



Understanding Addiction, Helping Clients and Colleagues

By Jeanne Marie Leslie

Drugs change the brain—they change its structure and how it works.¹ Many of these changes are responsible for the behaviors we see in individuals addicted to drugs. Neuroscience has made significant advances in our ability to identify and understand the mechanisms involved in the addicted brain. These advancements clearly confirm what many in the addiction medicine field have known for some time: the obsession and compulsion to use drugs in the addicted brain is instinctual and paramount to survival.²

Ignorance and stigma have contributed to the confusion, moral judgments and poor understanding of this destructive and often fatal disease. Our courts are overwhelmed by the behaviors, criminal and civil, associated with addiction. Therefore, understanding addiction is essential for lawyers. Lawyers are in unique positions to initiate change, to advocate for medical treatment over traditional sanctions and to refer individuals to appropriate help. Clients are more apt to discuss these issues with their lawyers and lawyers are in a better position to advise and protect their clients' interests. Members of the legal community who understand addiction can be instrumental in guiding their clients toward recovery.

Moreover, lawyers themselves are at a higher risk for the development an addiction problem. Reports now estimate that while 10 percent of the general population has problems with an addiction, the corresponding estimate for lawyers,

according to the American Bar Association, is 15 to 18 percent.³ Lawyers rank high in the incidences of depression compared to other professions and a disproportionate number of lawyers commit suicide;⁴ in Alabama there are about a dozen lawyer suicides every year. And these are only the ones about which we know. Many lawyers, including some you know, may be struggling with an addiction or mental health problem when help is readily available through ALAP.

Addiction Facts

Dr. Nora D. Volkow, director of the National Institute of Drug Abuse (NIDA), explains how the neuro-chemical mechanisms of drug abuse catalyze and accelerate the onset addiction:

“Recognizing drug addiction as a chronic, relapsing disease characterized by compulsive drug seeking and use is critical to being able to identify and help those who have it. Drugs of abuse affect the brain by mimicking neurotransmitters (e.g., heroin or marijuana) or by altering their regulation and release (e.g., cocaine and amphetamine). In this way, they disrupt normal brain communication. Repeated disruptions in the brain’s normal signaling processes can eventually lead to addiction—affecting the very circuits needed to exert good judgment and inhibitory control over actions. With these abilities ‘seized,’ the drug-addicted person will compulsively choose drugs, even in the face of devastating life consequences.”⁵



The National Council on Alcoholism and Drug Dependence reports that addiction is *America's number one health problem* and the leading cause of both death and disability.⁶ The Substance Abuse and Mental Health Services Administration's National Household Survey on Drug Abuse reported an estimated 20.4 million Americans age 12 or older were current users of illicit drugs in 2006, meaning that they used an illicit drug at least once during the 30 days prior to the study interview.⁷

In an article, Alan Leshner, Ph.D., and then director of the National Institute on Drug Abuse, describes the process of addiction as the "oops phenomenon."⁸ He explains that individuals who use drugs do not intend to become addicted, just as someone who eats fatty foods does not expect or intend to develop coronary artery disease. The individual who smokes does not plan on developing lung cancer or any of the other illnesses associated with smoking. When most people first use drugs, including alcohol, they do it to feel better and to alleviate feelings of stress. What starts out as a means to feel good a couple of evenings a week can become, for some individuals, the only way they can feel "normal."⁹

The midbrain controls the non-voluntary functions basic to survival such as heartbeat, respiration, appetite and thirst. The mechanisms for pleasure or reward are also a function of the midbrain. The "rush" or the intense feeling of exhilaration associated with drugs of abuse is caused by a rapid release of dopamine in the midbrain. Repeated use of drugs can cause long-lasting changes, which, in turn, affect the pathways used to process information. These changes can impair motor skills, moods and memory processing, many of the same behaviors and symptoms associated with addiction. However, not all individuals who abuse drugs will experience these types of changes nor will they all become addicted.¹⁰

But for individuals who do become entrenched in addiction, they endure pain and suffering, both physically and psychologically, to a point where the cost of getting high outweighs any benefit using may have once provided. At this point, an individual can no longer exercise the judgment necessary to make a "logical" decision to stop.

