



Diversion



Grievance Referral Program

*How the Texas Chief Disciplinary Counsel's Office
is helping lawyers help themselves.*

BY LINDA ACEVEDO

IN 2006, THEN STATE BAR PRESIDENT MARTHA DICKIE APTLY RECOGNIZED THE Pervasiveness of Lawyer Impairments

and the likelihood that such impairments—if left unchecked—would eventually contribute to the types of behavior that give rise to attorney grievances. Her vision was to create a comprehensive diversion program that would protect the public by helping attorneys make changes in the way they practice law. A year later, the Grievance Referral Program—designed to help identify and assist lawyers who have impairment or law practice management issues and who enter the disciplinary system as a result of minor misconduct—was born. In just six short years, the GRP has become an integral part of the Texas attorney discipline system; more than 230 attorneys have successfully completed the program, and approximately 30 attorneys are currently participating.

“We are pleased to provide Texas attorneys with the opportunity to stop and analyze what’s working in their

practices, what’s not working, or what mostly works but could be improved,” said Lisa Villarreal-Rios, a licensed attorney, licensed master social worker, and licensed chemical dependency counselor-intern who has been the GRP administrator since 2010. The GRP offers an individualized program to address a variety of issues including attorney-client communication, poor law practice management skills, mental health issues, and substance dependency. The program represents an important chance to educate attorneys about the necessity of self-care and strong law practice management skills and habits.

Respondent attorneys may enter the GRP only if they meet the eligibility requirements and receive a formal referral from the Commission for Lawyer Discipline. Eligible attorneys include those who have not been disciplined within the prior three years, have not been disciplined for similar conduct within the prior five years, and have not engaged in professional misconduct that substantially harmed or prejudiced the client. Respon-

dents are not eligible if the misconduct is criminal or involves misappropriation of funds, breach of fiduciary duties, dishonesty, fraud, or misrepresentation. “Most attorneys who participate in the GRP have violated ethical rules related to communication and neglect,” Villarreal-Rios explained. “Failing to keep a client reasonably informed or missing a court date, for example, may result in a referral to the GRP.”

If an eligible respondent agrees to participate in the program, the first step is a meeting with Villarreal-Rios to assess and discuss the issues that contributed to the alleged misconduct. Villarreal-Rios then works with the attorney to design a program that will both meet the respondent’s needs and address the underlying allegations of misconduct. A plan for participation may include one or more of the following: mandatory completion of continuing legal education, law practice management consultations, business development, contingency planning, technological improvements, analysis of office needs, mental health or life coaching services, recovery meetings, mentoring opportunities, or restitution. “Most important is that attorneys come to the program willingly and enthusiastically,” Villarreal-Rios emphasized. “The program isn’t about avoiding misconduct; it is about facing the allegations, addressing them, and not making the same mistakes again. The practice of law is stressful, and it doesn’t look like it’s getting easier. The question is: How can attorneys cope and best take care of clients at the same time?”

The GRP works closely with the Texas Lawyers’ Assistance Program, TexasBarCLE, and TexasBarBooks on mental health, continuing legal education, and law practice management resources. “I am not interested in providing a cookie-cutter service,” noted Villarreal-Rios. “We are here to provide a valuable service with a meaningful takeaway and to provide it from within the disciplinary system. To do that, we have to get to the root of the problem so that we can provide the necessary energy, structure, and resources to address it.”

If the respondent completes the terms of the individualized program, the Commission for Lawyer Discipline may dismiss the underlying disciplinary complaint, allowing the attorney to continue practicing law without a disciplinary record. However, if the respondent fails to complete the terms of the program in a timely manner, the underlying complaint is moved forward through the standard disciplinary process.

Most attorneys successfully complete the GRP and provide strong feedback. “I am grateful to have participated in this program as it genuinely helped me to find assistance in improving myself and the services I provide to clients,” said one attorney who recently completed the program. “Thank you for pushing me on to seek some

help with what turned out to be a severe case of depression. You made a difference in my life personally, and I hope I too can do that for someone else in the future,” said another. **TBJ**

LINDA ACEVEDO

is the chief disciplinary counsel of the State Bar of Texas.

CRITERIA FOR REFERRAL

- Respondent has not been disciplined within the prior three years.
- Respondent has not been disciplined for similar conduct within the prior five years.
- Misconduct does not involve the misappropriation of funds or breach of fiduciary duties.
- Misconduct does not involve dishonesty, fraud, or misrepresentation.
- Misconduct did not result in substantial harm or prejudice to the client or complainant.
- Respondent maintained a cooperative attitude toward the proceedings.
- Participation is likely to benefit respondent and further the goal of the protection of the public.
- Misconduct does not constitute a crime that would subject the respondent to compulsory discipline under Part VIII of the Texas Rules of Disciplinary Procedure.

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