



2006
Annual Report
Tennessee Lawyers Assistance Program

EXECUTIVE DIRECTOR

Laura M. Gatrell, MA, LEAP

ASSISTANT DIRECTOR

Ted Rice, M.Ed., LPC-MHSP, CEAP

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INTRODUCTION

The Tennessee Lawyers Assistance Program ("TLAP") was established by order of the Tennessee Supreme Court (the "Court") in 1999. The mission and general structure of TLAP are set forth in Rule 33 of the Tennessee Supreme Court Rules. This report is submitted to the Commission, pursuant to Tenn. S. Ct. R. 33.02, for the purpose of reporting the activities and accomplishments of TLAP during 2006.

I

STATISTICAL DATA FOR 2006

TLAP maintains statistical information concerning inquiries and referrals by individuals. Since inception, TLAP has fielded well over one thousand five hundred (1,500) phone calls from new referrals. In 2006, fifty-five (55%) of intake calls pertained to issues of chemical dependency. In TLAP's first year of operation the number of referrals related to substance abuse was sixty-six percent (66%). Thirty percent (30%) presented with a mood disorder (including depression), five percent (5%) with compulsive behaviors (i.e., sex, gambling, spending, eating, codependency) and ten percent (10%) of calls were related to stress management, burn-out and work related problems.

TLAP tracks the source of the inquiries and referrals based on geographical regions. Forty three percent (43%) of calls were received from the Middle Tennessee area. East and West Tennessee split the remaining fifty seven percent (57%) equally, with an average of twenty-eight (28%) each.

TLAP has had total of two hundred fourteen (214) lawyers, judges, bar applicants, and law students sign a monitoring contract since opening its doors 1999. According to 2006 statistics provided by NCPS (National Confederation of Professional Services), seventy (70) are currently active and compliant with drug screen requirements, four (4) are monitored by other states, four (4) are pending, twenty-three (23) have been terminated, and fifty-one (51) have graduated. (Exhibit A) Of those seventy-eight (78) active and

pending clients, ninety percent (90%) were disciplinary referrals and ten percent (10%) were voluntary referrals. Twenty-seven (27) new contracts were signed in 2006, sixteen percent (16%) of which were law students or Board of Law Examiners ("BLE") referrals. To date, TLAP has two hundred seventy-four (274) active files, and five hundred forty-seven (547) closed files. Seventy five (75%) of all referrals are male.

II

TLAP PERSONEL AND COMMISSION

In March 2006, former Executive Director, Robert E. Albury, Jr., JD, LADC, took a medical leave of absence, ultimately resulting in his resignation in May 2006. Laura Gatrell, formerly the Assistant Director, served as Acting Director until late July 2006. After an extensive search and interview process, she was officially named Executive Director in August 2006. Ms. Gatrell is a certified and licensed Employee Assistance Counselor and has worked with TLAP for seven years and has over eighteen years experience in the alcohol and drug field as a counselor, trainer, and educator. She currently she serves on the Advisory Board for the American Bar Association's Commission on Lawyer's Assistance Programs.

On October 13, 2006, Ted Rice, LPC-MHSP, CEAP, was appointed Assistant Director, adding a new dimension to TLAP services. Ted graduated from Vanderbilt University with a Master of Education in Human Developmental Counseling and is a Nationally Board Certified Counselor, Licensed Professional Counselor, Mental Health Service Provider, and Certified Employee Assistance Professional. Ted is a trained crisis-intervention specialist (CISM) and has worked in the substance abuse treatment and mental health field for over eleven (11 years). Before coming to TLAP he served as a clinical counselor for Work/Life Connections EAP at Vanderbilt University.

Emily McClendon was hired as the full-time Program Coordinator in January 2006. She has trained in the Family Program at Cumberland Heights and recently completed her

certification as a QPR Gatekeeper specializing in suicide prevention. Serving on the frontline of all TLAP calls, Emily continues to participate in crisis management training. She presently oversees compliance requirements for all clients under a Monitoring Agreement.

The Commission term for E. Ronald Chesnut, Esquire, expired June 1, 2006. W. Stephenson Todd, Jr., Esquire, was reappointed to a three-year term at that time. Dr. Timothy Davis, Howard Burley, MD, Judge Robert Childers, Jacqueline B. Dixon, Esquire, Christopher Hall, Esquire, and Stafford McNamee, Esquire, were also reappointed to additional three year terms, beginning June 1, 2006, and expiring on June 1, 2009. (Exhibit B)

Mr. Albury served seven years as TLAP's Executive Director. He did an excellent job promoting and developing the program. TLAP would not be the success it is today without his hard work and dedication.

III

FINANCIAL

TLAP was integrated into the Judicial Branch of State Government on July 1, 2002, and operates as a state agency within the Administrative Office of the Tennessee Supreme Court ("AOC"). TLAP operates on a fiscal year: July 1st through June 30th. Expense Appropriations for the 2005-2006 fiscal year, pursuant to the AOC's Budget, are \$328,000. The budget for the fiscal year 2006-2007 is \$341,500. The Order increasing each lawyer's assessment from \$10 to \$20 per year (effective January 1, 2004) has provided TLAP with an adequate and stable source of funding to meet operating expenses. As of December 31, 2006, TLAP's projected reserve fund balance is \$235,899.68. (Exhibit C) Given the influx of revenue in 2006, an estimated \$100,000.00 may be added to the reserve fund balance by the end of the current fiscal year.

IV

Strategic Planning of 2001

(Exhibit D)

On February 2-4, 2001, TLAP's Commission held a strategic planning workshop. Five (5) items were listed as key issues for TLAP to address in a five (5) year period. The following is a list of those items, along with an update of TLAP's progress in meeting that goal.

- 1. The Need for Additional Back-up Resources and Support Groups:** Since 2001, several additional support groups have been added. A women's group was started in both Nashville and Memphis. A group specific for depression, dual-diagnosis and other mental disorders is scheduled to begin in Nashville in February 2006, with similar groups being discussed for Knoxville and Memphis. Stress management and depression has consistently been addressed resulting in a fifteen percent (15%) increase in referrals pertaining to these issues.
- 2. The Need for a Well-Developed State-Wide Network:** Regional Access Monitoring (RAM) Teams were appointed and trained in 2004; new members will be appointed in 2007. RAM team members are volunteers who are appointed to serve by the TLAP Commission. They act as TLAP representatives in their area and are regularly trained in intervention techniques and outreach methods. Reminders for monitoring reports are generated by the TLAP office and sent by email on a monthly basis. The RAM Team group email lists are consistently used to discuss regional issues and referrals. The first annual CAMP TLAP, a statewide retreat open for all TLAP volunteers, participants and their family members, was held in March 2006 with over seventy-five (75) participants. The second CAMP TLAP is scheduled for March 9-11, 2007, at Fall Creek Falls. The 2001 Strategic Planning session resulted in an annual working retreat for all Commission members. TLAP has developed an excellent network of treatment

providers throughout the state.

3. **The Need to Educate the Bench, Bar and Public:** TLAP continues to educate the bench and bar and develops new outreach methods yearly.
4. **A Need to Reach Minority and Women Lawyers:** TLAP is offering support to women throughout the state, although the Knoxville group remains all male and Chattanooga only has one female who participates regularly in the local Lawyers in Recovery (LIR) group. Minority outreach continues to be a challenge, but new strides have been made in reaching out to the Gay, Bi, Lesbian and Transgender (GBLT) population.
5. **The need to Develop TLAP's Infrastructure and Programming:** A database and website have both been developed. TLAP's current method of tracking random urine drug screens is being expanded once again, and will soon have an on-line capability for individuals and monitors to access their records and file required monthly reports. Confidentiality is being addressed by the TLAP Commission at this time, and new policies are being developed regarding our relationship—as it pertains to confidentiality—with Disciplinary Boards.

The “weaknesses” listed in the Strategic Plan have all been resolved.

V.

ABA Evaluation

(Exhibit E)

In August of 2003, the ABA Commission on Lawyers Assistance Programs (CoLAP) conducted a thorough evaluation of TLAP services. Recommendations were suggested and resolved as follows:

Recommendation 1: Tennessee Bar Association and Tennessee Supreme Court Funding and Support of Tennessee Lawyers Assistance Program:

To ensure adequate and continual funding, the Court increased attorney dues from \$10.00 to \$20.00 immediately following the ABA's formal evaluation. At that time, sixteen thousand (16,000) lawyers were issued a license to practice law in Tennessee. Currently, the number of dues paying lawyers is over eighteen thousand (18,000), bringing TLAP's potential income to \$373,870. (Exhibit F). This evaluation recommended a performance review for both Robert Albury and Laura Gatrell, which the Commission performed in January 2004, resulting in an increase in Ms. Gatrell's salary.

The Evaluators were concerned about the lack of full-time administrative support, and TLAP now has a full-time Program Coordinator. The need for additional training in mental health disorders was also emphasized. Since that date, Ms. Gatrell has become a Certified Interventionist and Certified QPR Gatekeeper Instructor. (QPR stands for Question, Persuade, and Refer -- 3 simple steps that anyone can learn to help save a life from suicide. Just as people trained in CPR and the Heimlich Maneuver help save thousands of lives each year, people trained in QPR learn how to recognize the warning signs of a suicide crisis and how to question, persuade, and refer someone to help.)

Mr. Rice has added invaluable expertise as a Licensed Professional Counselor with extensive experience in providing individual and work-place interventions, assessments, and psychotherapeutic services with impaired professionals with Axis I and Axis II disorders.

Recommendation 2: Confidentiality and Immunity Protections:

It was noted that Tennessee had more than one approved lawyer assistance program in operation throughout the state. Shortly thereafter, Rule 33.08 was revised. Steve Watts, MSW, former Executive Director of the Memphis Lawyers Helping Lawyers, resigned and moved to Arizona. Mr. Watts was a talented and well-loved therapist in the Memphis area. After his resignation, the Memphis Lawyers Helping Lawyers

Committee decided to no longer fund a LAP Director specific to their region. Dr. Kent Cox, TLAP Commissioner, volunteered to assume Mr. Watt's position as facilitator for the Memphis LIR group.

Amendments to Rule 9, sections 4.3 and 25, have also been completed.

Recommendation 3: Strengthen and maintain ties to recovering legal community and outreach to local bar associations

As noted above, TLAP continues to have an excellent relationship with all bar associations and strives to collaborate with other agencies, such as the Tennessee Suicide Prevention Network (TSPN) and National Association of Mental Illnesses (NAMI), whenever it is in the best interest of TLAP's primary mission. It was noted that Tennessee had formed a strong bond with recovering members of the legal profession, and that continues to be the case. TLAP Commissioners and volunteers are applauded annually at CoLAP for their dedication and commitment. The RAM Team has been formed and is a primary focus for future TLAP endeavors.

Recommendation 4: Services provided

TLAP's education and outreach remains consistent. TLAP has developed joint presentations with the Board of Law Examiners, the Continuing Legal Education Commission, and the Board of Professional Responsibility. Each semester, TLAP and the BLE present together at all four law schools.

East Tennessee remains an area that needs to expand the availability and locations of a LIR support group.

