



ANNUAL REPORT

FOR THE CALENDAR YEAR 2009

NEW YORK STATE LAWYER ASSISTANCE TRUST

SUBMITTED TO THE JUDGES OF THE COURT OF APPEALS

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FOREWORD

AS I NOTED IN A COLUMN WHICH RAN IN THE NEW YORK LAW JOURNAL IN JULY, “alcoholism, other substance abuse and mental illness spare no segment of society-at-large or of the legal profession. Lawyers in private practice, public service (governmental and non-governmental) and academia are all susceptible to these illnesses. The pressures that drive lawyers to drink, to use illegal substances and to overuse prescription drugs are probably greater now than at any time in the past half-century.”

The Trust is making a special appeal to larger law firms to recognize signs and symptoms of these diseases and to develop internal policies to encourage early intervention where appropriate. This request parallels the work of the New York State Bar Association’s Lawyer Assistance Program, which has an initiative to develop a model policy for use by law firms in dealing with such issues.

Also in 2009, the Trust was pleased to accept the Report of its Judge Advisory Panel, recommending action to address LAP issues among members of the judiciary. We look forward to working with the Office of Court Administration to implement the Panel’s recommendations.

Year’s end saw the preparation of a mailing to solo/small firm lawyers across the State, providing information on LAP resources and urging early response.

These efforts join other projects undertaken to reach law students.

In essential respects, the message across-the-board is similar – if changes in acceptable work performance or other behavior may possibly be due to an addiction or mental health disorder, know that the organized bar has resources available to assist the impaired lawyer, judge or law student. This report is filled with examples of how the Trust has worked to get that message out, and I welcome your support of our ongoing programs.



A handwritten signature in blue ink that reads "Michael A. Cooper". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael A. Cooper, Chair



THE BOARD OF TRUSTEES

The Trust is administered by a blue-ribbon panel of Trustees appointed by the Chief Judge of the New York State Court of Appeals. In 2009, they were

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SYRACUSE

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NYS Office of Alcoholism and Substance Abuse Services
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Kruman & Kruman, PC
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NYC Office of Administrative Trials & Hearings
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HEENA SHAIKH*
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Professor of Law, Touro Law Center
CENTRAL ISLIP

PATRICIA SPATARO
Director, Lawyer Assistance Program
New York State Bar Association
ALBANY

EILEEN C. TRAVIS
Director, Lawyer Assistance Program New York City Bar
NEW YORK CITY

**Special thanks go to three Trustees whose term on the NYLAT Board ended in 2009: Judge Courtenay Hall, Dr. Steven Kipnis, and Heena Shaikh, Esq. We appreciate their commitment and service to the lawyers of the State of New York.*



THE NEW YORK STATE LAWYER ASSISTANCE TRUST BOARD OF TRUSTEES

MAY 2008

PICTURED:
(FROM BOTTOM, L-R)

AVROM ROBIN,
BARBARA F. SMITH (*DIRECTOR*),
HENRY E. KRUMAN,
PATRICIA SPATARO,
EILEEN C. TRAVIS,
HEENA SHAIKH,
SARAH DIANE MCSHEA,
TOMAS GONZALEZ,
MARJORIE A. SILVER,
MICHAEL A. COOPER (*CHAIR*),
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KATHLEEN E. COUGHLIN,
CHARLES D. McFAUL,
COURTENAY W. HALL,
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RICHARD P. JAMES,
CHARLES W. BEINHAUER



ABSENT FROM PHOTO:
ANNE M. GRAND,
WILLIAM E. HAMMOND,
STEVEN S. KIPNIS,
M. KATHRYN MENG, AND
STEVEN F. SEIDMAN

THE STAFF

Barbara F. Smith
Director



Susan L. McDougall
Assistant Court Analyst



COMMITTEES

The Following committees of the Board of Trustees carry out the work of the Trust:

The **EXECUTIVE COMMITTEE** maintains oversight of the implementation of the goals of the Trust, makes policy decisions when necessary between board meetings, and conducts periodic reviews of the Executive Director and other staff. It consists of the Chair, Vice-Chair and Finance Committee Chair as voting members, plus the Executive Director as a non-voting member. *CHAIR, MICHAEL COOPER*

The **STRATEGIC PLANNING COMMITTEE** recommends to the Board priorities and new objectives for the Trust, and assists the Executive Director and the Board in developing long-range plans. *CHAIR, CHARLES MCFAUL*

The **GRANTS COMMITTEE** establishes and recommends to the Board the types of activities and purposes for which Trust funds may be used, participates in the review of applications for funding, makes recommendations concerning which applications to approve and oversees the fulfillment of the terms of the grant agreements. *CHAIR, WILLIAM HAMMOND*

The **AWARENESS/OUTREACH COMMITTEE** makes recommendations concerning communications about the prevention and treatment of alcohol and substance dependence and mental health issues within the legal community, including law students, law faculty and administrators, lawyers, members of the judiciary, bar association leaders and local lawyer assistance committees. *CHAIR, CHARLES BEINHAUER*

The **LAW SCHOOL OUTREACH COMMITTEE** maintains outreach and ongoing initiatives to law schools to promote awareness of LAP topics and develops projects to facilitate that awareness and understanding. *CHAIR, MARJORIE SILVER*

The **FINANCE COMMITTEE** advises the Board concerning expenditures of the Trust, makes recommendations for additional funding and investigates potential sources for private funding to support Trust programs and events. *CHAIR, KATHERINE BIFARO*

The **DISCIPLINE COMMITTEE** advises the Board concerning court rules, policies and programs involving the attorney and judge disciplinary processes as they relate to lawyer assistance program issues, and makes recommendations for changes as appropriate. *CHAIR, ROBERT GUIDO*

The **NOMINATING COMMITTEE** recommends to the Chair or its Executive Committee individuals to fill vacancies on the Board of Trustees. Following consultation with the Board, the Chair or Executive Committee may submit such recommendations to the Chief Judge for action. *CHAIR, AVROM ROBIN*

The **JUDGE PANEL LIAISON COMMITTEE** – an ad hoc committee for the duration of the Panel project – recommends goals, strategies and tactics for utilizing the Judge Advisory Panel and assisting the Panel to accomplish its purposes in coordination with the overall NYLAT vision/mission. *CHAIR, COURTENAY HALL*



PURPOSES

THE PURPOSES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST are to provide statewide leadership and financial assistance to existing programs for the prevention and treatment of alcohol and substance dependency and mental health issues among judges, lawyers and law students, and to encourage the development of new lawyer assistance programs to accomplish such goals; to develop and seek adoption of court rules necessary to implement the Trust's mission; to provide education and outreach to the bar and the legal profession about alcohol, other substance abuse and mental health issues; and to promote research in the field.





JUDGE ADVISORY PANEL – FINAL REPORT ISSUED

ALMOST THREE YEARS AGO, NYLAT identified judges as a group potentially underserved by assistance programs, and, upon our request, Chief Judge Judith S. Kaye created a Judge Advisory Panel to investigate the situation and offer recommendations for action.

New York State Lawyer Assistance Programs [LAPs] have a history of providing confidential help to those judges who have sought it, but rates of utilization by judges of LAP services seemed low. Judges face the same problems as other members of the legal profession. But, given the nature of a judge's role – the status and related isolation, for example – a judge's problems may go unaddressed.

In November 2009, the NYLAT Board of Trustees approved the Final Report of the Judge Advisory Panel, consisting of eighteen members of the State judiciary from different levels of the court system and several judicial districts. The Panel met eight times; the Panel Chair met separately on more than twenty occasions with administrative and other judges around the State; and the Panel's work was been discussed at thirteen meetings of the Trust's Board.

