

Drug and Alcohol Abuse & Addiction in the Legal Profession

By the Legal Profession Assistance Conference <http://www.lpac.ca/>

Introduction

Alcoholism is a chronic progressive incurable disease characterized by the loss of control over alcohol. Although incurable, alcoholism is treatable. Millions across North America suffer the effects of alcohol abuse and addiction. It is a disease that knows no social or economic barrier. Lawyers and judges are no exception. In fact, the legal profession has a rate of alcoholism significantly higher than the general adult population. Addiction to prescription and illegal drugs is much less common as alcoholism appears to account for 95% of addictions in lawyers and judges. Most drug addicted professionals are also cross addicted to alcohol.

The recognition of alcoholism as a major health and personal problem within the legal profession has spurred many bar associations throughout North America to become involved with this issue over the course of the last two decades. The Canadian Bar Association and the American Bar Association have adopted recommendations urging provincial and state bar authorities to institute alcohol programs to assist in education, identification and rehabilitation. Lawyers Assistance Programs have now been established in all Canadian Provinces and in most American States.

A little information helps us to focus on the extent of the problem. It is accepted that 10% of the adult population is alcoholic. An alcoholic is a man or woman who is

addicted to alcohol, which is to say that he or she cannot control consumption of alcohol. Further, the result of consumption for an alcoholic is frequent, repeated intoxication resulting in a general deterioration of health, quality of life and professional ability.

Approximately one third of the adult population does not consume alcohol at all for cultural, religious, health or personal reasons. Of the remaining two thirds of the adult population who do consume alcohol, over one in seven drink alcoholically. Alcoholics drink over half of all alcohol consumed.

Studies conducted in numerous jurisdictions have pegged the rate of alcoholism in the legal profession at between 15% and 24%. Roughly 1 in 5 lawyers is addicted to alcohol. Of course, the converse is true, namely that the majority have no problem in consuming alcohol.

Many jurisdictions have discovered that there is a correlation between alcoholism and malpractice and discipline. Studies in Canada and in the United States estimate that approximately 60% of discipline prosecutions involve alcoholism. Similarly, something over 60% of all malpractice claims involve alcohol abuse. More significantly, a recent study has suggested that 90% of serious disciplinary matters involve alcohol abuse. It is clear that alcoholism in the legal profession is a very, very costly problem.

The same holds true for drug addiction. The course of the disease is similar, though sometimes accelerated. Treatment and recovery are similar as well and abstinence through twelve-step recovery programs has proven to be equally useful.

In this course, we will study the effect of addiction in our profession. Some readers will insist that the figures are blown out of all proportion. Studies done in other professions, notably medicine and dentistry,

set the figures for addiction at rates slightly higher than in the legal profession. Make no mistake about this: Addiction in our profession is a very real, difficult, dangerous and expensive illness. The costs to the individual addict, to his or her family, to clients, to our profession and the community as a whole are beyond calculation.

As we will read later, there is no cure for addiction. Nonetheless, it is a disease which can be fully arrested by abstinence from intoxicants. To those of us involved in this field, the process of rehabilitation and recovery can and does bring about a miraculous renewal of the individual addict. In our profession, we are fortunate to have a willing army of lawyers who have overcome addiction and who offer peer group support without cost and without hesitation. Our success rate within this peer group is truly remarkable.

Why are Lawyers at risk?

Our profession and our work requires communication, together with persuasion, creativity and consistency; we learn to exhibit a professional demeanour and to hide our own alarm, fear, disgust, abhorrence, boredom, as we conduct our professional lives. We develop a tough exterior and we repress our own weaknesses. We learn to expect and give little support to and from our colleagues. We learn to work with other lawyers as professionals and not as people. It is no surprise that many lawyers find themselves alienated and alone as people while maintaining a clear identity as lawyers within the profession.

