

RECOGNIZING AND RESPONDING TO SUBSTANCE ABUSE

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Your lawyer in practice spends a considerable part of his life in doing distasteful things for disagreeable people who must be satisfied against an impossible time limit in which there are hourly interruptions from other disagreeable people who want to derail the train; and for his blood, sweat, and tears, he receives in the end a few unkind words to the effect that it might have been done better, and a protest at the size of the fee.

-William L. Prossner

See <http://fullmetalattorney.blogspot.com/2005/11/william-l-prossner-quote.html>

Introduction

The Substance Abuse and Mental Health Services Administration has estimated that 9.4 percent of Americans age 12 and over could generally be classified as substance abusers or substance dependent. According to reports by the American Bar Association, the corresponding estimate for lawyers is between 15 and 18 percent – nearly double the number of the general population.

Lawyers represent people and businesses that are in distress, under time pressures, and expect the impossible. We possess many secrets. We know things we cannot disclose about our clients, about ourselves, about other lawyers. We disclose other things in order to achieve the best result for our clients, even if the choices made on what to put forward do not reflect our own personal points of view. We make judgments about disclosure and non-disclosure every day because we are good secret keepers; and because we are zealous advocates.

Exercising that judgment and advising clients about what secrets to keep and what positions to put forward can be stressful. That stress is intensified when the outcome of our calculations can be the financial success or failure of a business or an individual or, in many cases, the client's liberty. We become excellent secret-keepers as an ethical imperative.

With secrecy as our guide, our ability and desire to communicate our own stories can be compromised from time to time, separating us from friends and family. Some of us find release in substances; some of us become depressed or overcome by panic and anxiety; some of us “handle” it all quite well.

In his book, *A Lawyer's Guide to Healing*, Don Carroll, Director of the North Carolina Lawyer Assistance Program, asks the question whether the practice of law draws to it particular personality types that may be more prone to addiction. Carroll's answer is that it does. One profile which he describes is the person drawn to the legal profession because of a longing “to do justice” or “to change the world for the better.” Not surprisingly, this desire to create an ideal world is ultimately frustrating, as “the longed-for ideal is never achieved . . . the addictive romantic then refuses to live in the tension of the real human world and may find escape in chemical or other addictive behaviors.” Another personality which Carroll targets is the person, perhaps less idealistically motivated, who simply has a need to control – to control others and to control all aspects of life. As with the romantic idealist, this person's mission is doomed to frustration and ultimately to failure, because what we all discover, sooner or later, is that we cannot control others – clients, judges, adversaries – and cannot control the outcome of our trials or other legal pursuits even by doing our best work.

The purpose of this presentation is to remind you of the resources available for lawyers who may be struggling with balance. It is NOT just for those whose circumstances meet the definition of a person abusing substances, although information is provided regarding those matters. We begin with the resources available for lawyers. Many have been helped by the ability to share secrets with someone who is bound by ethical rules of confidentiality as well. If you, or someone you know, could use the opportunity to share a few secrets in a safe environment, please call one of the organizations discussed below.

I. RESOURCES

A. Your Physician

Candor is an essential element in addressing any potential addiction or substance abuse problems with your doctor. In fact, denial and lying when questioned by your doctor about the amount you drink are common symptoms of this illness. If your doctor seems unfamiliar with such problems or is dismissive of your concerns, do not hesitate to find another health professional who can better serve your needs.

B. Bar Programs

Both the North Carolina Bar Association and the North Carolina State Bar offer programs intended to assist lawyers in crisis as a consequence of issues related to substance abuse as well as mental disorders. Both programs have saved many lives and careers.

1. BarCARES of North Carolina
<http://www.ncbar.org>
Click "About the NCBA" and follow the links to "BarCARES."

Human Resource Consultants (HRC) may be reached directly by calling 1-800-640-0735. HRC is a local mental health services provider with a proven track record of helping attorneys and others with a variety of both short-term and long-term issues.

