

## Rule 233

### KANSAS LAWYERS ASSISTANCE PROGRAM

- (a) **Purpose.** The Kansas Lawyers Assistance Program (KALAP) is established to fulfill the following purpose:
- (1) provide immediate and continuing assistance to any legal professional who is a lawyer, bar applicant, or law student and who is experiencing a physical or mental health issue such as depression, stress, grief, anxiety, alcohol or drug abuse, gambling addiction, age-related concerns, or any other circumstance that may affect the legal professional's quality of life or ability to perform the legal professional's duties;
  - (2) protect citizens from potential harm that a legal professional in need of assistance may cause;
  - (3) educate the legal community about the nature of issues that may affect a legal professional and the services available to a legal professional in need; and
  - (4) develop programs that emphasize prevention of circumstances that might negatively affect a legal professional.
- (b) **Services.** KALAP will provide the following services:
- (1) immediate and continuing assistance, such as mentoring, peer support, monitoring, intervening, and referral for treatment services, to a legal professional, including a lawyer against whom a disciplinary complaint is pending;
  - (2) assistance to a law firm or organization, including education, training, and monitoring services;
  - (3) plan and present programs to achieve the following goals:
    - (A) increase the awareness and understanding of physical and mental health issues;
    - (B) enable a legal professional to self-identify physical and mental health issues and to recognize issues in the legal professional's colleagues;
    - (C) reduce the stigma associated with physical and mental health issues; and
    - (D) educate the legal community on appropriate ways of assisting and interacting with a legal professional experiencing physical or mental health issues.
- (c) **Costs.** KALAP will provide the services described in subsection (b) at no cost to any participant, except that a legal professional may be responsible for the costs of psychological, medical, rehabilitative, and other treatment services.
- (d) **Executive Director.** The Supreme Court will appoint an executive director who will serve at the pleasure of the court. The executive

director must be a lawyer, preferably with several years of experience in assisting individuals with physical or mental health issues. The executive director must have sufficient experience and training to assist the Kansas Lawyers Assistance Board.

- (e) **Board.** The Supreme Court will appoint members to serve on the Kansas Lawyers Assistance Board.
  - (1) **Membership.** The Board will be comprised of no fewer than 11 members who meet the following requirements:
    - (A) are active or retired lawyers;
    - (B) have diverse experience and knowledge; and
    - (C) demonstrate an understanding of and ability to assist legal professionals with physical or mental health issues.
  - (2) **Terms.** The Supreme Court will appoint members to the Board for a term of four years.
    - (A) **Member Appointed Before July 1, 2020.** A Board member who was appointed before July 1, 2020, may serve up to three consecutive six-year terms. No member may serve more than 18 consecutive years.
    - (B) **Member Appointed After July 1, 2020.** A Board member who is appointed after July 1, 2020, is appointed for a term of four years. No member may serve more than three consecutive four-year terms unless appointed to fill a vacancy.
    - (C) **Vacancy.** The Supreme Court will appoint a new member to fill a vacancy. A new member appointed to fill a vacancy serves the unexpired term of the previous member. A member initially appointed to serve an unexpired term may serve three consecutive four-year terms thereafter.
    - (D) **Return to Service.** A member may return to service on the Board after a break in service.
  - (3) **Law Students.** In addition to the Board members appointed under subsection (e)(1), the Supreme Court may appoint a law student from each Kansas law school to serve as a liaison to the Board for a term of one or two years.
  - (4) **Chair and Vice-chair.** The Supreme Court will designate one member as Board chair and one member as vice-chair.
  - (5) **Meetings; Quorum.** The Board will meet quarterly and when the need arises. A majority of the Board members will constitute a quorum, and a quorum must be present before the Board may take any action.
  - (6) **Powers and Duties.** The Board has the following powers and duties:
    - (A) advise and recommend to the Supreme Court candidates for appointment to the Board or as the executive director;