Professionals, in the main, will agree that their professions are becoming increasingly stressful due to competition, specialization, complexity, and demands. Various theories have been postulated as to why addiction statistics are higher among professionals than among the general population. Some will argue that professionals are studied more closely than the trades and that

actually the statistics are not higher. Some will suggest that professionals are allowed to continue the steady progression of their addiction without interruption or intervention by their peers because there is a strong agreement not to interfere with freedom among colleagues. Further, professionals are rarely under the close supervision routine in other jobs.

It is common for the addicted person, professional or otherwise, to watch their social and family life deteriorate while he tries his hardest to keep his work life functioning. Moreover, professionals tend to be inner-directed and perfectionists with a resultant reluctance to help or be helped. Lawyers tend to be verbally adept, aggressive and well able to manipulate or control meetings, discussions and relationships. Lawyers are well able to divert attention away from themselves when they become the subject of discussion. Lawyers are trained to develop a facade of imperviousness and implacability to personal problems.

Alcoholism, Drugs And Lawyers

Like it or not, lawyers who drink or use drugs are significantly more at risk of losing control than the general population. Studies indicate that the law, along with other helping professions such as medicine, dentistry and social work tend to attract a statistically greater number of those individuals who are prone to the development of chemical dependencies, predominantly alcoholism.

Alcoholism and drug addiction, as illnesses, follow a predictable course with common symptoms presenting at every stage regardless of type and frequency of psychoactive substances used. Left untreated, this course will inevitably progress to extreme social, organic and emotional dysfunction and often to death. It

is patently easy to spot alcoholism and drug addiction in its later stages.

More difficult, however, is the recognition or diagnosis in the early stages of the illness, since, like many chronic pathologies, this progression is usually measured in years, often 15 to 20 or more from time of first use before undeniable, highly visible symptoms appear. However, in recent years, drugs such as cocaine and crack are producing a total life-style devastation that is frequently measured in months from time of first use.

Denial is inherent to the individual suffering from addiction. Similarly, denial respecting alcoholism has been inherent within legal institutions. While alcoholism has been a major cause of negligence claims and disciplinary complaints in our profession for hundreds of years, it is only in recent years that bar associations have assumed any responsibility to deal with it. While the American Medical Association began a program for impaired physicians in 1972, it was not until 1988 that the American Bar Association set up its Commission on Impaired Attorneys. Not until 1990 did the Canadian Bar Association empower a committee to study addiction. Just as national bar associations have begun examining and focusing on the disease of addiction, so have state and provincial bar associations begun examining what they can do for lawyers suffering from addiction.

The Typical Alcoholic and Drug Addicted Lawyer

Many people continue to think of the alcoholic as being a homeless person living on skid row. Less than 5% of alcoholics and drug addicts live on skid row. Most have families and homes, jobs and careers. Many lawyers may still feel that they cannot be addicts since they still have these homes, families, offices, together with their law practice.

For people unfamiliar with alcohol and chemical dependency, identification of the problem can be difficult. Most lawyers, judges and disciplinary staff do not receive any training at all in recognizing symptoms of addiction. Few individuals in a lawyer's professional life will be exposed to the lawyer day in, and day out and few will have an opportunity to observe the lawyer in such a way as to make addiction symptoms obvious.

The pressures and difficulties of professional practice provide ready excuses for outbursts of temper, confusion or delay, exhaustion, inattention, or anxiety. Rarely will anyone in professional life see the full range of symptoms displayed by an individual lawyer. Since an addicted lawyer may be consciously attempting to hide the problem, particularly from others in authority, few can expect to see more than a very small part of the problem.

Further, other lawyers or staff may be reluctant to discuss symptoms of addiction with anyone else, possibly because they are consciously or unconsciously covering up for the addict. An awareness of substance abuse can assist many in the profession in recognizing the danger signals in friends and colleagues. Nonetheless, few of us can expect any thanks for observing the symptoms and none of us can expect any immediate thanks for reporting them or acting on them.

