



# MINNESOTA STATE BAR ASSOCIATION

MINNESOTA BAR CENTER • SUITE 403, 430 MARQUETTE AVE. • MINNEAPOLIS, MN 55401

President  
**Robert J. Monson**  
325 Cedar St. #555  
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October 16, 1991

President-Elect  
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Secretary  
**Roger V. Stageberg**  
80 S. Eighth St. #1800  
Minneapolis, MN 55402  
(612) 339-8131

**Frederick K. Grittner**  
Clerk of Appellate Courts  
25 Constitution Avenue  
St. Paul, MN 55155

Dear Mr. Grittner:

Treasurer  
**Michael J. Galvin Jr.**  
332 Minnesota St. #W2200  
St. Paul, MN 55101  
(612) 291-1215

Enclosed is the original and ten copies of a petition to establish a Lawyers Assistance Program.

Vice President-Outstate  
**John N. Nys**  
230 W. Superior St. #811  
Duluth, MN 55802  
(218) 722-6331

We hereby request permission to appear before the Court when this matter is heard.

Past President  
**Tom Tinkham**  
220 S. Sixth St. #2200  
Minneapolis, MN 55402  
(612) 340-2829

Sincerely,

**Tim Groshens**  
Executive Director

Executive Director  
**Tim Groshens**

tg/jm  
Enclosures

STATE OF MINNESOTA  
IN THE SUPREME COURT

OCT 21 1991

FILED

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In Re Petition to establish  
a Board of Lawyers Assistance,  
and to amend the Rules of the  
Supreme Court for Registration  
of Attorneys to increase the  
Attorney Registration Fee by up to  
\$20 to fund a lawyers assistance  
program.  
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PETITION  
OF THE  
MINNESOTA  
STATE BAR  
ASSOCIATION

Petitioner, Minnesota State Bar Association (MSBA),  
states:

1. Petitioner is a not-for-profit corporation of attorneys admitted to practice law before this Court.
2. This Court has the inherent and exclusive power to administer justice, protect rights guaranteed by the Constitution, prescribe conditions upon which persons may be admitted to practice in the courts of Minnesota, and supervise the conduct of attorneys admitted to practice in Minnesota.
3. Petitioner, concerned about the damage caused to the public and the profession by lawyers impaired by substance abuse, physical or mental/emotional health problems, family stress, or other such personal difficulties, appointed a Lawyers Assistance Committee to recommend solutions.
4. Petitioner's Lawyers Assistance Committee recommended in June of 1991, and Petitioner by resolution of its General Assembly does now recommend to this Court, the adoption of a lawyers assistance program for all lawyers in the state as a way of decreasing the number of impaired lawyers and the length of time before an impaired lawyer receives help. Petitioner recommends the program's adoption for a three-year period beginning with the commencement of the program and ending three years thereafter. (A copy of the Committee's report and recommendations is included as Exhibit A.)
5. Petitioner recommends this program because it will increase this Court's ability to provide adequate protection to the public. Petitioner believes that the impairment of some lawyers licensed by this Court negatively affects their ability and fitness to practice law and causes harm to their clients and the public generally. A lawyer assistance program will provide the formal structure to assist these lawyers before they harm the public.

6. Petitioner recommends this program because it will increase this Court's ability to administer the system of justice. Petitioner believes that impaired lawyers have a reduced ability to cooperate with this Court in the administration of the system of justice, and that often those lawyers undermine the efforts of this Court. A lawyers assistance program will provide the Court with a program to assist these lawyers and enable this Court to devote more resources to the justice system.

7. Petitioner also believes that impaired lawyers inflict injury upon themselves, and that it is appropriate for the legal profession generally, and this Court specifically, to assist these individuals.

8. To implement these recommendations, Petitioner recommends the creation of a Lawyers Assistance Board to oversee the establishment of a lawyers assistance program, using as a model the employees assistance programs provided by many corporations and governmental units. The services provided through the lawyers assistance program will be provided by an outside, independent organization with experience in the employee assistance field and will offer the following basic services:

- a) statewide access
- b) telephone access 24 hours a day
- c) face-to-face evaluations by trained counselors
- d) referrals to other agencies
- e) short-term counseling
- f) educational programs for prevention and referral
- g) case management and review

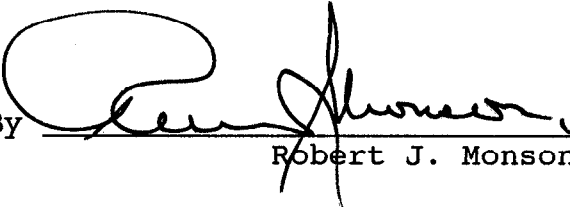
9. Petitioner believes that this program must be mandated by this Court rather than operated voluntarily by Petitioner. Petitioner believes that many of the lawyers with impairments do not or will not belong to the Petitioner's organization. In order to adequately protect the public and the system of judicial administration, this program must cover all lawyers.


