

STATE OF MINNESOTA

IN SUPREME COURT

C1-81-1206

**ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS
ON PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME
COURT ON LAWYER REGISTRATION**

The Minnesota State Bar Association filed a petition on November 1, 2007 recommending amendments to the Rules of the Supreme Court on Lawyer Registration, seeking to increase the lawyer registration fee by \$8.00 per year and to allocate that additional money for the Lawyer Assistance Program. This court will consider the proposed amendments without a hearing after soliciting and reviewing comments on the petition. A copy of the petition is annexed to this order.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposed amendment shall submit twelve copies in writing addressed to Frederick K. Grittner, Clerk of Appellate Courts, 25 Dr. Rev. Martin Luther King Jr. Blvd, St. Paul, Minnesota 55155, no later than March 7, 2008.

Dated: January ^{3rd}, 2008

BY THE COURT:

OFFICE OF
APPELLATE COURTS

JAN -3 2008

FILED



Russell A. Anderson
Chief Justice

No. C1-81-1206

**STATE OF MINNESOTA
IN SUPREME COURT**

In re:

Petition to Increase LAP Allocation
From Attorney Registration Fees

PETITION OF MINNESOTA STATE BAR ASSOCIATION

Minnesota State Bar Association
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600 Nicollet Mall
Suite 380
Minneapolis, Minnesota 55402
(612) 333-1183

Petitioner

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*Attorneys for Petitioner
Minnesota State Bar Association*

No. _____

**STATE OF MINNESOTA
IN SUPREME COURT**

In re:

Proposed Amendment of Minnesota Rules
of Professional Conduct

PETITION OF MINNESOTA STATE BAR ASSOCIATION

TO THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:

Petitioner Minnesota State Bar Association (“MSBA”) respectfully submits this petition asking this Honorable Court to increase the attorney registration fee charged to Minnesota lawyers and judges by \$8.00 per year and to allocate that additional money to the Lawyer Assistance Program (LAP). This would increase the allocation to the LAP program from \$8.00 to \$16.00 per year. This proposed change is intended to permit the LAP to maintain and increase its outreach to lawyers in crisis, to provide better service to its clients, to respond more rapidly to client needs, and to better protect members of the public who have entrusted their important legal affairs to lawyers who may themselves need assistance.

In support of this petition, the MSBA would show the following:

1. Petitioner MSBA is a not-for-profit corporation of attorneys admitted to practice law before this Court and the lower courts throughout the State of Minnesota.
2. This Honorable Court has and exercises the exclusive and inherent power to regulate the legal profession in the interest of the public good and the efficient

administration of justice. The Minnesota legislature has expressly recognized this power. See Minn. Stat. §§ 480.05, 481.01 (2006).

3. In the exercise of that power, this Court has the power to require and has required the annual payment of a Registration Fee by all licensed attorneys and judges in the State of Minnesota. See Rules of the Supreme Court on Lawyer Registration 2(A) (hereafter “Registration Rules”). The fee may vary in amount from one attorney to another depending on, among other things, the duration of the attorney’s practice and the attorney’s military status, income, state of residence, disability, retirement, and active or inactive status. See id.

4. The monies received through these Registration Fees are placed in a special fund in the state treasury that is appropriated annually to this Court for, among other things, “regulating the practice of law.” Minn. Stat. § 481.01. The Registration Fees collected and paid to this special fund are allocated by the Court among several entities concerned in various ways with the regulation of the legal profession. See Registration Rule 2(D). At present, eight dollars (\$8.00) of each Registration Fee is allocated and paid “to the Lawyer Trust Account Board for a lawyers assistance program.” Id.

