



Inside...

Legalized Gaming:
Win, Lose, or Draw?
page 1

Looking Ahead –
Smooth Transitions
page 2

PMRC Overview
page 3

LJAP Staff
page 3

Friends of Bill W.
page 4

Legalized Gaming: Win, Lose, or Draw?

By William E. Livingston

Where we've been

Since time began man has been tempting fate through the wagering of his goods and liberties. Chancing a “bird in the hand for two in the bush” dates back to prehistoric times. Excavations of prehistoric burial sites reveal a type of dice fashioned from the bones of antelope that were used to pass the time. The ancient Egyptians played a game of chance called “atep”. This game found the players trying to guess the number of upheld fingers of their opponent or “the house”. Classical Greeks were said to have found dice games to their liking while their neighbors, the ancient Romans, were obsessed with gambling on chariot races and gladiator fights. Fast-forwarding in time to 1776, we find the infant government of the newly formed United States of America sanctioning the legalization of gambling. The intent was to raise money for a young country. Some 225 years later, gambling revenues in 2006 are expected to top \$100 billion. Compare this to a 1976 figure of \$17.3 billion, and the financial incentives for those persons involved in the promotion of gambling is clear. The evolution has been considerable since the days of rolling antelope bones.

At what cost?

Just as every day has its night, and every up its down, so too is the case with gaming. The downside here is that this migration of monies comes at a human cost that in many ways cannot be measured in dollars and cents. While gambling is not new, neither is the controversy that surrounds it. This controversy has largely arisen out of the vestiges of human wreckage that are left on the losing end. Like other addictions, the addicted individual is not the only one who suffers. Those who rely on the gamblers, the spouse, the children, employers, clients, and co-workers are many times affected in a devastating manner. In those areas that have promoted legalized gambling over the last 15 years, we are seeing some disturbing statistics as it relates to their communities and the citizenry living within them. While there will always be an argument about “free will and fault”, the fact remains that when major new forms of legalized gambling are introduced, more people gamble more often, and more of these get into trouble. A December 3, 1995 expose in *The Minneapolis-St Paul Star Tribune* concluded that, “legalized gambling in Minnesota has created a broad new class of addicts, victims, and criminals whose activities are devastating families and costing taxpayers and businesses millions of dollars.” They estimate the 1995 yearly costs at \$300 million. While there have been casinos here in Michigan for some time, their accessibility has been limited. With the advent of casino gaming in Windsor and more recently the City of Detroit, can we expect different results?

What makes a problem gambler

In part the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) uses as diagnostic criteria for pathological gambling the following. The pathological gambler is one who is preoccupied with gambling; he or she may need to gamble with increasing amounts of money; they may engage in repeated attempts to cut down or quit; they may use gambling as a means of escape; they may return after losing to “get even”; they might lie about their gambling; they may have committed illegal acts to supplement their gambling; they will have jeopardized their relationships and or careers from gambling; or they have relied on others to bail them out after losing money. According to the DSM-IV, one needs to associate with five of these criteria to be diagnosed as a pathological gambler. Another troubling aspect of the problem gambler is the high rate of suicides. Upwards of 20% of those presenting for treatment report having attempted suicide. When looking at the characteristics of persons prone to pathological gambling, we find high-energy individuals, competitive, driven, restless and easily bored. Among pathological gamblers, we frequently see high rates of substance dependence and or higher than normal rates of attention deficit/hyperactive disorders and measured personality traits such as narcissistic and antisocial personality disorders. Breaking it down further, we can approach causes from a “bio-psycho-social model”. We know that altered brain chemistry has been linked to problem gambling. The jury is still out as to whether the altered biochemical levels are the cause or the consequence of the disorder. Additional physiological studies have indicated hemispheric differences in EEGs (brain waves).

The psychological perspective looks at the gambler's psyche or personality type. Gambling may be used as a stress reliever; some gamblers may be victims of their own beliefs about winning that lead them to overlook the laws of probability. Much of this may emanate from being raised in a dysfunctional

family, having experienced psychological and even physical traumas such as parental absence; emotional abandonment; alcoholism or drug addiction. Lastly, the sociological approach looks at the influence of external environmental factors coming from a family for instance, where family members and friends regularly engage in gambling behavior as a means of socializing. An obvious external factor causing influence would be the availability of gambling.

