

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO DISCIPLINE OF ATTORNEYS

Rule 206

~~IMPAIRED~~-LAWYERS ASSISTANCE PROGRAM

FILED

FEB 16 2010

CAROL G. GREEN  
CLERK OF APPELLATE COURTS

Supreme Court Rule 206 is hereby amended, effective the date of this order.

(a) There is hereby established a ~~lawyer~~ an assistance program to be known as the Kansas ~~Impaired~~ Lawyers Assistance Program (~~KILAP~~ KALAP), which shall provide immediate and continuing assistance to lawyers needing help by ~~reason of a~~ with issues related, but not necessarily limited to, physical or mental ~~infirmity, disorder, or addiction~~ disabilities that result from disease, addiction, disorder, trauma, or age and who may be experiencing difficulties in their ability to perform their professional duties to or excessive use of drugs or intoxicants that impair the lawyers' ability to practice law. ~~KILAP~~ KALAP shall have the following purposes:

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

(b) The Supreme Court shall ~~appoint an 11-member commission~~ appoint a Board known as the Kansas ~~Impaired Lawyers Assistance Commission~~ Board. The ~~members~~ Board shall be comprised of no fewer than 11 members who are lawyers, active or retired, and ~~shall be appointed for a term of three years~~ 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 ~~competence in the~~ problems of physical or mental disabilities that result from disease, addiction, and disorder, trauma, or age. ~~disability associated with impaired members of the legal~~ profession. The Supreme Court ~~Board~~ shall designate ~~one member of the Commission as a chairperson, a and another member as vice-chairperson, and a.~~ The chairperson shall designate one member as secretary. ~~Seven members~~ A majority of those who have been

duly appointed shall constitute a quorum and any action taken by the Commission Board shall require a majority of those present and eligible to vote.

The Commission 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;

~~—————~~ (1) ~~(2)~~ Establish policy and adopt procedural rules not inconsistent with this rule;

~~—————~~ (2) ~~(3)~~ ~~Operate~~ Oversee the operation of the program to achieve the purposes stated in subsection (a); and

~~(3)~~ (4) Make reports to the Supreme Court as the court may require.

(c) The Supreme Court shall appoint a an Executive dDirector who shall serve at the pleasure of the court. The Executive dDirector shall be a lawyer, preferably with several years' experience in recovery, and have sufficient experience and training in assisting individuals with physical or mental health disabilities that result from and disease, addiction, treatment disorder, trauma, or age. The Executive dDirector must have sufficient experience and training to identify and assist impaired lawyers the Board in fulfilling its purpose. ~~The director shall have the following duties and responsibilities:~~

~~(1) Provide the day-to-day administration of the program and hiring of staff;~~

~~(2) Provide initial response to most help-line calls;~~

~~(3) Help lawyers, judges, law firms, and courts to identify and intervene with impaired lawyers;~~

~~(4) Help members of the legal community and their families to secure expert counseling and treatment for chemical dependency and other illnesses, maintaining current information on available treatment services (both those that are available without charge as well as paid services);~~

~~(5) Establish and maintain regular liaison with other bar functions, agencies, and committees that serve either as sources of referral or resources in providing help;~~

- ~~(6) Establish and oversee monitoring services with respect to recovery of lawyers for whom monitoring is legally prescribed;~~
- ~~(7) Plan and deliver educational programs for the legal community with respect to all sources of potential lawyer impairment, as well as treatment and preventive measures;~~
- ~~(8) Continually inform the bar, the courts, and the families of lawyers of the types and availability of KILAP services;~~
- ~~(9) Recruit, select, and train lawyer volunteer counselors;~~
- ~~(10) Prepare the annual budget and oversee its fiscal management; and~~
- ~~(11) Implement the Commission's policy decisions.~~

(d) The ~~Executive d~~Director and his or her 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 of the ~~Commission~~ and the KALAP volunteers ~~counselors selected under subsection (e)~~ shall receive per diem and expenses. ~~All such salaries, per diem, and expenses~~ The KALAP budget shall be paid out of funds fees collected under the provisions of Rule 208.

(e) ~~The director shall recruit volunteer counselors whose responsibilities~~ The responsibilities of KALAP volunteers may include:

- (1) ~~Assisting~~ in interventions planned by KILAP;
- (2) ~~Serve~~ Serving as 12-step program sponsor;
- (3) ~~Acting as a contact or liaison between with KILAP-KALAP and the courts, bar organizations and local committees, law firms, and the law schools;~~
- (4) ~~Provide~~ Providing compliance monitoring where appropriate; and
- (5) ~~Perform~~ Performing any other function deemed appropriate and necessary by the ~~Commission~~ Board to fulfill the program purposes.

(f) The Impaired Lawyers Assistance Program KALAP shall provide the following services:

- (1) Provide ~~immediate and continuing help assistance~~ at no cost to lawyers who suffer from physical or mental disabilities that result from disease, disorder, trauma, or age and that impair their ability to practice.
- (2) ~~Plan~~ Planning and ~~present~~ presenting educational programs to increase the awareness and understanding of members of the bench and bar about problems of impairment, 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 identify the problems correctly, to reduce the stigma, and to 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 ~~evaluation, intervention, treatment, and monitoring~~ assistance to lawyers and their firms, including lawyers against whom disciplinary complaints are pending.

(g) Confidentiality.

- (1) All records and information maintained by ~~the director~~ KALAP, the Commission, and its Board, employees, members, agents, or designees, volunteers, or reporting parties, shall be confidential and privileged and not subject to discovery or subpoena, ~~provided, however, that the director may compile and disclose statistical information, devoid of all identifying data.~~ All communications between a participant and any member, employee, staff person, volunteer, or peer counselor of KILAP shall be 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 dDirector, members of the Commission Board, and employees, and agents, of KILAP, including designees,~~ volunteers, recruited under section (e), are relieved from the provisions 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 ~~these~~ this rules.

(3) Any person violating subsection (g)(1) may be subject to punishment for contempt of the Supreme Court.

(h) Immunity. ~~(1) The duties and responsibilities of Commission the Executive Director, members of the Board, and employees, and agents, designees, of KHLAP, including volunteers, or reporting parties recruited under section (e), 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, and Commission members, and employees and agents of KHLAP, including volunteers recruited under section (e), shall be 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. This immunity from liability also extends to any person reporting information to Commission members, and employees and agents of KHLAP, including volunteers recruited under section (e).

(i) 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 a physical or mental ~~infirmity, disabilities that result from disease, addiction, disorder, trauma or addiction to or excessive use of drugs or intoxicants~~ age that impair impact the their ability to practice law perform their professional duties. A committee formed under this rule shall be subject to the requirements of sections (f) and (g) ~~and entitled to the immunities of section (h).~~ Upon request, ~~the KHLAP~~ 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 set up established under this section.

(j) ~~The KHLAP~~ KALAP office shall be so located as to be consistent with in a location where the privacy and confidentiality requirements of these this rules can be maintained.

BY ORDER OF THE COURT, this 16th day of February, 2010.

  
for \_\_\_\_\_  
ROBERT E. DAVIS, Chief Justice