5. In late 2001, this Court selected Lawyers Concerned for Lawyers (LCL) as Minnesota’s Lawyer Assistance Program (LAP). Since that time, the Court has extended or renewed LCL’s contract as Minnesota’s LAP. LCL in turn contracts with a traditional employee assistance provider (DOR and Associates, Inc.) to provide therapy and assessment services. Under the current program, each lawyer, judge, law student, or family member is eligible for up to four free counseling sessions each year, with

appropriate referrals as needed. LCL also hosts therapist facilitated mental health groups for those who are unable to afford additional counseling. LCL performs outreach to the legal community, including CLE programs, law school presentations, and service announcements.

6. In addition, LCL manages a very active group of dedicated volunteers. In the past two years, these volunteers contributed over 600 hours to the program, including direct mentoring, case assistance, and some 70 presentations to interested groups. Many of these presentations are coordinated with other organizations, including MCLE, to obtain the greatest dissemination of information at the least expense.

7. Since 2001, LCL has received the annual \$8.00 LAP allocation from this Court. In addition, LCL has engaged in fundraising of its own to help finance its offerings and programs for attorneys and judges. For the past and current budget years (2006-2007 and 2007-2008¹), the combined proceeds from the attorney registration fees and LCL's own fundraising have been insufficient to support LCL's anticipated programming needs and the continuing growth of the Lawyers Assistance Program.

8. At the time of LCL's contract renewal for fiscal year 2006-2007, this Court approved a budget increase that allowed LCL to add staff to respond to increased client levels. The 2006-2007 LCL budget of \$244,000 from Attorney Registrations Fees exceeded 2006-2007 pro rata collections for the LAP by approximately \$40,000.00. This

¹ LCL's program years run concurrently with those of the MSBA, beginning July 1 and ending June 30.

shortfall was paid out of the reserve fund maintained by the Lawyers' Trust Accounting Board (LTAB). LCL was orally informed that the total amount of the LTAB reserve at the beginning of the 2006-2007 fiscal year was approximately \$120,000.00. As a result, even if the LCL budget remained the same without any further increase, the shortfall would exhaust the LTAB reserve by the end of FY 2008-2009.

9. As a self-regulated community of professionals, the Minnesota Bar has a responsibility to insure that Minnesota's lawyers and judges have the competence and mental capability to serve the public well. In fulfilling this responsibility, the Bar must provide a system of support and a place where troubled lawyers, who may be suffering from chemical dependency, depression, or just stress, can go to seek help. As set forth in the accompanying materials, LCL has effectively performed that role. There can be no doubt that the work of LCL and the availability of a place to call for help has saved the lives, families, and careers of Minnesota lawyers and in turn benefited their clients.

10. Minnesota has been a leader in the field of aiding lawyers in crisis, and created the first Lawyers Concerned for Lawyers program. In recent years, however, most of the states that have such a centrally funded program impose a per-lawyer assessment that is typically higher than Minnesota's present \$8.00 per year.

11. The MSBA's Life and the Law Committee has studied the status and continuing needs of the LAP program and has prepared a report on its findings, a copy of which is attached to this Petition. Based on the Committee's report, in June of 2007, the MSBA passed a resolution that stated:

RESOLVED, that the Minnesota State Bar Association recommends that the per lawyer assessment which supports a Lawyer Assistance Program (LAP) be increased from \$8.00 to \$16.00 per year, through an increase to the attorney registration fee and that the MSBA petition the Supreme Court to modify the Rules on Attorney Registration accordingly.

12. If the Minnesota bar is to maintain the level of support necessary to adequately assist at-risk lawyers and judges and fulfill its responsibility both to its members and to the public, a permanent and stable source of additional funds must be established. Petitioner MSBA submits that an increase in the Attorney Registration Fee of \$8.00 per attorney and a corresponding increase in the Court's allocation to LAP from \$8.00 to \$16.00 would provide such a source. The increase would permit permanent funding for the LAP program consistent with its recent budgets, and any excess would be directed to the LTAB reserve for such future uses as the Court directs. The funding source would also be stable, dependent only on the number of attorneys registered in the State, a number that varies only slightly from year to year.