Alcoholism is a progressive disease and a lawyer may practice law as a social drinker without difficulty or repercussions for many, many years. Perhaps after 20 years or more, that same lawyer may cross the line from being a social drinker to a problem drinker. It may be 5 or 10 years beyond that before he or she progresses to alcoholism. Typically, a lawyer aged 40 to 55 is at greatest risk of becoming an alcoholic.

The onset of the disease can be very, very gradual. Colleagues, employees and family members may not notice the gradual change

over many years. The onset of the disease may be evidenced by increased consumption on a daily basis or by binge drinking on weekends or long weekend benders every few months. Alcoholism may be evidenced by constant drinking including blackouts.

The addict can be a 50 year old judge, a 26 year old new graduate, a man or a woman. The number and proportion of alcoholic lawyers increases with age so that the heaviest and highest rate of alcoholism is found with more senior practitioners.

This disease respects no age or status. Leading lawyers, judges, government leaders, prime ministers and presidents have been afflicted. Many are now, today. There are successful lawyers, at the top of the profession who consume 40 ounces of hard liquor every day. They do not believe they are alcoholics because they continue to function at work and produce. Perhaps some examples will help us understand the disease and its cost.

Example One: Janet has been working for the largest merger-acquisition firm in the City since graduating first from a top law school. Organized, poised, well spoken and resourceful, she will be the youngest associate ever offered partnership in her firm. The daughter of a retired judge, she has avoided the heavy drinking for which her father was well known. Janet never drinks at lunch or after work. One glass of wine at the firm Christmas party reveals that she is not rigid about alcohol.

Unknown to her colleagues, her family and her clients, Janet drinks a bottle of white wine, every night alone in her fashionable high rise condo. An alcoholic from her first taste of alcohol at age 13, she has been a daily drinker since her first year of law school. If Janet continues to drink at this rate, she will be dead by age 37 from massive haemorrhaging of the oesophagus and the stomach. If she survives the haemorrhages, her liver damage will kill her within 2 years after that.

Like many secret drinkers, Janet is too terrified to seek help. Someone like Janet can be found in virtually every high rise condominium building. A single female without spouse or children, Janet's chances, prognosis and recovery are statistically the worst of any group.

Example Two: Sam has practised law in Smallville, for 30 years. Formerly a beer drinker after late night hockey with the boys, and a normal social drinker, his consumption has slowly increased over the years. He drinks daily, often needing a morning hit before he can face the office. He has more and more complaints from clients about tardy performance, shoddy workmanship and procrastination: failing to report out real estate deals, delaying the setting down of law suits for trial, cancelling appointments and discoveries at the last moment.

Reduced billings have put him under increasing financial pressure. He has started borrowing against trust monies knowing that he will do the work eventually so that his clients will not be cheated. Three letters of inquiry respecting client complaints have not been answered to the Law Society.

No one who knows him would describe him as an alcoholic even though he has been one for over 6 years. Everyone in his life knows that his drinking is damaging Sam, his performance and his relationships. His wife, his children, his employees, his clients, the court clerks all have no idea how Sam's drinking is affecting every other aspect of his life. If anyone knew the whole picture, they would know that Sam is on the verge of disaster.

Over the next 3 years, Sam will eat up \$250,000.00 of clients' trust monies from litigation retainers and estates. Eventually, Sam will be charged with criminal breach of trust and he will be disbarred by the Law Society with substantial claims for defalcation as well as claims for losses arising from his professional negligence. His

province has scores of women and men like Sam. So do every other province and state across North America.

Example Three: Erica is a family law judge who has been on the bench for six years. She loves her work and she prides herself on her excellent legal knowledge and her judicious control over her court. As demanding as she is of counsel, she is even harder on herself, researching points of law and producing scholarly judgements. She dreams of a place on the court of appeal where her discipline and ability will be fully utilized.

