

AGENDA ITEM

121 NOVEMBER 2016

DATE: November 14, 2016

TO: Members, Regulation and Discipline Committee
Members, Board of Trustees

FROM: Dag MacLeod, Director, Office of Research & Institutional Accountability

SUBJECT: Lawyer Assistance Program – Implementation of Workforce Planning Recommendations

EXECUTIVE SUMMARY

In May, 2016, the Bar submitted a report to the Legislature mandated by Business and Professions Code 6140.16. The report contained recommendations on workforce planning for the State Bar including a number of recommendations related to the organization and operation of the Lawyer Assistance Program (LAP).

State Bar staff have been working closely with the LAP Oversight Committee to implement the recommendations contained in the Workforce Planning report by the statutory deadline of December 31, 2016.

This agenda item 1) provides an update to the Board of Trustees on the progress that has been made to date implementing the workforce planning recommendations for the LAP; and 2) conveys information to the Board regarding a resolution adopted by the LAP Oversight Committee about the implementation of one of the recommendations.

WORKFORCE PLANNING IMPLEMENTATION

Recommendations Regarding LAP

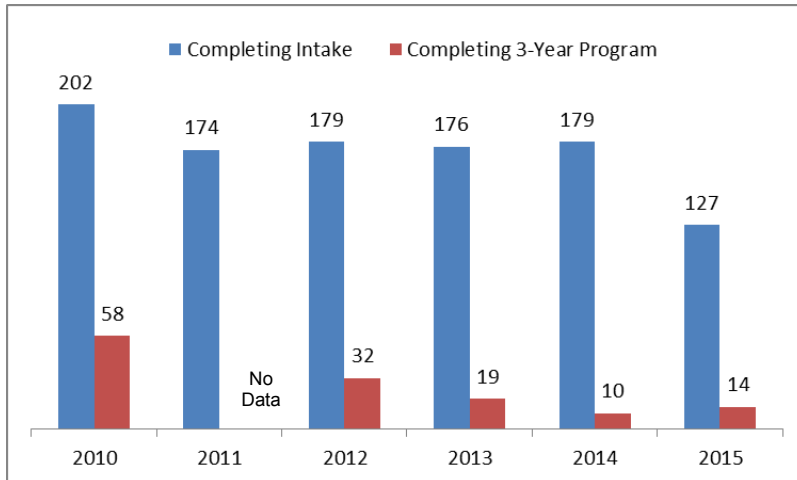
Workforce Planning (Report) recommendations regarding the Lawyer Assistance Program (LAP) arose from observations that the program lacked focus and that enrollment in the program had been shrinking. The Report pointed to a “lack of clarity regarding the program purpose” and went on to note:

Over recent years, LAP work volumes have decreased, applicant screening and review processes have created interest in the level of and need for increased rigor, and program services and delivery mechanisms have caused Bar leaders to question both program functions and relevance. Further, the LAP client base has shifted to one that is

comprised of a significant number of those seeking admission to the Bar, as opposed to licensed attorneys (Workforce Planning Report, p. 35).

According to statistical reports produced by the LAP, the number of participants in the program has declined dramatically in recent years. The number of attorneys completing intake for the program fell by 37 percent between 2010 and 2015 and the number of attorneys who completed the program fell by 76 percent during the same period (Figure 1).

Figure 1: Lawyer Assistance Program Intake and Completion 2010 - 2015



To address these concerns, the Report recommended that the Bar:

- engage in a strategic planning process for the LAP to sharpen the focus of the program;
- reassess the delivery model to include analysis of the feasibility of contracting out services;
- adjust staffing based on caseload requirements;
- distinguish clearly between clinical and monitoring functions performed by LAP staff to ensure that Case Managers are performing clinical activities;
- implement a system of differentiated case management;
- review the Evaluation Committee's work to determine if it serves the purpose for which it was established; and
- improve data collection and payment compliance.

Report recommendations were discussed by the LAP Oversight Committee at its June 4 meeting. To implement the recommendation related to strategic planning, a subcommittee was formed to begin working with Bar staff on this item.

Strategic Plan Development

Beginning in mid-June, Bar staff held weekly conference calls with the subcommittee to coordinate the development of a strategic plan. Initially, this led to the organization of a public meeting on August 19 at which the Oversight Committee received testimony from the public,

stakeholders and professionals who specialize in substance abuse issues in the legal community.

Following the August convening, the Oversight Committee met on September 17 and narrowed the focus of strategic planning to two broad themes: 1) education, outreach and identification of attorneys with substance abuse and mental health issues (the preventative component of LAP's work), and; 2) program design and evaluation focusing primarily on attorneys whose substance abuse has already brought them to the attention of the discipline system.

Two subcommittees of Oversight Committee members were formed to finalize the strategic plan in these areas. These subcommittees have met by phone with Bar staff and the full Oversight Committee will meet again on November 19 to review the draft work product of these groups with the goal of reviewing and approving a final strategic plan at the Oversight Committee's regularly scheduled December meeting.

LAP OVERSIGHT COMMITTEE RESOLUTION

Workforce planning recommendations regarding staffing adjustments point to the caseload of LAP case managers and the management structure of the program. The Report noted that current caseloads of case managers were low relative to comparable positions in a therapeutic court setting. The average caseload of LAP case managers is 34 whereas case managers in drug courts typically handle a caseload of between 45 and 50 cases.

At the same time, the Report noted that there was no line supervisor currently supporting the case managers which led to the following recommendation:

These [higher] caseload levels can be achieved by reducing one Case Manager position. In lieu of elimination, however, this position should be converted to a Case Manager Supervisor.

Bar staff are currently evaluating the options for creating a supervisor position over the case managers.

In addition to these recommendations regarding case managers and direct line supervision of them, the Report noted that "the size of the program does not warrant both a Supervisor and a Director; the Director position should be eliminated or re-purposed accordingly."

Further, noting the operational similarities between the work of LAP and Probation, the Report proposed the creation of a management position that shares responsibility for both of these programs supported by individual line supervisors over each: a case-manager supervisor over LAP, and a probation deputy supervisor over the probation deputies. The then Director of LAP was given notice of the intent to effectuate this recommendation shortly after the Report was submitted to the Legislature in May, with formal notice given in August for a November 4, 2016, termination date.

Members of the Oversight Committee discussed the pending departure of the LAP Director at their September 17 meeting and passed a resolution that was conveyed to the Bar's Executive Director, Elizabeth Parker, in a letter dated September 19. The resolution, contained in the letter, recommended that the Board of Trustees "direct management to re-purpose rather than

eliminate the LAP Director position in a manner that supports implementation of the proposed LAP strategic plan.”

Such a re-purposing has in fact occurred. Mr. Doug Hull, previously the Director of the Bar's Mandatory Fee Arbitration Program, has been given an expanded set of responsibilities to include the Lawyer Assistance Program and the Office of Probation. Thus, a single Director no longer oversees the LAP program alone. Instead, one Director is responsible for three distinct (but related) functional areas of the Bar. Mr. Hull will assume responsibility for ensuring the implementation of the LAP Oversight Committee's strategic plan, tracking milestones and providing on-going reports to the Oversight Committee.

President Fox, Ms. Parker and Chief Operating Officer, Leah Wilson, have communicated directly with numerous members of the Oversight Committee that: the position has been repurposed, rather than eliminated; that Mr. Hull has assumed responsibility for oversight of LAP staff pending the creation of a supervisory position; and that Mr. Hull will begin working with the Oversight and Evaluation Committees, and; will soon begin work on the integration of LAP with the Office of Probation.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None.

BOARD GOALS & OBJECTIVES

Business and Professions Code 6140.16 mandates that the Bar complete the implementation of Workforce Planning recommendations by December 31, 2016.