

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. CALIFORNIA LICENSEES

Chapter 5. Lawyer Assistance Program

(Formerly Chapter 6; renumbered effective November 4, 2011.)

Rule 3.240 ~~Purpose of the~~ Lawyer Assistance Program

The ~~board~~ Board of Trustees of the State Bar of California (“Board”) has created ~~established a the~~ Lawyer Assistance Program (“LAP”) to satisfy the requirements of Business and Professions Code Sections 6230 et seq. ~~enhance public protection by rehabilitating licensees and former licensees of the State Bar and candidates for admission to the practice of law who are impaired by abuse of alcohol or drugs, or by mental illness, so that they are able to practice law competently.~~

Rule 3.240 adopted effective January 9, 2010; amended effective January 1, 2012; amended effective January 25, 2019.

Rule 3.241 Definitions ~~Lawyer Assistance Program Oversight Committee~~

For purposes of this chapter, the following terms are defined as follows:

- (A) “Candidate for Admission” means an applicant who has applied for admission to the State Bar or a law student enrolled in law school who intends to seek admission to the State Bar. ~~A Lawyer Assistance Program Oversight Committee (“committee”) of twelve members, six of whom are appointed by the Board as required by statute,¹ is authorized to establish and implement criteria for LAP participation and completion, and to otherwise oversee LAP operation.~~
- (B) “Clinical Review Team” includes all clinicians and clinical staff responsible for making LAP admissions determinations, LAP completion determinations, and other recommendations related to LAP participation. ~~The Board annually appoints a committee chair and vice chair. To be eligible for appointment, a committee member must have served on the committee for at least one year and have at least one year remaining in his or her term. A member seeking appointment or reappointment must provide a written statement of qualifications in accordance with instructions of the current chair.~~
- (C) “Committee” means the Lawyer Assistance Program Oversight Committee established pursuant to Business and Professions Code Section 6231.
- (D) “Eligible Participant” is an active, inactive, or former licensee of the State Bar or a Candidate for Admission to the State Bar.
- (E) “LAP” means the Lawyer Assistance Program, a component of the Attorney Diversion and Assistance Program established under Business and Professions

Code Sections 6230 et seq.

(F) “Monitored LAP” means the LAP program described in Rule 3.244.

(G) ““Participation Agreement” means an agreement to participate in professional monitoring as demonstrated by signing a LAP monitoring plan and associated enrollment documents.

~~(B)~~(H) “Support Services LAP” means the LAP program described in Rule 3.245.

Rule 3.241 adopted effective January 9, 2010.

Rule 3.242 Lawyer Assistance Program ~~Duties of e~~Oversight ~~e~~Committee

- (A) The ~~e~~Committee is authorized to establish and implement criteria for LAP participation and completion, and to otherwise oversee LAP operation. ~~to meet regularly at locations within California. Special meetings may be called by the chair or vice chair and must be held at the State Bar offices in San Francisco or Los Angeles. Meetings must comply with State Bar requirements.²~~
- (B) The board annually appoints a Committee chair and vice chair. To be eligible for appointment, a Committee member must have served on the Committee for at least one year and have at least one year remaining in their term. A member seeking appointment or reappointment must provide a written statement of qualifications in accordance with instructions of the current chair. ~~committee may authorize subcommittees of two or more members of the committee to transact business on its behalf.~~

¹ Business & Professions Code § 6231.

² See State Bar Rules 6.60-6.65.

~~(C) — The committee must maintain records that enable it to respond promptly to State Bar requests for information regarding financial assistance loans and collections and must report annually to the Board and Legislature on the operation of the LAP.~~

Rule 3.242 adopted effective January 9, 2010; amended effective November 16, 2018.

Rule 3.243 Confidentiality

Except as permitted by law or these rules, participant information provided to or obtained by ~~the~~ LAP or any of its agents is confidential. A participant may waive unless confidentiality with respect to limited information specified in a waiver form provided by LAP by signing the form and returning it to LAP. ~~is waived in writing by the participant.~~³

Rule 3.243 adopted effective January 9, 2010.

