



LAWYER TO LAWYER MENTORING PROGRAM
WORKSHEET L
INTRODUCTION TO SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

Worksheet L is intended to facilitate a discussion about substance abuse and mental health issues in the legal profession, including possible warning signs, what to do if the new lawyer is faced with a substance abuse or mental health issue, and resources for assistance.

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- Discuss the goals of mandatory substance abuse instruction, which include raising the attorney population's consciousness regarding the problems of chemical dependency, informing all attorneys of how to detect, prevent and assist impaired attorneys, and increasing awareness of available assistance programs. Make sure the new lawyer understands a lawyer's obligation to obtain a required number of continuing legal education credits in substance abuse instruction every reporting period.
- Review the attached Ohio Lawyers Assistance Program *Introduction* materials discuss the statistics regarding substance abuse and mental health problems among lawyers.
- Share with the new lawyer experiences, if any, that you have had dealing with an impaired lawyer or judge and how you handled (or should have handled) the situation(s).
- Discuss with the new lawyer your experience (if any) with noticing the signs and symptoms of chemical dependency in someone with whom you worked. Talk about how one might professionally address this type of situation.
- Discuss a lawyer's duty to decline or withdraw from representation if a physical or mental condition materially impairs his or her ability to represent a client. See Prof. Cond. Rule 1.16.
- Discuss your duty to report the misconduct of a colleague when a substance abuse problem or mental health issue affects his or her fitness to practice law. See Prof. Cond. Rules 8.3 and 8.4.
- Identify local assistance programs and direct new lawyers to the Ohio Lawyers Assistance Program website at <http://www.ohiolap.org/index.htm> for information. Discuss the confidentiality of referrals to the Ohio Lawyers Assistance Program or other bar association assistance committee.



- Discuss the signs and symptoms of chemical dependency in the attached chart. Ohio Lawyers Assistance Program, *Signs and Symptoms of Chemical Dependency*. Review the attached self-tests for alcohol/drug and depression problems to learn the signs and symptoms of these problems. Ohio Lawyers Assistance Program, *Alcohol/Drug Self-Test & Depression Self-Test*.
 - Review the information provided by the Ohio Judicial Conference regarding the OLAP Judicial Advisory Group (“JAG”) and discuss how this group may assist with a judge you are concerned about.
 - Discuss the most professional ways for dealing with the following situations:
 - The judge before whom you appear seems to be impaired
 - The opposing counsel in your case attempts to negotiate with you while s/he appears to be impaired
 - The opposing counsel in your case appears with his or her client at a deposition or hearing and you suspect s/he is impaired
 - Your client appears for a hearing impaired.
 - Discuss a lawyer’s personal and professional duties to assist their colleagues if they suspect impairment.
 - Discuss a lawyer’s heightened responsibility to a client who is mentally impaired. See Prof. Cond. Rule 1.14 below.
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IN-HOUSE MENTORING RELATIONSHIPS

- Share with the new lawyer any policy your firm has for dealing with an employee who exhibits symptoms of chemical dependency or mental health problems. Discuss what the new lawyer should do if such problems are suspected of partners, other associates or support staff.
 - Discuss any support plans your firm has in place for assisting an employee with chemical dependency or mental health problems.
 - Discuss the importance of protecting clients’ cases from an impaired lawyer.
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RESOURCES

Ohio Lawyers Assistance Program: <http://www.ohiolap.org/>

OHIO RULES OF PROFESSIONAL CONDUCT

RULE 1.14: CLIENT WITH DIMINISHED CAPACITY

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to division (b), the lawyer is impliedly authorized under Rule 1.6 (a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

View rule and comments at

http://www.supremecourtofohio.gov/rules/profConduct/profConductRules.pdf#Rule1_14

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if any of the following applies:

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;

View complete rule and comments at

http://www.supremecourtofohio.gov/rules/profConduct/profConductRules.pdf#Rule1_16



THE SUPREME COURT *of* OHIO

COMMISSION ON PROFESSIONALISM



VII. MAINTAINING THE INTEGRITY OF THE PROFESSION
RULE 8.3: REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who possesses unprivileged knowledge of a violation of the Ohio Rules of Professional Conduct that raises a question as to any lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform a disciplinary authority empowered to investigate or act upon such a violation.

(b) A lawyer who possesses unprivileged knowledge that a judge has committed a violation of the Ohio Rules of Professional Conduct or applicable rules of judicial conduct shall inform the appropriate authority.

(c) Any information obtained by a member of a committee or subcommittee of a bar association, or by a member, employee, or agent of a nonprofit corporation established by a bar association, designed to assist lawyers with substance abuse or mental health problems, provided the information was obtained while the member, employee, or agent was performing duties as a member, employee, or agent of the committee, subcommittee, or nonprofit corporation, shall be privileged for all purposes under this rule.