Treatment

Given the high suicide rate among this population those persons presenting for treatment must first be assessed for suicide risk. Keep in mind that any gambler presenting for treatment is not on a winning streak and may see suicide as the ultimate bailout. They may feel as though they are worth more *money* dead than alive. Here in Michigan, there are relatively few trained professionals dealing with gambling addictions. It is imperative that treatment be provided by a trained professional. Be sure to access an individual who is fully trained and preferably one who is on a provider list. Such lists of these individuals are available through Lawyers Assistance. Much as alcoholism/drug addiction, gambling addiction is a family illness with many of the same dynamics present. The family needs treatment as well. In addition to treatment and as a follow-up support system Gamblers Anonymous meetings are recommended. Gamblers Anonymous or GA was one of the first initiatives created by gamblers to arrest this addiction and is one of the most successful. It has provided deliverance from gambling addiction for millions.

Looking Ahead – Smooth Transitions

John, 65 years of age, is an active attorney looking back on 40 years of uninterrupted practice. At this point in his career he has decided that retirement is not an option. He is healthy (65 is the new 45), robust, and cannot imagine the relatively sedentary life retirement would bring after his thriving practice. He considers the ethical obligations this decision raises. With advanced age also comes a greater likelihood of impairment, incapacity, disability and death. How would this leave his clients, partners and associates? While still mentally sharp, sound, and in possession of a lawyer's objectivity, John makes a practical decision to begin planning for a graceful exit upon retirement. This includes selecting a target date that is appropriate so as to avoid inconveniencing clients, the courts, and his own partners and staff, to assure that no client matters are left unattended or unaccounted for, and to provide for a smooth transition to successor attorneys.

Given the average lifespan of persons approaching retirement age today versus 20 or 30 years ago, John's decision to continue working is not at all out of the ordinary. While some individuals may choose to continue to practice for solely financial reasons, many other attorneys continue because their careers have become a part of who they are. To retire in this context would mean giving up a large part of one's identity.

In addition to lawyers who sustain some level of either cognitive or physical deterioration through the aging process are young lawyers who unexpectedly find him/herself chronically ill and disabled through accident or disease. Both types of scenarios may result in the attorney's inability to continue to practice law. Without adequate advance planning, this leaves the attorneys peers, colleagues and/or associates with the task of closing the law practice.

In one recent situation, a family member new in the career of law was so busy putting out the fires caused by his aging attorney father that it provided little time for him to tend to his own portion of the practice. Consequently, both father and son have been the subject of grievances.

Given that impairment and/or disability are not planned events, too often the reality is that many attorneys have not planned ahead in anticipation of such instances. In some cases, the attorney will continue to practice in spite of the condition only to find that he or she cannot keep up with the pace. As would be expected, this compounds the issue even further, resulting in missed court dates, failing to respond to pleadings, missing meetings, failing to return phone calls, and failing to open mail. Not far behind will follow malpractice claims and grievances. Ultimately, if things get bad enough and the attorney is unable to practice any longer due to complete disability or death, often what is left behind are stacks of files and paperwork with no semblance of order. In the absence of statutory mandatory retirement requirements, many larger firms have no set policy with regard to transitioning lawyers out of full-time practice. As such, all too often an attorney may stay beyond the point where they are effective. In the worst cases, the firm may become concerned with liability issues arising from the now impaired attorney's capacity to practice law and serve clients.

In some cases, the State Bar of Michigan Lawyers & Judges Assistance Program has assisted these firms in providing for interventions.

Not all interventions result in the lawyer withdrawing from active practice. In one instance, we found that the lawyer was in fact suffering from a dementia induced by an undetected drug interaction, resulting from taking several different medications prescribed by several different doctors unaware of other prescribed medicines. After a complete medication review, this outcome provided for the attorney to continue to practice law in spite of his advanced age. In other instances, by way of this same process (intervention), the same caring, compassionate concerns have been shared with the affected attorney by friends and colleagues under the supervision of LJAP clinicians and have provided the impetus for the individual to begin the retirement process.

From both the individual lawyer's and the law firm's standpoint, the best preventative to these problems is planning for both unexpected disability and anticipated retirement well in advance by identifying who will be authorized to wind down the practice and giving that person the tools necessary to accomplish the task. That way, when the time comes, the burden placed upon the successor will be anticipated and orderly.

