



Ethics in Litigation The Hard Stuff

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Can you not pay liens for your client?

- ▶ A lawyer cannot guarantee payment of liens in a settlement. The client can, but not the lawyer. MO Informal Opinion 125 – violates ethics rule 4-1.8(e).
- ▶ Illinois Advisory Opinion No. 06-01 agrees that Rule 1.8(d) bars personally guaranteeing payment of a lien because it constitutes “the provision of financial assistance to his client.”
- ▶ But it goes on to say that “under Rule 1.15(b), a lawyer representing a plaintiff has an obligation to segregate the settlement funds over which a third party has a claim, to notify persons who have an interest in those funds (including lien/subrogation claimants) and then distribute the funds owed to said persons.”
 - ▶ Failure to segregate the funds and then distribute them results in the lawyer being directly liable to the third-party subrogation claimant. *Western States Ins. Co. v. Olivero*, 283 Ill.App. 3d 307, 670 N.E.2d 333, 218 Ill. Dec. 836 (3d Dist. 1996).

Can you represent the driver and passenger in a car crash?

It depends! If there can be no allegation of fault on the driver, yes (e.g. rear-end crash) but if there can be, then no.

Rule 1.7 - Prevents “concurrent” conflicts of interest - if the representation of one client is directly adverse to another client or if there is a significant risk that representation will be “materially limited” by lawyer’s responsibilities to another client.

Even with concurrent conflict of interest, the attorney can still represent both if:

- Reasonable belief attorney will provide competent and diligent representation;
- Representation is not prohibited by law;
- The representation does not involve the assertion of a claim by one client against another client; and
- Each affected client gives informed consent

BE CAREFUL! - “Representation of clients whose interests are directly adverse in the same litigation constitutes *the most egregious* conflict of interest.” *State ex rel. Horn v. Ray*, 325 S.W.3d 500 (Mo.App. E.D. 2010).

Safest practice: Refer the better case to Burger Law. You cannot risk a comparative fault instruction against the driver.

Conflicts Rule 1.7

- (a) Except as provided in Rule 4-1.7(b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
- (1) The representation of one client will be directly adverse to another client; or
 - (2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

And be careful settling joint claims, as Rule 1.8 (g) says:

(g) A lawyer who represents two or more clients shall not participate in making **an aggregate settlement of the claims of or against the clients**, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client **gives informed consent, in a writing signed by the client**. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

Can I loan my client money?

No - Rule 1.8:

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance court costs and expenses of litigation, including medical evaluation of a client, the repayment of which may be contingent on the outcome of the matter; and
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

Narrow exception for emergency financial assistance for *pro bono* indigent clients - assistance is limited to food, housing, transportation, medicine, and “other basic necessities of life.”

Can you sign your client's name to a settlement check and deposit in your trust account?

- ▶ Yes - What you are doing is getting a limited power of attorney, in writing, from your client to execute a negotiable instrument and deposit it into your trust.
- ▶ You must have client's permission in writing - add this or something similar to your contract:
 - ▶ I hereby authorize my attorneys, the Burger Law Firm to execute any settlement drafts or insurance company documents to effectuate an insurance settlement to which I have agreed - and grant the Burger Law Firm a limited power of attorney to do so.”
- ▶ Under power of attorney law you are getting a limited power of attorney to do this. This is not a power of attorney to settle the case. *See, e.g., Elam v. Dawson*, 216 S.W.3d 251 (Mo. App. W.D. 2007), which held an inmate's parents exceeded the scope of the limited power-of-attorney by settling the inmate's claim.
- ▶ Illinois power of attorney “must be signed by at least one witness to the principal's signature” and “must indicate that the principal has acknowledged his or her signature before a notary public.” 755 ILCS 45/3-3
- ▶ If you do not have it in your agreement, get it in writing later.
- ▶ Under Rule 1.15(d) you have an obligation to advise your client that the case was settled and that you are putting the settlement funds in your trust account and will distribute them.

Can you deposit the settlement check before your client signs the release?

- ▶ Not a clear answer. Better practice is to have the release signed, but either way don't distribute the money until you get that signed release.
- ▶ Prior to signing the release the money likely will fall under Rule 1.15(e) because "two or more persons" may have an interest in the money until the release is signed and the contract is complete. Without a signed release, the party that paid, usually an insurance company, has a legal right to the money.
 - ▶ Comment indicates must be held in trust account "with the care required of a professional fiduciary"
- ▶ Rule 1.2 – Specifically indicates "a lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter."
 - ▶ See *In re Coleman*, 295 S.W.3d 857 (Mo. banc 2009), where the attorney violated 1.2 by accepting a wrongful death settlement agreement without his client's consent.
 - ▶ Illinois considers authority to settle entirely separate from authority to represent in litigation. *Higbee v. Sentry Ins. Co.*, 253 F.3d 994 (7th Cir. 2001).
- ▶ Need to be really careful that you are clear with the client and the other side about the terms of the settlement because in depositing the check, you are accepting the consideration.
- ▶ What if the client refuses to ever sign the release? What if the release is general and you wanted specific?
- ▶ Depositing the check will serve as evidence in a motion to enforce settlement if a dispute about terms later arises.

When do you report another lawyer to the OCDC?

- ▶ You should report a lawyer or judge only if a ethics violation rises to a level to call into question that person's honesty, trustworthiness, and fitness as a lawyer or judge. Call the OCDC (573-635-7400) or the ARDC (312-565-2600).
- ▶ Rule 8.3 requires mandatory reporting if: "A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects *shall* inform the appropriate professional authority."
 - ▶ The comments indicate "substantial" refers to the seriousness of the offense, not the amount of evidence.
- ▶ "Knows" may be inferred by circumstances - more than "mere suspicion" but less than "absolute certainty." As we learn from the Annotated Model Rules (this is essentially the same definition as probable cause)
- ▶ Applies to judges also
- ▶ Rule 8.3 does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.
- ▶ When in doubt, contact Legal Ethics Counsel office to request an informal advisory opinion
- ▶ Obtain your client's consent if any report would disclose any information related to representation (Rule 1.6(b))
- ▶ <https://www.mochiefcounsel.org/news.php?id=53>
- ▶ <https://www.illinoiscourts.gov/News/993/Answering-the-Top-10-Questions-About-a-Lawyers-Duty-to-Report-Misconduct/news-detail/>

Can you ask for FaceBook, Avvo, SuperLawers and Google likes or reviews - give something of value?

Do not give something of value in exchange for likes or reviews. May be considered to violate Rule 7.1(h) as a “paid testimonial or endorsement” without “conspicuous identification of the fact that payment has been made for the testimonial or endorsement.”

Rule 7.2(c) prohibits providing a thing of value in return for a recommendation for services, i.e. a lawyer cannot pay someone to send him or her a case or to recommend a client to him or her for money. The Rule does not include an exception for non-monetary gifts.

The Comment to the MO and IL rules state: “A lawyer is allowed to pay for advertising permitted by this rule but otherwise is not permitted to pay another person for channeling professional work.”

The comments to the ABA rule say “lawyers are not permitted to pay others for recommending a lawyer or services over channeling professional work to them.”

The comment also makes it clear there are a lot of ways that lawyers can pay for being recommended:

- a lawyer can pay for advertising and communications;
- a lawyer can pay for employees, agents, and vendors to market for them;
- a lawyer can pay for business development and staff and web designers and social media consultants;
- a lawyer may pay others for generating client leads such as internet based client leads;
- a lawyer may pay the usual charges for a legal service plan or loyal referral service;
- a lawyer may refer cases to another professional or lawyer with the promise that the other professional will in return refer clients to the lawyer.

For additional info: *Referrals: What You Need to Stay Out of Ethical Trouble*, 75 J. Mo. B. 28, Nancy Ripperger.

Client-assisted advertising: add this marketing language to your client contract:

Neither Rules 7.1 nor 7.2 prohibit use of client information for marketing, so long as the restrictions enumerated in the rules are followed (e.g., misleading communications are prohibited under 7.1).

“Client also agrees to allow Burger Law, LLC to publicly disclose some parts of the client’s case in connection with Burger Law, LLC’s marketing efforts.”

- Covers newsletters, advertising, etc.
- Best practice to still request permission prior to using the information
- Do not reveal confidential information as a part of the disclosure

Can you call the opposing party in a case?

