

IN THE SUPREME COURT OF THE STATE OF KANSAS
RULES RELATING TO DISCIPLINE OF ATTORNEYS

Rule 206

FILED

LAWYERS ASSISTANCE PROGRAM

AUG 15 2012

CAROL G. GREEN
CLERK OF APPELLATE COURTS

Rule 206 is hereby amended, effective August 15, 2012.

(a) **KALAP Purpose.** ~~There is hereby established an assistance program to be known as the The Kansas Lawyers Assistance Program (KALAP); which shall is established to provide immediate and continuing assistance to any lawyers lawyer needing help with issues related, but not necessarily limited to, including physical or mental disabilities that result from disease, addiction, disorder, trauma, or age and who may be experiencing difficulties in their ability to perform their performing the lawyer's professional duties. KALAP shall will have the following purposes:~~

- (1) ~~To~~ to protect citizens from potential harm that may be caused by lawyers in need of assistance;
- (2) ~~To~~ to provide assistance to lawyers in need; and
- (3) ~~To~~ to educate the bench and bar to about the causes of and services available for lawyers needing assistance.

(b) **KALAP Services.** ~~The Supreme Court shall appoint a Board known as the Kansas Lawyers Assistance Board. The Board shall be comprised of no fewer than 11 members who are lawyers, active or retired, appointed for three year terms or such other period as determined by the Supreme Court, and may appoint up to two law students from law schools in Kansas for a term of two years. The members shall have diverse experience and knowledge, and demonstrate an understanding of and ability to assist lawyers in the problems of physical or mental disabilities that result from disease, addiction, disorder, trauma, or age. The Board shall designate a chairperson, a vice-chairperson, and a secretary. A majority of those who have been duly appointed shall constitute a quorum and any action taken by the Board shall require a majority of those present and eligible to vote.~~

~~The Board shall exercise the following powers and duties:~~

- ~~(1) Advise and recommend to the Supreme Court candidates for appointment as members of the Board and Executive Director;~~
- ~~(2) Establish policy and adopt procedural rules not inconsistent with this rule;~~
- ~~(3) Oversee the operation of the program to achieve the purposes stated in subsection (a); and~~
- ~~(4) Make reports to the Supreme Court as the court may require.~~

KALAP will provide the following services:

- (1) offer immediate and continuing assistance at no cost to lawyers;
- (2) plan and present educational programs to:
 - (i) increase the awareness and understanding of members of the bench and bar about problems of lawyers with physical or mental disabilities as defined in subsection (a);
 - (ii) enable members of the legal profession to recognize and identify problems in themselves and in their colleagues;
 - (iii) reduce the stigma associated with addiction and other physical and mental disabilities; and
 - (iv) enable members of the legal profession to understand appropriate ways of interacting with affected individuals; and
- (3) provide assistance to lawyers and their firms, including lawyers against whom disciplinary complaints are pending.

(c) **KALAP Executive Director.** The Supreme Court shall will appoint an Executive Director who shall will serve at the pleasure of the court. The Executive Director shall must be a lawyer, preferably with several years' experience in assisting individuals with physical or mental disabilities that result from disease, addiction, disorder, trauma, or age. The Executive Director must have sufficient experience and training to assist the Board in fulfilling its purpose.

(d) **Kansas Lawyers Assistance Board.** ~~The Executive Director and program staff shall receive such salaries as may be determined by the Supreme Court and be reimbursed for actual travel and other expenses incidental to their duties. The Board~~

~~members and the KALAP volunteers shall receive per diem and expenses. The KALAP budget shall be paid out of fees collected under the provisions of Rule 208. The Supreme Court will appoint a Board known as the Kansas Lawyers Assistance Board. The Board will be comprised of no fewer than 11 members who:~~

~~(1) are lawyers, active or retired;~~

~~(2) have diverse experience and knowledge; and~~

~~(3) demonstrate an understanding of and ability to assist lawyers in the problems of physical or mental disabilities that result from disease, addiction, disorder, trauma, or age.~~