Helping Clients

Addiction-driven behaviors often result in problems involving the legal system. They may show up in any number of courts. The best resolution to your client's case may depend on assisting your client in obtaining an appropriate evaluation and, if necessary, treatment. The ability to demonstrate to the court that your client is taking the necessary steps to address his/her addiction can have a significant impact on your client's case. As a lawyer, assisting your client in obtaining an evidence-based practice assessment is important. This type of assessment is proven to be successful, is backed up with research methodology and is the standard criteria used by most courts. The American Society of Addiction Medicine Patient Placement Criteria is a widely used instrument for placing clients in the appropriate level of care.¹¹ An evaluation, coupled with your client's being in treatment or scheduled to enter a particular treatment program, goes a long way in demonstrating compliance to the court. It also can prompt your client in initiating the changes necessary for recovery. However, this type of approach is not for every client. The sanctions for non-compliance in drug court diversion programs can be harsh. A clear understanding of what your client's individual needs are will help determine how best to proceed.

Helping Partners and Other Attorneys

The Alabama Lawyer Assistance Program ("ALAP") is a *confidential* program designed to assist members of the legal profession with impairment issues. A lawyer does not risk sanctions for contacting ALAP about any problem he/she may be experiencing. Referrals can be made anonymously. In Alabama, about 50 percent of all ALAP referrals occur by virtue of a disciplinary order. Obviously, the compliance or non-compliance with the program for these types of referrals is reported back to the appropriate disciplinary authority. Since the majority of grievances filed against lawyers are found to involve a problem with an addiction and/or mental health illness compliance to a recovery program benefits both the lawyer and the public interest. The other 50 percent

of ALAP referrals come from a third party (employer, judge, family member or colleague) and there is no disciplinary involvement. Lawyers call ALAP for any number of reasons, as mentioned above, but also for stress, burnout or other difficult life situations. ALAP provides education, intervention, monitoring and referrals to appropriate treatment when indicated.

Impairment may present itself with an addiction to drugs, alcohol, gambling or other behavioral symptoms. Mental health issues include stress, burn-out, depression, bipolar disorders, and obsessive-compulsive disorders. Other impairment issues may be related to aging, such as dementia or Alzheimer's. Most lawyers do not want to talk about these problems but when they find themselves in the position of having to acknowledge a colleague's impairment, or that a member of their firm is using drugs, all sorts of questions are raised.

As a lawyer, your initial reaction may be liability concerns, for your firm, yourself and your colleague. These are legitimate concerns which will need to be addressed. For most of us, our colleagues are also our friends, and you will naturally have personal concerns for your friend and your friend's family. Remember that lawyers in these situations are sick and full of shame. They need support and help—not judgment. That being said, client safety must be ensured. Impairment issues are serious and if your firm has no policies in place for handling these types of situations ALAP's assistance can be invaluable.

Perhaps most problematic is the situation where a judge is showing signs of obvious impairment. At the present time procedures for reporting possible judicial impairment issues require a signed affidavit. Individuals are not given anonymity. Therefore, early behaviors which may indicate a problem not only are not reported, but are essentially enabled to progress. The Judicial Inquiry Commission will be having hearings on reviewing the Canons of Judicial Ethics and will be addressing these issues in the near future. It is hoped that by instigating changes in how these issues can be reported and, therefore, investigated, there will be reduction the tragic and often public situations we have seen in the past. Unfortunately, when these issues are made public the lawyer or

judge and their families suffer, as does the public perception of the administration of justice. Knowing what to look for and what to do if you or a colleague or judge is in need of help is important. Early intervention can save a life, a family and a career. The chance of ethical violations or harm to clients is greatly reduced the sooner the cycle of the addiction is interrupted. Firms should have established policies in place for handling issues relating to impairment. No other issue is as important nor is a firm more vulnerable than when these issues surface. ALAP will come to your firm and put on a free CLE seminar to assist you in devising policies and procedures appropriate to handle these types of situations. ALAP also assists firms in handling back-to-work issues.

The Lawyers Helping Lawyers Committee is an active committee of the Alabama State Bar comprised of lawyers and judges who are knowledgeable about addiction and mental health issues. The committee members assist ALAP in seeing that bar members in need of assistance are given confidential help.