The Panel makes three recommendations:

first, that a judicial assistance program be created to work, in association or partnership, with the Lawyer Assistance Programs of the New York State and New York City Bar Associations, to address alcohol, other substance abuse and mental health issues that confront members of the judiciary;

second, that a Judicial Life Program be created within the Judicial Institute to assist members of the judiciary with a spectrum of other issues affecting their well-being and thereby their effectiveness; and

third, that the Office of Court Administration appoint persons to oversee implementation of the foregoing recommendations.

A copy of the Final Report is available from the Trust. A special expression of gratitude for work, dedication and inspiration goes to Hon. John Rowley, who served as Chair of the Advisory Panel, to the judges who served on the Panel, and to the NYLAT Trustees who participated in the project.



MEMBERS OF NYLAT JUDGE ADVISORY PANEL, AND TRUST LIAISONS, INCLUDE, L-R (SEATED) HON. THOMAS M. VANSTRYDONCK [SUPREME COURT, SEVENTH JUDICIAL DISTRICT]; HON. JOHN C. ROWLEY (CHAIR) [TOMPKINS COUNTY COURT]; HON. SHARON S. TOWNSEND [SUPREME COURT, EIGHTH JUDICIAL DISTRICT]; DAVID R. PFALZGRAF [FORMER NYLAT CHAIR]; (STANDING) BARBARA F. SMITH (NYLAT DIRECTOR); HON. MARGUERITE A. GRAYS [SUPREME COURT, QUEENS COUNTY]; HON. SHERYL L. PARKER [CRIMINAL COURT OF THE CITY OF NEW YORK]; PAUL CURTIN [NYS BAR ASSOCIATION LAWYER ASSISTANCE PROGRAM STAFF]; HON. CHARLES McFAUL [DEPUTY CHIEF ALJ/COUNSEL, NYC OFFICE OF ADMINISTRATIVE TRIALS & HEARINGS]; HON. KAREN K. PETERS [ASSOCIATE JUSTICE, APPELLATE DIVISION, THIRD DEPARTMENT]; HON. JOHN M. OWENS [SUPREME COURT, MONROE COUNTY]; HON. A. GAIL PRUDENTI, [PRESIDING JUSTICE, APPELLATE DIVISION, SECOND DEPARTMENT]; HON. TANYA KENNEDY [CIVIL COURT OF THE CITY OF NEW YORK]; HON. DAVID S. GIDEON [TOWN JUSTICE, TOWN OF DEWITT]; EILEEN TRAVIS, NEW YORK CITY LAWYER ASSISTANCE PROGRAM DIRECTOR; HON. VINCENT J. REILLY, JR. [SUPREME COURT, FOURTH JUDICIAL DISTRICT], AND HON. SALLIE KRAUSS [FAMILY COURT, BROOKLYN].

ABSENT WHEN THE PICTURE WAS TAKEN WERE HON. ERNEST J. CAVALLO [CIVIL COURT OF THE CITY OF NEW YORK], HON. ROBERT G. M. KEATING [DEAN, NYS JUDICIAL INSTITUTE]; HON. ANTHONY MARANO [ADMINISTRATIVE JUDGE, TENTH JUDICIAL DISTRICT]; HON. GEORGE D. MARLOW [ASSOCIATE JUSTICE, APPELLATE DIVISION, FIRST DEPARTMENT]; HON. JAMES A. W. McLEOD [BUFFALO CITY COURT]; HON. JOHN NESBITT [WAYNE COUNTY COURT] AND PATRICIA SPATARO, NEW YORK STATE BAR ASSOCIATION LAWYER ASSISTANCE PROGRAM DIRECTOR.




New Advertisement Developed

In 2009, the Trust introduced the latest in a series of outreach advertisements highlighting the work of lawyer assistance programs in New York State. The Trust placed the advertisements in the New York Law Journal and distributed it to bar associations throughout the State for use in their periodicals.

The Trust modified the Ad for the Bar Association of Erie County and the Onondaga Bar Association to include local Lawyer Helping Lawyer Committee information. The advertisement also appeared in the newsletters of the Westchester County Bar Association, the New York County Lawyers Association and the Oneida County Bar Association.