10. In order to fund the program, Petitioner recommends an increase in the Attorney Registration Fee of up to \$20 for a three-year trial period. Petitioner understands and appreciates the very serious competing demands for financial resources within the judicial system and the legal profession. However, Petitioner believes that it is appropriate to fund this program for a three-year trial period in an attempt to help impaired lawyers and to prevent future harm to the public and the legal profession, thereby, possibly reducing the future cost of other programs such as those for lawyer discipline and client security.

WHEREFORE, PETITIONER RESPECTFULLY REQUESTS that the Court establish a Lawyers Assistance Board to develop rules, to contract with a provider of services, and to recommend to this Court the increase in the Attorney Registration Fee, up to \$20 which is necessary to fund the program.

Date: 10-9-'91

MINNESOTA STATE BAR ASSOCIATION

By  \_\_\_\_\_  
Robert J. Monson, President

By  \_\_\_\_\_  
Thomas Gmeinder, Chairperson  
1990-91 Lawyers Assistance Committee



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October 24, 1991

OFFICE OF  
APPELLATE COURTS

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OCT 28 1991

**Frederick K. Grittner**  
245 MN Judicial Center  
25 Constitution Avenue  
St. Paul, MN 55155

**FILED**

Secretary  
**Roger V. Stageberg**  
80 S. Eighth St. #1800  
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C4-91-1728

Dear Mr. Grittner:

Treasurer  
**Michael J. Galvin Jr.**  
332 Minnesota St. #W2200  
St. Paul, MN 55101  
(612) 291-1215

Please find enclosed 10 copies of Exhibit A for the Petition of the Minnesota State Bar Association to establish a Board of Lawyers Assistance and to amend the Rules of the Supreme Court for Registration of Attorneys to increase the Attorney Registration Fee by up to \$20 to fund a lawyers assistance program.

Vice President-Outstate  
**John N. Nys**  
230 W. Superior St. #811  
Duluth, MN 55802  
(218) 722-6331

If you have any further questions or need any more information, please feel free to call.

Past President  
**Tom Tinkham**  
220 S. Sixth St. #2200  
Minneapolis, MN 55402  
(612) 340-2829

Thank you.

Sincerely,

**Tim Groshens**  
Executive Director

Executive Director  
**Tim Groshens**

tg/jm  
Enclosures

## LAWYER ASSISTANCE COMMITTEE

Resolved, that the Minnesota State Bar Association petition the Minnesota Supreme Court to:

1. Increase the lawyer registration fee by up to \$20 for each lawyer for a trial period of three years;
2. Appoint a Lawyer Assistance Board to (a) institute a lawyer assistance program in the next fiscal year by contracting with an outside provider of counseling and referral services and (b) develop a system for evaluating the program and monitoring the nature and extent of its use.

**Discussion:** The Lawyer Assistance Committee was appointed in September of 1990. The committee submitted recommendations to the midyear meeting of the House of Delegates in January of 1991. The recommendations called for the institution of a lawyer assistance program and an assessment of each MSBA member of up to \$20 for a trial period of three years. The report was approved by the Board of Governors but tabled at the House of Delegates meeting.

In preparing its recommendations the committee encountered several frequently asked questions. The following report is presented as the committee's response to those questions.

**How serious is the problem of impaired lawyers in Minnesota?**

Extremely serious. Asking for help is never easy and may be especially difficult for lawyers who are trained to be problem solvers and, as such, are reluctant to admit a problem is too big to handle alone. But there are problems that are too big for one person. Substance abuse is one that has received great attention, but others, such as aging and ill parents, depression, a chronically or terminally ill spouse, a rebellious or disabled child, a partner who is stealing from the firm, infidelity, or loneliness can hurt just as much.