Recommendation 5: Relationships with Discipline, Admission and Law Schools

TLAP has strong relationships with all of the above. The Evaluators stated:

The Commission offers one prospective cautionary note: Cooperation is commendable, responsible and productive. But it is vitally important to remember that TLAP must continue to pledge and maintain the confidentiality of its voluntary participants. Efforts must be employed, however, to maintain actual, as well as the appearance of, confidentiality of information and independence from other entities.

TLAP has taken this to heart and strives to protect client confidentiality at all costs.

Continued outreach with the law schools was recommended and TLAP maintains this goal as part of its ultimate mission.

Recommendation 6: Additional Educational outreach and marketing

While TLAP has not developed specialized marketing material for the Judiciary, Judge Robert Childers was appointed chair of the ABA's Judicial Assistance Committee. William B. Cain, Appellate Court Judge and former TLAP Commissioner, recently had an article printed in the July/August 2006 issue of *Judicature*.

Recommendation 7: Promote Diversity

TLAP's referral base is twenty-five percent (25%) female. A statewide GBLT group has been started. The African-American population remains a small percentage of TLAP referrals.

The success and work of TLAP is reflected in this Evaluation. The TLAP Commission and Court should be commended in the immediate response in addressing all of the ABA's recommendations.

VI

State Agency Integration Assessment Report

(Exhibit F)

On December 7, 2006, the State Agency Integration Assessment Report was submitted to the members of the Supreme Court by the Administrative Office of the Courts (AOC). TLAP reflects a smooth transition process into the operation of a State Agency. The AOC currently hosts the TLAP website and provides technical support, fiscal services and human resource assistance to TLAP. The main recommendations were to develop a disaster plan for continuity of services, develop an evaluation system of staff, and to establish appropriate parameters for individual purchases. TLAP is currently writing a disaster plan and has received employee evaluation forms from the AOC. Dates for TLAP employee evaluations are being scheduled. Current travel policies and spending limitations for both Commissioners and staff is being discussed at the TLAP Commission's Annual Retreat in January 2007.

VII

Noteworthy Events and Accomplishments for 2006

Following an ABA recommendation, TLAP removed the word "advocacy" from all contracts and promotional material. Although TLAP continues to testify on behalf of monitored clients, it is vital that TLAP is perceived as a neutral party. TLAP's Director and Assistant Director furnish disciplinary and referring agencies factual information regarding a client's compliance or non-compliance. TLAP is careful never to imply that TLAP is providing legal representation or advice.

TLAP has greatly enhanced its record keeping and client management. Ted Rice has implemented a new case-note and recording system and is ensuring that TLAP remains ethically and clinically sound. In addition, TLAP has recently begun to keep a more accurate count of all incoming and outgoing calls. Tentative projection is that TLAP has been grossly underestimating the number of clients helped in a given year, with numbers potentially reaching seven thousand (7000).

TLAP has worked to keep client trust and encourage more voluntary participants by

reinforcing confidentiality policies. TLAP is developing a sound protocol in referring non-compliant participants to the referring disciplinary authority, and has entered discussions with the Board of Professional Responsibility to see that all clients are treated consistently and fairly. TLAP has worked hard to ensure that appropriate releases are in place and that clients are properly informed of TLAP's confidentiality limitations upon entering into the disciplinary system.

TLAP volunteers have moved into the forefront of TLAP services this year. Due to the lack of full support staff for much of 2006, all of the regions volunteers were called upon to investigate and intervene on referrals. This has created a renewed enthusiasm and level of personal ownership in the TLAP program. In addition, the TLAP Commission stepped to the plate as program administrators during the six (6) month transition period. They conducted a nationwide job search, interviewed potential candidates for both the Director and Assistant Director's position, conducted an audit, and reviewed TLAP client cases.

On December 1, 2006, all of the TLAP staff and five (5) additional volunteers were trained and certified as QPR (Question, Persuade, Refer) Gatekeepers. A QPR presentation is now offered to all firms and bar associations. Suicide prevention is a primary concern and focus for all members of the legal profession. The community alarm resulting from a rash of attorney suicides in the last two (2) years propelled the state forward with positive action, drawing the national attention of other LAP programs and agencies such as the American Association in Suicidology.

TLAP worked with Dave Shearon and the Continuing Commission on Legal Education (CLE) in presenting a series of workshops addressing attorney well-being. Mr. Shearon's emphasis on positive psychology combined with TLAP's expertise in depression and addiction, made for an effective and popular seminar. Andy Branham of Counsel on Call paid for all seminar expenses. The Tennessee Bar Association and the Tennessee Legal Association for Women also co-sponsored, with proceeds benefiting TLAP.

The John Dice Seminar was re-created under the name of *Ethics and Evidence* and launched in Nashville in March 2006. Justice Holder and then Attorney General Paul Summers were featured speakers. Commissioners Ken Shuttleworth and Elizabeth Collins worked with Nashville volunteers in making this program a success.

The relationship with the Board of Law Examiners has grown stronger. TLAP will be presenting to all members of their District Investigating Committee (DIC) at the TBA Convention in June 2007. TLAP has strived to implement a standard protocol for referrals received from the BLE and TLAP's willingness to testify on behalf of bar applicants. Currently all participants must establish a six (6) month track record with TLAP prior to receiving TLAP support in their admission process.

TLAP is the first state in the country to develop a support system for the GBLT population.

TLAP's educational efforts expanded to national levels. TLAP presented to over one thousand five hundred (1,500) people at the International Employee Assistance Conference and more than two hundred fifty (250) people at the CoLAP Conference in San Francisco. Local efforts have been steady.

Judge Childers and Ms. Gatrell were both appointed to serve on the planning committee for the 2007 CoLAP Conference.

TLAP joined the statewide WAN network, replacing the old server and email system. All TLAP staff now has unified email addresses. The AOC's Technology Trainer conducted an in-service for the TLAP staff to learn the State's Novell GroupWise and Human Resource software. As a result, TLAP is capable of giving and receiving information with the AOC more freely and can submit employee leave and vacation time on-line directly with the Human Resources department. The AOC technical support supplies back-up services and can monitor TLAP staff's computer history if necessary. TLAP has worked hard to maintain client privacy and confidentiality while also

maintaining an “open book” policy with regard to how staff spends its work time and how finances are allocated and managed.

In 2006, the first annual CAMP TLAP retreat was launched and appears to be a highly anticipated event for 2007.

GOALS for 2007

The top three goals for the 2007 calendar year are:

1. **Services:** TLAP is exploring the possibility of offering twenty-four (24) hour counselor coverage in the form of a hotline number for after-hours crisis calls. TLAP has three (3) different agencies proposing bids, all of which include a highly trained crisis management team of only master’s level counselors and/or psychologists. The hotline service will provide statistical tracking and daily communication with TLAP staff.

TLAP is working to implement easy access to mental health groups in all three (3) regions of the state.

2. **Outreach:** TLAP eventually hopes to offer QPR training to all members of the bench and bar. Toward this end, TLAP plans to create new brochures specific to the advertising of TLAP educational services, CLE trainings, and intervention services. This will be an excellent marketing piece for large law firms.

Cooperation with law schools and the Board of Law Examiners is a primary focus. TLAP has offered the law schools on-site appointments for students requiring TLAP assistance. A page dedicated to law students and bar applicants will be added to the TLAP website. A letter introducing TLAP services will be mailed to all bar applicants as part of the BLE application process. TLAP is excited at the opportunity to train the Board of Law Examiners District

Investigation Committee (DIC) in recognizing signs and symptoms of chemical dependency, stress, depression and suicidal ideations.

TLAP will continue to work with RAM Team development and Peer Monitor training. The first, of what hopefully will be several, Peer Monitor in-service will be conducted at CAMP TLAP in March.

- 3. Review of best practices:** TLAP staff and commission strive to ensure that TLAP always maintain the best ethical standards. TLAP has already begun an internal review of Policy and Procedures, protocol with disciplinary agencies, confidentiality statements, chart/file restructuring and auditing, data collection, and travel expenses.

CONCLUSION

2006 was a challenging year. TLAP experienced a lot of changes: internally and externally. The TLAP motto “problems are not a sign of failure but an opportunity for growth” has never been more true. Throughout the transition, TLAP clients remained secure knowing that TLAP has strong and invested leaders in the Commission, Court and staff. As a result, TLAP has emerged with a new image but maintains the same solid reputation.

TLAP is fortunate to have continued and unwavering support from the Board of Professional Responsibility, the Board of Law Examiners, and all bar associations. TLAP remains in the top ten percent (10%) of Lawyers Assistance Programs in this country.

Respectfully submitted:

Laura M. Gatrell, MA, LEAP

Executive Director

January 26, 2007

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: THE SUPREME COURT COMMISSION TO ADMINISTER
THE TENNESSEE LAWYERS ASSISTANCE PROGRAM
("THE COMMISSION")

FILED

JUN 12 2008

Clerk of the Courts

ORDER

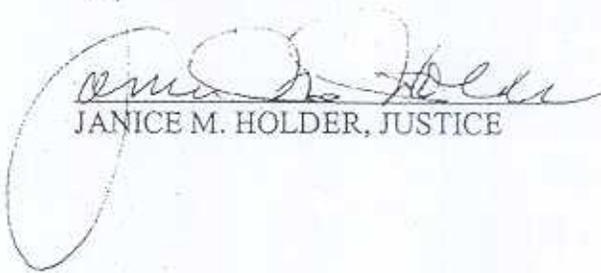
It appears to the Court that the term of the Commission to Administer the Tennessee Lawyers Assistance Program member E. Ronald Chestnut, Esquire expired on June 1, 2006. The Court wishes to recognize and thank Mr. Chestnut for his valued service and outstanding contribution as a member of the Supreme Court Commission to Administer the Tennessee Lawyer Assistance Program.

It further appears to the Court that the terms of Commission members Dr. Timothy P. Davis, Howard Burley, Jr., M.D., Judge Robert L. Childers, Jacqueline B. Dixon, Esquire, Christopher A. Hall, Esquire, and Stafford McNamee, Esquire expired on June 1, 2006. Based upon their willingness to accept a new appointment, under the provisions of Supreme Court Rule 33, the Court is pleased to reappoint Dr. Timothy P. Davis, Howard Burley, Jr., M.D., Judge Robert L. Childers, Jacqueline B. Dixon, Esquire, Christopher A. Hall, Esquire, and Stafford McNamee, Esquire to new three-year terms, beginning June 1, 2006, and expiring on June 1, 2009.

The Court is pleased and honored to appoint W. Stephenson Todd, Jr., Esquire, Todd & Dossett PC, 134 West Center Street, Kingsport, TN 37660, to serve a three-year term commencing June 1, 2006, and expiring June 1, 2009, as Commissioner of the Tennessee Lawyers Assistance Program.

IT IS SO ORDERED.

