



## Reaching Out With Honesty and Compassion

I don't like to think I'm impaired. You don't like to think you're impaired. Yet, according to those who keep track of such things, a lot of us are. Drugs and booze aren't necessarily the worst problem, although they're a major cause of difficulties for lawyers.

Kansas Disciplinary Administrator Stan Hazlett says lawyer impairment is a very, very serious problem; a substantial portion of valid disciplinary complaints can be traced to impaired counsel. His view is borne out by reading disciplinary opinions published in the Kansas Reports. It seems that almost every case is either openly dealing with an impairment issue, or else one is lurking in the behavior pattern which gave rise to the complaint.

The legal profession has long recognized that there is a problem and has taken an increasingly active approach to dealing with it. The

American Bar Association is organizing *three full days* of workshops in November 2005 for those involved in lawyer assistance programs around the country. The Kansas Bar Association previously sponsored a Lawyers Assistance Committee until the work of the committee was supplanted by action of the Kansas Supreme Court. In 2002, Disciplinary Rule 206 was amended and the Kansas Lawyers Assistance Program (KALAP) was organized under the auspices of the Court, administered by a Kansas Lawyers Assistance Commission.

Since 2003, the program has operated under a full-time executive director, Don Zemites, of Kansas City, with assistance from 20 local committees. While the original focus of assistance programs was alcoholism, KALAP now also deals with drugs, compulsive gambling, stress, suicide thoughts and any other condition that impairs a lawyer's ability to serve clients. Zemites calls them "Career Killers."

The biggest problem? According to Mark Bassingthwaight, a risk management specialist with Attorney Liability Protection Society, depression is a major factor contributing again and again to malpractice claims.

While malpractice and ethical violations are not always the same thing, the line between them can become pretty thin. The root causes are often identical.

Indicators of depression include things such as missing deadlines, regularly making excuses for nonperformance, or otherwise being unable to meet obligations; being emotionally paralyzed, including an inability to open mail or answer telephone calls; persistent sadness or feelings of hopelessness; feelings of loneliness or isolation; and even thoughts of suicide.

The statistics folks tell us that women generally are twice as

likely to be diagnosed and treated for major depression, possibly because men are not as willing to acknowledge and seek help for the problem. The biggest difficulty is just getting people into treatment, even though the vast majority of those suffering from depression can be helped.

And when lawyers obtain help for their impairments, the results can be dramatic. An Oregon study showed that malpractice claims and discipline complaints before recovery were nearly four times greater than for those in recovery, while such claims and complaint rates improved during recovery to be significantly better than the general population of lawyers.

In this issue of the *Journal*, you'll find some excellent insights into determining whether you are aware that someone has a problem. Each of us owes it to our family and colleagues to honestly consider whether we test positive for the indicators of impairment or whether we know someone else who does. If so, the trick is to admit what everyone else already knows and to obtain the help that is so readily available.

The Kansas Lawyers Assistance Program is totally confidential and has made a major impact in the lives of hundreds of our brothers and sisters at the bar. It can truly be the path of least resistance in solving what might otherwise appear to be a maze with no exit. Even if you and I aren't impaired, who can we help by reaching out with honesty and compassion? ■

---

*The Kansas Lawyers Assistance Program is totally confidential and has made a major impact in the lives of hundreds of our brothers and sisters at the bar. It can truly be the path of least resistance in solving what might otherwise appear to be a maze with no exit.*

---

Richard F. Hayse can be reached by e-mail at [rhayse@morrislaing.com](mailto:rhayse@morrislaing.com) or by phone at (785) 232-2662.