13. To assist the Court in its consideration of this Petition, the MSBA submits with the Petition the following documents:

- a. A proposed revised version of Registration Rule 2(A-D), reflecting both the proposed new total fee for each practice category and the proposed new allocation of those fees, in both clean and redlined versions (in Addendum);
- b. Report and Recommendations to the MSBA From the Life and the Law Committee Regarding An Increase To Allocation From the Attorney Registration Fee for the Lawyers Assistance Program (in Addendum);
- c. Current "Grant Agreement for the administration and operation of the Minnesota Lawyer Assistance Program" between the Lawyer Trust Account Board and Lawyers Concerned for Lawyers, including Attachment A addressing Specific LAP Services (Exhibit A)

- d. LCL Three-Year Financial Comparison (Exhibit B);
- e. LCL Budget Comparison FY 2007-2008 v. Proposed Budget with Requested Increase (Exhibit C);
- f. LCL 2004-2005 Annual Report, with Appendices including Financial Statement (Exhibit D);
- g. LCL 2005-2006 Annual Report (latest available), with Appendices including Financial Statement (Exhibit E);
- h. LCL Education and Outreach Achievements (Exhibit F);
- i. Excerpt from Minnesota Women Lawyers website regarding program “Holiday Stress: It’s Coming... What You Can Do to Minimize It” (Exhibit G);
- j. Email from Minnesota CLE regarding CLE program “Elimination of Bias – Disabilities Related to Mental Health and Addiction” (Exhibit H);
- k. Email from Hennepin County Bar Association regarding CLE program “Depression: What Is It, and Why Is It an Issue for the Legal Profession?” (Exhibit I);
- l. LCL Brochure “Confidential Assistance for Minnesota Judges” (Exhibit J);
- m. LCL Lawyer Assistance Program Brochure “Program Services” (Exhibit K);
- n. LCL Lawyer Assistance Program Brochure “Self-Assessment” (Exhibit L);
- o. LCL Lawyer Assistance Program Brochure “For Law Students” (Exhibit M); and
- p. LCL Lawyer Assistance Program Brochure “Inspirational Stories” (Exhibit N).

Petitioner MSBA therefore respectfully requests that this Honorable Court grant its petition, increase the Attorney Registration Fee by \$8.00, and allocate that additional \$8.00 to the Lawyer Assistance Program. The MSBA stands ready to address any comments or questions the Court may have concerning the proposal in whatever forum may be most convenient to the Court.

Dated: October ____, 2007

Respectfully submitted,
MINNESOTA STATE BAR
ASSOCIATION

BY _____
Brian Melendez
Its President
and
FAEGRE & BENSON LLP

BY _____
Bruce Jones, #179533
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
(612) 766-7000

Attorneys for the Minnesota State Bar
Association

ADDENDUM TO MSBA PETITION

**Proposed Amended Rule 2 of Rules of the Supreme Court on Lawyer Registration
(REDLINED VERSION)**

Rules of the Supreme Court on Lawyer Registration

RULE 2. REGISTRATION FEE

A. Required Fee.

In order to defray the expenses of examinations and investigation for admission to the bar and disciplinary proceedings, to defray the expenses of administering continuing legal education, to provide an adequate client security fund, to help fund legal services programs, and to help fund a lawyers assistance program, each lawyer and each judge must pay to the Lawyer Registration Office an annual registration fee.

B. Active Statuses.

Each lawyer and judge must pay an annual registration fee of ~~\$218~~226 or such lesser sum as is set forth in the following sections.

1. Active Status--Income Less Than \$25,000.

A lawyer or judge on active status who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of ~~\$193~~201.

2. Active Status--Lawyers on Fulltime Military Duty.

A lawyer or judge on fulltime duty in the armed forces of the United States must pay an annual registration fee of ~~\$107~~115.

3. Active Status--Lawyers on Fulltime Military Duty--Income Less Than \$25,000.

A lawyer or judge on fulltime duty in the armed forces of the United States who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of ~~\$82~~90.