FOR THE COURT:


JANICE M. HOLDER, JUSTICE

NUNC PRO TUNC June 1, 2006

EXHIBIT C

****DRAFT - FOR DISCUSSION PURPOSES ONLY

Tennessee Lawyers Assistance Program
Fiscal Year-to-Date Thru 11/30/06

	Budget 2006-2007	YTD thru 11/30/06	YTD thru 11/30/05
Income:			
Attorney Fees	\$ 342,000.00	\$ 7,260.00	\$ 9,370.00
Donations	\$ -	\$ -	\$ -
Interest	\$ -	\$ -	\$ -
Current Services Revenue	\$ -	\$ -	\$ -
Total Income	\$ 342,000.00	\$ 7,260.00	\$ 9,370.00
Expenditures:			
Salaries & Wages	\$ 192,700.00	\$ 51,224.55	\$ 71,264.01
Employee Benefits	\$ 68,800.00	\$ 18,602.82	\$ 23,627.41
Total Salaries and Benefits	\$ 261,500.00	\$ 69,827.37	\$ 94,891.42
Travel	\$ 37,200.00	\$ 19,733.82	\$ 17,320.61
Printing, Duplicating, and Film Processing	\$ 3,000.00	\$ 1,224.28	\$ 1,268.15
Communication and Shipping Costs	\$ 4,500.00	\$ 2,516.28	\$ 750.17
Maintenance, Repairs and Services Performed by Others	\$ 500.00	\$ -	\$ -
Professional and Administrative Services-Third Parties	\$ 5,000.00	\$ 2,372.41	\$ 165.69
Supplies	\$ 5,000.00	\$ 2,145.05	\$ 1,876.45
Rentals and Insurance	\$ 24,300.00	\$ 9,564.25	\$ 9,760.89
Motor Vehicle Operation	\$ -	\$ -	\$ -
Grants and Subsidies	\$ -	\$ -	\$ -
Interest Payments	\$ -	\$ -	\$ -
Professional Services Performed by Other State Agencies	\$ 1,000.00	\$ 410.78	\$ 542.36
Total Other Expenditures	\$ 80,500.00	\$ 37,966.87	\$ 31,684.32
Total Expenditures	\$ 342,000.00	\$ 107,794.24	\$ 126,575.74
Total Income Over(under) Expenditures		\$ (100,534.24)	\$ (117,205.74)
Previous Fund Balance		\$ 365,934.66	
Projected Fund Balance as of 11/30/06		\$ 265,400.42	

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

TLAP CONTRIBUTIONS REPORT

January 17, 2007

December 2006

Year-To-Date

<u>Amount</u> <u>Paid</u>	<u>No. of</u> <u>Lawyers</u>	<u>Total</u> <u>Contribution</u>	<u>No. of</u> <u>Lawyers</u>	<u>Total</u> <u>Contribution</u>
20	8	\$410	17,805	\$357,890

Pro Hac Vice Payments Made by Out-of-State Attorneys:

20	49	\$980	799	\$ 15,980
				<u>\$373,870</u>

RECAP:

Year-to-Date Contributions to TLAP	\$373,870
Year-to-Date Disbursements to TLAP	<u>- 372,500</u>

BALANCE DUE TO TLAP THIS MONTH:	\$ 1,370
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EXHIBIT D

TENNESSEE LAWYERS ASSISTANCE PROGRAM

STRATEGIC PLANNING SESSION

FEBRUARY 2-4, 2001

TENNESSEE LAWYERS ASSISTANCE PROGRAM

STRATEGIC PLANNING SESSION

On February 2–4, 2001, the Tennessee Lawyers Assistance Program held a strategic planning workshop to identify issues and develop a base of information on how the Commission and TLAP could best use its talents and strengths to further the goals of the program. In attendance for all or portions of the meeting were: Robert Albury, Lance Bracy, Howard Burley, Larry Butler, Robert “Butch” Childers, Lea Clower, Jackie Dixon, Laura Gatrell, Chris Hall, Janice Holder, Teresa Jones, Stafford MacNamee, Seth Norman, Charles Ogle, Jerry Scott and Stephenson Todd. The facilitator was Dolores Gedge from the American Bar Association.

Through a series of questions, the Commissioners conducted an analysis of the program’s current situation, what its strengths and weaknesses are, whom it serves and what the needs of these constituents are, what trends are occurring in the bar and in society that affect its works, what threats and opportunities face it, and what major issues it must tackle. From this analysis, the Commission then developed priority areas that it would like to focus on over the next three years

In the process of its analysis, the Commission recognized the remarkable work that TLAP has been able to accomplish in its first year, basically without any infrastructure in place. It received over 200 inquiries of which 104 resulted in referral and assistance and participated in 27 formal interventions, all but one of which resulted in the individual being evaluated and introduced to treatment. Its success and favorable reception in the legal community has been chiefly due to the commitment of its dedicated Executive Director and Commissioners, the strong support from the Board of Professional Responsibility, the Board of Law Examiners and the Court of the Judiciary, and the work of the statewide network of TLAP Peer Volunteers and Supporters.

TLAP started as a pure assistance program, originally, but has moved now into diversionary programming and monitoring. Monitoring and advocacy services are very time intensive, and with restricted resources, the focus tends to weigh more heavily on impaired lawyers who are already identified. One of the many aims of the Commission is to develop its infrastructure so that it can build on its excellent start and also focus more on getting out to those lawyers who need assistance and are not yet identified.

The facilitator began the strategic planning session by asking each participant to name the top three issues he or she believed the Commission should focus on in the next several years.

KEY ISSUES TO BE ADDRESSED BY THE COMMISSION

The Need for Additional Back-up Resources and Support Groups

All of TLAP's materials offer a full range of services, but the program is very limited in what it can do for certain constituency areas: depression, senility, gambling, overeating, and sexual dysfunction. Referral and consultation are not a problem, but no back-up support systems are available for lawyers with these issues. Currently, the program places people suffering from depression into recovery groups, but this is not an effective answer.

However, it is important for the Commission to realize that even without currently having support groups in these areas or expertise, it can at least get the person referred to a psychiatrist to start getting help.

The Commission should solicit lawyers recovering from depression and other related illnesses to determine if they are willing to volunteer to provide assistance to others in like need.

The Commission must develop proactive programming for depression, including stress management information to help those who are on the edge.

The Need for a Well-Developed State-Wide Network

There is a strong need for a good, state-wide volunteer network with training programs volunteers. Regional groupings would enable better planning and training. It is important to establish clear written procedures for volunteers so there is consistency statewide on how TLAP helps people.

To begin development of the network, all Commissioners and friends of the commission list those they know who can and will help form the network. Develop mailings list of volunteers and supporters and provide them with regular contacts/mailings. Since volunteers may only be called upon for peer support once a year or less, it is key to a strong network that they feel they belong.

Develop peer support network for depression.

Develop an annual TLAP retreat meeting - statewide or regional – perhaps hosted with the Lawyers Helping Lawyers folks, and perhaps with CLE offerings and training programs. Such an annual program will help with development of state-wide network as well as education of bench, bar and public.

Network with other help agencies, i.e. medical providers' etc. Develop a centralized data bank of resources in each county of help agencies.

Continue to develop relationships with the Board of Law Examiners, Board of Professional Responsibility and see how TLAP can be of assistance in their diversionary programs.

The Need to Educate the Bench, Bar and the Public

Educate the bar about what TLAP is and what it does. Also provide general education about the disease process and depression. Also emphasize education on what to look for and how to help lawyers in trouble.

Provide a direct message to lawyers that addiction and depression are illnesses that one seeks help for, not something to be ashamed about and handled alone. Of key importance to the education of the bar is lawyers telling their own stories to lawyers because of the big hurdle of getting people to be willing to seek help.

There is a need to educate the public about the issues, the program, and how it can be used. Also, important here is the general education articles about the concept of addiction as a disease

Family members and the public should know about the program because they can refer family members who need it.

The Need to Reach Minority and Women Lawyers

TLAP and other such programs have difficulty getting assistance for minorities and women. Minorities and women are much less likely to come forward, less likely to ask for help and break anonymity.

TLAP must develop and enhance support groups among minority lawyers

Conduct outreach to minority bars

Develop more user-friendly type programs and more diversity so all ethnic groups can feel support is available to them in a way they can access it

The Need to Develop TLAP's Infrastructure and Programming

Develop set of guidelines for volunteers and training programs.

Need to expand services for families of impaired lawyers

Continue to develop infrastructure, funding sources, data-base, web-site etc.

Develop CLE programming

Continue to focus on real confidentiality about personal issues so that people feel safe to tell the story and trust in the program to maintain anonymity.

Program's primary purpose is to protect the public and the profession. In this, lawyers should be self-financing.

STRENGTHS

Dedicated Executive Director
Supreme Court liaison who is critical to the Commission's success and support
A very active, involved group of Commissioners
Assistance from Board of Professional Responsibility
Excellent Chair of the Commission
Tremendous needs to be met

WEAKNESSES

Infrastructure is not yet developed
Lack of statistics that are needed to educate the bench, bar, and the public. No software, no background information, no resources to do it
Lack of resources and staff to run the program
Excessive dependency on Executive Director
The Commission must develop a viable operating budget for the program, determine how to work within that budget and prioritize next funding steps.
Funding is crucial – Commission must create a fundraising committee
The Commission knows where it wants to be but is trying to do it all at once. It must develop a willingness for slow, quality growth

TRENDS

There is a big difference in how firms are run now than 15 years ago. Now, the focus is on business as number one, the legal profession secondary. This affects what a firm is willing to do for a lawyer with problems of substance abuse or depression. Looking at alcohol and drug problems from a business perspective is much less compassionate – the focus becomes the bottom-line first, the individual second.

Technology and the pace of business are taking a real toll on the human psyche. TLAP gets numerous calls on burnout, depression. Sensory overload causes depression and other such problems.

Less drinking in society as a whole
More drug use
More medical issues; depression etc.
More recognition of and greater acceptance of the addiction concept than in the past
More resources in the community, such as self-help groups for depression etc.
Society as a whole is looking at quality of life issues.
There is a continued search for the silver bullet, the instant answer, such as controlled drinking or drugs without therapy.

THREATS

Lawyers attitudes about seeking help
Judges attitudes about referral of problem lawyers to the program, i.e., judges can be a great help in referral but most don't want to interfere, most are elected
Lack of understanding of the issues and lack of education about them
No understanding that addiction isn't about willpower
Drinking is such an institution within the legal profession - bar meetings, law school - a very social profession, lots of alcohol at all meetings
Perception that TLAP'S are the "drink police."
Overworked profession

OPPORTUNITIES

More people than ever need the program
More publicity about the types of problems in the general community
Opportunity to identify competent mental health care professionals and let them know that TLAP is a confidential source for referral.
Willingness to admit the profession has a problem and willingness to offer help and let people know there is hope
Provide education to the public on TLAP not only enables greater referral, but can improve the profession's image if the public knows about such programs.
Clients who know about the program are referring their lawyers to TLAP instead of to disciplinary action.