New York Law Journal

NYLAT Chair Michael Cooper's article, entitled "Substance Abuse Hits Large Firms, Too", appeared in the July 10, 2009 issue of the New York Law Journal.



LAWYER ASSISTANCE PROGRAMS...

LAWYER ASSISTANCE PROGRAMS provide free confidential, professional services for lawyers, judges and law students dealing with alcoholism, addictions and mental health concerns.

If you or a colleague are confronting difficulties, we are an important resource. Don't wait for the problem to grow — we're here for you.

CONTACT:
NYSBA LAP: (800) 255-0569
WWW.NYSBA.ORG
NYCBAR LAP:
(212) 302-5787 • WWW.NYCBAR.ORG
NASSAU COUNTY BAR LAP:
(888) 408-6222 • WWW.NASSAUBAR.ORG

**...If not for the CONFIDENTIAL NATURE
of what we do, you'd hear
SUCCESS STORIES ABOUT OUR WORK
ALL THE TIME.**

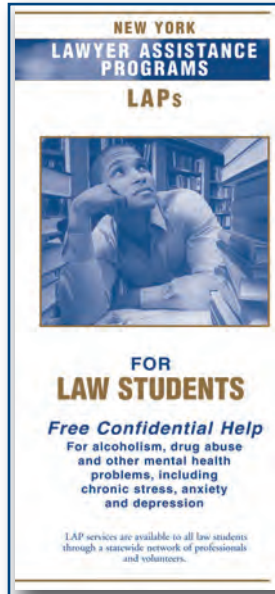
Sponsored by the New York Lawyer Assistance Trust: WWW.NYLAT.ORG



LAW SCHOOL OUTREACH & RELATED EFFORTS

THE TRUST SPONSORED A GATHERING OF LAW SCHOOL STUDENT AFFAIRS PROFESSIONALS AT PACE UNIVERSITY in April, with five Trustees participating as speakers –

Tomas Gonzalez, Steven Kipnis, Marjorie Silver, Patricia Spataro and Eileen Travis. Committee Chair Marjorie Silver presented two new projects – a “LAPs for Law Students” brochure and the “Model Drug & Alcohol Policy.”



The new “LAPs for Law Students” brochure provides statistics of LAP-related problems among law students, provides self-assessment tools and describes the character and fitness issues to be addressed upon seeking admission to the bar.

The Model Drug & Alcohol Policy was developed, in part, as a result of an initiative of the American Bar Association’s Commission on Lawyer Assistance Programs, which issued a Tool Kit for law school administrators and recommended that all law schools have a substance abuse policy. [Copies of the brochure and the Model Policy may be found at www.nylat.org.]

The Trust distributed 13,100 copies of its re-designed brochure on the Character and Fitness aspect of admission to law students at all fifteen of the State’s law schools.

The brochure notes that “neither receiving treatment for alcoholism, drug addiction or mental health concerns, nor the status of being a recovering alcoholic or recovering addict are grounds for denial of admission to the bar.” Instead, the focus is whether abuse, addiction or mental condition impairs the applicant’s “current ability to practice law.”





THE SEVENTH ANNUAL NYLAT AWARD RECIPIENTS IN 2009:



NICOLE ARATOON-LANE

Ms. Aratoon-Lane receives her recognition for her contributions to the first St. John's University School of Law Mental Health Day.

According to Dean Sullivan's nomination, Ms. Aratoon-Lane hosted the first SJU Law School Mental Health Day with 120 students in attendance, making the event a great success. Dean Sullivan also said this about her service:

"The program participants included the ABA Lawyer Assistance Program, Queen's Hospital Center Smoking Cessation, a St. John's Nutritionist and the St. John's Stressbusters team...Nicole assembled the [gift] bags herself and printed a label for the front that listed the sponsors, participating vendors and the logo used on the posters around the school...Putting this event together and running it on her own was quite a feat and required a lot of leg work and persistence. With the help of the vendors and the University, Nicole was able to pull this event together. She hopes that this tradition will continue in the future. As an alumna she hopes to be involved in making this happen."