The evidence of the problem may be hidden for some time while the stress takes its toll on the lawyer. At some point, however, the cracks appear. The lawyer's staff or colleagues may be reluctant to intervene, either from respect for the lawyer's privacy or from ignorance about what to do. In the case of the sole practitioner, there may be no one in a position to notice his or her troubling behavior.

In Minnesota, an estimated 50 percent of the disciplinary actions taken against lawyers are attributed to substance abuse. Alcoholism is a significant problem in the legal community, as it is in other white collar professions. It is estimated that the rate of alcohol abuse exceeds 15 percent among professional workers.

But alcoholism is just one of the personal difficulties that can hamper a lawyer's professional life. Emotional, financial, marital, and family troubles can impair performance and those stresses are more and more evident in the legal profession.

According to the American Bar Association, 68 percent of all lawyers have been divorced; 37 percent have been divorced two or more times.

A survey done by the Washington State Bar Association revealed that 18 percent of the attorneys of that state suffer from alcoholism and another 12 percent are clinically depressed.

In a survey of Denver area firms, 82 percent of the managing partners reported that they had worked with a lawyer whose personal problems affected performance.

These disturbing statistics have been noticed by bar associations throughout the country. There is no reason to believe that lawyers in Minnesota are experiencing any fewer problems than lawyers in other states.

**What is a lawyer assistance program and why does the committee believe that this will solve the problem of impaired lawyers?**

There are two aspects to the lawyer assistance program as proposed by the committee. First, and most importantly, the lawyer assistance program will assist the lawyer in identifying his or her problem. Once the problem is identified, the lawyer assistance program will refer the lawyer to the appropriate organization or entity for help. This may be referral to a support group, treatment, or to some other type of assistance. The cost of the treatment itself is borne by the lawyer. The second aspect of the lawyer assistance program is that it will provide

limited counseling services. If the lawyer assistance program believes that the lawyer's problem is relatively minor and can be handled in a limited number of counseling sessions, these counseling sessions are offered at no charge through the employer's assistance program. The committee believes that one of the major obstacles to assisting impaired lawyers is finding the right source to help the lawyer. It may be one of the lawyer's partners, family, or the lawyer himself/herself who is looking for this assistance. Every major company in Minnesota has instituted a lawyer assistance program because they have discovered it works. The committee found five law firms that have employee assistance programs in place already.

**Which employee assistance program provider will be selected?**

It is unknown at this time. The committee has identified numerous employee assistance providers in Minnesota. It has interviewed representatives from two of these programs. At this point, however, the committee is not making any recommendations regarding the selection of any specific provider. The committee believes that this determination is more appropriately made by the Supreme Court board charged with the oversight of this program.

**How will the service be made available to lawyers throughout the state of Minnesota?**

The primary entry to the program, whether the lawyer is in the metropolitan area or outside the metropolitan area, is through the telephone. All lawyers would be provided with a 1-800 number or a local telephone number through which to access service. Once the service was contacted, appointments would be set up at locations throughout the state. Most providers which the committee was made aware of had extensive networks of local offices. It is assumed that no lawyer would have to travel more than 75 miles to participate in evaluation and counseling.

**Aren't there already groups like Lawyers Concerned for Lawyers who provide this service?**

Yes, Lawyers Concerned for Lawyers is a very active program, but deals only with lawyers who have problems with alcohol and drugs. Half of the lawyers on supervised probation by the Lawyers Professional Responsibility Board are on probation for reasons other than alcohol and drugs.

It was originally Lawyers Concerned for Lawyers which recommended that the Bar Association investigate this area of need.

**Some lawyers are already covered by an employee assistance program; what will happen to them and their programs?**

Generally, the law firms will probably join this program, because the cost would be less than what they're currently paying; however, there will be some duplication of services where some people are covered through a spouse's program or some government operation.

**Will impaired lawyers be willing to call the Supreme Court to seek assistance with their problem?**

No. And that's why the committee is recommending an outside provider who could maintain confidentiality.

**What are the chances that an employee assistance program will be successful?**

Everybody who has instituted such a program believes they are successful. There have been case studies nationwide documenting the dollar savings and other benefits of such programs. A related issue: every MSBA president has written an article about lawyer civility and lawyer cordiality, and we continue to complain about the problem but we offer nothing that will help people be more civil.

**Isn't there some way that this service can be provided less expensively?**

No. The committee has investigated this area and is satisfied that the appropriate cost for the service is in the range of \$20.

Respectfully submitted,  
Thom Gmeinder, Chairperson