ASAM Safety Sensitive Worker
Best Practices
in Diagnosing, Treating, and Monitoring
Licensed Professionals

J.E. Buddy Stockwell III, JD, CCI
Executive Director
Tennessee Lawyers Assistance Program
Office (615) 741-3238
Cell  (615) 393-3619
Buddy.Stockwell@tncourts.gov
www.tlap.org
HOW DID WE GET HERE?

And, by the way . . .

Where IS here???
SIX DECADES OF EXPERIENCE AND EVOLUTION:

Doctors, Nurses, Pilots, Lawyers, and other “Safety Sensitive Occupations”
Doctors See a Problem “Impaired Physicians”

And since these are MEDICAL ISSUES it is natural that Physicians were the first concerned profession
1974

FAA and Airlines
See a Problem
“Impaired Pilots”
1991

ABA Lawyers and Judges
See a Problem
“Impaired Lawyers”
FSPHP Clinical Guidelines

The Federation of State Physician Health Programs
Clinical Guidelines that
Medically Support Fitness-to-Practice
Study verifies the No-Relapse Efficacy of the FSPHP’s Clinical Guidelines
How Addicted Medical Professionals are Treated
2014
A WHIRLWIND!

• ASAM Published SSW Criteria
• DOJ Letter of Finding LASC (Feb.)
• DOJ/LASC Settlement (Aug.)
• New Paradigm for Recovery
2015
Louisiana JLAP Audit

Sparked by DOJ Investigation
Louisiana JLAP first LAP ever Audited by a Combination of PHP Doctors and LAP Lawyers
2015

“Love First”

Intervention pioneer Debra Jay visits JLAP and seeks information on how Louisiana JLAP is achieving 95% no-relapse rates in monitoring
“The Prevalence of Substance Use and other Mental Health Concerns Among American Attorneys”
Debra Jay launches “Structured Family Recovery”

(families use elements of SSW formal monitoring) and a realization of Dr. Dupont’s New Paradigm)
2017
ABA CoLAP
The Path to Lawyer Wellbeing
Report Explains the Limitations of Drug Screening
2018
ABA CoLAP

Wellbeing Toolkit
Defines NEW category of “Diagnostic Monitoring”

Explains value of “Peer Professionals Program” versus simply drug screening by a private company
The FSPHP publishes State-of-the-Art “Best Practices” in monitoring and clinically supporting fitness-to-practice
2020
FSPHP Membership
Expanded

All monitoring programs can now join the FSPHP
What does all this mean for Lawyers Assistance Programs?

It Depends . . .

“To Protect or Not Protect”
That is the Question
“If you’ve seen one LAP, you’ve seen one LAP”
## GENERAL COMPARISON: BASIC LAP PROGRAM MODELS*

### Peer-Professionals’ Program
- Confidential Assistance
- All Mental Health issues
- Educates the profession
- Duty to protect the public
- Often a Court Program
- Protect, assist, and educate
- Atty ED in Recovery & clinicians
- ASAM SSW clinical standards
- Efficacy by relapse-free outcomes
- Provides formal monitoring
- Testifies in discipline/admissions
- Expectations: fit-to-practice
- Success: low relapse, public ok
- VALUES: save lives and careers

### Lawyers Helping Lawyers
- Confidential Assistance
- All Mental Health issues
- Educates the profession
- No duty to protect the public
- Often a Bar Association Program
- Assist and educate
- Clinician ED & staff
- No formal clinical standards
- Efficacy by client satisfaction
- Discipline provides monitoring
- Rarely testifies in disc/admissions
- Expectations: support the client
- Success: valuable member service
- VALUES: save lives and careers

*per National Experts
2015 La. JLAP Audit
Licensed professionals managing a complex body of education and training while working in an environment where complex, real-time decisions must be made quickly under stress and wherein mistakes can’t be corrected and are very costly and/or can visit irreparable harm upon the public.