JAYSON AYLESWORTH

Mr. Aylesworth, as Touro Law Center's on-campus student representative of the New York State Bar Association's Lawyer Assistance Program [LAP], was recognized for his ability "to provide confidential counseling and consultation for students, faculty and staff members with alcohol and substance abuse questions and concerns."

Dean Raful also noted that:

"Mr. Aylesworth spoke at first year Orientation on the availability of LAP services and has also made referrals to community-based service providers and programs where appropriate. Despite a demanding full-time job and heavy course load, Mr. Aylesworth always finds the time to serve as a resource, mentor and counselor to fellow students. Most recently, he recruited and is in the process of training his successor as Touro's on-campus LAP rep. The school, and the profession, is better as the result of his unselfish efforts. And finally, his effective service has demonstrated the benefits that accrue when law schools recruit, train and identify student LAP reps."



PROFESSOR ARLENE KANTER

In nominating Professor Kanter, Dean Gonzalez recognized her for her work as director of the College of Law's Disability Law and Policy Program and co-director of the Syracuse University Center on Human Policy, Law, and Disability Studies. Dean Gonzalez also noted:

"Professor Kanter teaches courses on mental health/disability law and policy, education law, special education law. Her most recent publications include a co-authored book, CASES AND MATERIALS ON INTERNATIONAL HUMAN RIGHTS AND COMPARATIVE MENTAL DISABILITY LAW (Carolina Press, 2006). Her investigative research with Mental Disability Rights International culminated in a 2006 report entitled, BEHIND CLOSED DOORS: HUMAN RIGHTS ABUSES IN THE PSYCHIATRIC FACILITIES, ORPHANAGES AND REHABILITATION CENTERS."

In addition to her academic achievements, Professor Kanter serves as strong advocate for students with mental health issues, particularly law students. She was appointed to serve as chair of the Syracuse University Task Force on Disabilities. In that role she has worked tirelessly to raise awareness and make positive change in the lives of students with disabilities. Professor Kanter is a mentor and guide for law students as they address personal issues of mental health and wellness on their path to the profession. One student recently shared with me that Professor Kanter made her realize that regardless of what society said, she was only bound her own drive and determination. Have no doubt that the student will succeed, and Professor Kanter will be a primary reason for her success."



GRANT PROGRAM AWARDS

A UNIQUE FEATURE OF THE TRUST, WHICH IS FUNDED THROUGH ATTORNEY LICENSING FEES, is the allocation of financial assistance to support lawyer assistance activities around the state. Eligibility standards are described in the Trust's policies (See Appendix A). Briefly, bar associations, bar foundations, lawyer assistance committees and law schools may apply for funding to support services or projects for education, research and efforts at prevention in relation to alcohol and substance abuse among judges, lawyers and law students, and to encourage treatment for alcohol and substance dependency in members of the legal profession.

Within allocations made available, the Trust may award grants to develop and distribute educational materials, To pay expenses associated with the conduct of conferences or related events, or attendance thereat; To pay for certain treatment-related expenses; To support existing and new substance abuse prevention programs and to promote and enhance professionalism.

The Trust has forwarded applications, instructions and informational bulletins to potential applicants, and that information is available on the Trust's website.





THE TRUST AWARDED THE FOLLOWING GRANTS IN CALENDAR YEAR 2009, TOTALING \$ \$258,397.22

Bar Assoc of Erie County and Foundation; Erie Institute of Law

\$15,000.00	Continue Outreach/Lawyer services in the 8th District
\$10,000.00	Treatment-Related Expenses
\$10,000.00	Sponsor Film Documentary “Depression in the Legal Profession”
\$2,500.00	Sponsor Lawyers with Depression Website [Lukasik]
\$2,100.00	Sponsor CLE “Balancing Life & Law: Strategies for Managing Stress”

