

OPEN SESSION

AGENDA ITEM

DATE: March 3, 2018

TO: Members, Lawyer Assistance Program Oversight Committee

FROM: Michelle Harmon, Acting Program Manager I

SUBJECT: Funding for Transition Assistance Services

EXECUTIVE SUMMARY

Business and Professions Code section 6140.9 limits the use of Lawyer Assistance Program (LAP) funds to the LAP itself and “related programs” approved by the LAP Oversight Committee. The Transition Assistance Service provides two free individual counseling sessions and two free career counseling sessions to attorneys who are not participants in LAP, and thus not part of the LAP program. For the past few years, these services have been funded outside of the LAP budget. Due to budgetary constraints, funding was not available in 2018. With the approval of the Committee to use LAP funds, this LAP-related program can continue to be provided.

BACKGROUND

As part of the Transition Assistance Service (TAS), members of the Bar have been eligible for two free individual sessions with a local therapist who specializes in working with legal professionals around any personal issue or concern impacting work performance and/or risk factors associated with possible professional competency issues — stress, burnout, relationship challenges, and grief. The Transition Assistance Service also provides up to two free sessions with a career counselor who specializes in assisting attorneys who have difficulty finding meaningful work in a tight employment market, find their current legal employment unsatisfying or are pondering how they might better utilize their law degree to make a positive career change. Funding for the Transition Assistance Service had been provided for the past several years from the State Bar’s general fund, however this funding is no longer available.

In order to access the Transition Assistance Service, an attorney must contact the LAP and will then be directed to an appropriate provider by one of the LAP staff. Attorneys who contact the Lawyer Assistance Program to request the TAS sessions are not enrolled in the Lawyer Assistance Program as participants.

The Transition Assistance Service is also offered during the Orientation and Assessment (O&A) phase, which may be prior to or concurrent with LAP participation. State Bar Rule 3.245 defines the O&A as including an option of: “up to two sessions of personal, career, or financial counseling.” (See Attachment A.) These offerings were paid out of the same general fund

budget item as TAS for non-participants. As a result, no free Transition Assistance Services have been provided to date in 2018.

DISCUSSION

The Transition Assistance Service is a way for attorneys to have a free introduction to the Lawyer Assistance Program with little commitment, which in turn can be leveraged to offering them a wealth of information about available services and early intervention and assessment about which many of them are unaware. It is a program closely related to the Lawyer Assistance Program and its goals. It is also currently offered as part of LAP's Orientation and Assessment, which includes program participants.

The need for Transition Assistance Services has been recognized to be a powerful opportunity for reaching Bar members who would benefit from the services. 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 Transition Assistance Service "should be more widely advertised and promoted". He describes it as an opportunity for the Lawyer Assistance Program to "attract clients and familiarize more California attorneys with the organization's services, structure, and staff." The relevant portion of the Krill report pertaining to the Transition Assistance Service is included as Attachment C.

The Transition Assistance Service is not treatment, but rather an important step in the evaluation, assessment, and recognition of issues that require broader LAP involvement, or a helping hand to alert individuals to tools to address situational issues that are impacting them and/or their careers.

FISCAL/PERSONNEL IMPACT

Transition Assistance Services are budgeted for \$31,000 per year. The Lawyer Assistance Program budget can absorb this additional funding. As LAP staff have historically administered the TAS, there will be no personnel impact.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None

RECOMMENDATION

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

IT IS MOVED, that the Lawyer Assistance Program Oversight Committee approves funding of the Transition Assistance Services (consisting of two individual and two career counseling sessions) as a related, but essential, non-treatment program.

ATTACHMENT(S) LIST

- A.** State Bar Rule 3.245
- B.** Business and Professions Code § 6140.9
- C.** The California Lawyers Assistance Program: Opportunities for Growth and Improvement in a Time of Need, Patrick Krill, page 8.

ATTACHMENT A

Rule 3.245 Orientation and Assessment

All attorneys, former members of the State Bar and candidates for admission are eligible to participate in the Orientation and Assessment ("O&A"). The O&A is also a prerequisite for participation in the Support LAP or the Monitored LAP. The O&A includes one or more of the following:

- (A) assessment by a LAP case manager;
- (B) referral to external resources and treatment providers;
- (C) up to four sessions in a LAP-facilitated support group;
- (D) up to two sessions of personal, career, or financial counseling; and
- (E) volunteer support.

ATTACHMENT B

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]

(Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 4. Attorneys [6000 - 6243]

(Chapter 4 added by Stats. 1939, Ch. 34.)

ARTICLE 8. Revenue [6140 - 6145]

(Article 8 added by Stats. 1939, Ch. 34.)

6140.9.

Moneys for the support of the program established pursuant to Article 15 (commencing with Section 6230) and related programs approved by the committee established pursuant to Section 6231 shall be paid in whole or part by a fee of ten dollars (\$10) per active member per year, and by a fee of five dollars (\$5) per inactive member per year.

The board may seek alternative sources for funding the program. Any excess funds not needed to support the program, including reserve funds, may be transferred to fund the Client Security Fund established pursuant to Section 6140.5, provided there are sufficient funds available to fully support the program.

(Amended by Stats. 2017, Ch. 422, Sec. 32. (SB 36) Effective January 1, 2018.)

ATTACHMENT C

1. The Transition Assistance Services component of the LAP's services should be more widely advertised and promoted. Short-term and career counseling services are highly valuable resources for attorneys, and could conceptually be viewed as "loss leaders" for the LAP to attract clients and familiarize more California attorneys with the organization's services, structure, and staff. Providing short-term and career counseling can also serve a prophylactic purpose, functioning as an early intervention for people who may be in the first stages of dysfunction or otherwise facing short-term challenges that have not yet grown into significant or diagnosable mental health or substance use disorders. Helping these individuals early will ultimately reduce the number of impaired attorneys in the state and therefore provides an important public protection function.
2. The Lawyer's Assistance Program *must* have its own website that is not part of the broader State Bar site.
3. Brief screenings (for both mental health disorders and problematic substance use) should be available on the LAP's website. These would not be diagnostic instruments, but rather simple screens or quizzes to help individuals understand whether their behaviors and symptoms warrant further evaluation from a licensed professional. Additionally, potential LAP applicants should be able to initiate the intake process or request an appointment online. It is important to allow people to begin engaging/interacting with the LAP from the comfort and privacy of their iPad.
 - a. It is also important to note that younger attorneys have been making up a greater percentage of referrals, and research shows that they are also at the highest risk for problem drinking and mental health distress. The LAP should strive to be "on their page" with current and technologically adequate resources, including a more interactive website, and a social media presence that regularly disseminates articles of interest and other resources.