Your Obligation to Report Impaired Attorneys

The ASB General Counsel's office published an article in the July 2001 edition of *The Alabama Lawyer* about reporting misconduct, including misconduct relating to lawyer impairment as stipulated by Rule 8.3, *Alabama Rules of Professional Conduct*:

“(a) A lawyer possessing unprivileged knowledge of a violation of Rule 8.4 shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.”¹²

“[S]elf-regulation requires that lawyers report misconduct, unless the reporting of misconduct violates Rule 1.6, Confidentiality... But less than ten such reports are filed by Alabama lawyers each year... This is [a] sad commentary, when national statistics show that in at least 75-80 percent of matters involving lawyer misconduct, a judge or another lawyer observed, was subjected to, or was personally aware of the miscon-

duct... The requirement to report includes reporting of a lawyer whose conduct indicates that he or she is suffering from addiction (or “chemical dependency,” as termed by the General Counsel's office).”¹³

But more importantly, the General Counsel also concludes “a confidential report to ALAP fulfills the lawyer's reporting obligation.” The General Counsel further stresses that reporting is the best way to help a colleague and to do your duty at the same time.

“In most instances, the reporting of misconduct brings to a head a bad situation which needs to be addressed, both for the benefit of the lawyer and the public. The system itself is improved significantly by ensuring that those who practice law do so in an ethical and competent fashion. When either of these characteristics of representation is lacking, the lawyer's reputation, and that of the legal profession, suffers greatly.”¹⁴

There is no reason not to call ALAP if you see someone displaying symptoms of impairment whether it is you, a family member or another lawyer. Lawyers do not have to face these issues alone. We have helped hundreds of members of Alabama's legal community and we can help you too. Visit our Web site, www.alabar.org/alap/.

Treatment

The U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration (“SAMHSA”) funded a five-year study on the impact of treatment of 5,388 clients in publicly-funded substance abuse programs across the United States and found “that drug and alcohol treatment works. That is, the receipt of treatment is associated with significant reductions in drug use, criminal behavior, ill health and associated characteristics, and the best evidence assigns most of these reductions to the therapeutic effects of treatment.”¹⁵

A study published in 2004 in the *Journal of Addicted Disease* followed lawyers who completed treatment and found that 79 percent of lawyers completed treatment when a lawyer-specific program was initiated compared to 47

percent in non-specific programs.¹⁶ Obviously, completing treatment is an important part of establishing recovery, but authors also concluded that lawyer assistance programs were a significant part of their 85 percent long-term (a year to five years) recovery rate.¹⁷

A variety of approaches are used in treatment programs to help clients cope, handle cravings and manage their disease. However, not all treatment programs are alike and finding an appropriate program for lawyers or clients can be challenging. Again, contacting ALAP is probably the best solution. When your client enters treatment, make sure the necessary releases are signed in case you need to contact your client while he/she is in treatment. Treatment programs adhere to strict confidentiality laws and if the proper releases are not signed, having access to your client can be difficult.

There may be a waiting list before your client or colleague can enter a treatment program. Therefore, it is important to get recommendations by the evaluator on the things your client can do to remain abstinent while waiting for an opening. The recommendations may include participating in an abstinence-based group, individual therapy or submitting to drug screens while waiting to enter the treatment program. Any one of these behaviors reflects a motivation for change and communicates to the court that these matters are being taken seriously. Make sure your client is also keeping a record of groups and meetings that they are attending.

Find Resources for Treatment

Below is a list of Web sources to help identify treatment facilities in your area.

- Findtreatment.samhsa.gov
- Addiction.com
- Alabama Department of Mental Health at ADMH/MR
- www.mh.alabama.gov
- *ALAP* at www.alabar.org/alap/
- jeannemarie.leslie@alabar.org
- The American Bar Association Commission on Lawyer Assistance Programs at www.abanet.org/legalservices/colap/home.html.

