



2004
Annual Report
Tennessee Lawyer Assistance Program

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INTRODUCTION

The Tennessee Lawyer 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 Court, pursuant to Tenn. S. Ct. R. 33.02, for the purpose of reporting the activities and accomplishments of TLAP during 2004.

I. **STATISTICAL DATA FOR 2004**

TLAP maintains information concerning inquiries and referrals by individuals about possible impairments and the availability of services. Referrals of attorneys to TLAP for TLAP's services typically come from the affected individual, concerned third parties, or disciplinary authorities.

TLAP received 162 new inquiries and referrals in 2004, bringing the total to 1170 since TLAP's inception in 1999. This figure does not include calls from existing clients, volunteers, previous referrals, or requests for speaking engagements. Fifty percent of the calls concerned substance abuse (i.e., alcohol and/or drug problems). Another 30% of the calls concerned mental health issues (i.e. depressive/anxiety disorders, post traumatic stress, professional burnout). Nineteen % of the calls concerned compulsive behaviors (i.e., sex, gambling, spending, eating, codependency). The remaining 1% of the calls were for other physical disabilities (i.e., dementia, stroke).

TLAP receives 51% of its referrals from concerned third parties such as family members, friends, colleagues and co-workers. Self referrals account for 22% of the inquiries to TLAP. Disciplinary bodies were the source of 27% of the referrals.

TLAP tracks the source of the inquiries and referrals based on geographical regions. Middle Tennessee accounted for 42% of the contacts made. Calls from East Tennessee accounted for 23% of the inquiries and referrals. The West Tennessee area accounted for 35% of the calls, but it should be noted that the statistics maintained by TLAP do not include referrals made directly to the Memphis Bar Association's Lawyers Helping Lawyers ("LHL") program which -- until the end of 2004 -- had its own toll-free number and part-time Director.

During 2004, TLAP has had a total of 127 lawyers, judges, bar applicants, and law students under monitoring contracts; 96 of whom are currently active and compliant. Of those, 70% were disciplinary referrals and 30% were voluntary. In

2004, six (6) clients successfully completed their contract compliance term. Thirty-two (32) new contracts were signed in 2004, ten (10) of which were law students or Board of Law Examiners ("BLE") referrals.

Other statistics of interest for 2004: 24% of referrals were female; 5% were non-Caucasian. TLAP participated in a total of thirty-one (31) formal interventions, resulting in the admission of twenty-six (26) individuals for detoxification and/or mental health evaluation.

II. **TLAP OFFICE SPACE AND STAFF**

In August of 2003 the American Bar Association's ("ABA") Commission on Lawyer Assistance Programs ("Co-LAP") conducted a comprehensive evaluation of TLAP at the invitation of the TLAP Commission. The results of that Evaluation were presented to the Court. As recommended in the ABA evaluation, the Court increased TLAP's stable source of funding. This enabled TLAP to initiate other significant recommended changes, including moving from Tennessee Bar Association ("TBA") office space into its own office space and hiring a Program Coordinator to assist TLAP's Director and Assistant Director with office management and administrative functions.

III. **RAM TEAMS/VOLUNTEER RECRUITMENT & TRAINING MANUAL**

RAM (Regional Assistance and Monitoring Teams) were appointed and trained statewide during 2004. The purpose of the teams is to provide additional resources to TLAP's Commission and staff to enable them to better serve TLAP's client base, as well as to systematically recruit and train new volunteers. For RAM team purposes, the State has been divided into eight (8) regions. Six to eight committed TLAP volunteers in each region, including a designated healthcare consultant, have been identified, appointed, and trained as members of TLAP's RAM Teams. These teams will be under the direct supervision of TLAP's Director. The utilization of RAM Teams will allow TLAP's staff to effectively coordinate its efforts and insure TLAP's accountability and compliance with Tennessee Supreme Court Rule 33, corresponding legislation, TLAP policies, procedures, and protocols.

The focus of the TLAP Commission's 2005 Annual working retreat and strategic planning conference, to be held in January, will be continued RAM Team development and effective utilization of their volunteer services.

IV.

