



# NHLAP

## NEW HAMPSHIRE

125 Airport Road, Suite. 5B, Concord, NH 03301 • (603)-491-0282 • [www.lapnh.org](http://www.lapnh.org)

---

December 1, 2021

Testimony in support of:

Supreme Court Rule 40(8)(f)(5) Deferral of Impairment Cases

Dear Mr. Chairman and members of the Advisory Rules Committee,

My name is Jill O'Neill, I am the executive director of the New Hampshire Lawyers Assistance Program. The New Hampshire Lawyers Assistance Program supports the passage of the proposed deferred discipline amendment to Rule 40.

With the passage of the proposed deferred discipline rule, New Hampshire will further acknowledge that legal professionals, like other people, are susceptible to developing mental health, substance use, and other co-occurring disorders. In some cases, but not all cases, mental health, and substance use disorders may impair a professional's ability to practice.

With the passage of the proposed deferred discipline rule, New Hampshire will further affirm that mental health and substance use disorders are treatable conditions. The American Society of Addiction Medicine defines judges and lawyers as safety-sensitive workers because of the amount of public trust that is implied and the depth of the effect from potential impairment. The American Society for Addiction Medicine indicates that "safety-sensitive workers, do best when offered cohort-specific treatment. Participation in group therapy and/or support groups by individuals who have similar work issues and who conduct themselves under the same professional codes of ethical behavior is essential." Further, staff that work with safety-sensitive workers need training specific to the cohort and a variety of therapeutic skills (e.g., learning how to circumvent argumentation with attorneys who are patients under their care.) The utilization of profession-specific therapy in specialized treatment centers with qualified therapists is considered best practice.

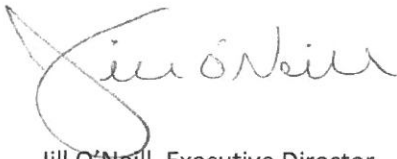
With the passage of the proposed amendment to Rule 40, New Hampshire will further affirm its commitment to protecting the public from impaired professionals. "Monitoring programs that are independent of licensure and credentialing bodies provide a means of continuous support and advocacy for the patient whose career is a safety-sensitive occupation. Research has shown that such programs dramatically improve long-term prognoses as well," (ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions: Sensitive-Safety Occupations.) Many subgroups of

safety-sensitive workers have profession-specific recovery monitoring programs. The New Hampshire Lawyers Assistance Program has a professional monitoring program that serves law students and lawyers. Now underway, the NHLAP is enhancing current professional monitoring program protocols to incorporate, to the extent applicable to the legal profession, the:

- Federation of State Physician Health Programs Guidelines
- American Society of Addiction Medicine Public Policy Statements on Impairment, appropriate evaluation and treatment, discrimination based on illness, and confidentiality
- ASAM's detailed positions on impairment and length of monitoring

In closing, the public, policymakers, regulatory agencies, and professional associations should be assured that legal professionals with mental health, substance use, and other co-occurring disorders that have been appropriately evaluated, adequately treated, and have received or are receiving evidenced-based continuing care and monitoring to ensure they are in sustained remission and unimpaired.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jill O'Neill". The signature is written in black ink and is positioned above the printed name.

Jill O'Neill, Executive Director

New Hampshire Lawyers Assistance Program