WHOM DOES THE PROGRAM SERVE AND WHAT ARE THEIR NEEDS

TLAP serves the legal profession by ensuring lawyers who need help, have it
Helping lawyers is now its main focus and it is doing a good job at it. It helps lawyers get support, referrals, assistance
It is not as effective yet in helping judges because they are less easy to help, more trusting of other judges rather than of lawyers. The Commission needs to expand its base of assistance for judges
Public/Clients - Need protection from impaired lawyers
Law Students - An area TLAP hasn't developed
Bar Applicants – TLAP is just starting to work in this area with the help of the Board of Examiners
Families of impaired lawyers – provide assistance now for all referrals

PRIORITIES FOR TLAP

Develop the program
Conduct outreach to minorities and women
Educate the bench and bar
Outreach for depression and other illnesses
Developing network of volunteers and sources into database
Funding and Resource Development

DEVELOP THE PROGRAM

Get basic infrastructure in place
Employee benefits
Computer/software/furniture – including types of software needed for statistics gathering
Examine future staffing needs, including three additional counselors at Director's level for three other regions of Tennessee
Develop administrative assistant position description
Create a TLAP web-site
Create a TLAP Volunteer Counselor Training Manual.
Written guidelines for commissioners and volunteers

CONDUCT OUTREACH TO MINORITIES AND WOMEN

Contact specialty bars to put information in their newsletters.
Send speakers. Explain the need to recruit a recovering minority member of the commission who can do the outreach.
Must be able to show the importance of the trust issue - it is very important that someone who has been involved with the program can say it is safe and trustworthy and it can be relied upon for on anonymity.
Getting a volunteer who is willing to break anonymity eventually is important but it should be clear to anyone volunteering that this is not crucial.
Getting folks to be able to stand up and break anonymity is not the first approach to take in recruiting minorities and women. First ask for help and support for the Commission. While people are eventually willing to stand up, must know that it is not a requirement or even an expectation or this will create more reluctance to get involved.
Have Laura speak to women's groups

EDUCATE THE BENCH AND BAR

Make the Commission a speaker's bureau on TLAPS. Develop talking points for each Commissioner and make speaking engagements.
As a transition, have Commissioners go with Robert at first because it is important to have Robert and Laura known generally so people identify with them and can call them confidentially.
Present TLAP and related issues to ethics classes. Get on Law School orientation programs. Commissioners need to reach out to all four law school deans and get on speaking schedule.
Talk about issues some students may have when they come before the Board of Examiners and how to get help if there are problems in the past.

Examine the issue of denying bar entry due to past substance abuse problems. Why not screen students at the beginning of law school entry and educate them on the issues? Develop a sub-committee to focus on assistance and education for judges and a Judge Peer Assistance Program for judges who do not want to be part of a lawyers program. Contact the Judicial Conference for speaking engagements on the issue. Schedule CLE for judges, conducted by judges. (Get on schedule next June for Fall Conference - Janice will get time on the agenda, one hour. Ask Judges for help in referring lawyers who have problems.) Also work with general session judges.

Get on agendas for and mailing lists of:

Public Defenders conference

States Attorneys conference (District Attorneys conference different)

Clerks conference

Legal Secretaries conference

Examine the possibility for TLAP to become part of lawyer-probationer's sentencing guidelines, i.e., make mandatory referral to TLAP?

Get on the agenda of all major TBA meetings and provide materials at meetings.

Make Commission known to bar leaders.

TLAP program is now CLE certified. Develop CLE workshops as a revenue source.

Provide CLE two ways: CLE on-line in TLAP'S website and provide the CLE providers with ready-made CLE programs to use.

Examine the possibility and the pros/cons of moving to get a mandatory one-hour chemical dependency CLE program into CLE requirements. First find out the views of the CLE Commission which is understandably reluctant to be locked into specific mandatory CLE because every group can make a case for their area - i.e. mediation. Be sure mandatory is necessary and advisable before petitioning for it.

Work with the Commission on CLE as tenants in TBA building, build networks.

RESOURCES FOR DEPRESSION AND OTHER ILLNESSES

Oversight by Howard Burley and John McCoy

Develop commissioner contacts with volunteers who are working in this area, as well as people recovering from depression, gambling, in order to develop peer volunteer support groups. Conduct a profession-wide mailing, soliciting recovering lawyers in these areas to help the Commission help others in similar circumstances

Either enlarge the Commission to get such volunteers as members or have a Subcommittee of volunteers on depression.

Solicit assistance from support groups for people with depression – go to the Mental Health Association to see if they will assist in making contacts.

Contact organizations who provide after-care and ask for assistance and for space in newsletters. Obtain a list of newsletters of treatment centers and ask for space

Vanderbilt University is currently conducting a major study in depression. Contact that program for information, lawyers' treatment

DEVELOPING A DATA BASE OF VOLUNTEERS

Gather as much information as possible; refine later. Obtain referrals and data from as many agencies as possible and, as a Commission, clean up the data, deciding which sources are safe to use, which are trustworthy, which can be put on-line versus which have to be strictly confidential, etc.

Copy available databases, i.e.:

- Board of Professional Responsibility
- Mental Health Institutions
- Major hospitals
- Drug Council

Other Sources:

- telephone directories
- law schools
- doctor's programs

Access Tennessee Alcoholics Anonymous structure, putting out the word at assemblies about the TLAP program and its need for volunteers

Make the data-base available on the TLAP's web-site

FUNDING AND RESOURCE DEVELOPMENT

Finance Management – The goal should be for TLAP and the Commission to be self-supporting where possible. The Commission needs to focus on operating expenses on the one hand and the need to develop a revenue stream.

The mandated service charge of \$10 per capita on lawyers to fund TLAP could be increased to \$20, and the TBA will support that, depending on timing, due to other possible fee or rate increases looming.

TLAP cannot use the service fee funding for anything other than operating funds. It cannot be used to build reserves.

Most funders look for an organization with regular operating funds, one who will use charitable resources for additional programs, so TLAP cannot rely on outside resources for its operating budget. Therefore the program must develop two separate budget streams: (1) operating expenses from the per capita fee; and (2) Charitable contributions, revenue streams.

The Finance Committee oversees and organizes operating budget and capital budget and the Resource Development Committee examines development of all additional resources including charitable funds

Examine future staffing needs, including three additional counselors at Director's level

In the Resource Development Area, several different avenues can be developed: charitable contributions, grant seeking, and development of revenue streams from CLE and web-site etc.

Fund-raising: Create a voluntary contributions program, such as a check-off for TLAP on the TBA dues statement. Solicit contributions through a profession-wide mailing. Also solicit entities that do business with lawyers and the entities that do business with TLAP.

Some sources for charitable funds or grants: Tennessee Bar Foundation; Distilleries; ANLIR and smaller malpractice carriers; corporate foundations, community foundations, businesses that supply goods and services to the legal profession, etc. (Suggestions for assistance with fundraising: Katie Edge and Gil Campbell)

The Revolving Loan Fund - used for lawyers who can't afford treatment, should be funded via charitable contributions and grants

Charge for TLAP's monitoring services. Set up fee schedule for agencies

Develop interactive web-site

Provide on-line CLE for ethics to produce revenue.

Develop Web-site Advertising - ads by and hyperlinks to malpractice carriers, treatment centers.

Links to AA resources; hyperlinks to depression centers etc.

Site can be a resource to answer questions on TLAP, freeing up staff time. Staff can refer general callers to the web-site for information on the program.

Website can enable those who need to be anonymous to get help by providing instructions on how to do e-mail anonymously.

On-line CLE with Visa or MasterCard as a method of payment will be both a revenue source and a way to increase program visibility

Chair - Stephenson Todd

Members - Jackie Dixon and Seth Norman

PLAN IMPLEMENTATION CHART

PROGRAM	STEPS	OVERSIGHT	DUE DATE
Develop program	Employee benefits Computer/software/furniture Assistant position description Volunteer Training Manual/Video	Robert Albury Lea Clower Chris Hall	
Minorities & Women	Contact specialty bars Recruit volunteers Provide speakers Space in newsletters	Teresa Jones	
Education of Bench & Bar	Develop speaker's bureau Develop Talking points Contact law schools Contact the Judicial Conference Contact general session judges. All major TBA meetings Work with CLE Commission	Butch Childers Stafford McNamee Janice Holder	
Depression Outreach	Conduct a profession-wide mailing Recruit volunteers Solicit assistance Mental Health Association Space in various newsletters Contact Vanderbilt program	Howard Burley John McCoy	
Developing Database	Copy available databases Access Tennessee AA Get referrals from all commissioners Refine all data	Jackie Dixon	
Funding & Resource Development	Manage budgets Develop fundraising program Develop list of sources to solicit Profession-wide mailing On-line CLE for profit Revolving loan fundins Fees for monitoring	Stephenson Todd Seth Norman Jackie Dixon Dues check-off Katie Edge/Gil Campbell	
Develop Web-Site	On-line CLE. Web Advertising Develop hyperlinks to Instructions on sending email anonymously	Larry Butler Laura Gatrell	

EXHIBIT E

REVIEW OF THE TENNESSEE
LAWYERS ASSISTANCE PROGRAM

August 18 – 20, 2003

By

Ann D. Foster, Esq., William R. Leary, Esq., and Sheila M. Murphy, Esq.

**A SERVICE OF THE ABA COMMISSION ON LAWYER ASSISTANCE
PROGRAMS**

INTRODUCTION

The Evaluation Program

In 1988, the ABA Commission on Lawyer Assistance Programs (CoLAP or the Commission) initiated a project to confer with lawyer assistance programs in the United States and Canada upon invitation by the appropriate authority. As part of this project, the Commission provides evaluation services on a range of issues facing attorney peer assistance programs, including chemical dependency, compulsive gambling, depression, stress, and other psychological conditions. The evaluation involves sending a team of individuals experienced in the field of peer assistance to examine the structure, operations and procedures of the lawyer assistance program. At the conclusion of its study, the evaluation team reports its findings regarding the program's status and its recommendations for improvement of the system, if appropriate, on a confidential basis to the lawyer assistance program, the state bar association, the state Supreme Court, or other authority that issued the invitation for the evaluation.

The team examines the lawyer assistance program using to criteria adapted from the Guiding Principles for Lawyer Assistance Programs (Guiding Principles), adopted by the ABA in February 1991, the Model Lawyer Assistance Program (Model LAP), adopted by the ABA in August, 1995 (currently under revision, completion expected in 2003), and the ABA CoLAP's Planning Guide for Designing and Implementing Lawyer Recovery Monitoring Programs (Model Monitoring Program) dated July 1998 (all three documents are attached to this report). The Principles, Model LAP and Model Monitoring Program reflect experience gained by the Commission through almost fifteen years of conducting lawyer assistance program evaluations. They incorporate policies and procedures drawn from and tested by the collective experience of lawyer assistance programs throughout the United States and Canada. The evaluation team also uses the report and recommendations of the ABA Commission on the Evaluation of Disciplinary Enforcement (McKay Commission), as adopted by the ABA House of Delegates in February 1992 and the National Judicial Action Plan on Professionalism created by the

National Conference of Chief Justices (Chief Justices' Plan) as adopted in 1999. These recommendations reaffirm, expand, and add to many of the suggestions set forth in the Guiding Principles, Model LAP and Model Monitoring Program.

If the on-site evaluation team identifies issues to be addressed, the team and the Commission determine whether the Principles, the Model LAP, the Model Monitoring Program, the Chief Justices' Plan and the McKay Commission Report provide workable solutions, or if some other recommendation should be made. In some states or provinces, teams have discovered that because of local factors, anticipated problems do not exist. In such situations the team does not recommend that the ABA standards be followed.

The contents of this report are confidential and are intended for the use of the members of the Supreme Court, the Officers and executive staff of the Tennessee Supreme Court, the Director of the Tennessee Lawyers Assistance Program, and the members of the Tennessee Lawyers Assistance Program Commission. The opinions and recommendations in this report are solely those of the ABA Commission on Lawyer Assistance Programs.