It depends - are you in suit? Represented? Current or former employee of organization?

Rule 4.2

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

- ▶ Rule 4.2 applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by Rule 4.2.
 - ▶ For example, a plaintiff's attorney cannot discuss a case with a defendant who has been assigned counsel by his insurance carrier when the attorney knows he has counsel. Mo.Bar Adm.Advisory Opinion No. 84.
 - ▶ However, if negotiating with an insurance company, the attorney can continue to communicate with the adjuster if done with defense counsel's consent. Mo.Bar Adm.Advisory Opinion No. 97.
- ▶ The prohibition on communications with a represented person only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances.

- ▶ Rule 4.2 does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation.
- ▶ Nor does Rule 4.2 preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer also may not make a communication prohibited by Rule 4-4.2 through the acts of another (e.g. a paralegal).
 - ▶ *U.S. v. Gonzalez-Lopez*, 403 F.3d 558 (8th Cir. 2005) held the rule does not apply to attorneys not otherwise representing other parties in the litigation.
 - ▶ “It is best to maintain narrow reading and cautious approach” *U.S. v. Ward*, 895 F.Supp. 1000 (N.D. Ill. 1995)

▶ In the case of a represented organization, Rule 4.2 prohibits communications with a constituent of the organization who supervises, directs, or regularly consults with the organization's lawyer concerning the matter or has authority to obligate the organization with respect to the matter or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability. Consent of the organization's lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by his or her own counsel, the consent by that counsel to a communication will be sufficient for purposes of this Rule 4.2.

- ▶ *See State ex rel. Pitts v. Roberts*, 857 S.W.2d 200 (Mo. banc 1993), which held that an attorney who wrongfully took employees' statements when those employees should have been considered parties to the suit must turn over the statements to the defendant.
- ▶ *See Orlowski v. Dominick's Finer Foods, Inc.*, 937 F.Supp. 723 (N.D. Ill. 1996), which held that managers and co-managers who made "fundamental employment decisions, such as hiring, scheduling work shifts, and recommending terminations were 'managerial' employees for purposes of rule forbidding ex parte contact."

Can you call the person you saw in the news who just got in a wreck and get them to be your client?

No, not unless you currently or previously represented the person, or they are a lawyer, friend, or relative.

Rule 7.3 governs direct contact with Prospective Clients

Applies to in-person and written solicitations by a lawyer with persons known to need legal services of the kind provided by the lawyer in a particular matter for the purpose of obtaining professional employment.

(a) **In-person solicitation.** A lawyer may not initiate the in-person, telephone, or real time electronic solicitation of legal business under any circumstance, other than with an existing or former client, lawyer, close friend, or relative.

- ▶ Uninvited hospital visit to prospective client warrants reprimand. *In re Crouppen*, 731 S.W.2d 247 (Mo. banc 1987)

Rule 7.3(b) governs written solicitations

A lawyer may initiate written solicitations to an existing or former client, lawyer, friend, or relative without complying with 7.3(b).

In Missouri, written solicitations to others are subject to the following requirements:

- ▶ (1) Must be plainly marked “ADVERTISEMENT” on the face of the envelope and at the top of the first page in type at least as large as the largest written type used in the written solicitation;
- ▶ (2) the lawyer shall retain a copy of each such written solicitation for two years. A single copy of the solicitation with a list of names and addresses of persons to whom it was sent suffices;
- ▶ (3) each written solicitation must include the following:
 - ▶ “Disregard this solicitation if you have already engaged a lawyer in connection with the legal matter referred to in this solicitation. You may wish to consult your lawyer or another lawyer instead of me (us). The exact nature of your legal situation will depend on many facts not known to me (us) at this time. You should understand that the advice and information in this solicitation is general and that your own situation may vary. This statement is required by rule of the Supreme Court of Missouri;”
- ▶ (4) written solicitations mailed to prospective clients shall be sent only by regular United States mail;
- ▶ (5) written solicitations mailed to prospective clients shall not be made to resemble legal pleadings or other legal documents;
- ▶ (6) any written solicitation prompted by a specific occurrence involving or affecting the intended recipient of the solicitation or family member shall disclose how the lawyer obtained the information prompting the solicitation;
- ▶ (7) a written solicitation seeking employment by a specific prospective client in a specific matter shall not reveal on the envelope or on the outside of a self-mailing brochure or pamphlet the nature of the client’s legal problem;
- ▶ (8) if a lawyer knows that a lawyer other than the lawyer whose name or signature appears on the solicitation will actually handle the case or matter or that the case or matter will be referred to another lawyer or law firm, any written solicitation concerning a specific matter shall include a statement so advising the potential client; and
- ▶ (9) a lawyer shall not send a written solicitation regarding a specific matter if the lawyer knows or reasonably should know that the person to whom the solicitation is directed is represented by a lawyer in the matter.