View rule and comments at

http://www.supremecourtofohio.gov/rules/profConduct/profConductRules.pdf#Rule8_3

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to do any of the following:

(h) engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

View complete rule and comments at

http://www.supremecourtofohio.gov/rules/profConduct/profConductRules.pdf#Rule8_4

INTRODUCTION

Since 1990 OLAP has assisted Ohio's judges, lawyers and law students obtain appropriate treatment for substance abuse and chemical dependency. Over 700 men and women have been helped. Recognizing that an impaired lawyer negatively affects nine other people each day, over 6,300 men, women and children have somehow been touched by OLAP.

OLAP and the profession in recent years have observed an increasing number of attorneys who have not only substance abuse problems, but also mental health problems. In addition, OLAP recognized that there are a growing number of attorneys who are suffering from untreated mental health illnesses, and who do not have a substance abuse problem, but need someone to intervene and help them seek appropriate treatment. Such untreated problems not only affect them and their families, but may also affect their clients.

The American Bar Association surveyed attorneys in 1990. Among the startling statistics at that time were that:

1. a of practicing lawyers suffer from depression, making lawyers 5 to 10 times more likely than other professionals to suffer from a major depressive disorder;
2. 18% - 20% of lawyers suffer from alcoholism, compared with 10% of the rest of Americans. After 20 years of practice, the rate rises to 25%. Alcohol and drug problems cause half the disciplinary cases involving lawyers (*Wall Street Journal*, 11/30/90); and
3. Lawyers are twice as likely as other professionals to commit suicide.

Florida Coastal School of Law Professor Susan Daicoff (formerly at Capital University Law School), who is also a psychologist, has studied this issue. In an article she wrote, which was published in *The Georgetown Journal of Legal Ethics* in Spring, 1998, she states the following:

... "D. INCIDENCE OF SUBSTANCE ABUSE AND DEPRESSION AMONG LAWYERS.

A serious influence complicating and compounding the . . . crisis is the incidence in substance abuse and depression among lawyers. Estimates of the frequency of substance abuse problems, including alcoholism, among lawyers range from three to thirty times that of the general population. About nine to ten percent of the general population in the United States is alcoholic, while empirical studies consistently show that about eighteen percent of lawyers and law students are alcoholic. Similarly, while three to nine percent in the general population in the United States is clinically depressed, as much as nineteen to twenty percent of practicing attorneys is depressed. A 1986 study found that only about ten percent of entering law students exhibited significant symptoms of psychological

These materials are excerpted from an outline produced by the Ohio Lawyers Assistance Program and are used with permission

problems including depression, anxiety, hostility, paranoia, and obsessive-compulsive symptoms, but this percentage jumped dramatically to thirty-two percent by the end of the first year of law school. By the end of the third year of law school it was forty percent, and two years after graduation it was 17.9%. A 1995 study replicated these findings and found that problems did not significantly abate after the individuals entered the practice of law. Depression, anxiety, social isolation and alienation, hostility, paranoid ideation, and obsessive-compulsive symptoms were more frequent in attorneys than in the general population. Thus, a greater than average percentage of attorneys (as a group) is psychologically impaired in some way. Further, it appears that while the problems often do not appear until the first year of law school, lawyers do not return to their pre-law school level of psychological health after graduation.” (pages 555-557)

In one of Professor Daicoff’s footnotes, she cites a study by Connie A. Beck which was published in 1995-1996. Ms. Beck’s findings are as follows:

| | Base Rate | | Among Lawyers | |
|----------------------|-----------|---------|---------------|--------|
| | Male | Female | Male | Female |
| Depression | 8.5% | 14.1 % | 21% | 16% |
| Anxiety | 4% | 4% | 30% | 20% |
| Obsessive-Compulsive | 1.4%-2% | 1.4%-2% | 21% | 15% |

Based upon the Ohio bar’s experience and the empirical information cited above, OLAP sought and received additional support from The Supreme Court of Ohio to assist those in the profession with mental illness. Professional staff has been added, and additional professional assistance across the state is being secured. The purpose of this publication is to provide you with information, education and resources if you or someone else in the profession is in need of assistance.

Ohio Lawyers Assistance Program

Helping Lawyers Recover | 800-348-4343

Signs & Symptoms

Self-Tests

I Need Help

Links

20 Golden Rules

Contact Us

Confidentiality

About Us

Our Mission

OLAP provides confidential help to lawyers, judges and law students suffering from alcoholism, substance abuse or other addictions, or mental illness.

