



Your Partner Needs Help

BY JEANNE MARIE LESLIE

The Alabama Lawyer Assistance Program (ALAP) has come a long way since it was first implemented in 1998. Often, we are asked to present programs to local bar associations and various law schools throughout the state, and the law students are frequently surprised at the services ALAP offers. Many never have thought about the possibility of ever working with an impaired colleague and, therefore, the subject itself gives rise to many questions. What do you do if you have just found out your partner has a drug/alcohol problem or is suffering from depression? How do you get help? What are your ethical and legal responsibilities? Before these questions are answered, let's look at the reality of impairment in the legal community. In 2002, the Substance Abuse and Mental Health Services Administration estimated that 9.4 percent of Americans age 12 and older could be classified as sub-

stance abusers or substance dependent. According to the American Bar Association (ABA), the corresponding figure for lawyers may be nearly double—15 to 18 percent.

The fact that a lawyer, sometime in his/her career, will know, practice with or be a lawyer suffering from addiction or depression, is quite high. The number of calls to ALAP has risen significantly over the years as members gain more insight and understanding about these problems and the resources ALAP offers. The same dynamics that arise when a family member is impaired also arise in a firm when a partner is impaired. The impaired lawyer becomes the focus of the firm's attention. When they arrive for work, how they act, how they look, how they smell, their work product, their billing, and their appropriateness all become matters of concern.

Most law firms are aware of the civil liability associated with an impaired firm member who is unable to follow through with their responsibilities and client needs. Law firms can suffer significant financial loss through malpractice judgments, loss of discontented clients and loss of future clients due to word of mouth. Lawyers themselves are reluctant to report an impaired colleague. Many shy away from their ethical obligation for emotional or personal reasons. Many do not want to get involved, which, in turn, only enables the disease to progress, and more opportunities arise for misconduct and unethical behavior. The ABA issued a formal ethics opinion (03-429), entitled "Obligations with Respect to a Mentally Impaired Lawyer in the Firm," which analyzes the ethical responsibilities of partners to take reasonable steps to assure that the impairment the lawyer suffers will not result in a violation of ethical rules, and to report ethical violations committed by the impaired lawyer. I encourage all law firm management to know the signs/symptoms of impairment, with the most significant being change. Changes in behavior can include increased absenteeism, inability to get along with co-workers, change in job performance, substandard work, complaints from clients, missed court dates, and changes in physical appearance. Adopt firm office policies and procedures for dealing with alcohol/drug and other mental health illnesses. Educate personnel. When co-workers know about the signs and symptoms of these illnesses, the chances of early identification, and recovery, rise significantly. Remember, this is not a moral issue. These are not bad people. They are sick and they need your help and your involvement. Lawyers help people every day prepare for the future, the unexpected and other contingencies of life. Adopting policies and

procedures for handling these issues in your law firm will dramatically decrease the stress and better enable the firm to cope when the situation arises. It is very difficult confronting impaired partners and monitoring their recovery.

ALAP can assist firms in developing policies and procedures regarding these situations and can also help in monitoring and developing back-to-work contracts. Doing nothing, however, can lead to civil liability for the firm and disciplinary exposure for other partners.

Due in large part to the commitment the Alabama State Bar has in serving the public and the enormous volunteer base of the Lawyers Helping Lawyers Committee, the Alabama Lawyer Assistance Program is helping lawyers, every day, recover and return to the practice of law.

You can get involved by calling our direct confidential line. For more information, visit www.alabar.org, or to schedule a firm presentation, call at (334) 834-7576. ■

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Jeanne Marie Leslie is the director of the Alabama State Bar's Alabama Lawyer Assistance Program. She received her BSN from the University of South Alabama and a master's degree in counseling from Auburn University in 1990. She was previously employed with Alabama's Worksite Wellness program, and also has worked with physicians in facilitating and monitoring their recovery.

- *The Voice*, summer 2004 Hazelden, "Impaired Lawyers Overcome Denial, Stigma to Achieve Road to Recovery"
- "When Colleagues Need Help," *GP/Solo Magazine*—October/November 2004—ABA General Practice, Solo and Small Firm Section
- ABA Formal Opinion 03-429(6/11/2003) at p. 4

David M. Wooldridge of Birmingham, chair of the Lawyers Helping Lawyers Committee, will be presenting "Dealing with Partners and Associates Impaired by Alcohol, Substance Abuse and Mental Health Problems" July 21 at 10:30 a.m., during the Alabama State Bar's Annual Meeting in Point Clear (1.5 CLE credits). This program is open to all attendees.