In Illinois, the only specific requirement for the content of written solicitations is that it must include the words “Advertising Material” on the outside envelope.

Rule 7.3(c) contains additional rules for written solicitations in Missouri

A lawyer shall not send, nor knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, the lawyer's partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm a written solicitation to any prospective client for the purpose of obtaining professional employment if:

- ▶ (1) it has been made known to the lawyer that the person does not want to receive such solicitations from the lawyer; (2) the written solicitation involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;
- ▶ (3) the written solicitation contains a false, fraudulent, misleading, or deceptive statement or claim or makes claims as to the comparative quality of legal services, unless the comparison can be factually substantiated, or asserts opinions about the liability of the defendant or offers assurances of client satisfaction;
- ▶ (4) the written solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person solicited or a relative of that person if the accident or disaster occurred less than 30 days prior to the solicitation or if the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person solicited makes it unlikely that the person would exercise reasonable judgment in employing a lawyer; or
- ▶ (5) the written solicitation vilifies, denounces or disparages any other potential party.

In Illinois, again it is more limited to prohibit solicitations only when the target has made known a desire not to be solicited or if the solicitation involves coercion, duress, or harassment. Illinois also specifically prohibits soliciting respondents in cases involving *ex parte* protective orders for personal protection if the respondent has not yet been served with the order in the case.

- ▶ ISBA Advisory Opinion No. 92-17 - Attorney may solicit clients from targeted group of individuals involved in litigation so long as the solicitation complies with Rule 7.3
- ▶ <https://www.isba.org/ethics/bysubject/Advertising%20and%20Solicitation>

Should you sue a client for fees?

Short answer: probably not, unless you materially advanced a case and secured a good offer, then you may want to assert a lien and seek a reasonable fee.

If the client fires you:

- ▶ Law says that if you are fired from a contingency contract that you get the reasonable value (usually read as quantum meruit) value of your work. This often means your hourly fee but can be measured other ways.
- ▶ Many smart lawyers do not charge a client who terminates their representation. You invite an ethics complaint. Especially early on in the case.
- ▶ But if you do real work to advance a case, get a good offer on a case, and then the client fires you, you may want to assert a lien and get a reasonable fee. You can keep the lien notice with the liable party and their insurance company. If they settle the case the old client and new lawyer will come to you wanting a release and then you can get your expenses paid back.
- ▶ It's the client's file. Give it to them and do not withhold it. Keep a copy of whatever you think is important. You can keep your expenses folder, notes, and contract.
- ▶ There is authority that you can keep the medical records until they pay you your expense for them. But the better practice is to give the whole file and the medical records. Then only release your lien when you are paid back your expenses.

If you fire your client:

- ▶ Give notice and reasons for termination. Give them time to get a new lawyer. If in suit, wait 30 days after the letter then file a motion for leave to withdraw. Do not say why you are seeking to withdraw in motion or disclose attorney client communication. Ask court to give 30 days for client to obtain new counsel or proceed pro se (not dismiss).
- ▶ If pre suit, say why you are terminating representation, the statute of limitations and get a different lawyer. I always say: The Missouri (Illinois) limitations period for you to file a lawsuit in your case is five (two) years from the date of the incident. I strongly encourage you to find another lawyer who may have a different view of your case. Let me know if you would like your file, or any portions of it. (I enclose the materials you provided me in your case). Please contact me if you have any questions or if I can assist you in any way.
- ▶ I sometimes say: I will charge no fee for my legal services. If you do recover from the liable party then I ask that you repay me for the out of pocket expenses I have paid on your behalf.
- ▶ Bad cases usually get worse so get out when you can.
- ▶ Rule 1.16 governs withdrawal from representation.
- ▶ Illinois Supreme Court Rule 13(c) contains numerous requirements concerning motions to withdraw, and indicates the motion must be served on the represented party by personal service, certified mail, or a third-party carrier. Electronic notice is permitted in the alternative, but only if the party acknowledges receipt in writing.