~~(e) **Board Terms.** The responsibilities of KALAP volunteers may include:~~

~~(1) Assisting in interventions;~~

~~(2) Serving as 12-step program sponsor;~~

~~(3) Acting as a contact or liaison with KALAP and the courts, bar organizations and local committees, law firms, and law schools;~~

~~(4) Providing compliance monitoring where appropriate; and~~

~~(5) Performing any other function deemed appropriate and necessary by the Board to fulfill the program purposes.~~

Effective July 1, 2012, the terms of all current and future board members will be subject to the following:

(1) Terms of service on the Board will be 6 years each and no member, current or future, may serve more than 18 consecutive years. A member who completes 18 consecutive years of service may not be reappointed until at least 3 years have elapsed since the end of the 18 years.

(2) At the expiration of the terms of the existing members, the term of each new or succeeding member of the Board will be 6 years.

(3) A new member appointed to fill a vacancy will serve the unexpired term of the previous member and may subsequently be appointed to two additional 6-year terms.

(4) The Supreme Court may also appoint two law students from either or

both of the law schools in Kansas for terms of 1 or 2 years.

(f) **Chair, Vice-chair, and Secretary.** The KALAP shall provide the following services:

- (1) ~~Immediate and continuing assistance at no cost to lawyers.~~
- (2) ~~Planning and presenting educational programs to increase the awareness and understanding of members of the bench and bar about problems of lawyers with physical or mental disabilities as defined in section (a), to enable members of the legal profession to recognize and identify problems in themselves and in their colleagues, to reduce the stigma associated with addiction and other physical and mental disabilities, and to enable members of the legal profession to understand appropriate ways of interacting with affected individuals.~~
- (3) ~~Provide assistance to lawyers and their firms, including lawyers against whom disciplinary complaints are pending.~~

The Board will designate a chair, a vice-chair, and a secretary.

(g) **Quorum.** Confidentiality.

- (1) ~~All records and information maintained by KALAP, its Board, employees, agents, designees, volunteers, or reporting parties, shall be confidential and privileged and not subject to discovery or subpoena. All communications between a participant and the aforementioned individuals shall be privileged against disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client. However, the Executive Director may compile and disclose statistical information, devoid of all identifying data.~~
- (2) ~~The Executive Director, Board, employees, agents, designees, volunteers, or reporting parties are relieved from the provisions of Rule 8.3 of the Kansas Rules of Professional Conduct and Supreme Court Rule 207 as to work done and information obtained in carrying out their duties and responsibilities under this rule.~~
- (3) ~~Any person violating subsection (g)(1) may be subject to punishment for contempt of the Supreme Court.~~

A majority of the Board members who have been duly appointed will constitute a quorum and any action taken by the Board will require a majority of those present and eligible to vote.

(h) **Board Powers and Duties.** ~~Immunity. The duties and responsibilities of the Executive Director, members of the Board, employees, agents, designees, volunteers, or reporting parties, are owed to the Supreme Court and the public in general, not to any individual lawyer or another person. Nothing in these rules shall be construed as creating a civil cause of action against the aforementioned individuals; and, they shall be absolutely immune from liability for any omission or conduct in the course of carrying out their official duties and responsibilities or failing to fulfill their duties and responsibilities under these rules.~~

The Board has the power and duty to:

- (1) advise and recommend to the Supreme Court candidates for appointment as members of the Board and Executive Director;
- (2) establish policy and adopt procedural rules consistent with this rule;
- (3) oversee the operation of the program to achieve the purposes stated in subsection (a); and
- (4) make reports to the Supreme Court as the court may require.

