

OPEN SESSION AGENDA ITEM

DATE: March 3, 2018

TO: Members, Lawyer Assistance Program Oversight Committee

FROM: Michelle Harmon, Acting Program Manager I

SUBJECT: Pilot Process to Replace Evaluation Committees

EXECUTIVE SUMMARY

At the December 9, 2017, meeting of the Lawyer Assistance Program Oversight Committee, the Committee adopted a motion to phase out the Evaluation Committee process for all participants, with the exception of those who are enrolled in the Alternative Discipline Program. Staff were directed to work with the LAP's consultant to address issues implicated by the elimination of the Evaluation Committees. After staff discussions, consultation with Patrick Krill, consultation with a representative of the State Bar Court, feedback from Group Facilitators and selected current and former participants, staff developed a process in which the clinicians who interact with the participants on a regular basis will make the decisions about a participant's recommended recovery plan, whether a participant meets the criteria for Program admission, and how to manage special circumstances such as relapse and noncompliance. Staff believes this process is more efficient and at least equally effective as the Evaluation Committee meetings.

BACKGROUND

As described in rule 3.242 (C). Rules of the State Bar:

The committee may establish one or more Evaluation Committees in both the Northern and Southern regions of the state. Each three-member Evaluation Committee consists of a physician, a clinician, and a local member of the State Bar experienced in recovery. Evaluation Committees are authorized to accept or deny applications for admission to the LAP, to determine completion of the LAP, and to terminate individuals from LAP participation.

The current duties and responsibilities of the Evaluation Committee include:

1. Evaluating those applicants who are referred to or request acceptance into the Program;
2. Receiving and reviewing information, including reports from professional evaluators and treatment providers, regarding applicants and participants;
3. Establishing the terms of the participation agreement for each participant in the Monitored LAP; and

4. Evaluating participants in the Monitored LAP to determine completion or termination from the Program.

Additionally, participants are required to meet with the Evaluation Committee in the following circumstances:

1. Relapse;
2. Review for termination (unless determined by the Director (or designee) and Evaluation Committee Consultant to be too urgent to wait for a meeting);
3. Elimination of lab testing requirement; and
4. Elimination of requirement to attend group.

In the May 2016 Workforce Planning Report produced by the National Center for State Courts (NCSC) for the California State Bar, NCSC recommended that the Lawyer Assistance Program review “the use of the Evaluation Committee, to determine if it [sic] needed as a review entity, or whether it can be eliminated.” (See p.38.) Relevant pages of the NCSC Workforce Planning Report are included as Attachment A.

Similarly, in his 2017 report, “The California Lawyers [sic] Assistance Program: Opportunities for Growth and Improvement in a Time of Need”, Patrick Krill recommends that the “Evaluation Committee should be eliminated entirely, or its use restricted to those who are in the LAP as the result of some involvement with discipline.” (See p.9.) Relevant portions of the Krill report are included as Attachment B.

Specific concerns that were expressed by both the NCSC and by Patrick Krill include: the significant amount of staff time and effort required to schedule and prepare for the Committee; the concern that it is unclear whether the work of the Committee has any concrete impact on individual Participation Plans or outcomes; the observation that the process is likely daunting and intimidating for participants, which may result in a “chilling” effect on voluntary participation; as well as the possibility that it stokes fears about program confidentiality as the participants have no rapport or relationship with Evaluation Committee members.

DISCUSSION

Consistent with the direction of the LAP Oversight Committee, the following process was developed to replace the use of Evaluation Committees for those Monitored participants who are not enrolled in the Alternative Discipline Program while ensuring that the duties and responsibilities previously assumed by the Evaluation Committees, will continue to be properly handled. It is a living process and will be reviewed at least quarterly in order to evaluate effectiveness and make revisions, if necessary.

Key elements of the process are as follows:

One plan, the Monitoring Plan (MP), will be created and used throughout participation. This Plan will replace both the current Evaluation Plan and the current Participation Plan.

At intake assessment, the Monitoring Plan will be created by the Case Manager (CM). Once the Plan is signed by the participant, the CM will submit the Plan to the lead clinician (LAP Manager or LAP Supervisor) for signature with a cover sheet. The cover sheet information will be used to determine whether or not the participant meets criteria for acceptance. The CM will

indicate whether or not the participant has met criteria for admission and the lead clinician will either endorse the recommendation and Monitoring Plan, or schedule the file for review at the next case consultation. With both the CM's recommendation of acceptance and the lead clinician's endorsement, the participant will be considered to have been formally accepted into the Program and the Welcome letter will be sent.