4. Active Status--Lawyers Admitted Fewer Than Three Years.

A lawyer or judge who has been admitted to practice law fewer than three years in each and every licensing jurisdiction, including Minnesota, must pay an annual registration fee of ~~\$97~~105.

5. Active Status--Lawyers Admitted Fewer Than Three Years--Income Less Than \$25,000.

A lawyer or judge who has been admitted to practice law fewer than three years in each and every licensing jurisdiction, including Minnesota, and certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of ~~\$84.50~~92.50.

C. Inactive Statuses.

1. Inactive Status--Out-of-State.

A lawyer or judge who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer or judge (i) is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in Minnesota and (iv) is not engaged in the practice of law in Minnesota, must pay an annual registration fee of ~~\$179~~187.

2. Inactive Status--Out-of-State--Income Less Than \$25,000.

A lawyer or judge who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer or judge (i) is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in Minnesota (iv) is not engaged in the practice of law in Minnesota, and (v) certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of ~~\$154~~162.

3. Inactive Status--Minnesota.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state, and (iv) is not engaged in the practice of law in this state must pay an annual registration fee of ~~\$179~~187.

4. Inactive Status--Minnesota--Income Less Than \$25,000.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state, (iv) is not engaged in the practice of law in this state, and (v) certifies that the

lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of ~~\$154~~162.

5. Inactive Status--Retired.

A lawyer or judge who files with the Lawyer Registration Office a Retirement Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, (iv) is at least 62 years of age, and (v) is retired from any gainful employment is exempt from payment of any registration fee during the period of the lawyer's or judge's retirement. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C7 of this rule.

6. Inactive Status--Permanent Disability.

A lawyer or judge who files with the Lawyer Registration Office a Disability Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, and (iv) is totally disabled is exempt from payment of any registration fee during the period of the lawyer's or judge's disability. A Disability Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C7 of this rule.

7. Transfer from Inactive Status to Active Status.

A lawyer or judge who is on inactive status must, prior to practicing law or assuming judicial responsibilities, (i) promptly notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay the applicable registration fee, (iv) complete all continuing legal education (CLE) requirements and be transferred to CLE active status, (v) comply with Rule 1.15(i), MRPC, and (vi) comply with Rule 6 of these rules.

D. Allocation of Fees.

Fees paid pursuant to this rule are allocated according to the following schedule:

(1) Payments of ~~\$218~~226 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$122 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$50 to the Legal Services Advisory Committee; and
- ~~\$8~~16 to the Lawyer Trust Account Board for a lawyers assistance program.

(2) Payments of ~~\$193~~201 are allocated as follows:

- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$122 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (3) Payments of \$179187 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$83 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$50 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (4) Payments of \$154162 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$83 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (5) Payments of \$107115 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$7 to the State Board of Continuing Legal Education;
 - \$24 to the Lawyers Professional Responsibility Board;
 - \$50 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (6) Payments of \$8290 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$7 to the State Board of Continuing Legal Education;
 - \$24 to the Lawyers Professional Responsibility Board;
 - \$25 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (7) Payments of \$97105 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$26 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$816 to the Lawyer Trust Account Board for a lawyers assistance program.
- (8) Payments of \$84,5092.50 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$26 to the Lawyers Professional Responsibility Board;

- \$12 to the Client Security Fund;
- \$12.50 to the Legal Services Advisory Committee; and
- ~~\$8~~16 to the Lawyer Trust Account Board for a lawyers assistance program.

**Proposed Amended Rule 2 of Rules of the Supreme Court on Lawyer Registration
(CLEAN VERSION)**

Rules of the Supreme Court on Lawyer Registration

RULE 2. REGISTRATION FEE

A. Required Fee.

In order to defray the expenses of examinations and investigation for admission to the bar and disciplinary proceedings, to defray the expenses of administering continuing legal education, to provide an adequate client security fund, to help fund legal services programs, and to help fund a lawyers assistance program, each lawyer and each judge must pay to the Lawyer Registration Office an annual registration fee.

