

Commission on the Well-Being of the Legal Profession

Minutes – October 30, 2018

Present: Chief Justice Reiber, Dean Tom McHenry, Mike Kennedy, Josh Simonds and Teri Corsones were present. Judge Bill Cohen, Ian Carleton and Chris Newbold participated by phone.

Chief Justice Reiber began the meeting at 1:10 p.m. He asked for the status of Committee Reports from each of the participating Commissioners.

Legal Employers Committee: Ian Carleton reported that the Legal Employers Committee has held two detailed conference calls with Committee members U.S. Attorney Christina Nolan, Vermont Attorney General TJ Donovan, Attorney Scott McGee, Attorney Bonnie Badgwick and VPO President Lucia White, representing a broad cross-section of legal employers. A draft report is nearly completed. In the course of discussing a number of recommendations from the National Task Force Report, Committee members agreed in principle with certain recommendations, but found that implementing them in practice might be complicated. Such recommendations included flex time, telecommuting, work life balance, billable hours expectations and expectations regarding the availability of a lawyer after hours. Ian anticipates the report being completed within the month.

Judges Committee: A copy of the Judges Committee Report was distributed. Judge Cohen noted that judges differed in terms of whether they would prefer in-state providers versus out-of-state providers. The Report recommends that both types of providers be included in the eventual Vermont LAP. He also noted the possibility of organizing a cadre of retired judges who could provide peer support to judges in need of support. It was recommended that the term “Monitor” in Recommendation C be modified to read “Increase awareness of signs of”. Commissioners noted with approval Recommendation D regarding secondary trauma resources, and recommended that definitions be included. Judge Cohen referenced a secondary trauma program that the AG’s office has offered.

Bar Association Committee: A copy of the Bar Association Committee Report was distributed. Among the recommendations in the Report, Teri Corsones highlighted the new VBA Lawyer Well-Being Committee co-chaired by Samara Anderson and Micaela Tucker that the VBA Board of Managers approved at its Board Meeting in September. The Committee is willing to work closely with a Lawyers Assistance Program, particularly with respect to wellness education and training, and to serve as a clearinghouse for wellness-related resources. With respect to the other bar association recommendations, the VBA has implemented the CLE, program activity and survey recommendations.

Law School Committee: Dean McHenry distributed a copy of the draft Law School Committee Report, which reflected the fact the Vermont Law School has already implemented a number of the National Task Force Report recommendations for law schools. The Report also includes a number of “Possible Recommendations for Further Action” with detailed, specific proposals relative to each recommendation. The Law School Committee includes students, professors, alumni, administrators and mental health professionals. Dean McHenry asked that the draft report not be circulated until the final draft is completed shortly; the draft is 90% complete.

Regulators Committee: Inasmuch as the Regulators Committee members were involved with different regulatory bodies (the Board of Bar Examiners, the Character & Fitness Committee, the Continuing Legal Education Board, the Judicial Conduct Board and the Professional Responsibility Board), each body is examining different recommendations relevant to the specific body. Mike Kennedy presented a summary of what each body has reviewed and currently recommends, including: incorporating a mandatory “wellness” curriculum into the 15 hours of CLE that new attorneys are required to take in their first year of licensure; requiring a 1-hour CLE in wellness-related programs every reporting period; including judges in whatever programs are developed; adding a comment to Rule 1.1 to clarify that competence includes wellness, but without making it a violation to be “unwell”; and amending A.O. 9 to allow bar counsel to refer a complaint to the LAP.

Lawyer Professional Liability Committee Report: Chris Newbold reported that he is now one of the co-chairs of the National Task Force. It has launched a national pledge for law firms to sign, to signify their commitment to improving lawyer well-being. (Mike Kennedy did a blog post about the pledge on September 19, 2018, noting that the pledge provides a great vehicle for legal employers to make the workplace healthier.) Chris indicated that a number of larger law firms have signed the pledge, and would like to expand the list to smaller firms in rural states. Teri indicated that the Bar Association Committee could review the initiative and will ask the Legal Employers Committee to do so, also, in the hopes of encouraging Vermont law firms to be included in the inaugural class of firms. In keeping with the ALPS commitment to supporting lawyer well-being business plans, Chris also announced a willingness for ALPS to contribute \$5,000 - \$10,000 as seed money for a Vermont Lawyers Assistance Program. Chief Justice Reiber thanked Chris and ALPS for this very generous offer.

Lawyers Assistance Program Committee: Josh Simonds distributed a detailed Preliminary Business Plan for a Vermont Judges and Lawyers Assistance Program. The business plan includes the following sections: Mission Statement, Market Need, Value Proposition, How to Address It, Funding, Delivery of Services, Tracking of Services and Outcomes and Competition. Josh also proposed a budget based partly on a lawyer license fee surcharge, to support a part-time executive director position. Members discussed issues surrounding a lawyer license fee surcharge, and the possibility of Bar Counsel fulfilling the part-time position responsibilities within the context of current Bar Counsel functions. The number of calls that Bar Counsel fields yearly (approximately 1,200) reflects the bar’s willingness to engage and to reach out for advice in situations that oftentimes involve wellness issues. Chief Justice Reiber will explore the feasibility of such an approach with the Court. He commended Josh for all of his work on the business plan and with respect to VTJLAP.

A “Healthy Lifestyle Program” proposal from Invest EAP was circulated, that describes services that it could potentially provide to lawyers, judges and law students. Josh indicated that Invest EAP could potentially assist with the survey recommendation in the business plan.

Teri will prepare a draft state action plan based on the Committee Reports and discussion above, and will circulate it to Commissioners before a December meeting date. The meeting adjourned at 3:00 p.m. The next meeting will be scheduled in December.

Respectfully submitted,

Teri Corsones