



The State Bar of California

LAWYER ASSISTANCE PROGRAM

Date: December 8, 2023

To: Lawyer Assistance Program Oversight Committee

From: Michelle Harmon, Program Supervisor, Lawyer Assistance Program

Subject: Item III.B - Summary and Recommendations of the Successful Completion and Benchmarks for Success Working Group

At the December 9, 2022 full Oversight Committee meeting, the Committee set goals for 2023. Those included a review of the criteria for what is considered successful completion of monitored LAP and new ways to acknowledge benchmarks of successful participation. Two Committee members, Heather Benton and Dr. Elise Yenne, volunteered for this working group. The working group met six times during 2023.

The Current Definition

Currently, the minimum requirements for successful completion of the Program are: three years of continuous sobriety or mental health stability, satisfaction of the terms of the Monitoring Plan and lifestyle changes that will support ongoing recovery and stability.

A motivating factor for examining this definition was concern raised by some stakeholders about the cost of the LAP to participants and the desire to ensure that people are not prevented from obtaining the support they need due to cost. The costs associated with professional monitoring might include paying for biological fluid testing, the LAP support groups, treatment programs, therapy, and/or psychiatric medication management. These costs can range from \$250 per month for group meetings to thousands of dollars per month for treatment programs if insurance does not cover the costs. Currently, one potential driver of cost is the length of time people participate in LAP (at least three-years).

In general, monitored participants are in LAP in order to meet a specific monitoring or verification requirement imposed by an employer, the Office of Chief Trial Counsel, the State Bar Court, the Office of Admissions, or another entity. A small number participate out of a desire for additional oversight of their recovery process.

Currently, only a small number of participants¹ successfully complete the program as it is defined above. That is because usually the referring authority has not actually required “successful completion.” Most frequently, the requirement to “successfully complete” is ordered by the State Bar Court often in the context of completion of probation conditions. However, participants who are in the LAP after referral by the Office of Admissions, an employer, or for personal reasons, have no completion requirement. As an example, many Bar applicants participate in LAP as a part of their moral character process and then withdraw when they have received a positive determination of moral character. Yet, these participants are now considered to have “withdrawn” from LAP, which does not reflect the successful achievement of the goal they intended when entering LAP.

Other Jurisdictions

The working group sought information from other states’ Lawyer Assistance Programs and the Federation of State Physician Health Programs about their completion standards and timeframes.

As expected, there is great variety in the way different LAPs manage their professional monitoring. However, the states that responded reported that they monitor between two to five years. A monitoring contract is entered into for a specific length of time and monitoring ends when that time has elapsed. Those that monitored for five years tended to follow the best practices established by the Federation of State Physician Health Programs. Research on the topic also demonstrated that in general, longer monitoring leads to better outcomes. (See concise compilation of information here: <https://tlap.org/faqs/>)

Some states monitor only for the length of time desired by the referring agency (the state’s disciplinary system). The working group discussed this idea at length including abolishing the successful completion concept altogether in favor of only monitoring for the length of time that the participant, or referral source, desires. The group determined that before a decision is made to move to this model, input from outside stakeholders, especially the State Bar Court, would be necessary.

The working group further explored other models such as the Risk-Needs-Responsivity (RNR) model in criminal justice and the Levels of service Inventory – Revised, in addition to other standardized testing measure of mental health symptoms. These models did not fit the LAP population sufficiently for this purpose.

Benchmarks

The group looked at what methods the LAP currently uses to recognize success - there are three:

¹ 11 participants successfully completed LAP in 2022.

1. **One-year certificate:** this document recognizes either one year of sobriety or one year of mental health stability (independent of compliance with the Monitoring Plan). This is simply a form that the LAP can issue at the participant's request after one year of verifiable sobriety or mental health stability. Generally, a participant will request this form when instructed by the State Bar Court as a requirement of the Alternative Discipline Program.
2. **Demonstrated Insight Process for Bar Applicants:** this involves meeting with the Clinical Review Team to create a letter that they can submit to the Office of Admissions indicating their compliance with the program and the level of insight they have gained into the issue that brought them to LAP.
3. **Successful Completion:** as discussed above, this requires three years of continuous sobriety or mental health stability, satisfaction of the terms of the Monitoring Plan and lifestyle changes that will support ongoing recovery and stability. Successful completion is ultimately determined by the Clinical Review Team.

The group eventually determined that a new designation, called "successful participation" could be created that combines aspects of the alternative measures of success above, and would be available to any participant after one year. The successful participation determination would be made by the Clinical Review Team and would allow for clinical judgment that is personalized for the individual, and can be obtained much earlier than the minimum of 3 years required by the current "successful completion" criteria.

The proposed Successful Participation process is outlined as follows:

1. Participants get opinions from their support team about the pros and cons of ending their monitoring program. The support team may include the LAP group members, LAP Group Facilitator, Clinical Monitoring Analyst, sponsor, family, therapist, psychiatrist, or other treatment providers.
2. When they receive feedback that is supportive of concluding the monitoring plan, participant will prepare a written Participation Summary and Maintenance Plan which includes (but is not limited to) the following information:
 - a. The feedback they received from their support team.
 - b. A description of what their life used to be like, what changes they made, and what it is like now.
 - c. A description of their involvement in self-help groups, individual therapy, and other similar activities.
 - d. A description of their relapse prevention plan, their personal triggers, and their personal warning signs.

- e. A description of their law practice and how it supports or does not support their ongoing recovery/stability; describe the impact of their recovery/stability on their practice of law or other employment.
 - f. A description of their relapse prevention plan, their personal triggers, and their personal warning signs.
 - g. A description of how the LAP has worked for them, how it has not worked for them, and the feelings they have about making the transition to life without the LAP.
 - h. If they have borrowed money from the LAP Financial Assistance Plan, confirm that they have spoken with the LAP staff about their loan balance and describe the terms of the repayment plan that they hope to arrange.
3. Discuss their Participation Summary and Maintenance Plan in their LAP group and make revisions as necessary.
4. Submit the document to their Clinical Monitoring Analyst who will schedule them for a meeting with the Clinical Review Team (CRT). The CRT will make the final determination of Successful Participation.

Recommendations

The working group seeks feedback from the full committee regarding the proposed successful participation process and recommends the following next steps:

1. obtain input from outside stakeholders, especially the State Bar Court, on the idea of abolishing the successful completion concept altogether in favor of only monitoring for the length of time that the participant, or referral source, desires.
2. add a process for participants to obtain a determination of “successful participation” that is personalized to the individual.