BarCARES is a confidential, short-term intervention program provided cost-free to members of local bar groups that have "opted in." The program is there to help attorneys (and their immediate family members) by providing confidential assistance and brief, solution-oriented counseling. The BarCARES program provides up to three free visits each year, which may be used by the attorney or any immediate family member.

BarCARES, which stands for Confidential Attorney Resource and Enrichment Services, began as an idea of the NC Bar Association's Quality of Life Committee in the early 1990's following an NCBA-sponsored survey that showed many stress factors for attorneys (and their families).

Confidentiality. Only the attorney, his or her counselor and those the attorney chooses to tell will know if an attorney utilizes the BarCARES program. The counselors are licensed professionals, bound by the confidentiality requirements of their profession. Although the North Carolina Bar Association and local bar groups provide funding for the BarCARES program and monitor its overall operation, they have no access to the names or other identifying information of any program user.

BarCARES is designed to offer no-cost assistance in dealing with problems that might be causing distress and can be used to help with:

- Personal Issues: crisis intervention, depression/anxiety, substance abuse (drug or alcohol) and financial concerns
- Family Issues: marriage/relationships, children, adolescents, parenting, family conflict
- Work Issues: professional stressors, case-related stress and conflict resolution
- Student coaching on stress/time management, etc.

BarCARES of North Carolina, Inc. (a subsidiary of the NC Bar Association) and local bar groups contract with Human Resource Consultants (HRC) to administer the program and to identify and contract qualified provider groups for areas not serviced by HRC. To find out more about HRC, visit their Web site <http://www.hrc-pa.com>.

The foregoing information is drawn from the website of the North Carolina Bar Association (<http://www.ncbar.org>).

2. State Bar Lawyer Assistance Programs – FRIENDS and PALS
<http://www.ncbar.com> Click “Programs” and then click “Lawyer Assistance Programs” You will be directed to a separate website <http://www.NCLAP.org>.

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| W. Donald (Don) Carroll Jr. LAP Director Western North Carolina District 907 Barra Row, Suite 205 Davidson, NC 28036 1-800-720-7257 1-704-892-5699 nclap@bellsouth.net | Towanda C. Garner Piedmont LAP Coordinator Piedmont North Carolina District 208 Fayetteville Street Mall Raleigh, NC 27601 1-877-570-0991 1-919-828-4620 ext. 290 tgarner@ncbar.com | Edmund (Ed) F. Ward III LAP Asst. Director Eastern North Carolina District 208 Fayetteville Street Mall Raleigh, NC 27601 1-877-627-3743 1-919-828-6425 eward@ncbar.com |
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The Lawyer Assistance Program (LAP) is a service of the North Carolina State Bar which provides **confidential** assistance to North Carolina lawyers to help them identify and address problems with alcoholism, other drug addictions and mental health disorders. The Lawyer Assistance Program supports two groups of volunteers that provide confidential assistance to impaired lawyers. The PALS program (Positive Action for Lawyers) provides assistance to lawyers suffering from alcoholism, substance abuse, or other chemical addictions. FRIENDS will assist lawyers who suffer from depression and other mental conditions that may impair their ability to practice law. See 27 NCAC 1D, Section .0600.

a. PALS

The North Carolina State Bar formed the Positive Action for Lawyers Committee, or PALS Committee, in 1979 to implement a program of intervention for lawyers with chemical dependency problems affecting their professional conduct. The committee assists individual lawyers in need of guidance and support in dealing with a potentially fatal condition so that they may return to productive lives. To this end, the committee receives information concerning any

lawyer who may have a substance abuse problem. Upon receipt of such information, the committee undertakes a discreet and confidential investigation followed by a careful evaluation of the facts. If the investigation reveals that the lawyer is impaired, the committee may intervene in an effort to get the lawyer the resources he or she needs to recover.

PALS offers assistance to any North Carolina lawyer who believes he or she may be suffering from chemical dependency. In addition, PALS assists the lawyer's partners and associates and provides referral information to the spouse and children of a chemically dependent lawyer. Assistance to family members is often critical because alcoholism and chemical dependency are family problems. PALS helps family members find resources. A return to health for the impaired lawyer is greatly enhanced by a family that has recovered its own balance.