If you should find yourself in need of insight on these highlighted issues confidential consult is a phone call away. 1-800-996-5522

NOTE: The above is a composite of the many case we have dealt with through LJAP. It is not representative of any one individual.

Practice Management Resource Center (PMRC) Overview

The State Bar of Michigan (SBM) launched the Practice Management Resource Center ("PMRC") on its target date of February 1, 2006. The PMRC was developed to provide practice management guidance and "hands-on" assistance to SBM members and their staff.

Practice management is the cornerstone to a good law practice. With effective use it can greatly enhance the delivery of legal services, help ensure profitability, and provide a lawyer a well-balanced quality of life.

The PMRC offers this membership benefit through a practice management Helpline, a dedicated website, and an Educational Center. The vision of the PMRC is to be ever growing and offer additional practice management services to meet the needs of SBM members.

The PMRC Helpline is available to answer your practice management questions. Should you have a question about disposing of your old files, creating a conflicts checking system, or purchasing a personal digital assistant, call the PMRC Helpline. This is a confidential, informal service designed to quickly assist SBM members with practice management issues.

Follow the link on the State Bar of Michigan's webpage to the PMRC and find sample practice management forms, checklists, guidelines, how-to kits, articles, and links of interest to the legal community. A directory of legal software is also available on the site, with contact information and direct links to software vendors. As practice management and technology trends change, so will the PMRC website, ensuring up-to-date information for SBM members.

The PMRC's Educational Center offers programs on a variety of topics at its Lansing base of operations and, at varying times, at sites across the state. SBM members and their staff may also use resources in the Educational Center to "test-drive" software applications on an informal, individual basis.

The PMRC Lending Library, a "soon to arrive" component of the Center, will provide SBM members with a variety of practice management publications, CDs, tapes and other resources available for loan. Members will be able to request items of interest online or by visiting the SBM building in Lansing.

The State Bar of Michigan Practice Management Resource Center has been made available to SBM members to provide the building blocks for members to successfully manage their legal practices. We invite you to take advantage of this member benefit by visiting us at <http://www.michbar.org/pmrc/content.cfm> or by calling the PMRC Helpline at 800/341-9715.



LJAP Staff

This past Spring The State Bar of Michigan Lawyers & Judges Assistance Program welcomed its most recent staff members. Hesta Waller-Randolph joined the LJAP staff in the capacity of Assistant Program Administrator. Also joining the LJAP staff is Janie Cripe. Janie is the LJAP program Administrative Assistant.

Pictured from left to right, in the back row, Martha D. Burkett – Assistant Program Administrator and William E. Livingston – Program Administrator. From left to right in the front row, Hesta Waller-Randolph – Assistant Program Administrator and Janie L. Cripe – Administrative Assistant.

Friends of Bill W.

Those persons familiar with the dynamics of recovery can appreciate the vital importance of having supportive contacts early on in this process. As such, The Lawyers & Judges Assistance Program (LJAP) here at the State Bar of Michigan is always on the lookout for new volunteer recovery network members. We make every attempt to have representative numbers of volunteers in each county vs. the numbers of attorneys in each county. Remember, "to keep it you have to give it away." All information is held in the strictest confidence.

If you would like to be an LJAP recovery network member and are in need of information on requisite criteria, please contact Janie Cripe at the Lawyers & Judges Assistance Program at 517-346-6348 or jcripe@mail.michbar.org.

- For those persons **already** in the network maybe this is the time to update your information. Again, please contact Janie Cripe, State Bar of Michigan Lawyers & Judges Assistance Program - 517-346-6348 or jcripe@mail.michbar.org.

*All communications are held in confidence

Lawyers and Judges A.A. Meetings

For a list of Lawyers A.A. meetings in your area please go to <http://www.michbar.org/generalinfo/ljap/>

"NO ORGANIZATION OF LAWYERS CAN LONG SURVIVE WHICH HAS NOT FOR ITS PRIMARY OBJECT THE PROTECTION OF THE PUBLIC"

*Roberts P. Hudson
First President of the State Bar of Michigan*

Standing Committee on
Lawyers & Judges Assistance
2005-2006

Jurisdiction: Shall concern itself with the formulation and administration of programs to render assistance to lawyers and judges faced with personal and professional problems.

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