The other judges have been avoiding Erica and they have been less and less available to go lunch with her. Their Thursday evening outing to a posh bar seems to be a thing of the past. Erica resents these changes in her relationship with the other judges. She feels abandoned and lonely. The fact is, the other judges avoid lunch with her because she always has one or two drinks too many and her sharp intellect becomes a lethal weapon. Erica often drinks alone now. She continues to take the pain medication prescribed by her doctor after a knee injury from skiing. She also takes other drugs for her chronic tiredness, often mixing them with scotch. She actually feels she should slow down her drinking but her efforts to cut back just haven't worked. Even after going on the wagon for two weeks, she finds her craving is worse as soon as she picks up a drink. In no time, her consumption is up to where it was and her husband is on her back again. He isn't a lawyer or a judge, so how can he begin to understand the pressures of the courtroom?

Erica needs help now but she is so good at controlling others with her intellect and her sharp tongue, no one dares do anything. Someone left an LPAC brochure on her desk with the 24 hour help line circled...

Example Four: John is a partner in a mid-sized firm. A director of several large corporations, a past chairman of the United Appeal Campaign, he has brought many

important clients into the firm in his 25 years of practice. Soon after his call to the Bar, John became a binge drinker - every 3 or 4 months he would spend a long weekend at the cottage or a week in Florida drinking himself silly.

John realized that he couldn't handle booze and he always avoided drinking at the office and even at home - except for the benders. Over time however, the benders have come closer together and in recent years, they happen monthly. John's partners have learned to cover for him - he's away on vacation or in hospital. Some of this is true: John secretly checked himself into a southern hospital last year after a lengthy binge of drinking.

John knows he has a problem, but he doesn't know he is an alcoholic. At the hospital, they told him he was an alcoholic but John knows that they were just trying to sell him a \$17,000, 28 day rehabilitation program that he doesn't need. The walls are coming in at John - he doesn't know where to turn.

Unknown to John, his partners have been talking about expelling him from the partnership. John's binges will get worse and worse and his partners will expel him two years from now. Before that time, John's wife will have left him. Alone, John will begin an 18 month binge in his fortress home refusing to answer the phone or the door.

There is no one typical alcoholic or addicted drug lawyer. The patterns and appearances of alcoholics can be as varied and numerous as any group of individuals. In the early stages of alcoholism, an individual may exhibit no signs of difficulty or impairment to clients, colleagues, or even friends and family. I will offer you a final example of an early-stage alcoholic.

At thirty-five years of age, Phillip lived in Toronto as the senior lawyer in a very successful, highly profitable practice in a small office. In a dozen years of practising

law, he had attracted loyal national, and international clients. Financially secure with no debt, he produced substantial annual billings and enjoyed an income at the top of the profession. A dedicated practitioner, he was an equally devoted father raising two young children on his own. Apart from his role as a lawyer and as a single parent, he had no personal life.

He had been a social drinker for twenty years and you would never have described him as a problem drinker. He rarely drank at lunch, except on special occasions and you would never have seen him intoxicated at any time. He sometimes seemed to gulp drinks at parties but he would usually cut himself off early.

It would never have occurred to any client, friend or family member to describe Phillip as an alcoholic. If someone had made such an allegation, his clients, friends, colleagues and judges would have been outraged at such a slur and they would have defended Phillip and his reputation. Three years later, at age thirty-eight, Phillip would surprise and in some cases shock his family, friends and clients by telling them of his decision to abstain from alcohol forever as the only way of arresting his alcoholism.

Unknown to anyone other than himself, Phillip would put in a full day at the office, come home and make supper for the children and put them to bed. When they were in bed by nine o'clock, he would begin to drink and would routinely consume the equivalent of six ounces of hard liquor each and every evening. Drunk by his own bed time, he would go to sleep to repeat the same process the following day.

Over the three years between age thirty-five and thirty-eight, Phillip's drinking would become more systemic, and it would increase to the twelve ounce per day level. Drinking would become more important in his life and he would plan vacations and time off around opportunities to drink. Although aware that any consumption of

alcohol in excess of five or six ounces per day was a serious health hazard, Phillip would block out this knowledge and convince himself that his drinking was a suitable cure for his loneliness, lack of self-fulfilment, pain from arthritis or any other excuse he could rationalize and justify.