B. Active Statuses.

Each lawyer and judge must pay an annual registration fee of \$226 or such lesser sum as is set forth in the following sections.

1. Active Status--Income Less Than \$25,000.

A lawyer or judge on active status who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$201.

2. Active Status--Lawyers on Fulltime Military Duty.

A lawyer or judge on fulltime duty in the armed forces of the United States must pay an annual registration fee of \$115.

3. Active Status--Lawyers on Fulltime Military Duty--Income Less Than \$25,000.

A lawyer or judge on fulltime duty in the armed forces of the United States who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$90.

4. Active Status--Lawyers Admitted Fewer Than Three Years.

A lawyer or judge who has been admitted to practice law fewer than three years in each and every licensing jurisdiction, including Minnesota, must pay an annual registration fee of \$105.

5. Active Status--Lawyers Admitted Fewer Than Three Years--Income Less Than \$25,000.

A lawyer or judge who has been admitted to practice law fewer than three years in each and every licensing jurisdiction, including Minnesota, and certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$92.50.

C. Inactive Statuses.

1. Inactive Status--Out-of-State.

A lawyer or judge who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer or judge (i) is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in Minnesota and (iv) is not engaged in the practice of law in Minnesota, must pay an annual registration fee of \$187.

2. Inactive Status--Out-of-State--Income Less Than \$25,000.

A lawyer or judge who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer or judge (i) is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in Minnesota (iv) is not engaged in the practice of law in Minnesota, and (v) certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$162.

3. Inactive Status--Minnesota.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state, and (iv) is not engaged in the practice of law in this state must pay an annual registration fee of \$187.

4. Inactive Status--Minnesota--Income Less Than \$25,000.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state, (iv) is not engaged in the practice of law in this state, and (v) certifies that the

lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$154.

5. Inactive Status--Retired.

A lawyer or judge who files with the Lawyer Registration Office a Retirement Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, (iv) is at least 62 years of age, and (v) is retired from any gainful employment is exempt from payment of any registration fee during the period of the lawyer's or judge's retirement. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C7 of this rule.

6. Inactive Status--Permanent Disability.

A lawyer or judge who files with the Lawyer Registration Office a Disability Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, and (iv) is totally disabled is exempt from payment of any registration fee during the period of the lawyer's or judge's disability. A Disability Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C7 of this rule.

7. Transfer from Inactive Status to Active Status.

A lawyer or judge who is on inactive status must, prior to practicing law or assuming judicial responsibilities, (i) promptly notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay the applicable registration fee, (iv) complete all continuing legal education (CLE) requirements and be transferred to CLE active status, (v) comply with Rule 1.15(i), MRPC, and (vi) comply with Rule 6 of these rules.

D. Allocation of Fees.

Fees paid pursuant to this rule are allocated according to the following schedule:

(1) Payments of \$218 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$122 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$50 to the Legal Services Advisory Committee; and
- \$16 to the Lawyer Trust Account Board for a lawyers assistance program.

(2) Payments of \$201 are allocated as follows:

- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$122 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (3) Payments of \$187 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$83 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$50 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (4) Payments of \$162 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$83 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (5) Payments of \$115 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$7 to the State Board of Continuing Legal Education;
 - \$24 to the Lawyers Professional Responsibility Board;
 - \$50 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (6) Payments of \$90 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$7 to the State Board of Continuing Legal Education;
 - \$24 to the Lawyers Professional Responsibility Board;
 - \$25 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (7) Payments of \$105 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$26 to the Lawyers Professional Responsibility Board;
 - \$12 to the Client Security Fund;
 - \$25 to the Legal Services Advisory Committee; and
 - \$16 to the Lawyer Trust Account Board for a lawyers assistance program.
- (8) Payments of \$92 50 are allocated as follows:
- \$18 to the State Board of Law Examiners;
 - \$8 to the State Board of Continuing Legal Education;
 - \$26 to the Lawyers Professional Responsibility Board;

- \$12 to the Client Security Fund;
- \$12.50 to the Legal Services Advisory Committee; and
- \$16 to the Lawyer Trust Account Board for a lawyers assistance program.