RULE 1.5: FEES

A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by Rule 1.5(d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

- (1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;
- (2) the client agrees to the association and the agreement is confirmed in writing; and
- (3) the total fee is reasonable.

(f) When a fee dispute arises between a lawyer and a client, the lawyer shall conscientiously consider participating in the appropriate fee dispute resolution program. This does not apply if a fee is set by statute or by a court or administrative agency with authority to determine the fee.

- ▶ Valid and enforceable contingent fee agreement may be upheld even in absence of copy of agreement if client's actions manifest assent to the agreement. *Tobin v. Jerry*, 243 S.W.3d 437 (Mo. App. E.D. 2007).
- ▶ Contingent fee agreement will be construed strictly against the law firm. *Guerrant v. Roth*, 267 Ill. Dec. 696, 777 N.E.2d 499 (1 Dist. 2002)

Can you use your IOLTA account for any reason other than to hold money for your client?

Missouri Rule 4-1.155

▶ (a) IOLTA accounts shall be maintained in compliance with the following provisions:

▶ (1) no earnings from such account shall be made available to the lawyer or law firm, and the lawyer or law firm shall have no right or claim to such earnings;

(2) a lawyer or law firm shall deposit in an IOLTA account all funds of clients and third persons from whom no income could be earned for the client or third person in excess of the costs incurred to secure such income, and all other client or third person funds shall be deposited into a non-IOLTA trust account;

(3) in determining whether client or third person funds should be deposited in an IOLTA account or non-IOLTA trust account, a lawyer shall take into consideration the following factors.

▶ (A) the amount of interest that the funds would earn during the period they are expected to be deposited;

cost of person; (B) the cost of establishing and administering a non-IOLTA trust account for the benefit of the client or third person, including the lawyer's services and the cost of preparing any tax reports required for interest accruing to the benefit of a client or third

persons; (C) the capability of financial institutions or lawyers or law firms to calculate and pay interest to individual clients or third

incurred to secure such income for the client or third person. (D) any other circumstance that affects the ability of the client or third person funds to earn income in excess of the costs

Illinois Rule 1.15

▶ Funds shall be deposited in a "client trust account" - An IOLTA account or a separate interest-bearing non-IOLTA client trust account.

▶ "It is absolutely impermissible for an attorney to commingle his or her funds with those of a client." *Kauffman v. Wrenn*, 399 Ill. Dec. 486, 46 N.E.3d 805 (2 Dist. 2015)

• **Bottom Line: Don't commingle.**

• **Put retainers in your IOLTA and bill against them later.**

What to do if you get an ethics charge?

- Evaluate whether to hire an attorney based on the circumstances, severity of the violation(s) and potential penalties.
- You have the opportunity to prepare a response to the OCDC, citing rules, formal and informal advisory opinions and/or case law, and explaining why you did not violate rules.
- Your response, along with the complaint and any reply will go to the Regional Disciplinary Commission with jurisdiction for their review. They can dismiss, recommend admission, or if really bad, send straight to Supreme Court/OCDC.
- The purpose of discipline is not punish the attorney, but protect the public and maintain the integrity of the legal profession.” *In re Kanzanas*, 96 S.W.3d 803, 807-08 (Mo. banc 2003); *see also Kosydor v. American Express Centurion Services Corp.*, 365 Ill. Dec. 757, 979 N.E.2d 123 (5 Dist. 2012).
- Illinois: You will receive a copy of any complaint filed and will have the opportunity to submit a written response.
- If evidence of misconduct warrants disciplinary action the ARDC will pursue formal disciplinary charges before the ARDC Inquiry and Hearing Board. There may be a panel trial and subsequent reviews by the commission’s review board and the Illinois Supreme Court.