FINANCIAL

TLAP has been integrated into the Judicial Branch of State Government and operates as a state agency within the Administrative Offices of the Tennessee Supreme Court ("AOC"). TLAP operates on a fiscal year commencing July 1 and ending June 30. Expense Appropriations for the 2004-2005 fiscal year, pursuant to the AOC's Budget, are \$319,000.00. These 2004-2005 expenditures are projections based upon TLAP's move into new office space and the addition of new staff personnel. The 2004-2005 Revenue projections from lawyers' yearly assessment remains \$340,000.00. This figure reflects the Supreme Court's December 2, 2003, Order increasing each lawyer's assessment from \$10 to \$20 per year effective January 1, 2004. This increase has provided TLAP with an adequate and stable source of funding to meet operating expenses and growth.

As of December 31, 2004, TLAP's reserve fund balance is \$96,957.78. (Note: This balance does not reflect the 2004 invoice for office furnishings in the amount of \$13,835.02, paid in January 2005.)

Copies of TLAP's Financial Statements, prepared with information provided by the Board of Professional Responsibility ("BPR") and AOC, are attached as Exhibit "A."

V. **UPDATES FROM 2004**

The TBA hosted TLAP's initial web site; however, TLAP is in the process of developing its own web site, which should be operational in early 2005.

New educational brochures have been created.

In 2002, a Petition for Rule Changes was jointly submitted to the Court by the BPR with the unanimous support of both the BPR and TLAP Commission. By Order, dated November 2, 2004, the Court adopted the proposed changes to Tennessee Supreme Court Rule 9. The changes provide for summary suspension pursuant to Section 4.3 for non-compliance with a TLAP Monitoring/Advocacy Agreement and exempt TLAP from the BPR's Section 25.7 confidentiality requirements. These changes were requested to improve the effectiveness of TLAP monitoring services as a diversionary program, add weight and depth to the monitoring agreement as an intervention tool, and remove TLAP from the role of complainant in BPR proceedings. The Court, in amending Rule 9, also expanded the scope of confidentiality pertaining to disability inactive status.

In September 2004, an Order was also entered by the Court at the request of the BLE amending Rule 7, Article XII, Section 12.11 to exempt TLAP from the BLE's confidentiality requirements.

Annual presentations, including joint presentations by TLAP and BLE are now being made by TLAP at all of the law schools.

TLAP established a suicide task force in the fall of 2004 following suicides by two female lawyers in July of 2004 and an unsuccessful attempt by a third person shortly thereafter. With task force assistance, the Tennessee Judicial Conference Bench Bar Committee is making arrangements for a three (3) hour Continuing Legal Education ("CLE") presentation on mental health and suicide at the 2005 Tennessee Judicial Conference. The presentation will include keynote speaker Gary Bakke, a suicide survivor and former President of the Wisconsin Bar Association. In addition, task force members have had two articles published in the Nashville Bar Journal, and TLAP's next article in the BPR's "Board Notes" will focus on suicide awareness and TLAP assistance.

TLAP and its Region 1 RAM Team have assumed a greater role in providing services to Shelby County, due to the recent resignation of the Memphis Bar Association's (MBA) LHL part-time Director. TLAP Commission member, Dr. Kent Cox, has assumed responsibility for facilitating the weekly Memphis Lawyers in Recovery ("LIR") support group.

Also, in that regard, TLAP worked closely this year with the MBA's LHL Committee in putting on the "John Dice Seminar," which for years has been a popular CLE opportunity for educating the Shelby County Bench and Bar about substance abuse, mental health, and quality of life issues in the legal profession.

TLAP added a new LIR support group in Chattanooga. There are now regular LIR support groups meetings in Memphis, Jackson, Nashville, Columbia, Knoxville, and Chattanooga.

In 2004, TLAP Commission Chair, Stephenson Todd, was appointed to the ABA Commission on Lawyer Assistance Programs (Co-LAP). He will chair the Co-LAP Annual Conference to be held in Charleston, South Carolina November 8-11, 2005. TLAP Commission member, Hon. Robert "Butch" Childers, was appointed to the ABA Co-LAP Advisory Committee and remains Chair of the ABA Co-LAP Law School Outreach Committee. TLAP Assistant Director, Laura Gatrell, was appointed to the 2005 ABA Co-LAP Annual Conference Planning Committee. TLAP Executive Director, Robert Albury, and BPR Deputy Chief Disciplinary Counsel, Laura Chastain, have been invited to present at the 2005 ABA Co-LAP

Annual Conference on “Relationships between LAPs and Discipline.”