Our Philosophy

Alcoholism, substance abuse, addictive behavior, and psychological problems are treatable illnesses rather than moral issues.

The only stigma attached to these illnesses is an individual's failure to seek help.

It is the responsibility of the recovering legal community to help our colleagues who may not recognize their need for assistance.

Contact Us

If you or a colleague you know need help, contact OLAP at one of the numbers below. **Your confidentiality, and the confidentiality of anyone about whom you express concerns, will be protected.**



- OLAP toll free hotline (national, 24/7) 800-348-4343
- Scott R. Mote, Executive Director 800-348-4343
- Stephanie S. Krznarich, Associate Director 800-348-4343
- Megan R. Robertson, Clinical Associate 800-348-4343
- Paul A. Caimi, Associate Director 800-618-8606
- Patrick J. Garry, Associate Director 513-623-9853

Ohio Lawyers Assistance Program

Helping Lawyers Recover | 800-348-4343

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Signs & Symptoms

Sign and Symptoms of Chemical Dependency

With thanks to G. Douglas Talbott, M.D. and Linda R. Crosby, MSN, Talbott Recovery Campus, Atlanta, GA

Self-Tests

I Need Help

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About Us



| | Family | Physical | Community | Office | Professional |
|------------------------|--|--|---|--|---|
| <u>Links</u> | Withdrawal from activities | Multiple complaints | Decrease in community affairs | Disorganized appointment schedule | Inappropriate behavior, moods |
| <u>20 Golden Rules</u> | | | | | |
| <u>Contact Us</u> | Frequent absences | Increased use of prescription medication | Change of friends, acquaintances | Hostile behavior to staff and clients | Decreasing quality of performance |
| <u>Confidentiality</u> | | | | | |
| <u>About Us</u> | Frequent arguments; child/spousal abuse | Increased hospitalizations | Drunk & disorderly, DUI arrests | "Locked door" syndrome (using at work) | Inappropriate pleadings, decisions |
| | Family members display codependent behaviors | Frequent visits to physicians, dentists | Loss of confidence in attorney by community leaders | Borrowing money from co-workers, staff | Co-workers and staff "gossip" about changes in behavior |
| | Children engage in abnormal, antisocial, or illegal activities | Personal hygiene, dress deteriorate | Involvement with place of worship changes | Frequently sick | Malpractice and disciplinary claims |
| | Sexual problems (impotence, affair) | Accidents, trauma, ER visits | Sexual promiscuity | Clients begin to complain to associates, staff | Missed hearings, appointments, depositions |
| | Separation/divorce (initiated by spouse) | Serious emotional crisis | Isolation from support systems | Frequent unexplained absences | Loss of clients, practice, respect |

Ohio Lawyers Assistance Program

Helping Lawyers Recover | 800-348-4343

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Do you need to seek help about alcohol, drugs or depression?

The tests below are informal tests for symptoms of problems with [alcohol/drugs](#) or [depression](#).

These tests are not substitutes for professional evaluation and diagnosis--evaluations that OLAP can either perform or refer you to.

Alcohol/Drug Self-Test

This series of questions about one's use of alcohol and/or drugs is an informal inventory of "tell-tale signs" with many items tailored to lawyers. It is not a list of official diagnostic criteria and does not substitute for a professional evaluation (which OLAP personnel can provide in person or refer you to a certified evaluator).

1. Do I plan my office routine around my drinking or drug use?
2. Have I tried unsuccessfully to control or abstain from alcohol or drugs?
3. Do my clients, associates, or support personnel contend that my alcohol/drug use interferes with my work?
4. Have I avoided important professional, social, or recreational activities as a result of my alcohol/drug use?
5. Do I ever use alcohol or drugs before meetings or court appearances, to calm my nerves, or to feel more confident of my performance?
6. Do I frequently drink or use drugs alone?
7. Have I ever neglected the running of my office or misused funds because of my alcohol or drug use?
8. Have I ever had a loss of memory when I seemed to be alert and functioning but had been using alcohol or drugs?
9. Have I missed or adjourned closings, court appearances, or other appointments because of my alcohol/drug use?
10. Is drinking or drug use leading me to become careless of my family's welfare or other personal responsibilities?
11. Has my ambition or efficiency decreased along with an increase in my use of drugs or alcohol?
12. Have I continued to drink or use drugs despite adverse consequences to my practice, health, legal status, or family relationships?
13. Are strong emotions, related to my drinking or drug use (e.g., fear, guilt, depression, severe anxiety) interfering with my ability to function professionally?
14. Are otherwise close friends avoiding being around me because of my alcohol or drug use?
15. Have I been neglecting my hygiene, health care, or nutrition?
16. Am I becoming increasingly reluctant to face my clients or colleagues in order to hide my alcohol/drug use?