The Commission Team and Interview Process for Tennessee

On August 18, 2003, by invitation of the Tennessee Lawyers Assistance Program (TLAP) the Commission provided three reviewers to comment on the program. The Commission reviewers were: Ann D. Foster, Commission member, Director of the Texas Lawyers' Assistance Program and a member of the Texas Bar; Sheila Murphy, retired Illinois presiding judge of the Sixth District, Cook County, currently in private practice in Chicago, past president of the Illinois Lawyers Assistance Program and current member of the CoLAP Commission and the Illinois Supreme Court Lawyer Assistance Program Board; and William R. Leary, Director of the Louisiana Lawyers Assistance Program, member of the Louisiana Bar, and former member of the CoLAP Commission. As part of the review process, the evaluators met with the following individuals:

- The Honorable Frank F. Drowota, III, Chief Justice, Tennessee Supreme Court
- The Honorable Janice M. Holder, Justice, Tennessee Supreme Court
- The Honorable E. Riley Anderson, Justice, Tennessee Supreme Court
- The Honorable William B. Cain, Court of Appeals, Middle Section
- The Honorable Robert L. Childers, Judge of the Circuit Court for the Thirtieth Judicial District of Tennessee at Memphis
- Jerry Scott, Disciplinary Counsel, Court of the Judiciary
- John L. Sobieski, Jr., Associate Dean for Academic Affairs, University of Tennessee College of Law
- John R. Tarpley, President, Tennessee Bar Association
- Katie Edge, Past President, Tennessee Bar Association
- Charles W. Swanson, President Elect, Tennessee Bar Association
- William G. Ramsey, Tennessee Bar Association Board of Governors
- Allan F. Ramsaur, Executive Director, Tennessee Bar Association

- Lance B. Bracy, Chief Disciplinary Counsel, Board of Professional Responsibility of the Supreme Court of Tennessee
- Laura Chastain, Deputy Chief Disciplinary Counsel, Board of Professional Responsibility of the Supreme Court of Tennessee
- Sandy Garrett, Disciplinary Counsel, Board of Professional Responsibility of the Supreme Court of Tennessee
- Marlene Eskind Moses, Chair, Board of Law Examiners
- Adele Anderson, Administrator, Board of Law Examiners
- Lynda M. Hood, Executive Director, Chattanooga Bar Association
- Marsha S. Pace, Executive Director, Knoxville Bar Association
- Anne Fritz, Executive Director, Memphis Bar Association
- Susan M. Clark, Treasurer, Memphis Bar Association
- Coburn Dewees Berry, IV, President, Nashville Bar Association
- A. Gregory Ramos, President Elect, Nashville Bar Association
- Susan W. Sowards, Executive Director, Nashville Bar Association
- Robert Eadie, Former Chair, Nashville Bar Association's Lawyers Helping Lawyers Committee
- Roger T. Gray, Chair, Nashville Bar Association's Lawyers Helping Lawyers Committee
- Lewis G. Burnett, Former Chair, Nashville Bar Association's Lawyers Helping Lawyers Committee
- Suzanne G. Keith, Executive Director, Tennessee Trial Lawyers Association
- Dave Shearon, Executive Director, Commission on Continuing Legal Education
- Jacqueline B. Dixon, Assistant General Counsel, Tennessee Bar Association and TLAP Commission Executive Committee
- Stafford F. McNamee, Jr., Vice-Chairman, TLAP Commission
- W. Stephenson Todd, Jr., Chair, TLAP Commission
- Marc Overlock, Director and General Counsel, Tennessee Medical Foundation

The reviewers also met extensively with the Director and Assistant Director of Tennessee Lawyers Assistance Program, Robert E. Albury, Jr. and Laura Gatrell. Interviews were conducted in Nashville, Tennessee at the Tennessee Bar Association Offices and at the Supreme Court Building.

The evaluators are sincerely indebted to all of the persons interviewed and consulted for their hospitality, courtesy and generosity, their willingness to devote time from their busy schedules, and their candid and insightful comments and suggestions concerning the Tennessee Lawyers Assistance Program.

History and Components of the Tennessee Lawyers Assistance Programs and Committees

The Supreme Court of Tennessee currently licenses approximately 16,000 lawyers. The Tennessee Bar Association is one of several voluntary bar associations, including a large number of metro and county bar associations, that provide a variety of programs and services to Tennessee lawyers. In particular, the Nashville Bar Association created the first known lawyer assistance program in Tennessee in 1982. At that time, the program was known as Nashville Lawyers Concerned for Lawyers and focused on assisting attorneys and judges who had problems with alcohol or other drugs. In 1987, the Tennessee Bar Association created Tennessee Lawyers Concerned for Lawyers to help provide statewide assistance to lawyers and judges. Simultaneously, the Memphis Shelby County Bar Association, the Knoxville Bar Association and the Chattanooga Bar Associations established committees to help outreach to lawyers and judges who had problems with drugs and alcohol. At that time, all programs expanded their services from outreach to lawyers and judges who were dealing with alcohol and drugs to include outreach to lawyers and judges dealing with other mental health disorders. In 1993, the Tennessee Supreme Court and State Legislature passed important legislation providing immunity and confidentiality protections for the activities of the various lawyer assistance programs.¹ In 1999, Tennessee Lawyers Concerned for Lawyers supported the Supreme Court of Tennessee in its adoption of Rule 33² that established a statewide Tennessee Lawyer Assistance Program (TLAP) and provided for the creation of a TLAP Commission to assist in program's outreach efforts.

Currently, most of the aforementioned lawyer assistance programs are in operation throughout the state. Among the metro bar association-supported programs, most operate as wholly volunteer supported organizations. The exception is the Memphis Shelby County Bar Association Lawyers Concerned for Lawyers Committee (Memphis Committee). The Memphis Shelby County Bar Association supports the Memphis Committee by providing funding and support to a part-time director, Steve Watts, a Licensed Alcohol and Drug Addiction Counselor (LADAC) and Masters level Counselor (MAC). Mr. Watts works with the Memphis Committee and local volunteers to help provide services to lawyers and judges in the greater Memphis metropolitan area and throughout Shelby County.

On the statewide level, Tennessee Lawyers Concerned for Lawyers has been subsumed by TLAP. TLAP is currently funded via a Supreme Court mandatory monetary assessment on each Tennessee lawyer in the annual amount of \$10.00

1 See Tennessee Supreme Court Rule 9. Section 28 authorizes any bar association or other approved entity to establish an impaired lawyers program and to grant the same privileges and immunities to said programs as are given the Supreme Court Board of Professional Responsibility. In certain circumstances relating to work performed for the lawyer assistance programs or committees, Rule 9 also relieves lawyer members, staff and agents of these committees of their ethical duty to report certain misconduct of another lawyer. Tennessee Code Annotated, 23-4-101-105 provides immunity for volunteers and others providing information to the committees in good faith. The sections also provide for confidentiality for communications and actions taken by the committees and volunteers.

2 Rule 33 of the Rules of the Supreme Court of Tennessee.

(approximately \$162,430.00 per year) and employs a full time Director and Assistant Director.

In this evaluation, the evaluators have focused their attention primarily on the Tennessee Lawyers' Assistance Program (TLAP). However, the evaluators recognize, appreciate and commend each and every program and committee's efforts, dedication and record of service to Tennessee lawyers and judges affected by substance abuse, chemical dependency and mental illness. It is the evaluators' hope that all individuals involved recognize that by virtue of the current tough economic times, the scarcity of resources, as well as the need for solid and cohesive approaches regarding the delivery of lawyer and judge assistance services, every assistance program and committee must work together toward their common purpose and continue their fine record of outreach and services to Tennessee lawyers and judges.

Since its inception in 1999, TLAP has been providing confidential, immediate and continuing help to lawyers, judges, bar applicants and law students who suffer from physical or mental disabilities resulting from disease, disorder, trauma, or age that do or could impair their ability to practice or serve. TLAP has three purposes: 1) to protect the interests of clients, litigants and the general public from harm caused by impaired lawyers or judges; 2) to assist impaired members of the legal profession to begin and continue recovery; and 3) to educate the bench and bar to the causes of and remedies for impairments affecting its members. Director, Robert E. Albury, Jr. and Assistant Director, Laura Gatrell perform the day-to-day operations of TLAP. Mr. Albury is a lawyer, a licensed Drug and Alcohol Addiction Counselor (LADAC), and has worked in the treatment and addiction-counseling field for a number of years. Ms. Gatrell holds a masters degree, is a Certified Employee Assistance Professional (CEAP) and has worked in the alcohol and drug-counseling field for over 11 years, including both supervisory and direct services positions. A 15 member Commission, the members of which are appointed by the Tennessee Supreme Court, also supports TLAP in its work. This Commission helps in a variety of ways including, but not limited to, establishing and advising as to TLAP policy and procedures, supervising and providing assistance and support for the TLAP staff, and providing reports and updates to the Tennessee Supreme Court on a regular basis. TLAP is further supported in its statewide outreach efforts through a network of volunteers and supporters of approximately 266 lawyers, judges, law students and healthcare practitioners.

Within the dictates of its confidentiality provisions, TLAP maintains information concerning inquiries, referrals and outreach to Tennessee lawyers, judges and law students. Since 1999, TLAP has received 790 inquiries and referrals, including the 318 new inquiries and referrals received in 2002. In 2002, mental health issues (including mood disorders of depression and anxiety, Post-Traumatic Stress Disorder, and professional burnout) made up 51% of calls received. Substance abuse relating to alcohol and drugs accounted for 42% of the calls and compulsive behaviors relating to sex, gambling, food, money comprised approximately 5%. 49% of all calls come from the Middle Tennessee area, 28% from East Tennessee and 23 % from West Tennessee. TLAP does not have access to information regarding the Memphis Committee

confidential outreach and referrals, which has its own toll-free number and part-time Director.

23% of all referrals are self-referrals. TLAP receives 76% of its referrals from concerned third parties including the Tennessee disciplinary system. As a result, TLAP's monitoring services are well utilized. In 2002, TLAP had 38 lawyers, judges, bar applicants and law students under monitoring contracts from disciplinary referrals and 26 individuals under monitoring contracts from voluntary referrals. TLAP provides monitoring services for both substance abuse and mental health impairments.

TLAP continues to fulfill its purpose to educate the bench and bar through appearances and presentations at functions and CLE events throughout the year. The *Tennessee Bar Journal* and the Board of Professional Responsibility's *Board Notes* have also generously provided space for advertisements and articles relating to TLAP. TLAP has also made significant progress in its goal of outreach to law students. In joint presentations with the Board of Law Examiners (BLE), TLAP has increased its visibility by making presentations to students at the Nashville School of Law, the University of Tennessee School of Law, the University of Memphis School of Law, and Vanderbilt School of Law. With this increased visibility, publicity and continued outreach efforts by Commission members, volunteers and staff, TLAP has increased utilization of the program by 49% over the previous year as of the end of 2002.