- (B) establish policy and adopt procedures consistent with this rule;
  - (C) oversee the operation of the program to achieve the purpose stated in subsection (a);
  - (D) create ad hoc committees as necessary to advance the purpose of KALAP or to study specific issues identified by the Board; and
  - (E) prepare reports for the Supreme Court as requested.
- (f) **Salaries and Budget.** The Supreme Court will determine the salaries of the executive director and KALAP staff. The KALAP budget will be funded by fees collected under Rule 206. The chief financial officer with the Office of Judicial Administration will conduct an annual review of financial internal controls, processes and procedures, and reports.
- (g) **Foundation.** KALAP may establish a nonprofit tax-exempt foundation to carry out KALAP's purpose. A foundation must comply with section 501 of the Internal Revenue Code, and the bylaws and articles of incorporation must be set up accordingly. A foundation may collect and receive donations to furnish financial assistance, including low interest loans, to legal professionals seeking treatment for physical or mental health issues. The KALAP Board will appoint foundation directors. The directors will establish foundation rules and regulations. The chief financial officer with the Office of Judicial Administration or an outside CPA firm will conduct an annual review of financial internal controls, processes and procedures, and reports.
- (h) **Volunteer Responsibilities.** A KALAP volunteer may have the following responsibilities:
- (1) assisting with an intervention;
  - (2) serving as a mentor, monitor, or twelve-step program sponsor;
  - (3) acting as a liaison between KALAP and the courts, law firms, law schools, and bar associations and local committees;
  - (4) providing compliance monitoring; and
  - (5) performing any other function requested by the executive director to fulfill KALAP's purpose.
- (i) **Confidentiality.**
- (1) All records and information maintained relating to the services provided under subsections (b)(1) and (b)(2) are confidential, privileged, and not subject to discovery or subpoena. All communication between a participant and an individual or entity related to these services is privileged against disclosure and must be treated the same as confidential communications between an attorney and client. Confidentiality under this section does not

prohibit the limited disclosure of information when that disclosure is considered reasonably necessary to prevent an act that is believed likely to result in imminent death or imminent substantial bodily harm.

- (2) The executive director may compile and disclose statistical information without revealing any identifying data.
  - (3) The executive director and staff, Board members, agents, designees, volunteers, and reporting parties are relieved from the provisions of Rule 8.3 of the Kansas Rules of Professional Conduct and Supreme Court Rule 210 for work done and information obtained in carrying out their duties and responsibilities under this rule.
  - (4) Any person violating subsection (i)(1) may be subject to punishment for contempt by the Supreme Court.
  - (5) The KALAP office must be in a location where privacy and confidentiality requirements of this rule can be maintained.
- (j) **Immunity.** The duties and responsibilities of the executive director and staff, Board members, agents, designees, and volunteers are owed to the Supreme Court and the public in general, not to any individual legal professional or other person. Nothing in this rule creates a civil cause of action against these individuals or reporting parties, and they are immune from liability for any omission or conduct in the course of carrying out their official duties and responsibilities or for failing to fulfill their duties and responsibilities under this rule.
- (k) **Local Committee.** A local bar association in Kansas may establish and fund a local committee to provide immediate and continuing assistance to a legal professional who is experiencing a physical or mental health issue.
- (1) **Responsibilities.** A local committee has the following responsibilities:
    - (A) to provide the services described under subsection (b);
    - (B) to follow the requirements of subsection (i); and
    - (C) to compile and disclose statistical information to KALAP, without revealing any identifying data, if requested by the executive director.
  - (2) **Immunity.** A local committee and its members and volunteers are entitled to the immunities of subsection (j) and are relieved of the reporting requirements in subsection (i)(3) if the purpose of the committee is to provide immediate and continuing assistance to a legal professional experiencing a physical or mental health issue and the requirements of confidentiality in subsection (i)(1) are met.

(3) **KALAP Assistance.** KALAP will assist any local committee upon request.

**[History:** New rule adopted effective January 1, 2021; [Am. effective April 28, 2021.](#)]