LeGaL Association

\$256.75	Sponsor Speaker at conference “From Stonewall to Stonewalled?”
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Monroe Center for Education

\$1,923.36	Sponsor a CLE program “Stress in the Legal Profession”
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New York State Bar Association

\$69,108.00	Continue financial support for NYSBA LAP Outreach Coordinator
\$5,000.00	Treatment-Related Expenses
\$2,758.65	NYSBA LAP Spring Retreat Sponsorship

New York City Bar Association

\$80,000.00	Continue support for LAP Clinical Director and part-time associate
\$960.75	Sponsor workshop “Letting It All Hang Out: Better Lawyering through Awareness of Self & Client”

Nassau County Bar Association

\$53,495.00	Continue financial support for LAP Director, advertising & outreach
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Oneida County Bar Association

\$1,395.75	Sponsor CLE “The Lawyer is the Problem”
\$823.49	Sponsor CLE “Doing Nothing is not an Option”
\$645.87	Sponsor CLE “The Economy: What Not To Do”

Onondaga County Bar Association

\$2,429.60	Sponsor CLE “Balancing Life and Law: Strategies for Managing Stress”
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CoLAP ACTIVITIES

NYLAT DIRECTOR BARBARA SMITH SERVED ON THE ABA CoLAP'S ANNUAL CONFERENCE PLANNING COMMITTEE in 2009, and contributed by preparing a conference planning manual to assist future efforts. The conference was held in Phoenix, Arizona in October, and NYLAT Trustee Sarah McShea was a featured speaker on the topic of the impact of aging on the legal profession.

INTERNET

THE TRUST'S INTERNET SITE AT WWW.NYLAT.ORG, RE-DESIGNED IN 2009, features information on the lawyer assistance services available in New York State, and the projects, publications and events sponsored by the Trust. Grant applicants may apply on-line, and information on past conferences may be found there. Links to other sites of interest and a bibliography of related topics are included. New in 2009 was the addition of a blog, with periodic entries on topics of interest.

MEETINGS

THE TRUST MET QUARTERLY DURING 2009 in New York City. Each meeting had a videoconference component, facilitating participation by those Trustees unable to travel to New York City.

LOOKING BACK & AHEAD

THE TRUSTEES, FACING THE ECONOMIC RECESSION AFFECTING THE PROFESSION-AT-LARGE, as well as the available State budget allocation, will adapt to the changing circumstances and strive to develop programs and provide support on topics and projects where the most good can be accomplished. As ABA CoLAP Chair Hon. Robert "Butch" Childers is fond of saying when referring to lawyer assistance efforts generally, "This is not a race, it is a marathon." We have every reason to think that the work of the Trust has elevated awareness in the legal profession of the problems of alcoholism, substance abuse and mental health issues among lawyers, judges and law students. Of course, more remains to be done.

THE TRUST WILL CONTINUE TO COORDINATE WITH AND SUPPORT THE ACTIVITIES of the Lawyer Assistance Program personnel throughout the State, with the ultimate goal of bring resources and awareness to the prevention and treatment of alcohol and substance abuse and mental health issues among members of the legal profession.



HISTORY

IN 1999 CHIEF JUDGE JUDITH S. KAYE APPOINTED the Commission on Alcohol and Substance Abuse in the Profession, which was chaired by Hon. Joseph W. Bellacosa, then Senior Associate Judge of the Court of Appeals. The 19-member interdisciplinary panel, comprised of lawyers, judges, law school deans, administrators and experts in the field, was charged with the creation of a comprehensive and statewide action plan to address substance abuse in the legal profession. The Commission represented the first systemic effort by the New York State court system to address this problem.

After a year of hearings, study and meetings, the Commission proposed an Action Plan that recommended the creation of an independent statewide entity -- the Lawyer Assistance Trust -- to address the problems of alcohol and substance dependency and to serve as a respected and visible resource in the justice system and as a source of reliable information and effective help. [See, COMMISSION ON ALCOHOL AND SUBSTANCE ABUSE IN THE LEGAL PROFESSION, "ACTION PLAN", DECEMBER 15, 2000, available at www.nylat.org.