RECOMMENDATIONS based upon THE ABA'S GUIDING PRINCIPLES FOR
LAWYER ASSISTANCE PROGRAMS, THE ABA MODEL LAWYER ASSISTANCE
PROGRAM, and THE PLANNING GUIDE FOR DESIGNING AND IMPLEMENTING
RECOVERY MONITORING PROGRAMS

Recommendation 1: Tennessee Bar Association and Tennessee Supreme Court Funding and Support of Tennessee Lawyers Assistance Program

The ABA's Guiding Principles for Lawyer Assistance Programs (Guiding Principles) #1 states that "a statewide lawyer assistance program should be in place". Rule 1 of the ABA Model Lawyer Assistance Program (Model LAP) further recommends that the state's highest court or the bar association should ensure stable and continual funding, either from dues or assessments of the membership, for such a program.

Lawyers' substance abuse and mental health issues do not constitute popular charitable causes. For this reason, many lawyer assistance programs have had little success in obtaining grants or other charitable contributions for operating expenses. And while Tennessee is facing the same financial difficulties as many other states, the fact remains that the various local and statewide bar associations and the Supreme Court remain the most responsible stable funding sources for a fully functioning statewide

lawyer assistance program. Furthermore, the continued commitment to funding a lawyer assistance program is the strongest indication that the state's highest court and the various bars leadership perceive the issues of attorney impairment and quality of life as important. Throughout the evaluation, it was clear to the evaluators that the members of the local bars, the Tennessee Bar Association and the Supreme Court fully understand this. It was also clear that these individuals further understand that the continued expenditure of such funds is the only expense that directly saves lawyers' lives, careers, families and reputations, and in the process, also protects the public and enhances the profession's standing with the public.

Currently, TLAP reports that it is operating as a state agency within the Administrative Offices of the Tennessee Supreme Court. Funding for TLAP is provided through Supreme Court Rule 33 through which the Board of Professional Responsibility collects and remits to TLAP annually a ten-dollar (\$10.00) annual fee from every attorney. This successful assessment currently funds TLAP with approximately \$162,430.00 annually. TLAP is also authorized to accept gifts and bequests from any source as well as the interest accruing from the investment of the annual TLAP assessment fund. During the fiscal year 2002-2003, TLAP total income from the above referenced sources totaled \$176,124.93. However, TLAP expenditures for the fiscal year 2002-2003 totaled \$217,715.25.

During the evaluation, many discussions centered around the funding and expenditure issue, which admittedly lies at the core of TLAP's ability to provide and expand services. The evaluators were provided a copy of TLAP's 2002-2003 Income and Expenditure Balance Sheet and while it is beyond the scope of the evaluators' responsibility to direct or suggest how a particular program allocates the use of its funds, there were several issues that gave the evaluators cause for concern.

In 2003-2003, TLAP expenses exceeded income in the amount of \$41,590.32. While TLAP was able to cover these additional 2002-2003 expenses by utilizing reserve funds, clearly this is not sustainable fiscal policy. Several discussions with TLAP and other evaluation participants revealed that there may be some corrective action available to TLAP by evaluating expenses related to travel and third party professional and administrative services, negotiating with the Tennessee Bar Association for a reduced or free rental of office space, as well as by evaluating income producing activities allowed through Supreme Court Rule 33, such as charging for monitoring services and pursuing grants and funding from outside sources. All of these are important and valuable suggestions that should be investigated in order to maintain a fiscally responsible TLAP. However, it is the experience of the Commission and reflected in the ABA's Guiding Principles for Lawyer Assistance Programs that while a lawyers' assistance program should do everything in its power to responsibly spend and administer the funds allocated to it, it is of equal and primary importance that the state's highest court or the bar association should support the program's work by ensuring adequate, stable and continued funding. In this way, a lawyers' assistance program can concentrate on its core missions: Outreach to and help for lawyers, judges and law students in crisis; work

related to the protection for clients, public, and the profession; and the education for bench and bar relating to lawyer impairments.

The evaluators were concerned about several other funding issues related to staffing of TLAP. It was clear to the evaluators that everyone participating in the review process thought highly of both TLAP Director Robert Albury and TLAP Assistant Director Laura Gatrell. Starting in 1999, Mr. Albury worked diligently and passionately to make the newly created Tennessee Lawyers Program successful. Ms. Gatrell joined the TLAP staff in 2000 and the outreach and accomplishments of TLAP have continued to be nothing short of remarkable. Since 1999, TLAP has developed a myriad of services, including but not limited to: administering and directing services to lawyers, judges and law students in crisis; educating bench and bar regarding lawyer impairments and the services of TLAP; standardizing protocols, policies and procedures; developing and maintaining relationships with the Tennessee Board of Professional Responsibility, the Board of Law Examiners, the Tennessee law schools, and local and statewide bar associations; recruiting, training and utilizing a statewide network of volunteers; establishing and maintaining a statewide network of community and professional resources; and establishing and maintaining an attorney monitoring program. At the end of fiscal year 2002, utilization of the program had increased 49% over the previous year. The evaluators and Commission congratulate both Mr. Albury's and Ms. Gatrell on their dedication, hard work and accomplishments.

The evaluators and Commission recommend an immediate performance, salary and benefits review related to the TLAP Assistant Director. Mrs. Gatrell brings a wealth of training and experience to TLAP and everyone interviewed was extremely complementary of her work and performance. She has been employed by TLAP for three years and has never received a salary review or performance review. She holds a Master's Degree and is a Certified Employee Assistance Professional. She has worked in the alcohol and drug field as a counselor, trainer and educator for over 11 years. She has 20 years of public speaking experience and has served on a number of local nonprofit boards including, but not limited to, the Employee Assistance Professional Association (EAPA) Executive Council, the Middle Tennessee Alcohol and Drug Council's Board of Directors, the United Way Executive Committee of Sumner County, and the Nashville Prevention Partnership. Her TLAP duties include answering the 24-hour TLAP hotline; assisting lawyers, judges and law students with consultation, assessment, motivational interviewing, referral and follow-up support; development and delivery of presentations to bench and bar; development and maintenance of resource and referral sources; recruitment and training of volunteers, development and organization of women lawyer support services; oversight of the TLAP monitoring program, including database management, contracts, drug screen components, volunteer assignments and file management; development and editing of print and media materials; and assisting with all administrative duties for the TLAP team.

The evaluators were also concerned that Mr. Albury and Mrs. Gatrell are without full-time or even part-time administrative support. This absence of administrative support often results in Mrs. Gatrell and Mr. Albury taking time from their duties to

provide administrative services for the TLAP team. While both individuals have provided these services when needed, it is the evaluators' opinion that this is not an efficient use of Mrs. Gatrell's or Mr. Albury's education, experience and training. The Commission therefore recommends that TLAP consider allocating funds for the recruitment, training and employment of either a part-time or full-time administrative assistant.

It is further recommended that funds be immediately provided for additional training for TLAP staff relating to mental health disorders. TLAP statistics for 2002-2003 show that the majority of the calls to TLAP now involve issues and crisis related to mental health disorders. It is clear that both Mr. Albury and Mrs. Gatrell have exceptional training, education and experience and while the Commission recognizes and applauds this expertise, it also recognizes that even the experts must develop and improve their skills as the system within which they operate demands more of them. As the demand for services related to mental health issues increases, there can be no argument that additional training relating to the identification, referral and treatment for mental health disorders would result in superior mental health outreach and services. It is the opinion of this Commission that this additional training and education are vital to support TLAP's work. It is therefore recommended that TLAP staff consider pursuing additional formal certification, study or specialized training regarding the identification of and treatment opportunities for mental health disorders, including the study of the full range of impairments or conditions that might adversely affect a legal professional's quality of life or practice.

In light of these discussions regarding the Tennessee Lawyers Assistance Program funding and staffing issues, the Commission suggests to the Supreme Court of Tennessee that it reconsider the amount of funding necessary for the continued and expanded services provided by the Tennessee Lawyers Assistance Program, and that further, the Supreme Court consider an increase of the current annual assessment from \$10.00 per licensed lawyer to approximately \$20.00 per licensed lawyer. The Commission bases this recommendation on the above referenced comments and on the experience of successful lawyer assistance programs of similar size spending approximately \$20.00 per member of the Bar.

In considering LAP funding, the evaluators are confident that the State Bar and Supreme Court know that the monies and other financial support allocated to TLAP do not simply represent a charitable undertaking. Putting aside the emotional suffering caused by an impaired attorney, the fiscal savings to the Client Compensation Fund realized by attorneys who do not invade their trust account or commit malpractice has been clearly demonstrated.³ Likewise, given the statistics generated by disciplinary agencies throughout the United States regarding the relationship of attorney discipline cases to impairment, the funding and other support provided by the State Bar and Supreme Court to support a comprehensive lawyer assistance program (whose mission is to identify impaired attorneys before they come to the attention of the disciplinary

3. Study performed by the Oregon Attorney Assistance Program and the Oregon State Bar Professional Liability Fund, 2001.

department) can result in dramatic savings in malpractice premiums, disciplinary costs, and related expenses.⁴ Finally, every attorney or judge who does not appear on the front page of a newspaper helps to stem the tide of negative public perception of the legal profession. While it is impossible to prove a negative, there can be no argument that every successful TLAP intervention represents an avoidance of further human tragedy, a savings of money, protection to the public, and a respite from negative public opinion.

Recommendation 2: Confidentiality and Immunity Protections

Guiding Principle 2 states that, “the confidentiality of those who seek and provide help must be maintained through a rule of court or a legislative act.” Rule 9A of the Model LAP states that “the state’s highest court should provide that any person seeking assistance from the LAP will be guaranteed confidentiality as to all communications directed to LAP staff, volunteer counselors and persons providing information or other assistance.” The commentary to Rule 9A adds that “experience demonstrates that fear of disclosure keeps many from seeking help from court and bar related agencies.”

Confidentiality and immunity related to the communications and actions of all lawyer assistance programs are provided through the Tennessee Rules of Court, Rule 9, Sections 27 and 28 and through the Tennessee Code Annotated, Title 23, Chapter 4, Sections 101-105. Confidentiality and immunity provisions specific to the Tennessee Lawyer Assistance Program are found in Tennessee Supreme Court Rule 33, and in particular, Rule 33-10 and Rule 33-11.

Tennessee has more than one approved lawyer assistance program in operation throughout the state. The Knoxville and Chattanooga metro bar association-supported programs and the Memphis Shelby County Bar Association Lawyers Concerned for Lawyers Committee (Memphis Committee) are afforded the same confidentiality and immunity protections under Supreme Court Rule 9 and the Tennessee Code Title 23 as is TLAP. The provisions of the Tennessee Supreme Court Rule 33 additionally strengthen TLAP’s confidentiality and immunity protections.

The evaluators were impressed to find a history of protections regarding confidentiality and immunity. Indeed, all participants in the evaluation process clearly understood, supported and respected the need for such protections for TLAP and the other lawyer assistance programs. The evaluators are aware that both the Board of Professional Responsibility and TLAP have worked to jointly recommend consideration of amendments to Sections 4.3 and 25 of Rule, amendments which these parties feel would enhance the efficacy of the TLAP monitoring program when an attorney under a TLAP contract becomes noncompliant. The issue of continued coordination regarding the protection of communications and information demonstrates cooperative willingness and good working relationships between TLAP and discipline. This demonstration of

4. Ibid. Also see Michael A. Bloom & Carol Lynn Wallinger, *Lawyers and Alcoholism: Is It Time For A New Approach?*, 61 Temp. L. Rev. 1409(1988)(noting states’ findings that 50 to 70% disciplinary cases involve alcoholism and that typical attorney before a disciplinary board has problems with alcohol or drugs).

cooperation may also provide the blueprint for continued alliances and productive working relationships between TLAP, discipline, admissions, the Tennessee Bar Association, the metro bar associations, other lawyer assistance programs and the Supreme Court.