A "yes" answer to any of these questions suggests that it would be wise to seek professional evaluation (at OLAP or elsewhere), but may or may not indicate that you have a diagnosable addictive disorder. Evaluations of alcohol/drug problems should be done by a clinician with addiction credentials and/or experience working in an addiction-oriented setting.

Depression Self-Test

Here are two self-screening tests developed by Dr. Douglas G. Jacobs, a key figure in National Depression Screening Day (each October). They are not intended to substitute for a professional evaluation (to which OLAP can refer you), needed to actually make a diagnosis of depression or manic-depression (also known as bipolar disorder). You may also wish to visit the [National Depression Screening site](#).

Depression

1. I am unable to do the things I used to do.
2. I feel hopeless about the future.
3. I can't make decisions.
4. I feel sluggish or restless.
5. I am gaining or losing weight.
6. I get tired for no reason.
7. I am sleeping too much, or too little.
8. I feel unhappy.
9. I become irritable or anxious.
10. I think about dying or killing myself.

If you answered yes to 5 or more of these questions, and you have felt this way every day for several weeks, there is a good chance you are suffering from depression and should see a licensed mental health professional. OLAP can refer you to a licensed mental health professional.

If you answered yes to question 10, you should seek help immediately, regardless of your answer to any other questions.

Mania

1. I have a decreased need for sleep.
2. I have much more energy than usual.
3. My thinking is speeded up.
4. I feel unusually euphoric and "high."
5. I can't seem to stop talking.
6. I can't keep my mind on one thing—I jump from task to task.
7. I have a heightened interest in sex.
8. I am irritable and short-tempered.
9. I have a close blood relative who has had a serious emotional illness or alcohol abuse.
10. I think about dying or killing myself.

If you answered yes to 5 or more of these questions, and you have felt this way every day for several weeks, there is a good chance you are suffering from mania or manic-depression and should see a licensed mental health professional. OLAP can refer you to a licensed mental health professional.

If you answered yes to question 10, you should seek help immediately, regardless of your answer to any other questions.



Ohio Judicial Conference

Home > Resources

OLAP Judicial Advisory Group

Purpose

The Judicial Advisory Group (JAG) is a group of judges who work with the Ohio Lawyers Assistance Program (OLAP) to extend its ability to provide confidential assistance to judges.

- o OLAP and JAG help only judges who want help. OLAP and JAG have no enforcement authority and no reporting requirements. If a judge declines an offer of help, that is the end of the matter.
- o If a judge seems to need help, OLAP/JAG can assess whether he or she truly does and what kind of help might be appropriate.

OLAP is neither a substitute for nor a diversion from disciplinary referrals.

If you know a judge who may need assistance, contact either OLAP or a JAG member. OLAP and JAG will work together to assess the issue and determine an appropriate course of action.

OLAP has a 24/7 hotline: **1-800-348-4343**

Learn more details in the [The Judicial Advisory Group Brochure](#)

Your contact with OLAP/JAG, as well as any contact between OLAP/JAG and the judge you are concerned about, will be completely confidential.

Why a Judicial Advisory Group?

OLAP has proven experience and expertise working with attorneys and judges to assess substance abuse and mental health issues, and to provide referrals and other services.

Judges routinely make decisions in contested cases with high stakes. JAG members have the expertise to:

- o ensure that a referral does not reflect a desire to discredit a judge based on judicial decisions or other official acts
- o provide assistance that responds to the constraints of judges
- o assist with professional issues that fall outside OLAP's expertise.

Ohio's six judicial associations nominate members to the Judicial Advisory Group. The Ohio Judicial Conference appoints members and provides administrative support for the group.

OJC Staff

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Members

Co-chairs

Judge Debra Boros,
Lorain County Domestic Relations/Juvenile Court

Judge Michael Higgins,
Licking County Municipal Court

Members

Judge Kenneth Callahan,
Cuyahoga County Common Pleas Court

Judge Colleen Cooney,
ex officio member
8th District Court of Appeals

Judge Michael Corrigan,
retired judge member

Judge Matthew Crehan,
retired judge member

Judge Theresa Dellick, *Mahoning County Juvenile Court*

Judge Janet Grubb,
Franklin County Municipal Court

Judge William Harsha,
4th District Court of Appeals

Judge Sylvia Hendon,
1st District Court of Appeals

Judge Mary Katherine Huffman,
Montgomery County Common Pleas Court

Judge Denise McColley,
Henry County Domestic Relations/Juvenile Court

Judge Jack Puffenburger,
Lucas County Probate Court

Judge Randy Rogers,
Butler County Probate Court

Judge William Weaver,
Lake County Juvenile Court