The information received by PALS is confidential. See 27 NCAC 1D, Rule .0603 and Rule 1.6 of the Revised Rules of Professional Conduct. If you call to seek help for yourself, your inquiry is confidential. If you call as the spouse, child, or friend of a lawyer you suspect may have an alcohol or drug problem, your communication is also treated as confidential. Moreover, PALS is entirely separate from the disciplinary department of the State Bar.

Call or email: Ed Ward (East), Don Carroll (West), or Towanda Garner (Piedmont) at the numbers or addresses above for PALS assistance.

b. FRIENDS

The FRIENDS program was initiated in 1999 by the North Carolina State Bar to provide assistance to lawyers suffering from depression and other mental conditions. (The name is intended to compliment the PALS program; it is not an acronym.) FRIENDS confidentially helps to evaluate mental or physical health problems and assists the impaired lawyer to find resources to address the problem. The program's goal is to provide such assistance before a lawyer's mental health disorder interferes with the lawyer's ability to represent clients.

FRIENDS offers assistance to any North Carolina lawyer who believes he or she may be suffering from depression or another mental condition. FRIENDS may also help family members find resources as a part of its assistance to a lawyer. The program assists people at all levels of mental illness – from short-term situational depression following a specific event, to those who have had suicide attempts or chronic mental health problems. Many members report feeling comfort when they first learned that others had the same or similar experiences. Rarely does a person in the group share without at least one other person in the group saying “me too.” This helps remove the stigma and shame associated with past events.

The information received by FRIENDS is confidential. See 27 NCAC 1D, Rule .0652 and Rule 1.6 of the Revised Rules of Professional Conduct. If you call to seek help for yourself, your inquiry is confidential. If you call as the spouse, child, co-worker or friend of a lawyer you suspect has a mental health problem, your communication is also confidential. Moreover, FRIENDS is entirely separate from the disciplinary department of the State Bar.

Call or email: Ed Ward (East), Don Carroll (West), or Towanda Garner (Piedmont) at the numbers or addresses above for FRIENDS assistance.

The foregoing information is predominantly drawn from the website of North Carolina State Bar (<http://www.ncbar.com>). Both the PALS and FRIENDS programs have a statewide network of trained volunteers who are available to assist fellow attorneys.

II. A PALS STORY

I've led a charmed life. I like to call myself a self-made alcoholic. I can't really blame it on anybody. My parents were married for 45 years until my father died. My father had a good job. My mother was a stay-at-home mom. I have an older brother and sister who didn't treat me too badly. Life was good.

The way I made myself feel better for the first half of my life was to achieve at a very high level. That was important to me, and it kept me from even thinking about drinking. I didn't really drink in college or law school. Doing very well is all I needed to feed whatever emptiness or loneliness there was; and that worked for a long time. After a successful college and law school career, I joined a law firm and started a family.

Skip forward 15 years. I am re-married and have two children from each marriage. My wife is also a partner at a law firm, and the way these things shook out, I got up in the morning and got the children up and off to school and started my day early. Our after-school care ended at 6:00, and that's when I would get home, while my wife, who had gotten up later and started her day later, would get home at 6:30 or 7:00. Somehow—and I really don't know exactly when this started—I started to use that hour at the end of the day to “unwind”. After all, I had worked hard. I had a lot of responsibilities. No one had said anything particularly nice to me on any given day, and so I needed to give myself some form of reward and comfort when I got home.

In the meantime—having not really been much of a drinker up until then—I started doing the kind of drinking that I thought all normal human beings did—beers on the golf course, cocktails at the parties—but not really a serious drinking career. Instead it was that end-of-the-day drinking that started me down the wrong road. It was terribly civilized. I would be in the den, reading the newspaper or watching the news, with a really nice crystal glass and really good quality scotch. When I heard my wife's car come down the driveway, I just filled up the glass and put away the bottle. When she came in the door, so far as she knew I was having my first drink of the day.