Occasionally, Phillip would go on the wagon and abstain from alcohol. He noticed that he rarely lasted as long as he had planned. As soon as he did resume drinking, he would revert to his previous level of consumption within days. He believed that he couldn't have a drinking problem, however, since he never suffered withdrawal symptoms.

On a return from a week long vacation in which he drank constantly, Phillip would allow himself to see where he was going and the dangers he was taking with his health and with his life. He decided to go on the wagon as a first step and then get information about problem drinking. After delaying for several weeks, he contacted the Ontario Bar Alcoholism Hotline phone number and left his name and telephone number. Within an hour, three lawyers contacted him by telephone and one agreed to meet with him the following day.

The next day Phillip met with Jim, a lawyer who had been sober for over twelve months following years of heavy drinking that had cost him dearly and nearly resulted in his expulsion from the profession. Jim talked about his compulsion to drink and Phillip quickly understood the similarities in his own drinking pattern. Jim offered a perfect example of where Phillip was going and Phillip realized that his decision to remain sober temporarily would have to become permanent. Phillip joined a self-help recovery group and began a program of personal recovery that put him in contact with other recovering sober alcoholics in the legal profession and elsewhere.

Without the Bar Alcoholism Program, we can never know whether Phillip would have found the information he needed about alcoholism, recognized the danger of his own disease and made the decision to remain sober for the rest of his life, one day at a time. The fact is that all of this happened and Phillip was able to arrest his disease at an early stage. He was never to suffer the loss of his practice or his family or his health. Phillip was very lucky and to this day he remains grateful to those three lawyers, to the Bar Alcoholism Program and to his self-help group. I should add for those of you who have not guessed already, Phillip's story is my own.

I hope that these examples demonstrate several truths: Firstly, addiction can be arrested in its early or late stages with information, and understanding, and support. A Peer Assistance Program for Lawyers is the most powerful way I know of providing all of these to the profession.

Information must be made available to law students, perhaps in the form of a book such as this one. With the education of young lawyers, before and after graduation, and with the leadership and support available from Lawyer Alcoholism Programs, we can arrest this disease in its early stages and save ourselves and our colleagues from needless suffering. Further, for lawyers seriously afflicted with advanced drug addiction or alcoholism, we can offer programs that will allow for the recovery and renewal of afflicted individuals. The saving in both financial and personal terms in our profession can and will pay dividends vastly in excess of our investment.

Alcoholism, Addiction and Professional Responsibility

Most lawyers who suffer from addiction will never become involved in disciplinary matters. At the very least, alcoholic lawyers fail to enjoy their potential. Their clients, the legal profession, and the community as a

whole are impoverished in the process. At the worst, alcoholic lawyers will lie, cheat and steal and thereby damage their clients, down- grade the profession, and destroy their careers and reputations. The same holds true for drug addicts.

In many cases, an addicted lawyer will never commit any serious wrongdoing but only minor infractions involving delay, procrastination and sloppy workmanship. In such circumstances, the disciplinary process can never be brought forth to assist the lawyer in commencing rehabilitation. Nonetheless, the lawyer, the lawyer's clients and the profession, as well as the community as a whole all lose out.

Discipline committees, tribunals or the Court can only become involved when charges of professional misconduct are brought against a lawyer that allow for a hearing, conviction and the imposition of penalties. A lawyer with a serious drinking or drug problem can be charged and may be acquitted and walk from the disciplinary process without any sanction whatsoever respecting the addiction. The lawyer may even be convicted and yet no attention will be directed in the disciplinary process to rehabilitation and recovery from addiction.

As we will read later, addiction is a progressive, degenerative disease which always gets worse and never gets better. A lawyer with a drinking or drug problem can never recover by cutting back or slowing down. The only treatment for alcoholism and for drug addiction is complete, unconditional abstinence, forever, one day at a time.