**Report and Recommendations to the MSBA
From the Life and the Law Committee
Regarding An Increase To Allocation From
the Attorney Registration Fee for
the Lawyers Assistance Program.**

RECOMMENDATIONS

RESOLVED, that the Minnesota State Bar Association recommends that the per lawyer assessment which supports a Lawyer Assistance Program (LAP) be increased from \$8.00 to \$16.00 per year, through an increase to the attorney registration fee and that the MSBA petition the Supreme Court to modify the Rules on Attorney Registration accordingly.²

BACKGROUND

In 1999, the MSBA and LCL had jointly petitioned the Court to establish an LAP and, in late 2001, Lawyers Concerned for Lawyers (LCL) was selected by the Minnesota Supreme Court as Minnesota's Lawyer Assistance Program (LAP). For some months before LCL was selected and the contract was signed, each lawyer in Minnesota began contributing to the program through an \$8 assessment on attorney registration fees.

Since the inception of the program, LCL's contract has been renewed or extended three times. LCL contracts with a traditional employee assistance provider (DOR and Associates, Inc.) to provide therapy and assessment services. LCL also manages the work of many volunteers and performs outreach through CLE programs, law school presentations, service announcements and in other ways. Through LCL, each lawyer, judge, law student or their family member is eligible for up to 4 free counseling sessions each year with appropriate referrals as needed. LCL also hosts therapist facilitated mental health groups for those who are unable to afford additional counseling and manages a very active group of dedicated volunteers.

For the current budget year (2006-2007), the proceeds from the attorney registration fees, along with LCL's own fundraising, are not enough to support LCL's proposed

² The Committee recognizes that the Supreme Court has the discretion to either reallocate the proceeds of the Attorney Registration Fee in lieu of an increase; however the Committee does not intend that other programs be deprived of their funding requests and instead recommend an increase to the Attorney Registration Fee.

programming needs and the continuing growth of the Lawyers Assistance Program. In reviewing LCL's 2006-2007³ and 2007-2008 budget, the Supreme Court approved disbursement of additional funds to LCL from the reserve accounts set up with the Lawyers' Trust and Accounting Board (approximately \$40,000 annually). These reserve accounts are funded by the excess proceeds allocated to the LAP from the attorney registration fees, after payment of all of the LAP's expenses for the program year. Although the LCL does not maintain the reserve accounts, it is anticipated that those accounts had approximately \$120,000 beginning with program year 2006-2007. Based on the approved budgets for 2006-2007 and 2007-2008 and without any change to the budget for 2008-2009, the reserve accounts will be depleted by the end of the 2008-2009 program year. Given that the budget for the current years is \$40,000 more than the amount collected from the Attorney Registration Fee, an increase is needed to continue the good work and service the LAP provides to our legal community and the public.

ANALYSIS

Why does Minnesota need a Lawyer's Assistance Program? In January, a sad obituary told of the death of a law student by his own hand. This is not the first instance such a tragedy has directly affected members of our legal community. Every few months, the headlines tell of another lawyer, judge or law student who has been arrested for a DWI or has committed some form of misconduct and is being treated for depression. We know that there are some that the LAP does not reach, but there are countless others who call because they cannot stop drinking, or cannot seem to concentrate or find joy in any part of life and are ready for help. One lawyer wrote that he had made the decision to end his life and that when he was driving to complete his suicide, he took a different exit instead. He walked into the LCL office that day and was admitted to a hospital within hours. During that time he talked to another lawyer, an LCL volunteer, who offered to make arrangements so his clients' needs were met. Most cases are not so dramatic, but there is no doubt that lives, families and careers have been saved because there was a place to call for help. As a self-regulated community of professionals, it is our responsibility to insure that those who are called upon to assist in legal matters have the competence and mental capability to serve the public well. The role of lawyer can, at times, be very stressful and overwhelming, particularly when technology makes instant accessibility more than just a client desire, but instead a client necessity. Accordingly, we must provide a system of support and a place where troubled lawyers, who may be suffering from chemical dependency, depression or just stress, can go to seek help.