For a very long time, that was the pattern. I didn't really keep up with how much I drank, except that I had a rule that I would stop at a certain level on the bottle. At the same time, I would find ways to conceal how much I was drinking so if my wife happened to be checking, she wouldn't be able to tell. I would move the bottles around, or add scotch from one bottle to another, or even add water to the bottle to hide the amount I had to drink. I hid bottles in all sorts of crazy places. I would say every morning—every morning for five years—that what I was doing was stupid. I shouldn't drink that much. And every evening I would reconsider. I never

caught on. I never figured out that I had a serious problem. I thought it was not a problem. I thought I deserved it.

I never hit the kind of bottom where I lost everything. You don't have to end up under a bridge. I didn't. Throughout my active alcoholism and up to this day, I have lived in the same house, driven nice cars, and maintained a successful law practice.

I still have the same wife too. But finally there came the point where she had had enough. She didn't say she was leaving me. She said that she loved me, that she cared about me, and that she knew this was going to have a bad ending. Some bad thing would happen to me and she knew that not only would I not do well with a DUI or malpractice charge or accident, but knowing me as she did she knew I wouldn't handle the humiliation well. Of course, I wouldn't handle it well if I were arrested, but I also wouldn't handle well the stigma of being arrested.

I did not stop drinking on that occasion, but I thought about it. It was almost Lent, and I had thought to myself many times that I would give up drinking for Lent. I had never made it. But this time I made it. I did not like it. I was not happy. I was not comfortable. Not one day went by that I didn't think about taking a drink. But I made it. And, sure enough, as soon as I had proven I was not an alcoholic, things went straight downhill from Easter Day until June 10th, 2002, when I hit some kind of bottom.

The details of that day are not important. It was not a happy day in our household. I essentially got caught red-handed. As I recall, it had something to do with a bottle of scotch in my gym bag.

The next day, unknown to me, my lawyer wife, who had previously heard Ed Ward of the Lawyers' Assistance Program speak to a group of lawyers, went to see him—not to find out what to do about me—but to find out what she could do for herself. When Ed and my wife met, he told her to have me come see him. And that's what she did.

And there was another moment of willingness. I don't know why, but I was ready to ask for help, and I agreed to go talk to Ed. I started working with the PALS program and attending recovery support group meetings. Still, I would not have thought that everything else was going to be okay. I had had that experience during Lent, and I really didn't like that. But this time was so entirely different. Once I gave in and was willing to do it somebody else's way, things got better. What I can say now is that, unlike that experience at Lent when I was trying to control things myself, not only do I not drink, I do not care that I do not drink. I don't crave a drink. I don't want a drink. I want not to drink. I want very much not to drink. And I am enormously grateful that I do not drink.

I still bump up against my character defects on a daily basis. But I see them coming now. I still get angry and resentful. But I no longer drink at my problems or feelings. I ask myself what part I played in my troubles, and what I can do to change my own actions and reactions. I try to live—just as I have learned not to drink—one day at a time. And it's working.

III. TAKE THE TEST

The following test is reprinted from a page on the NCLAP website: <http://www.nclap.org>. Ask yourself the following questions and answer them as *honestly* as you can.

| Answer these questions | Yes | No |
|--|-----|----|
| Do you lose time from work due to drinking? | | |
| Is drinking making your home life unhappy? | | |
| Do you drink because you are shy with other people? | | |
| Is drinking affecting your reputation? | | |
| Do you feel remorse after drinking? | | |
| Have you gotten into financial difficulties as a result of drinking? | | |
| Do you turn to lower companions and an inferior environment when drinking? | | |
| Does your drinking make you careless of your family's welfare? | | |
| Has your ambition decreased since drinking? | | |
| Do you crave a drink at a definite time daily? | | |
| Do you want a drink the next morning? | | |
| Does drinking regularly cause you to have difficulty sleeping? | | |
| Has your efficiency decreased since drinking? | | |
| Is drinking jeopardizing your job or business? | | |
| Do you drink to escape from worries or trouble? | | |
| Do you routinely drink alone? | | |
| Have you ever had a loss of memory (blackout) as a result of drinking? | | |
| Has your physician ever treated you for drinking? | | |

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| Do you drink to build up your self-confidence? | | |
| Have you ever been to a hospital or institution on account of drinking? | | |

If you have answered YES to one or more of the questions, this is a warning that you may be an alcoholic.