Rule 3.244 ~~Eligibility~~ Monitored LAP

- (A) ~~The~~ Monitored LAP is open to Eligible Participants who have a diagnosis recognized in the most recent update to the Diagnostic and Statistical Manual of Mental Disorders that affects competency and is treatable by treatment protocols that the Clinical Review Team determines can be monitored by LAP. ~~active, inactive, former licensees of the State Bar, and candidates for admission. For purposes of this Chapter, “candidates for admission” means applicants who are in law school or have applied for admission to the State Bar. To participate in the LAP, an applicant must~~
- ~~(1) — voluntarily agree to participate;~~
 - ~~(2) — provide medical information and disclosure authorizations as required; and~~
 - ~~(3) — sign a participation agreement that includes a promise to comply with all LAP recommendations.~~
- (B) Monitored ~~Participation in the~~ LAP shall include rehabilitation programming, activities, testing, support, and other monitoring designed, approved and overseen by the Clinical Review Team. ~~does not relieve a participant of any duty required by agreement or stipulation with the Office of the Chief Trial Counsel, by court order, or by any law relating to attorney conduct or discipline.~~
- (C) The Committee will establish minimum requirements for successful completion of Monitored LAP. The most current requirements will be provided to each participant upon enrollment.
- (D) Criteria for successful completion of LAP by a participant could include more than the minimum current requirements based on the judgment and recommendation of the Clinical Review Team.
- (E) A participant may be terminated from LAP if the Clinical Review Team determines that the participant has failed to satisfy the Participation Agreement.

~~(B)~~(F) Participation in Monitored LAP does not relieve a participant of any duty required by agreement or stipulation with the Office of Chief Trial Counsel, by court order, or any law relating to attorney conduct or discipline.

Rule 3.244 adopted effective January 9, 2010; amended effective January 1, 2018; amended effective January 25, 2019.

~~Rule 3.245 Orientation and Assessment~~

~~All attorneys, former licensees 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;~~

³ Business & Professions Code § 6234.

- ~~(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.~~

Rule 3.245 adopted effective January 9, 2010; amended effective January 25, 2019.

~~Rule 3.246 Application~~

~~An eligible licensee, former licensee, or candidate for admission who wishes to continue participating in the LAP must apply for either the Support LAP or the Monitored LAP. The LAP's Clinical Review Team reviews the applications and may deny an application if it determines that~~

- ~~(A) — the applicant does not meet eligibility criteria;~~
- ~~(B) — the applicant will not substantially benefit from the LAP; or~~
- ~~(C) — the applicant's participation would be inconsistent with public protection.~~

Rule 3.246 adopted effective January 9, 2010; amended effective November 16, 2018; amended effective January 25, 2019.

Rule 3.24~~5~~⁷ Support Services LAP

(A) The Support Services LAP is open to all Eligible Participants.
~~_____ licensees and former licensees of the State Bar, and candidates for admission who have completed the O&A and do not require the LAP to verify their participation or provide any other monitoring report.~~

- ~~(A)~~
- (B) For the first six months, the Support Services LAP shall provide confidential support, resources, and outreach to enable Eligible Participants to address behavioral health issues and substance use that may affect competency and to promote awareness of LAP. ~~includes~~
 - ~~(1) a plan of structured rehabilitation activities;~~
 - ~~(2) oversight and support by LAP staff;~~
 - ~~(3) participation in a LAP-facilitated support group, if directed; and~~
 - ~~(4) laboratory testing as directed.~~
- ~~(C) After six months, the Support LAP includes~~
 - ~~(1) a plan of structured rehabilitation activities;~~
 - ~~(2) oversight and support from a LAP volunteer; and,~~
 - ~~(3) participation in a LAP-facilitated group if desired.~~

Rule 3.247 adopted effective January 9, 2010; amended effective January 25, 2019.