Recommendation 3: Strengthen and maintain ties to recovering legal community and outreach to local bar associations

Guiding Principle 5 states that, “Strong working relationships should be maintained between state and local programs and their sponsoring bar organizations.” There is obvious commitment to and support for the variety of lawyer assistance programs throughout Tennessee. This is demonstrated by the number of local outreach programs and for the willingness of local bar associations and bar leadership to participate with and show support for TLAP. It was a testament to this spirit of volunteerism and support that many individuals in leadership roles for the Nashville Bar Association, the Memphis Bar Association, the Tennessee Bar Association and the Tennessee Trial Lawyers Association participated in the TLAP evaluation process. It is commendable that solid working relationships are in place among the variety of local bar associations throughout Tennessee and the Commission recommends that such cooperation and support be nurtured and maintained.

Guiding Principle 4 and Rule 3 of the Model LAP contemplate that a LAP program should develop strong and lasting ties with volunteers within the recovering legal community. The Commentary for Rule 3 of the Model LAP states that “[t]he Commission believes it is important to enlist the aid of as many volunteer lawyers as possible to assist in a variety of functions for the LAP.” Experience has shown the Commission and lawyer assistance programs (LAPs) around the U.S. that the power of identification and bonding between lawyers who may have experienced the same or similar challenges cannot be overemphasized as individuals access LAPs for help. For much the same reasons and as more and more LAP programs provide services relating to mental health disorders, it is critical that the LAPs also develop strong and productive ties with volunteers experiencing recovery from mental health disorders. It is the opinion of this Commission that the recovering legal community, in the form of LAP volunteers, represents the foundation of any successful lawyer assistance program, and it is critical that every segment of this valuable resource be utilized.

The evaluators believe the relationships between TLAP and the lay and legal recovering communities within Tennessee are very strong. TLAP has developed a network of volunteers of approximately 266 lawyers, judges, law students and health care practitioners. TLAP also counts its Commission members as strong and vital supporters and volunteers. Additionally, TLAP has developed numerous relationships with volunteers from different areas of the state. TLAP continues to support its volunteers through specialized volunteer training, Step Study Retreat, and the development of a Volunteer Recruitment and Training Manual. TLAP is also studying particular outreach protocols for working with lawyers with mental health disorders and the possibility of

development of Regional Assistance Monitoring Teams wherein select volunteers would work with TLAP staff to provide regional services and recruit and train new volunteers.

The Commission applauds TLAP for its work with volunteers and strongly encourages TLAP to continue to develop, maintain and utilize this valuable volunteer base. In addition to the one-on-one support and peer assistance that volunteers provide, utilization of volunteers for a variety of activities, including presentations, program outreach and staffing the local alcohol and mental health support groups, would help spread services judiciously throughout the east, middle and western regions of the state, reduce TLAP's significant travel expenses, and economically and efficiently utilize the talents, expertise and energy of the TLAP staff. The Commission also strongly encourages TLAP to maintain and continue to develop connections with volunteers in the Memphis area while working to support the efforts of its sister organization, the Memphis Lawyers Concerned for Lawyers Committee.

Recommendation 4: Services provided

Rule 5 of the Model LAP suggests that programs “provide immediate and continuing help at no cost to lawyers and judges who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice and to plan and present educational programs to increase the awareness and understanding of members of the bench and bar about problems of impairment, to enable members of our profession to recognize the problem in themselves and in their colleagues; to identify the problems correctly; to reduce stigma and to understand appropriate ways of interacting with affected individuals.”

TLAP is committed to rendering confidential immediate help to lawyers, judges, bar applicants and law students who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice or serve. TLAP has evidenced its commitment to this broad-brush approach by including outreach, services, and education for a variety of conditions such as substance abuse, chemical dependency, and mental health disorders including clinical depression, anxiety, certain compulsive disorders, and post-traumatic stress. TLAP has identified quality medical and clinical resources for support and referral throughout Tennessee and the United States and has developed a monitoring program responsible to both chemical dependency and mental health issues. TLAP has also developed several educational outreach pieces to assist in increasing the awareness and understanding of attorney impairment within the bench and bar and has developed presentations in conjunction with the Tennessee Board of Law Examiners for law students at the four Tennessee law schools. Continued and consistent development of these services should serve to raise consciousness about impairments among the entire bench, bar, and law school community. TLAP's plans for the future are related primarily to its broad-brush focus. These goals are both admirable and attainable and accordingly, the Commission supports TLAP in developing outreach related to lawyers suffering from depression and other mental health disorders, expanding its lawyer support groups into East Tennessee, building upon its successful Nashville

Women's Support Group and improving other family, minority and women outreach and support networks throughout the state, and developing its volunteer network through recruitment and training especially related to volunteers willing to help with lawyers affected by mental health disorders, gambling, sex addiction, eating disorders, aging and quality of life issues.

Recommendation 5: Relationships with Discipline, Admission and Law Schools

Guiding Principle 6 states, "A program for monitoring attorneys who have been brought to the attention of the disciplinary system as a result of an impairment problem should be maintained with the appropriate disciplinary agency." Principle 7 states, "Impairment programs and disciplinary agencies should establish and maintain a system for the referral of lawyers with impairment problems to the assistance program." The commentary to Rule 6B of the Model LAP states that "[d]isciplinary agencies frequently receive complaints that may be the result of impairment problems. With a proper referral mechanism in place, many lawyers may be assisted before the need for disciplinary enforcement is necessary." Model LAP Rule 7 suggests that the LAP maintain a list of specialized monitors and maintain a case management file system on each lawyer/judge being monitored (subject to Rule 8 regarding records) that should include: the monitoring agreement; medical assessments, monitor's reports, drug screen results, periodic LAP evaluations, notes, correspondence, etc.

TLAP is fortunate to have established and maintained a good working relationship with the Tennessee Board of Professional Responsibility (the Board). The Board has been an active and consistent supporter of TLAP and has demonstrated this in a number of ways, including but not limited to, the development of referral and monitoring programs, fund raising assistance, and media exposure through its publication *Board Notes*. Indeed, the efficacy of the referral process, diversion and monitoring programs that have been developed appear to exist within a working relationship that is understanding, respectful and mindful of the independent and confidential functions of the two entities. To this end, TLAP and the Board have also worked together on a number of issues, the most recent being a proposal supported by the Board and the TLAP Commission for amendments to Supreme Court Rule 9, Section 25 that allow for formal referrals to TLAP under certain circumstances, and amendments to Rule 9, Section 4.3 that provide for consequences and information exchange when a monitored lawyer fails to comply with his or her monitoring contract. The Commission recommends that the Supreme Court consider these joint recommendations and rule amendments.

The Commission offers one prospective cautionary note: Cooperation is commendable, responsible and productive. But it is vitally important to remember that TLAP must continue to pledge and maintain the confidentiality of its voluntary participants. Efforts must be employed, however, to maintain actual, as well as the appearance of, confidentiality of information and independence from other entities.

TLAP's relationship with the Tennessee Board of Law Examiners (BLE) is also quite strong. Currently, Tennessee has an established program for the evaluation and treatment of bar applicants who display a past or present history of substance abuse or present criminal justice issues related to addiction or psychological problems. Within this current system, the services of TLAP are well utilized. While Tennessee does not have a process for conditional admission, the well-established relationship and connections maintained with TLAP may become invaluable in the event Tennessee moves forward with such an option. For instance, in jurisdictions permitting conditional admission, the lawyers' assistance monitoring program often becomes invaluable. Applicants who might not otherwise have the opportunity to practice are admitted with proper safeguards, including a period of monitoring and reporting through the lawyer assistance program, thereby allowing the applicants to become productive members of the legal profession while protecting the public at the same time. Marlene Eskind-Moses, President of the Board of Law Examiners, was pleased to know that TLAP could be of great service to Admissions in this regard and if conditional admittance moves forward in Tennessee, she was optimistic about utilizing TLAP and the resources of the ABA Commission in developing a monitoring program for conditional admittees. It is therefore the recommendation of this Commission that TLAP continue to work with the BLE and, if requested, help in developing rules, procedures, confidentiality protections, monitoring programs and other appropriate services in support of the BLE's work.

The Report of the American Association of Law Schools Special Committee on Problems of Substance Abuse in the Law Schools (Journal of Legal Education, Vol. 44, No. 1 (March 1994), demonstrates that the problem of substance abuse in the law schools is real, prevalent, and often inadequately addressed in many jurisdictions. In response, representatives from the BLE and TLAP have worked together to develop and provide educational outreach to the four Tennessee law schools. This has been an effective mechanism for both the BLE and TLAP to be able to address those issues of mutual concern: character and fitness to practice law issues and the possible impact of a variety of impairments. The Commission applauds this combination of effort, support and resources and additionally urges TLAP to independently access the law schools in order to promote its services to both students and law faculty. Discussions held during this evaluation helped to identify some additional methods of educational outreach to the law schools, including, but not limited to, developing and offering presentations at first year orientation, ethics and professional responsibility classes; email notices; participation in the litigation and family practice clinics; participation in faculty orientation, and faculty retreats and related dean and faculty ongoing education. These and other avenues may provide a myriad of opportunities for TLAP to provide education relating to prevention, self-care and early intervention. It is therefore the recommendation of this Commission that TLAP continue to develop and maintain a good working and professional relationship with the Dean of each law school in order to provide professional and quality educational outreach to Tennessee law students and faculty on the issues of impairment, quality of life, healthy legal practices and the services and assistance uniquely provided by TLAP.

Recommendation 6: Additional Educational outreach and marketing

Rule 1(3) of the Model LAP recommends that the lawyer assistance program be the primary agency in educating the bench and bar regarding the causes of and treatment for attorney impairment. Model LAP Rule 5(2) also directs the LAP to “plan and present educational programs to increase the awareness and understanding of members of the bench and bar about problems of impairment”. This educational element of the program should be strongly supported in order to inform the public, the judiciary, bar association members, law students, and the disciplinary agencies of the help that is available for those in need through TLAP.

TLAP appears to be well aware of the power of educational outreach and marketing. Since 1999, TLAP staff, volunteers and Commission members have developed and presented a number of continuing legal educational (CLE) events for lawyers, law students, the judiciary and others. TLAP has developed and maintained a good working relationship with a variety of CLE hosts and has been able to acquire both participatory and ethics credit for its presentations and perhaps just as importantly, good reviews. Advertisements and articles in the *Tennessee Bar Journal* and the Board of Professional Responsibility’s *Board Notes*, as well as the development and utilization of a TLAP website, have all contributed to the educational outreach of and the resulting utilization of, the program. TLAP is continuing its development of this fine record of outreach by hosting the first annual TLAP-CLE workshop in November 2002 and by planning an upcoming event focusing on impairment issues of primary concern to The Board of Professional Responsibility and Discipline. The Commission acknowledges, supports and recommends the continuation of such efforts.

