

# Do You Know a Nebraska Lawyer Who is Struggling?



Michael J. McCarthy

My question for each Nebraska lawyer in this President's Page is: "Do you know a friend or colleague in the practice of law who is struggling? Someone who may be depressed; who drinks too much; or who seems to be dependent on drugs, prescription or otherwise?" My guess is that, for most of us, the answer is or has at one time been: "YES!"

A study conducted by the Hazelden Betty Ford Foundation and the ABA Commission on Lawyer Assistance Programs on the legal profession found that:

- 20.6% of respondents scored at a level consistent with problematic drinking.
- 28% of respondents reported experiencing mild or higher levels of depression.
- 19% of respondents reported experiencing mild or higher levels of anxiety.
- 11.5% of respondents reported suicidal thoughts at some point during their career.<sup>1</sup>

If you or someone you know is dealing with these issues, I know someone—a really great guy, actually—who you should know. His name is Chris Aupperle, and he is the Director of the Nebraska Lawyers Assistance Program (NLAP). NLAP offers confidential help to all Nebraska lawyers, judges, and law students troubled by drug or alcohol dependence, mental health disorders (including depression, anxiety, bi-polar, OCD), cognitive loss, stress, burnout, and other conditions impacting an individual's professional and personal life. NLAP

also assists people who are concerned about a lawyer, judge, or law student and want to encourage them to get help.

Chris has been NLAP Director since Rick Allan retired in 2017, and I think sharing a bit about how Chris came to be interested in that role will help explain why he is so good at what he does.

Chris grew up in Omaha, attended Creighton as an undergrad, and ultimately graduated from Creighton University School of Law in 1992. He started his legal career at Hanson, Engles and Locker in Omaha doing mostly insurance defense work. He then practiced on his own for a few years and went on to work for a title insurance company.

During those early years of his practice, Chris now acknowledges that he was drinking a lot. However, one very positive thing happened to Chris during those early years of practice: a friend told him about NLAP. Chris knew he needed help, so he called Rick Allan.

As a result of his struggles, Chris was suspended from the practice of law for two years. However, because of his call to Rick, he went to the Independence Center for treatment. During his suspension, he worked at a job that did not require him to have a law license and worked on his sobriety.

Once reinstated, Chris began working as in-house counsel at ConAgra Foods. He stayed there for 14 years doing property and environmental law. He would likely still be employed by ConAgra Foods, but, in 2016, the company made the decision



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to relocate their entire legal department to Chicago and Chris and his wife decided they were not willing to leave Omaha.

As luck would have it, around that time, Rick Allan called Chris and told him that he was planning to retire and encouraged Chris to apply for the job. He did, and after a lengthy search process, Chris was hired to replace Rick in May of 2017. They worked together for about a month, and Chris has held the role ever since. I, for one, am extremely grateful that is the case!

What Chris enjoys most about his job is using his life experiences and acquired expertise to help others. He acknowledges that one of his biggest challenges is having the patience necessary to deal with lawyers who need help but are not yet ready to accept help. In his experience, lawyers tend to be more guarded and controlling in therapy than the general public. As a result, finding the right therapist for lawyers is extremely important.

Chris points out that lawyers have a rate of depression that is about 2.5 times the rate of the general public. Does that surprise you? I am sorry to report that it did not surprise me. Chris closed our conversation by disclosing that we have experienced at least one Nebraska lawyer suicide each year that he has served as NLAP Director. Sad but true.


Let me close by saying that I am an adult child of an alcoholic. My mother, God rest her soul, went to Hazelden Treatment Center way back in the early 1970's. Mom was a bright and wonderful lady, but she never felt self-confident enough to do much, socially or otherwise, until she had a drink

or two. She was never a sloppy drunk, but she was dependent on her booze. From her experience, I learned how difficult it can be to ask for help and how important it is to seek treatment. I am proud that NLAP services are available to our profession. From my mother's experience, I also learned a prayer I like to use. It goes:

"God grant me the serenity to accept the things  
I cannot change;

The courage to change the things that I can;

And the wisdom to know the difference."

So, if you, a colleague, or a lawyer you know is struggling, please call Chris Aupperle at (402) 475-6527. Communication with NLAP is covered by confidentiality protections. It could be a call that makes a significant difference in that struggling lawyer's life. 



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## Endnote

- <sup>1</sup> Study on Lawyer Impairment, AMERICAN BAR ASSOCIATION (Jan. 18, 2019), [https://www.americanbar.org/groups/lawyer\\_assistance/research/colap\\_hazelden\\_lawyer\\_study/](https://www.americanbar.org/groups/lawyer_assistance/research/colap_hazelden_lawyer_study/).

## Nebraska Ethics Advisory Opinion for Lawyers No. 24-02

### Questions Presented

1. Whether a conflict of interest arises when an attorney continues to represent a client in a personal injury lawsuit while the attorney and client are co-Defendants in a separate lawsuit arising out of the litigation of the personal injury lawsuit. **Yes, this creates a concurrent conflict of interest.**
2. Whether the conflict of interest arising out of the attorney's continued representation of Plaintiff in the underlying personal injury lawsuit is waivable. **On these specific and narrow facts, yes.**

### Conclusion

The question presented here is unusual and difficult. It is therefore with some unease that the Committee finds that while continued representation of Plaintiff in the First Lawsuit creates a concurrent conflict of interest, Attorney may ethically continue to represent Plaintiff in that case if Plaintiff provides informed consent in writing.

See full opinion here:

