciary Law §499.

Many local bar associations have volunteer committees who can provide advice and support to lawyers affected by alcohol and substance dependency:

**NEW YORK STATE
LAWYER ASSISTANCE TRUST**
54 STATE STREET, SUITE 802
ALBANY, NEW YORK 12207
WWW.NYLAT.ORG



BROOKLYN BAR ASSOCIATION

Lawyers Helping Lawyers Committee
John Urban 718-624-4001

BROOME COUNTY BAR ASSOCIATION

Lawyer Assistance Program
Tom Schimmerling 607-435-6225

CAPITAL DISTRICT

Lawyers Helping Lawyers Committee
Aaron Baldwin 518-542-8521
William Better 518-758-1511

BAR ASSOCIATION OF ERIE COUNTY

Lawyers Helping Lawyers Committee
Katherine S. Bifaro 716-852-1777

**COMMITTEE TO ASSIST LAWYERS
WITH DEPRESSION**

Daniel Lukasik 716-852-1888

**DUTCHESS COUNTY BAR
ASSOCIATION**

Lawyer Assistance Committee
Lee Klein 845-454-9200

**JEFFERSON COUNTY BAR
ASSOCIATION**

Lawyers Helping Lawyers Committee
David Antonucci 315-788-7300

MONROE COUNTY BAR ASSOCIATION

Lawyers Concerned for Lawyers
Committee

John Crowe 585-234-1950
Terry E 585-233-3598

NASSAU COUNTY BAR ASSOCIATION

Lawyer Assistance Program Committee
Annabel Bazante 516-776-7030
24 hour crisis hotline 888-408-6222

ONEIDA COUNTY BAR ASSOCIATION

Lawyer Assistance Committee
Tim Foley 315-369-3544

**ONONDAGA COUNTY BAR
ASSOCIATION**

Lawyer to Lawyer Committee
Noreen Shea 315-476-3101
Family Service Associates 315-451-2161
Bill Morgan 315-476-2945

QUEENS COUNTY BAR ASSOCIATION

Lawyers Assistance Committee
Jacqueline Torchin 718-307-7828

**ROCKLAND COUNTY BAR
ASSOCIATION**

Lawyer Helping Lawyer Committee
Benjamin Selig 845-942-2222
Barry Sturtz 845-369-3000

**SARATOGA COUNTY BAR
ASSOCIATION**

Lawyer Assistance Committee
Richard Zahnleuter 800-255-0569

**SCHENECTADY COUNTY BAR
ASSOCIATION**

Lawyer Assistance Program Committee
Vincent Reilly 518-285-8425

SUFFOLK COUNTY BAR ASSOCIATION

Committee on Alcohol and
Substance Abuse
Jane LaCova 631-234-5511 Ext. 231
Charles Rosen 631-231-1450 ext. 232
24 hour crisis hotline 631-697-2499

**TOMPKINS COUNTY BAR
ASSOCIATION**

Lawyer Helping Lawyer Committee
Richard Wallace 607-272-2102

**WESTCHESTER COUNTY BAR
ASSOCIATION**

Committee on Alcohol and
Substance Abuse
John Keegan, Jr. 914-949-7227
Anne Cahill 914-831-5082
Mitchell Baker 914-682-9500