The two most reported Rule violations

RULE 4-1.3: DILIGENCE

- ▶ A lawyer shall act with reasonable diligence and promptness in representing a client.
- ▶ Case law typically focuses on repeated violations - “Single charge of professional neglect is usually not appropriate basis for disciplinary proceeding.” *In re Reza*, 743 S.W.2d 411 (Mo. banc 1988).
- ▶ Maintain your diligence - penalties can include suspension or disbarment.

RULE 4-1.4: COMMUNICATION

(a) A lawyer shall:

- (1) keep the client reasonably informed about the status of the matter;
- (2) promptly comply with reasonable requests for information; and
- (3) consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

- ▶ Often involve “course of conduct” violations - occurring over a period of months, often in conjunction with diligence violations - *See, e.g., In re Stewart*, 782 S.W.2d 390 (Mo. banc 1990); *In re Smith*, 213 Ill. Dec. 550, 659 N.E.2d 896 (Ill. 1995).
- ▶ Again, maintain your communication - penalties can include suspension or disbarment.

- ▶ **Courage (new def.):**
- ▶ **Being brave enough to admit you need help and asking for it**



Getting Help

- Missouri Lawyers Assistance Program - 800-688-7859 - Free and Confidential
- Employee Assistance Program
- Insurance - Behavioral Health Coverage
- Psychology Today - “Find a Therapist”
- Faith leader
- Online support groups
 - Search “CoLAP + mental health resources”
- Suicide Prevention Lifeline at 1-800-273-TALK

Unfortunately 1 in 5 of the people on this CLE have addiction problems:

Rule 16.01. Purpose and Intent

(a) The intervention committee is established to encourage the identification of substance abuse in the legal profession so that:

(1) Through the assistance of committee members and its volunteers, lawyers or judges who may have a substance abuse or addiction problem are able to identify and address that problem through an appropriate course of treatment and thereby reduce the potential for engaging in behavior that could result in disciplinary complaints or grievances being filed against that lawyer or judge; and

(2) When referrals are made by the office of chief disciplinary counsel, investigations and interventions can be conducted and rehabilitation programs may be imposed to reduce potential harm or injury to the public and to the practice of law in Missouri.

► Rule 15 has been now changed to encourage substance abuse education in CLEs.

▶ Rule 16.01.

(b) Substance abuse causes or contributes to incompetence and malpractice of the law by lawyers and judges, which damages the public and the legal profession. Substance abusers neglect clients, violate rules of professional and judicial conduct and commit crimes. In order to maintain public confidence in the legal profession and the disciplinary process, the committee shall strive to address substance abuse or addiction problems among lawyers or judges before said abuse or addiction results in complaints or grievances against those lawyers or judges and, when complaints or grievances have been filed, to assist in promptly resolving those complaints or grievances, thereby serving the public and the profession.

- ▶ (c) Persons who have themselves suffered as substance abusers, but who have arrested the disease and established a recovery mode in their own cases, are particularly well-suited to know and understand the problems of substance abusers. Accordingly, the committee can best accomplish its purposes by organizing and utilizing the manpower and talent of lawyers and judges in the state of Missouri who are recovering substance abusers.

Lawyers' Assistance Programs:

The Missouri and Illinois Lawyers' Assistance Programs are **professional, confidential counseling programs** for members of the Missouri or Illinois Bars, immediate family members who reside with them, and law students. Through a variety of free services, the programs help individuals overcome personal problems such as depression, anxiety, substance abuse, stress, and burnout.

- **Counseling.** Missouri: All Bar members have unlimited, 24/7 access by phone to a licensed clinical social worker (call **800-688-7859**). MOLAP also makes referrals to professional resources as indicated.
 - Illinois contact numbers are **312-726-6607** or **800-527-1233** - all contacts will be responded to within 48 hours.
 - **Crisis intervention.** The organizations can coordinate crisis intervention services for individuals and law firms.
 - **Education and Prevention.** The programs offer educational programs and articles on topics such as stress, substance abuse, depression, and quality of life. In addition, questionnaires can help members screen themselves for a variety of problems.
- All services are free of charge and **strictly confidential**.

Barriers to Help-Seeking

Lawyer and law student studies both showed:

- They do not want others to find out they need help
- Concerns regarding privacy or confidentiality
- Stigma and shame of behavioral health issues
- Feeling that, “I can handle it myself”