Case consultation will be a regularly scheduled meeting with all CM staff and the lead clinician to discuss cases that a CM feels might need a change to the Monitoring Plan or further intervention. Additionally, at this meeting, a determination will be made by the staff to "not admit" those who do not meet program criteria (i.e., no diagnosis), to approve graduations, to issue letters of insight, and to make recommendations on special circumstances such as relapse and termination. Case consultation meetings initially will be scheduled every other week, but the frequency may be altered as needed.

If recommended at the case consultation meeting, telephonic or in-person meetings with the participant, the Group Facilitator (GF), and LAP clinical staff (CM and lead clinician) may be convened on an as-needed basis to make determination on topics previously reserved for the EC (relapse, review for termination, elimination of lab testing requirement, and elimination of requirement to attend group).

Procedure for relapses:

1. CM recommends change in level of care.
2. Participant accepts recommendation.
3. Changes to Monitoring Plan are made accordingly.

If participant does not accept recommendation:

1. CM will review the relapse and recommendations in the case consultation meeting and will develop a plan to engage the participant in his/her recovery recommendations.
2. Plan conference call/skype/in-person meeting with the participant/GF/CM/lead clinician in order to engage the participant, set deadlines, and if necessary, outline possible consequences of noncompliance. Follow with written correspondence to the participant with a summary of meeting outcome.
3. If the participant fails to accept recommendations, schedule full in-person termination meeting (with participant, GF, CM and Manager).

Procedure for extended noncompliance:

1. CM and GF will meet with participant.
2. Lead clinician will be consulted and will contact participant.
3. Conference call with will be held with participant/GF/CM/lead clinician.
4. In person termination meeting with participant/GF/CM/lead clinician.

Other new processes/resources needed:

Staff will update the Monitoring Plan, Participant Quarterly Report, Participant Information Packet, and other forms as necessary to reflect the procedural changes.

Eliminating ECs for those Enrolled in ADP

After developing this process, staff has concluded that continuing the EC process for the small numbers of ADP participants is not viable, and not in the best interest of the ADP. In order to have sufficient ADP participants to merit conducting an EC, it may take 6-8 months after enrollment to schedule the EC. This delay necessarily delays the development of the Monitoring Plan and ability of the participant to meet the requirements of that Plan and provide proof of completion to the State Bar Court.

Since the December LAP Oversight Committee meeting, staff solicited feedback about the EC process from LAP's ADP participants and from representatives of the State Bar Court and learned that the two most valuable aspects of the ECs are the expertise of the clinician members and the ability of the EC to modify Plan recommendations. Both of these aspects will at least be maintained, and likely improved, in the new process. The staff (CMs and lead) and the Group Facilitators involved in determining the recovery recommendations are all licensed clinicians who are familiar with the participant. Participants will also retain the option of obtaining an assessment and recommendations from an outside clinician that will be considered by the Program when reviewing the Monitoring Plan. Additionally, in the new process it will be possible to modify a Monitoring Plan after review by the relevant clinicians, without convening a committee, which enables LAP to be more responsive to changing needs.

As a result, staff believes that the purpose served by the ECs can be satisfactorily achieved by the new EC replacement process, and that maintaining the ECs for the small population of those enrolled in ADP is inefficient and cannot be sustained.

FISCAL/PERSONNEL IMPACT

Annual cost savings estimated to be between \$21,581-\$30,785 on travel reimbursement for Evaluation Committee members and for Group Facilitators, on meeting catering and on postage for meeting materials.

Overall staff time spent to accommodate the new process is anticipated to increase initially. As the new process becomes routine, it is expected to reduce the amount of time clinical staff spend per participant preparing for and attending meetings, and will reduce the time support staff spend on meeting planning.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None

RECOMMENDATION

The Staff recommends that the Lawyer Assistance Program Oversight Committee approve the following motion:

RESOLVED, that, in addition to the non-ADP participants, as approved at the December 2017 LAP Oversight Committee meeting, the Evaluation Committee process will also be phased out for those participants who are enrolled in the Alternative Discipline Program.

ATTACHMENT(S) LIST

- A.** NCSC Workforce Planning Report pages 38 – 39.
- B.** The California Lawyers Assistance Program: Opportunities for Growth and Improvement in a Time of Need, Patrick Krill, pages 9 – 10.