The summer of 2001 saw the appointment of the Trustees, with James C. Moore of the Rochester law firm Harter, Secrest & Emery, as Chair. As of November 1, 2001, the Trust began its work with the hiring of staff and the opening of its offices, housed during the first year at the headquarters of the New York State Bar Association in Albany, then at 54 State Street, Albany, where it currently is located.

Chair Moore was succeeded by David R. Pfalzgraf of the Buffalo law firm of Pfalzgraf, Beinhauer and Menzies as the Trust's second Chair.

In 2008, the Trust welcomed its current Chair, Michael A. Cooper of the New York City law firm Sullivan & Cromwell.





RULES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST

Sec.

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§100 Purposes of the New York State Lawyer Assistance Trust

The purposes of the New York State Lawyer Assistance Trust are to provide statewide leadership and financial assistance to existing programs for the prevention and treatment of alcohol and substance dependency and mental health problems among judges, lawyers and law students and to encourage the development of new Lawyer Assistance Programs to accomplish such goals; to develop and seek adoption of court rules necessary to implement the Trust’s mission; to provide education and outreach to the bar and the legal profession about the effects of alcohol and substance abuse and mental health problems; and to sponsor and promote research that advances understanding of the causes, consequences and effective treatment of such alcohol and substance abuse and mental health problems.

§101 Organization of the Trust

The New York State Lawyer Assistance Trust (hereinafter “Trust”) shall be administered by the board of trustees appointed by the Chief Judge of the Court of Appeals of the State of New York.

The board of trustees shall consist of twenty-one members, one of whom shall be designated as chair by the Chief Judge. The Lawyer Assistance Program Directors of the New York State Bar Association and the New York City Bar Association shall serve ex officio, and the requirements regarding term limitations shall not apply to them.

The term of office of each trustee shall be three years and each trustee shall be eligible for reappointment except that: upon expiration of the term of office of each trustee first appointed hereunder, the term of office of his or her immediate successor, or his or her next term if he or she is reappointed, shall be one, two or three years as designated by the Chief Judge (for purposes of this paragraph, one-third of the trustees shall serve terms of one year, one-third shall serve terms of two

years, and one-third shall serve terms of three years); where a vacancy in an office of trustee occurs other than by expiration of term, the vacancy shall be filled for the unexpired portion of the original term; and trustees shall serve no more than two consecutive terms without a break in service of at least one year.

- (c) The trustees shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties, which expenses will be reimbursed by the New York State Office of Court Administration at rates approved by the Chief Administrator of the Courts.
- (d) The trustees shall from time to time elect from their membership a vice-chair and shall form such committees as they deem necessary or appropriate, including an executive committee.
- (e) The trustees shall retain an executive director to serve as the chief administrative officer of the Trust and such other staff as may be appropriate.
- (f) The trustees may recommend to the chair or its executive committee individuals to fill vacancies on the board of trustees. Following consultation with the board of trustees, the chair or the executive committee may submit such recommendation to the Chief Judge for action.

§102 Meetings of the board of trustees

- (a) The trustees shall meet at such regular intervals as the chair shall designate. Special meetings may be called by the chair and shall be called by the chair upon the request of at least one-third of the trustees then in office. Meetings may be conducted by telephone or videoconference or by any other electronic means. The chair shall provide reasonable notice of all meetings.

A majority of the trustees shall constitute a quorum. A majority of trustees present at any meeting of the board may exercise any power held by the trustees, except as otherwise provided in this part.

