

Lawyers and the Bottle (Part 1)
A talk with Eileen Travis and Meredith Heller

I. Prevalence of Alcoholism and Substance Abuse in Legal Profession

A. Statistics

1. A third of practicing lawyers have issues with alcohol, 28% suffer from depression, and 19% from anxiety, according to a study conducted by the American Bar Association.¹
2. 25% of lawyers facing disciplinary actions are found to have alcohol or substance abuse issues and suffering from mental health issues.²
3. Lawyers are more than 3 times more likely to suffer from depression than professionals from some other industries.

B. Factors contributing to prevalence

1. Stresses of high-pressure job
 - a. Many work long hours, deal with the unpredictability of trials or matters, have heavy workloads, and can suffer burnout.
 - b. More likely to suffer depression and anxiety than other those in other professions.
 - c. Turn to alcohol or illicit substances to handle stress or depression.
2. Workplace culture
 - a. Profession facilitates social drinking environment. Use drinking to socialize or as a means to facilitate business.
 - b. Pressure to drink in networking or social settings.
 - c. Attitudes and norms within a firm culture can facilitate drinking culture.
 - d. Among lawyers, those who worked in law firms had the highest rates of alcohol abuse, and among those, junior associates.
3. Law school
 - a. Legal profession tends to attract statistically greater number of people who are prone to alcoholism or substance abuse.
 - b. Some say seeds of addiction are planted long before a lawyer starts practicing law, often in law school.
 - c. Problems arise in law school because:
 - i. Of stress, heavy workloads, and competitive nature of law schools;
 - ii. Law school emphasizes training to ignore emotional reactions in favor of analysis;
 - iii. Emphasis on image, status, affluence, accomplishments – often at the expense of health and wellbeing.

C. Correlation between alcoholism and malpractice and discipline

¹ High Rates of Problem Drinking Reported Among Lawyers, NY Times, 2/4/2016: http://www.nytimes.com/2016/02/05/business/dealbook/high-rate-of-problem-drinking-reported-among-lawyers.html?_r=0

² 17 Statistics on Drug Abuse Among Lawyers: <http://interventionstrategies.com/17-statistics-on-drug-abuse-among-lawyers/>

- a. Many jurisdictions have discovered that there is a correlation btwn alcoholism and malpractice and discipline.
2. Problem is costly – to both lawyer and clients

II. Seeking Help

A. Self identification

1. Alcoholism/drug addiction can afflict any lawyer of any age, gender, race, etc.
2. Fear or being stigmatized may discourage lawyers from seeking help or recognizing problem. Fear harm to reputation and career.
3. Denial of problem and secret drinking is not uncommon. No one typical alcoholic or drug addicted lawyer type.
4. Information and understanding of problem early on is key.

B. Lawyer assistance programs

1. Most jurisdictions have lawyer assistance programs to help lawyers with substance abuse or alcoholism issues.
2. New York City Bar Association Lawyers Assistance Program (LAP)³
 - a. Seeks to assist lawyers who have substance abuse or alcoholism issues, or are battling depression or anxiety.
 - b. LAP offers consultation, evaluation and assessment, counseling, referral, intervention, peer support, attorney monitoring program, outreach and education, and a helpline. Services are free, confidential, and available to all lawyers, law students, and bar applicants.
 - c. Operates a 24/7 call center.
 - d. Works in conjunction with the NYC Bar Association's Committee on Alcohol and Substance Abuse and local volunteers to provide peer assistance, monitoring, and education to the legal community.
3. ABA Commission on Lawyer Assistance Programs
 - a. Assists and supports all bar associations and lawyer assistance programs.⁴
 - b. Acts as a clearinghouse for all of the lawyers assistance programs, which exist in every state.
 - c. Purpose is to educate the legal profession concerning alcoholism, chemical dependences, street, depress and other emotional health issues, and assist and support all bar associations and lawyer assistance programs in developing and maintaining methods of providing effective solutions for recovery.
 - d. See ABA Commission on Lawyer Assistance Programs webpage for more information: http://www.americanbar.org/groups/lawyer_assistance.html
4. Peer assistance groups

³ New York City Bar Association Lawyer Assistance Program: <http://www.nycbar.org/lawyer-assistance-program/overview>

⁴ "Commission on Lawyer Assistance Programs." *American Bar Association*. N.p., n.d. Web. 15 Apr. 2016.

- a. Many jurisdictions also have peer assistance programs in which a lawyer is matched with a fellow lawyer who is typically trained by the law association to provide guidance and help in recovery.
- b. NYC Bar Association Alcoholics Anonymous and Gambler Anonymous Meetings
 - i. NYC Bar hosts weekly AA and GA meetings. See NYC LAP website for more information: <http://www.nycbar.org/lawyer-assistance-program/overview>
 - ii. All meetings welcome individuals with various issues, may not be limited to only alcohol abuse.

C. Confidentiality

1. NY Judiciary Law § 499 grants LAP similar confidentiality as attorney/client privilege.⁵ It provides:
 - a. Confidential information privileged. The confidential relations and communications between a member or authorized agent of a lawyer assistance committees sponsored by a state or local bar association and any person, firm or corporation communicating with such committee, its members or authorized agents shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privilege may be waived only by the person, firm or corporation which has furnished information to the community.
 - b. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.
2. Rule 8.3 exemption
 - a. NY Rules of Professional Conduct Rule 8.3. Reporting Professional Conduct:
 - (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.
 - (b) A lawyer who possesses knowledge or evidence concerning another lawyer or a judge shall not fail to respond to a lawful demand for information from a tribunal or other authority empowered to investigate or act upon such conduct.
 - (c) This Rules does not require disclosure of (1) information otherwise protected by Rule 1.6; or (2)

⁵ New York Judiciary Law § 499: <file://localhost/Lawyers Assistance Committees>
<http://codes.findlaw.com/ny/judiciary-law/jud-sect-499.html>

information gained by a lawyer or judge while participating in a bona fide lawyer assistance program.⁶

⁶ NY Rules of Professional Conduct Rule 8.3: Reporting Professional Misconduct
<http://www.nycourts.gov/rules/jointappellate/ny-rules-prof-conduct-1200.pdf>