~~Rule 3.248 Monitored LAP~~

- ~~(A) — The Monitored LAP is open to licensees and former licensees of the State Bar or candidates for admission who have completed the O&A and who require the LAP to verify their participation in the LAP for the Office of Chief Trial Counsel, the State Bar Court, the Committee of Bar Examiners, or any other entity.~~
- ~~(B) — The applicant for the Monitored LAP must have a diagnosed substance-related or mental health disorder to participate.~~
- ~~(C) — The Monitored LAP includes
 - ~~(1) — a plan of structured rehabilitation activities;~~
 - ~~(2) — oversight and support by LAP staff;~~
 - ~~(3) — participation in a LAP-facilitated support group, if directed;~~
 - ~~(4) — laboratory testing as directed; and~~
 - ~~(5) — verification of participation and compliance by the LAP.~~~~

Rule 3.248 adopted effective January 9, 2010; amended effective January 25, 2019.

~~Rule 3.249 Completion of LAP~~

~~—— A participant is deemed to have completed the LAP when the LAP's Clinical Review~~

~~—— Team determines that the participant:~~

- ~~(A) — has maintained three years of continuous sobriety or, in cases of mental health, stability;~~
- ~~(B) — has made lifestyle changes sufficient to maintain ongoing sobriety or stability; and~~
- ~~(C) — has satisfied the terms of the participation agreement.~~

Rule 3.249 adopted effective January 9, 2010; amended effective November 16, 2018.

~~Rule 3.250 Termination from the LAP~~

~~A participant may be terminated from the LAP if the LAP's Clinical Review Team determines that:~~

~~(A) the participant will not substantially benefit from the LAP;~~

~~(B) further participation would be inconsistent with the LAP's mission of public protection; or~~

~~(C) — the participant failed to satisfy the terms of the participation agreement.~~

~~Rule 3.250 adopted effective January 9, 2010; amended effective November 16, 2018.~~

Rule 3.2~~46~~⁵¹ Costs and Fees

An Eligible ~~p~~P participant is responsible for all LAP-related expenses and may be charged a reasonable fee for administrative costs. Financial assistance is available to ~~e~~Eligible ~~p~~P participants as provided by these rules.

Rule 3.251 adopted effective January 9, 2010.

Rule 3.2~~47~~⁵² Financial Assistance

- (A) A ~~LAP~~ participant of Monitored LAP ~~who is an active or inactive California attorney, former California attorney, or candidate for admission,~~ may qualify ~~be eligible~~ for financial assistance in the form of a grant ~~loan~~ from the State Bar.
- (B) The Committee will establish eligibility criteria for financial assistance and periodically review it to determine if it requires updating and to ensure that the total grant amount does not compromise the financial needs of effectively administering LAP. Eligibility for financial assistance will be based solely on financial need. ~~loan covers no more than one year of participation in the LAP per licensee. Loan proceeds are dispersed directly to approved service providers. Unless determined otherwise by the committee, covered services are limited to LAP group fees and laboratory testing fees.~~
- (C) The most current eligibility criteria will be publicly available on the State Bar website. ~~o obtain a loan, the participant must submit a completed application provided by the LAP and provide all requested information. Eligibility is based upon a current income formula determined by the committee. Loans are made solely on the basis of financial need.~~
- (D) To be considered for a grant, the participant must submit a completed application provided by LAP and provide all requested information. ~~The loan recipient is liable for all sums distributed to service providers on his or her behalf. If a loan recipient ceases to be a LAP participant, the total amount loaned on behalf of the participant becomes immediately due and payable to the State Bar by the participant. Arrangements may be made to repay the loan, with interest, in installment payments.~~
- (E) A ~~LAP~~ participant who received financial assistance before the effective date of this rule is bound by the terms of any agreement applicable to that assistance.

Rule 3.252 adopted effective January 9, 2010; amended effective November 16, 2018; amended effective January 25, 2019.