TLAP’s Monitoring/Advocacy Program is a service that has enabled TLAP to advocate for a number of lawyers, judges, bar applicants, and law students in helping to resolve legal, disciplinary, and employment issues where a treatable condition or disability is a mitigating circumstance in the disruptive behavior. TLAP’s Monitoring/Advocacy Program is commonly utilized by TLAP clients and their healthcare providers as a continuing care resource to provide peer support, structure, and accountability in the clients' personal program of recovery. The law schools, courts, and boards are also embracing TLAP’s monitoring/advocacy services as a probationary or provisional condition of disciplinary actions and most recently, due to ABA Formal Ethics Opinions 03-429 and 431, law firms have begun utilizing TLAP’s monitoring/advocacy services in addressing the reporting and supervision standards set forth therein.

VI. **2005 GOALS**

The focus of TLAP in 2005 will remain on effective utilization of RAM Teams and volunteer counselor recruitment and training. (See Tennessee Supreme Court Rule 33.04.)

TLAP continues to explore the possibility of obtaining the initial funding for TLAP’s Revolving Loan Fund from the Tennessee Commission on Continuing Legal Education and Specialization. (See Tennessee Supreme Court Rule 33.09).

TLAP has offered to assist the MBA’s LHL Committee in expanding the “John Dice Seminar” into a statewide CLE opportunity.

The Commission has considered requesting that the Supreme Court educate the Bench and Bar through minimum mandatory CLE requirements in areas of substance abuse and/or mental health issues as has been done in a number of other states. (See Tennessee Supreme Court Rule 33.01 (B)(3).)

As a result of TLAP’s expanding relationship with the law schools and the BLE, the Commission has discussed with the BLE options for conditional admission and monitoring as has been done in a number of other states. (See Tennessee Supreme Court Rule 33.07).

Due to an increase in referrals regarding disruptive behavior and anger management issues, TLAP staff will be receiving anger management education and training beginning in February 2005 and is considering the possibility of

offering a series of anger management courses, to include mandatory referrals from judges, law firms, law schools, and disciplinary bodies.

Continuing goals that carry over from prior years include expanding the number of lawyer support groups in Tennessee, developing more diverse and effective peer support networks, improving family support networks, enlarging current outreach programs to women and minority members of the Bar, developing outreach to members of the bar suffering from depression and other mental health illnesses, introducing law firms to the ABA's Model Law Firm/Legal Department Personnel Impairment Policy and Guidelines, instituting a TLAP Newsletter, continuing efforts to develop referral relationships and protocols with the Court of the Judiciary and Board of Law Examiners, and continuing efforts to educate the Bench and Bar regarding TLAP, its mission, and its services.

VII. **COMMISSION AND PERSONNEL**

In June 2004, Dr. Kent Cox of Memphis, TN, was appointed to complete an abbreviated term following the vacancy created by the resignation of Dr. John McCoy, whose term expired June 1, 2005. It should be noted that the terms of existing Commission Members Stephenson Todd (Chair) of Kingsport, Larry Butler of Jackson, Hon. William Cain of Nashville, Hon. Seth Norman of Nashville, Skip Riley of Dyersburg and Teresa Jones of Memphis will expire on June 1, 2005, pursuant to Tennessee Supreme Court Rule 33.02 (C). Each as served at least two (2) consecutive, three (3) year terms.

Robert E. Albury, Jr., JD, LADAC continues as TLAP's Executive Director with Laura

Gatrell, MA, LEAP continuing as Assistant Director. It should be noted that Ms. Gatrell received her License as a Tennessee Employee Assistance Professional this year. Marie Langford was hired April 1, 2004, as TLAP's Program Coordinator to assist with office management and administrative functions.

CONCLUSION

TLAP made great strides in 2004 toward maintaining the health and integrity of the legal profession and the administration of justice in the State of Tennessee. With the emphasis in 2005 on RAM Team development and utilization, TLAP will continue its efforts to improve the quality of law and life for members of the legal profession and their families.

TLAP is a peer assistance program comprised of lawyers helping other lawyers by

providing free and confidential referral and support services. Though it does accept referrals from disciplinary bodies, its only mission is to assist members of the profession in improving or restoring the quality of their lives and practices.

The continued support and encouragement received by TLAP from the Bench and Bar has been gratifying and is critical to TLAP's success in achieving its mission to carry the message of recovery to members of the legal profession throughout the state and to provide assistance to any member of the profession who seeks it. It is a privilege to assist these individuals and their families in recovering from substance abuse and mental health disorders. TLAP's success in educating the Bench and Bar that these illnesses are usually treatable conditions, not indications of weakness or moral failings, is a testimony to the dedication and efforts of the TLAP Commission, its staff, and volunteers.

Respectfully Submitted,

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