- Airline Pilots
- Doctors and Nurses
- Attorneys and Judges
- Pharmacists
- Others (Police, Fire, Railroad)

FORMAL PROGRAMS (HIMS, PHP, NRP, LAP, etc.)
On any Given Day:
NO SECOND CHANCES
Unique to Lawyers

IOLTA Accounts: We Hold Client Money
LAP “Compliance” via ASAM SSW Best-Clinical-Practices Monitoring is a stipulation that:

- Appropriate SSW Clinical Standards Met
- Impairment *Removed*
- Fit-to-practice by Clear and Convincing Stds
- Close Supervision via LAP Monitoring
- Public/Profession not in Danger
- Self-Regulation Accomplished
- Saves Lives and Careers at VERY HIGH RATES
Very Simple Formula

1) Comprehensive Diagnostics by S.S.W. level facilities

2) Professionals’ Track Treatment with S.S.W. Peers

3) Post-treatment Best-Practices in Peer Monitoring

Clinical Quality Control = Compliance = Fit-To-Practice
General Public
“Fail First Model”

- Outpatient
- Intensive Outpatient
- Partial Hospitalization
- Inpatient
Safety-Sensitive Workers
“Success First Model”

- Inpatient SSW-Level
- Partial Hospitalization
- Intensive Outpatient
- Outpatient
Safety-Sensitive Workers

RELAPSE IS NOT PART OF RECOVERY!

(BTW It has NEVER been a required part of Recovery)
Relapse-Free Success Rates

Alcoholics Anonymous: 7%
Outpatient: 20 to 40%
30 Day Inpatient: 50%
SSW standards and peer monitoring: 85% - 95%

SSW standards:

“Fit-To-Practice by Clear and Convincing Evidence”
THE SOCIAL CONTRACT*

Practicing a S.S.W. Profession is a Privilege, Not a Right

*From 2018 FSPHP National Conference Presentation
Origins

- Freedom v. dependence
- Collective v. personal will
- Governance
- Agreement

Overarching Issue: What are the collective’s legitimate interests?
1762 Book by Jean-Jacques Rousseau:

The Social Contract concerns the origin of society and the legitimacy of the authority of the state over the individual.

The Social Contract deems that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority of the ruler or magistrate (or to the decision of a majority), in exchange for protection of their remaining rights.
Common Frames . . . Ethics

- License exchanged for permission, status
- Accepted by competent party, aware of risk
- Establishes society’s claim on fit and competent practitioners
Standards for Professionals

The "Social Contract" demands standards be established for certain state licenses to practice a profession, and it also requires certifying fitness-for-duty in such professions.
Increased Responsibility In the Legal Profession

One of the LAST self-regulated professions, it is incumbent upon regulators to ensure that current Clinical Best-Practices for Safety Sensitive Workers are utilized so as to ensure fitness-to-practice and protect the public.
Social Contract: Fitness-For-Duty

- Established Professionals’ Programming for SSWs
- Specialized diagnostics, treatment, and monitoring
- Published, professional and clinical standards
- Establishes nexus between illness, loss of function
- Communication between experts and the community
The Social Contract applies to lawyers, doctors, nurses and pilots, etc.

PHPs, NRPs, LAPS, and HIMS monitoring programs are necessary

Rights to SSW licenses are conditional

Coercion is not the relevant construct for mandated monitoring

Court-ordered monitoring participation honors the Social Contract

Best Practices Monitoring is an offer to satisfy the condition of “fitness-to-practice”
What About Voluntary Cases?

Can a Monitoring LAP using ASAM SSW standards coincide with robust confidential voluntary help?

- From 2010 to 2020 at Louisiana JLAP: 500% increase in Voluntary Cases while also averaging a 95% no relapse rate

- Now, the majority of cases in La. are totally CONFIDENTIAL

- Education, Education, EDUCATION, EDUCATION!!!

- The Community of Lawyers in ASAM SSW-level no-relapse Recovery become a powerful force to support avoiding Fail-First treatment
A Conditionally Admitted lawyer who relapsed twice under monitoring:

Buddy, I was impaired, but you were not and you knew better . . .

Why did you let all of us pressure you into agreeing to let me go to insufficient levels of treatment?
Will the Public continue to tolerate licensed professionals with mental health diagnoses?

In the fullness of time, we will succeed or fail in part upon the success of ongoing efforts to develop clinical best-practices that statistically and objectively certify “fitness-to-practice” and effective and reliable protection of public.
THE GOAL OF BEST-PRACTICES MONITORING

Healthy Professionals Fit-to-Practice
THANK YOU!

J.E. Buddy Stockwell III, JD, CCI
Executive Director
Tennessee Lawyers Assistance Program
Office (615) 741-3238
Cell (615) 393-3619
Buddy.Stockwell@tncourts.gov
www.tlap.org