(i) **Budget, Salaries, and Expenses.** ~~Local Committees. Any local bar association in this state may establish and fund a committee for providing assistance to any Kansas attorney needing help by reason of physical or mental disabilities that result from disease, addiction, disorder, trauma, or age that impact their ability to perform their professional duties. A committee formed under this rule shall be subject to the requirements of sections (f) and (g). The Executive Director may request that Local Committees compile and disclose to KALAP statistical information, devoid of all identifying data. Local Committees shall furnish statistical information upon request of the Executive Director. Local Committees, their members, and volunteers are entitled to the immunities of section (h), so long as the requirements of this rule are met. Upon request, the KALAP shall provide assistance to a committee established under this section.~~

The Supreme Court will determine the salaries of the Executive Director and program staff, who will also be reimbursed for actual travel and other expenses incidental to their duties. Board members and KALAP volunteers will receive per diem and expenses. The KALAP budget will be paid out of fees collected under Rule 208.

(j) **KALAP Volunteer Responsibilities.** ~~The KALAP office shall be in a~~

location where the privacy and confidentiality requirements of this rule can be maintained.

The responsibilities of a KALAP volunteer may include:

- (1) assisting in interventions;
- (2) servng as a mentor and/or monitor;
- (3) acting as a contact or liaison with KALAP and the courts, bar organizations and local committees, law firms, and law schools;
- (4) providing compliance monitoring where appropriate; and
- (5) performing any other function deemed appropriate and necessary by the Board to fulfill the program purposes.

(k) Confidentiality.

- (1) All records and information maintained by KALAP, its Board, employees, agents, designees, volunteers, or reporting parties is confidential, privileged, and not subject to discovery or subpoena. All communication between a participant and the aforementioned individuals is privileged against disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client. The Executive Director may compile and disclose statistical information, devoid of all identifying data.
- (2) The Executive Director, Board, employees, agents, designees, volunteers, or reporting parties are relieved from the provisions of Rule 8.3 of the Kansas Rules of Professional Conduct and Supreme Court Rule 207 as to work done and information obtained in carrying out their duties and responsibilities under this rule.
- (3) Any person violating subsection (k)(1) may be subject to punishment for contempt of the Supreme Court.
- (4) The KALAP office will be in a location where privacy and confidentiality requirements of this rule can be maintained.

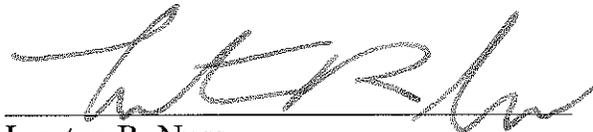
(l) **(h) Immunity.** The duties and responsibilities of the Executive Director, members of the Board, employees, agents, designees, volunteers, or reporting parties are owed to the Supreme Court and the public in general, not to any individual lawyer or

another person. Nothing in this rule is to be construed as creating a civil cause of action against the aforementioned individuals, and they are immune from liability for any omission or conduct in the course of carrying out their official duties and responsibilities or failing to fulfill their duties and responsibilities under this rule.

(m) (i) **Local Committees.** ~~Any~~ A local bar association in this state may establish and fund a committee for providing assistance to ~~any a~~ a Kansas attorney needing help ~~by reason~~ because of physical or mental disabilities that result from disease, addiction, disorder, trauma, or age that impact ~~their~~ the attorney's ability to perform ~~their~~ the attorney's professional duties. A committee formed under this rule ~~shall~~ will be subject to the requirements of subsections ~~(f)~~ (b) and ~~(g)~~ (k). ~~The Executive Director may request that Local Committees~~ A local committee must compile and disclose to KALAP statistical information, devoid of all identifying data, on request of the Executive Director. Local Committees shall furnish statistical information upon request of the Executive Director. Local Committees, A local committee, ~~their~~ its members, and volunteers are entitled to the immunities of subsection ~~(h)~~ (l), so long as the requirements of this rule are met. ~~Upon~~ On request, KALAP ~~shall~~ will provide assistance to a committee established under this subsection.

BY ORDER OF THE COURT, this 15 day of August, 2012.

FOR THE COURT



Lawton R. Nuss
Chief Justice