³ LCL's program years run concurrently with those of the MSBA, beginning July 1 and ending June 30.

The Annual Report of the Lawyers Professional Responsibility Board dated June 2006 states that, of the disciplinary actions resulting in probation for the period January 1, 2005 through December 31, 2005, chemical dependency was a factor in almost 8% of those cases and mental health issues were a factor in more than 22% of them. These percentages are telling as they indicate the need for our LAP.

As LCL continues its outreach efforts, the number of lawyers, judges and law students calling upon LCL for services has increased on a continuing basis. For example, LCL served a total of 249 people in FY 2005-06 compared with 157 in FY 2004-05. This represents about one percent of the lawyers, law students and judges in Minnesota. Studies by the ABA Commission on Lawyer Assistance Programs (CoLAP) suggest that a mature LAP will serve up to 3% of its eligible population each year. LCL believes that increased utilization is due, in part, to increased educational and other outreach efforts in which both staff and volunteers are involved, but that there is always more to be done. Direct mail is the most effective way of reaching people but it is also the most costly. It was an LCL brochure received almost two years earlier that caused the attorney discussed above to drive to LCL instead of taking his life.

In the past two years, LCL made an effort to track the volunteer time more effectively and called upon its volunteers more often to address increased outreach and case needs. Volunteers contributed over 300 hours to 70 presentations. In addition, volunteers reported over 300 hours as direct mentoring or case assistance and it is likely that many more hours were not reported by LCL's volunteers. LCL fulfills the original Life and the Law Committee vision as a peer and professional support program.

As noted above, at the time of LCL's contract renewal for FY 2006-2008, the Supreme Court approved a budget increase which allowed LCL to add staff to respond to increased client levels. This has enabled LCL to better manage peer client relationships and provide more follow up to clients. To do so, the Court agreed that more would be awarded to LCL than would be collected from lawyer assessments for each of those years, and that funds would be drawn from those collected before the LAP contract was awarded. The 2006-2007 LCL budget of \$244,000 from attorney assessments exceeds 2006 -2007 collections by approximately \$40,000.00. While LCL has not seen financial statements to this effect, they were verbally informed that the total amount of LTAB reserves was approximately \$120,000, and that any excess over the amount actually collected would be exhausted at the end of FY 2008-2009, if there were no further increases to the budget approved by LTAB for 2006-2007. In order to even maintain the current level of service provided to LCL's clients and the protection to the public derived from that service, the Supreme Court will need to approve an increase in the per lawyer assessment. The requested level of increase in the per lawyer assessment will permit LCL to better serve its clients and, correspondingly, the public.

We have attached for the review of the General Assembly, LCL's income statement for the last two fiscal years and its year-to-date numbers for the current year. We have also added a summary of the proposed budget for LCL based upon an increase in the assessment to \$16.00, compared to LCL's current budget (which is based upon an average of \$9.50 per lawyer- \$8.00 from the assessment and \$1.50 from the reserve accounts). As indicated, LCL has developed a pro forma budget which shows that the requested increased assessment will result in a substantial increase in direct service expenditures (with the percentage of the increase shown in parentheses) in three areas: outreach and public awareness (58.52%), additional staff (52.87%) and additional outside professional services (166.67%).