If you have answered YES to two or more of the questions, there is a very good chance that you are an alcoholic.

If you have answered YES to three or more of the questions, it is highly likely that you are an alcoholic.

IV. STATISTICS

“Alcoholism, drug addiction, and mental health problems are afflictions that affect a great number of professionals including lawyers and judges. Reports now estimate that while ten percent of the general population has problems with alcohol abuse, anywhere from fifteen to eighteen percent of the lawyer population battles the same problem. Because many lawyers and judges are overachievers who carry an enormous workload, the tendency to 'escape' from daily problems through the use of drugs and alcohol is prevalent in the legal community. Also, the daily pressures placed on these men and women can lead to inordinate amounts of stress and mental illness. Recent reports have also shown that a majority of disciplinary problems involve chemical dependency or emotional stress.”

<http://www.abanet.org/legalservices/colap/home.html>

“Alcoholics, roughly 10% of the population, consume 50% of the beer, wine, and distilled spirits sold in this county. The other 90% of the population that use alcohol consume the other half. From the active alcoholic's perspective, the problem is not drinking but not being able to drink.” Carroll, W. Donald, “Old Ideas and Stories,”

<http://www.nclap.org/Default.aspx?Page=OldIdeasAndStories>.

“‘Are lawyers really that much more likely to become alcoholics or drug addicts?’ Or, said another way, are lawyers more apt than others to contract addictive disease? The statistics for the general population reflect that approximately 10% of the population is or will be afflicted with alcoholism or other chemical dependency disease. Statistical evidence among the legal profession indicates that as many as 18-20% of us will suffer from some type of chemical dependency addictive disease during our years of practice.” Carroll, W. Donald, “The Addictive Personality and the Legal Profession,” *The North Carolina State Bar Quarterly*, Vol. 43, No. 2, Spring 1996; <http://www.nclap.org/Default.aspx?Page=AddictivePersonality>.

“There is also the complicating tendency of two co-occurring disorders – addiction and depression – to create a greater barrier to a person’s perception of a problem. A recent study finds that 61% of persons with both a serious mental illness and a substance use disorder who had not received treatment for either illness, perceived no unmet need for treatment.” Carroll, W. Donald, “Addicted to Depression,”

<http://www.nclap.org/Default.aspx?Page=AddictedtoDepression>.

Conclusion

The antidote for the lawyer's addictive personality is as easy to state as it is difficult to live. As hard as it is to do for many lawyers, the solution lies in accepting that there is much we cannot control. Many recovery programs have adopted what has come to be known as the serenity prayer: "Grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference."

In Carroll's book he describes this as exchanging willfulness for willingness. Instead of being determined to impose our will over all things, we must be willing to be open to change and, again borrowing a phrase from many recovery programs, to live life on life's terms. This does not require any lessening of our zealous advocacy or, for that matter, that we work less hard or be less intentional in carrying out our responsibilities as attorneys. It does require understanding that we cannot control, and are not responsible for, the outcome of every situation in which we find ourselves. It also involves creating good habits for dealing with our stress to take the place of the bad habits into which we have retreated.

None of these good habits are secrets. They include physical exercise, social support, some form of spirituality which accepts that we are not ourselves the source of power or the arbiter of the outcomes in other people's lives, and a sense of humor. The exercises in which one can engage in recovery are as simple as thinking positively instead of negatively, listing the things for which one is grateful, being honest with others and with yourself about yourself, not trying to control what you have no control over, and learning to live in the moment, neither forever regretting the past nor living only for the future.

There are many excellent programs available to our lawyers and their families suffering from substance abuse problems. Descriptions of diseases or answers to questions on tests are not intended and cannot be a substitute for professional assistance with very real medical problems. If you, or someone you know, has symptoms, please seek or encourage them to seek assistance just as you would in the case of a physical illness.