§103 Powers and duties of trustees

The trustees shall:

- (a) adopt policies and develop programs to fulfill the purposes of the Trust; manage and distribute that portion of the monies collected pursuant to the provisions of section 468-a of the Judiciary Law and appropriated to the Trust and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions; receive, consider and determine applications for grants under the grant program established pursuant to section 7500.8 of this Part, subject to the availability of funds appropriated by the Legislature to the Judiciary for such purpose;

RULES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST

- (d) establish procedures for applications for such grants;
- (e) employ and at pleasure remove employees, legal counsel, agents and consultants, and fix their compensation within the amounts made available;
- (f) furnish the Court of Appeals with such reports and audits as the court may require; and
- (g) perform all other acts necessary or proper for the fulfillment of the purposes of the Trust and its effective administration.

§104 Duties of officers

The chair shall preside at all meetings of the trustees, generally supervise the administration of the Trust, and exercise such other functions and duties that the trustees may assign or delegate, or that are customary to the office of chair.

The vice-chair shall assume the duties of chair in the absence or disability of the chair.

The executive director shall assist the trustees, supervise the implementation of the policies of the trustees, prepare reports, supervise staff, serve as secretary at meetings, and fulfill such other duties as may be assigned or delegated by the chair or the trustees.

§105 Disclosure of conflicts of interest

A conflict of interest exists when a trustee has a material personal interest, direct or indirect, in a proposed contract or transaction to which the Trust may be a party. The conflict may arise from the trustee's personal involvement or from an employment or investment relationship with an entity with which the Trust is dealing, or from some family relationship.

In the event such a conflict of interest exists, the trustee must disclose it to the board of trustees present at the meeting and shall recuse himself or herself from any participation in discussion on the merits or decision making concerning the matter before the trustees for consideration or decision. Such disclosure and recusal shall be noted in the minutes of the meeting.

§106 Reports

- (a) Each year, the trustees, with the assistance of the executive director, shall prepare and submit to the Court of Appeals an annual report of the activities and operations of the Trust during the preceding year.
- (b) The trustees may also issue periodic reports to the public concerning the activities and procedures of the Trust.

§107 Grant program

(a) Establishment. There is hereby established a grant program for the purpose of making available financial support for education, research and efforts at prevention in relation to alcohol and substance abuse and mental health problems among judges, lawyers and law students, and to encourage treatment for alcohol and substance dependency and mental health problems in members of the legal profession. Within appropriations made available by law, grants may be awarded under this program for any service, project or other undertaking that furthers these ends, including, but not limited to: the development and distribution of educational materials; payment of expenses associated with the conduct of conferences or related events, or attendance thereat; payment of treatment-related expenses; support for existing and new substance abuse prevention programs; and general efforts to promote and enhance professionalism. The grant program shall be administered by the Trust.

(b) Who may apply. Applicants for grants under this program may include, but are not limited to, lawyer assistance committees, bar associations, bar foundations and law schools.

(c) When and how to apply. All applications for grants under this program shall be on forms prescribed by the trustees and shall be filed at such time, in such place and in such manner as they shall prescribe.

§108 Confidential information privileged; immunity from liability

(a) To the extent that the trustees and the executive director are acting as agents of the lawyer assistance committee sponsored by the state bar association pursuant to its resolution of January 25, 2002, then any confidential relations and communications between the trustees, its executive director and any person, firm or corporation shall be deemed to be privileged under Judiciary Law § 499.

(b) Any person, firm or corporation providing information in good faith to, or in any other way participating in the affairs of the Trust shall be immune from civil liability that might otherwise result by reason of such conduct. The good faith of any such person, firm or corporation shall be presumed.

§109 Construction of regulations

These regulations shall be liberally construed to accomplish the objectives of the Trust and the policies of the trustees.

The initial Rules were adopted by the Trust on October 14, 2002; amended in July, 2005 to recognize the addition of mental health to the mission; amended in July 2006 to conform the provision regarding the annual report with the practice; amended in January, 2007 to grant "ex officio" status to the NYS and NYC LAP Directors, who continue as voting members without term limits.

NEW YORK STATE LAWYER ASSISTANCE TRUST

54 STATE STREET SUITE 802

ALBANY, NY 12207

TELEPHONE (518) 285-4545 FAX (518) 432-8885

WWW.NYLAT.ORG