There is always more that can be done and, in determining the appropriate amount at which to set the assessment, the Committee considered the current financial position of the LAP, the rate of depletion of the reserve accounts, and empirical data of the assessments for similar programs in other states. As you may know, Minnesota was the first to create a Lawyers Concerned for Lawyers. But not every state now has some form of LAP. Some are independent, like Minnesota's LCL, some are part of the bar association and some are related to the disciplinary function and are under the supervision of the Supreme Court. Of those states which have a per lawyer assessment, it is typically higher than in Minnesota unless the state has a significantly greater number of lawyers (Illinois, New Jersey and Florida each have approximately 80,000 lawyers). The following chart is based on information provided to the ABA Commission on Lawyer Assistance Programs by individual states.

STATE	NUMBER OF LAWYERS	ANNUAL FUNDS PER LAWYER
Arkansas	6,000	\$20.00
California	195,000	\$10.00
Colorado	20,787	\$9.00
Delaware	3,100	\$35.00
Florida	80,000	\$7.55
Hawaii	3,942	\$20.00
Illinois	80,000	\$7.00
Indiana	16,000	\$13.00
Iowa	8,000	\$14.25
Kansas	14,000	\$15.29
Kentucky	11,176	\$10.00
Maine	5,000	\$20.00

Massachusetts	45,000	\$12.00
Minnesota	24,500	\$8.00
Mississippi	6,550	\$17.42
Nebraska	5,800	\$10.00
Nevada	5,600	\$18.89
New Jersey	80,000	\$6.00
Oregon*	12,644	\$58.00
Tennessee	17,000	\$20.00
Texas	75,429	\$20.00
Utah	8,000	\$15.58
Washington	21,000	\$13.59
Average⁴		\$14.66

The Lawyers Trust Account Board administers the grant of the assessment funds, and through the agreement, LCL is directed to raise a significant portion of its budget as well. Realistically, this means that funds are raised from lawyers as few outside sources will consider funding programs exclusively for the legal profession. While LCL believes that their funding sources are stable, they are also limited. While LCL was privately funded for the first 25 years of its existence, that funding base dwindled as donors noted that they were already paying for the program through attorney registration fees. Some of that funding was regained and new sources were tapped, but a significant expansion of fundraising income is unlikely.

LCL has also worked to leverage resources to minimize expenses. Volunteers donate time and relationships with other organizations, such as Minnesota CLE, enhance LCL's ability to present CLE programs on chemical and mental health issues across the state. Increased invitations to speak and exhibit mean more volunteer involvement as well as less staff time in the office which made the need for a case manager even more acute. LCL's presence in law schools has increased exponentially, and more calls have been the result. LCL is featured at judicial programs and contacts new judges about their services. LCL sent a state-wide mailing after hearing from that very distressed lawyer that a mailed brochure brought him in for help, and without it he believes he would have ended his life.

LCL anticipates that increased funding is needed for case management staff and outreach. While there are significant contributions from volunteers, additional management will continue to be needed, including training. LCL is repeatedly told that it is the brochure in hand which generates the call for help. The person who needs help may not attend a CLE

⁴ Because Oregon contributes an unusually high amount, the average does not include their assessment.

or pick up a brochure from an exhibit table, but they can open their mail anonymously and privately. A consistent and professional message is critical to gaining the trust of those who need help the most.

SUMMARY

The utilization of the Lawyer Assistance Program has proven that there is a need for these services. LCL saves families, careers and lives, and serves the vital purpose of protecting the public. The initial assessment which was adequate in 1999 no longer meets the needs of Minnesota's expanding legal community and those it serves. We respectfully submit that increasing the attorney assessment for LCL to \$16.00 will allow LCL to increase outreach, provide better client service, respond more rapidly to client needs, as well as replenish the reserve accounts for at least another three years, and in so doing- provide better protection to the public who have entrusted their important legal affairs to lawyers who are themselves in crisis. Accordingly, the Committee recommends the following:

That the MSBA petition the Minnesota Supreme Court to increase the portion of the annual attorney registration fee that supports the Lawyer Assistance Program from \$8.00 to \$16.00 per year through an increase to the attorney registration fee.

Respectfully submitted,

Katheryn A. Gettman, Chair
MSBA Life and the Law Committee

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