The Commission also recommends that TLAP begin to develop and make available specialized CLE and educational materials and outreach to the Tennessee judiciary. It has been the Commission’s experience that judges may be reluctant to report lawyers whose conduct or behavior is less than professional and which may be influenced by an impairment. Judges may also be reluctant to seek help for themselves or other judges. Nonetheless, it is crucial to develop presentations and educational material and outreach that are sensitive to these issues but at the same time responsive to the problem. “Substance Abuse and Ethics: A Judicial Duty to Respond,” is a model lesson plan created by the American Bar Association’s Standing Committee on Substance Abuse and the Commission on Lawyer Assistance Programs that may be of assistance in developing these materials and outreach.

Recommendation 7: Promote Diversity

In keeping with the ABA goal of promoting full and equal participation in the legal profession by minorities and women, the TLAP staff should continue to make every effort to provide outreach and services to all minorities. The success of the Nashville Women Lawyers Support Group and the high self-referral rate of women lawyers to the

TLAP program are indications that outreach to women and other minority lawyers can be successful. This success can be replicated in all areas of Tennessee.

Conclusion

The evaluators were extremely impressed with the Tennessee Lawyers Assistance Program and were further impressed with the reception, graciousness, and cooperation they received from the statewide and local Tennessee bar associations, the Tennessee Board of Professional Responsibility, the Tennessee Board of Law Examiners, Tennessee Bar Commissioners, the law school deans, the Tennessee Supreme Court, as well as the members of the TLAP Commission and other volunteers and interested parties. All individuals consulted during this evaluation expressed a strong vocal commitment to, and support of the Tennessee Lawyers Assistance Program. Every participant seem to be dedicated to development and maintenance of an open communication system and it was the evaluators' perception that those individuals are fully prepared to assist TLAP in its life-saving and life-enhancing mission. With this continued and valuable support, TLAP is poised to accomplish the tasks facing it in the future, including expanded efforts at identifying and intervening on impaired attorneys, judges and law students throughout the state, as well as educating the bench and bar and others on how to deal with these serious and life-threatening conditions that affect the legal community.

The ABA Commission stands ready to assist the Tennessee Bar Association, the Tennessee Supreme Court and TLAP in this effort. Based on the collective experience of the evaluators, it seems clear that all parties are doing excellent work, although some changes may serve to enhance the quality of the program and to meet the demands in the future. TLAP's commitment and enthusiasm, as seen in the meetings with all individuals interviewed, bode well for the future of TLAP.

The ABA Commission and the members of the appointed review team are available to answer questions, to provide further explanation of this report and its recommendations, and to be of assistance to the Tennessee Lawyers Assistance Program and the Tennessee Supreme Court and other concerned individuals.

Respectfully Submitted,

John W. Clark, Jr.
Chair, ABA Commission on Lawyer Assistance Programs

Approved by said Commission on _____, 2003.

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EXHIBIT F



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ELIZABETH A. SYKES
Director

TIM D. TOWNSEND
Deputy Director

MEMORANDUM

TO: Members of the Supreme Court

FROM: Libby Sykes

DATE: December 7, 2006

RE: State Agency Integration Assessment Report



During your October business meeting the Court requested that the AOC assess the integration of our state agencies into the state government process. The state agencies (BPR, CLE, BLE and TLAP) were brought into the state system July 1, 2002. After several planning meetings and significant effort by all parties, the agencies successfully transitioned into “state agency” status, following state requirements and guidelines. The AOC continued to work with the groups, focusing specifically on the fiscal, personnel and technology issues they faced in day-to-day operations. Based on the Court’s direction at that time, we did not provide oversight or auditing for these agencies.

Over the past few years, the agencies have continued to function in the “state agency” status for the most part. Each agency has its strengths and challenges and we continue to work with them on areas that need improvement. In each case, the directors of the agencies have been congenial and supportive of what we, the AOC, have asked them to do whether it directly benefited them or not. In retrospect, great strides have been made and this relationship is working well.

Pursuant to the Court's request, AOC staff scheduled site visits and met with the directors of each agency during the month of November to assess the past and consider the future. The following areas were discussed:

1. Overall Agency Review—Missions and goals, monitoring successes and failures, constituent services, staff changes, anticipated growth and expansions in programs or staff;
2. Human Resources—Personnel files, leave policy, recruitment and interviewing, harassment training, job descriptions and evaluations;
3. Fiscal Services—Budgeting process and hearings, travel policy and compliance, out-of-state travel, travel by commission members, purchasing, contracts; and
4. Computer/Technology—Software needs, licenses' verification, specific agency application software, hardware inventory, replacement cycle, support staff, support contracts, disaster recovery plans, and web presence.

Enclosed are reports on the agencies based upon information garnered through interviews with the directors and their staff, which concentrate on the areas outlined above. Following each assessment are recommendations made by AOC staff for the Court's consideration. **The AOC staff members conducting these assessments were not experienced program evaluators and did not delve into the inner workings of the agencies. The short time frame given to complete the report and the lack of in-depth knowledge of the policies and duties for these specific agencies precluded a programmatic review.** It is recommended that professional evaluators be utilized should the Court desire a more detailed, in-depth evaluation of the programs and delivery of services by the agencies.

Following each assessment are recommendations made by AOC staff for the Court's consideration.

Tennessee Lawyers' Assistance Program

Agency Review

The Tennessee Lawyers' Assistance Program (TLAP), established pursuant to Rule 33 of the Rules of the Supreme Court of Tennessee in January, 1999, provides immediate and continuing help to lawyers, judges, bar applicants, law students and their families who suffer from physical or mental disabilities resulting from disease, disorder, trauma or age that impair their ability to practice or serve.

TLAP has three main purposes:

1. To protect the interests of clients, litigants and the general public from harm caused by impaired members of the legal profession;
2. To assist impaired members of the legal profession to begin and continue recovery; and
3. To educate the bench and bar on the causes of and remedies for impairments affecting members of the legal profession.

TLAP is the newest agency. This group came on board shortly before the decision was made for our agencies to integrate. TLAP always welcomed and relied on the AOC for its administrative support. As you recall, we recently had to counsel the agency about the ex-director's expenditures. Since then, the agency appears to have a better awareness of proper spending.

TLAP keeps statistics on all referrals: referral type, problem type, age, gender, marital status, region and practice type. It also tracks the referral source. Every year TLAP compiles data and submits a report to the Court. TLAP strives to increase the number of referrals from women, law students, certain regions of the state, etc., as well as to increase the number of referrals received about mental health and life/balance issues such as depression, stress and burnout.

TLAP also reports the total number of referrals received every year, number of successful graduates, number of referrals from disciplinary bodies, referrals to treatment, etc. TLAP does not measure recidivism at this time (would these be successes or failures?). TLAP is developing an exit interview process to review client satisfaction with its services.

TLAP is in constant communication with their disciplinary referral bodies, such as the Board of Professional Responsibility, the Board of Law Examiners and the Court of the Judiciary. TLAP participates in meetings and forums that include key members of the legal community, bar leaders, judges, CLE organizers, and elected officials. The director also meets with other professional peer assistance programs to ensure TLAP's services match or exceed services being offered to the other professionals in our state.

Complaints on staff or the program would be forwarded to a TLAP commission member. Internal issues would be processed through the AOC's HR Department.

TLAP has had over 200 clients enter into monitoring agreements since its inception in 1999. Currently, TLAP has 72 monitoring clients in good standing. Recently, 48 clients successfully completed their monitoring term. Since January, TLAP has had over 100 calls and inquiries about new cases, and typically it averages 10-12 new calls a month. This year alone, TLAP volunteers and staff presented educational workshops and seminars to over 4000 members of the legal profession and community. TLAP has 64 trained RAM Team members who serve as volunteer counselors and peer monitors throughout the state, and over 150 other volunteers that are utilized regularly.

TLAP has added one full-time staff member since integration. The director is evaluating the potential addition of a part-time crisis counselor to answer a TLAP hotline.

TLAP will be able to access its server from home computers once connected to the state WAN. Both the TLAP director and assistant director have phone/PDA systems that include pertinent phone numbers and contact information. TLAP has a Severe Weather Alert radio in the office. A back-up disc of client data will be provided monthly to the AOC technical department. All of TLAP's clients and drug screening participants are in a web-based program based out of Virginia, and its system is safely backed up in the event of disaster. Additional discussions will be held regarding a continuity plan.

Fiscal Services

Due to the nature of its mission, it has been hard to establish what the "norm" should be for TLAP's expenditures. For example, it should be determined how often it is appropriate to meet with clients over meals at TLAP's expense. The lack of parameters helped contribute to the questionable spending habits of the former executive director. It is recommended that the board help establish appropriate parameters.

The agency is complying with the per diems set forth in the Judicial Travel Regulations. It is recommended that it establish a policy regarding how many commission members should travel to out-of-state conferences each year. The agency was informed that judges are only allowed to attend one out-of-state conference every three years. It is recommended that TLAP utilize the AOC's out-of-state travel authorization form to document that out-of-state travel was pre-approved. It was also reiterated that the board chairman or treasurer should approve the agency director's personal expense reports.

The agency is versed in the budget process and was made aware of purchasing requirements. Rarely will it have a need to issue purchase orders, but the AOC is available to issue purchase orders when necessary.

No contract issues were noted.

Human Resources

The personnel and payroll functions are all handled by the AOC. The agency does not maintain personnel files on employees.

All leave and attendance rules are being followed. Leave reports are sent to the AOC monthly.

The agency staff were provided handbooks and trained on state benefits and workplace harassment.

TLAP has supplied AOC copies of staff job descriptions.

We recommend that an employee evaluation system be developed. Evaluation forms have been provided by the AOC.

Computer/Technology

In reviewing the TLAP's current technology position and possible future needs, we found the following:

No software licensing issues were found. Computers are appropriately affixed with state asset tags and are current models, which were purchased with AOC assistance through the statewide contract.

This office fully depends on the AOC Technology Division for its support and service needs. There are no existing support contracts or external consultants involved.

All staff have signed and forwarded signed copies of the Policy Regarding the Use of State Owned Computers to the AOC.

There is no disaster recovery plan in place; however, the director has agreed to begin rotating backup tapes with this office for off-site storage.

TLAP currently accesses the Internet via a BellSouth DSL connection paid for by the AOC.

TLAP has a web page which is hosted by an outside firm and maintained by the AOC, as necessary. It has yet to be verified, but it is believed that the Tennessee Bar Association is paying the hosting fees.

Future Technology Needs

Because this agency will soon be attached to the State's WAN, their MS Outlook will be replaced by GroupWise. The staff will need training on basic GroupWise use, and the calendar function is of particular interest.

Once the WAN connection is in place, the agency's LAN switch will need to be replaced.

Recommendations

In addition to rotating its backup tapes to an off-site storage area, TLAP should develop a full disaster recovery plan that is commensurate with the sensitivity of its data and that ensures it can function in a timely manner in the event of a disaster.

We recommend that an employee evaluation system be developed utilizing the forms provided by the AOC.

Further, it is recommended that the board establish appropriate parameters for individual expenses pertaining to office purchases and reimbursements for meals. A policy to address out-of-state travel by board members is needed.