Conclusion

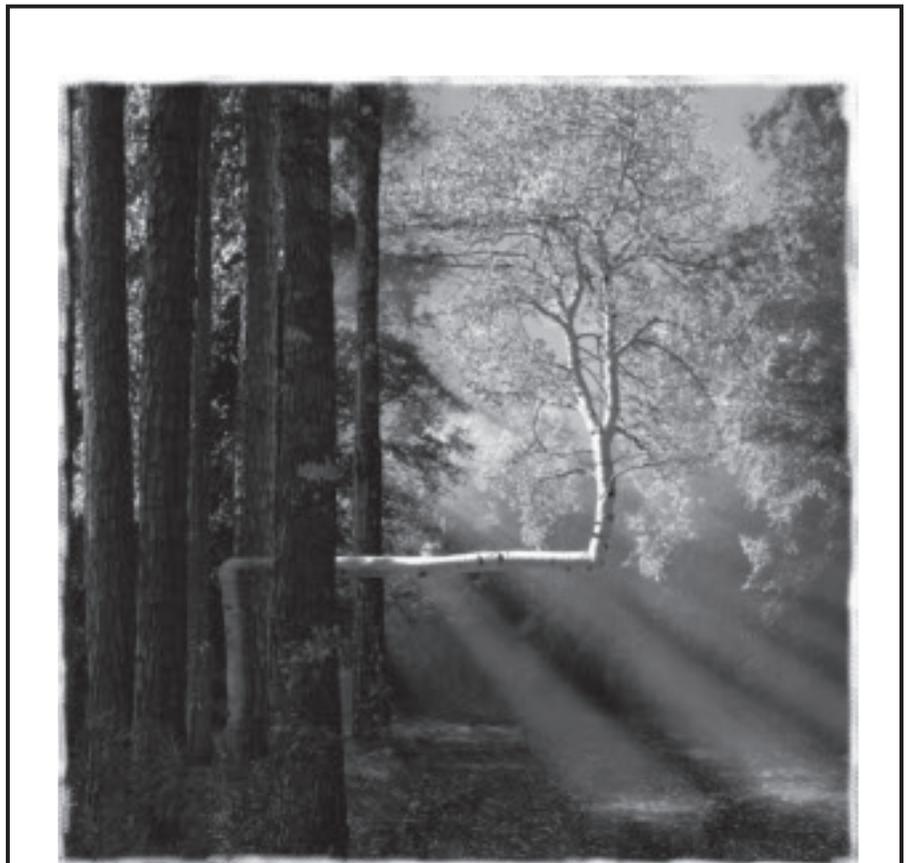
Addiction has become America’s number one public health problem. Lawyers representing clients with addiction problems need to understand the disease and know about the appropriate resources, because they are in the best position to advocate for their clients’ interests. Lawyers are not immune from these problems, and the stressful nature of practicing law—taking on other people’s problems—may contribute to the increased incidence of addiction and depression among members of the legal community. Lawyers provide services to improve lives and families. It only makes sense that when these types of illnesses affect lawyers the same commitment and concern should be extended. ALAP wants to make sure that you know that the ASB Lawyer Assistance Program is concerned for the well-being of the profession *and* the well-being of the individual lawyer: you and your friends, partners and colleagues. The Alabama Lawyer Assistance Program and the state bar’s Lawyers Helping Lawyers Committee are committed to helping members in need. ▲▼▲

Endnotes

1. Alan I. Leshner, Ph.D., director, National Institute of Drug Abuse, National Institutes of Health *NIDA Home Medical and Health Professionals*, June 14, 2005, “Oops: How Casual Drug Use Leads to Addiction” May 2, 2008, Available at www.nida.nih.gov/.
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5. Nora D. Volko, M.D., director, National Institute of Drug Abuse, National Institutes of Health *NIDA Home Medical and Health Professionals*, 25 May, 2007. “Message from the NIDA Director for Medical and Health Professionals” July 2, 2008, Available at www.nida.nih.gov/.
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12. J. Anthony McClain, “Opinions of the General Counsel,” *The Alabama Lawyer*, July 2001.
13. *Ibid.*
14. *Ibid.*
15. U.S. Department of Health and Human Services: Substance Abuse and Mental Health Services Administration, *National Treatment Improvement Evaluation Study—Final Report*, March 1997, 219. Available online at www.icpsr.umich.edu/SAMHDA/NTIES/NTIES-PDF/ntiesfnl.pdf.
16. Timothy J. Sweeny and Joseph Molea, “Treatment of Attorneys with Substance-Related and Co-Occurring Psychiatric Disorder Demographics and Outcomes,” *Journal of Addicted Diseases* 23, no. 1 (2004): 54-5.
17. *Ibid.*

Jeanne Marie Leslie, RN, M.Ed, is director of the Alabama Lawyer Assistance Program.



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