



# SUPREME COURT OF GEORGIA

August 8, 2019

The Honorable Supreme Court met pursuant to adjournment.  
The following order was passed:

The Court having considered the 2019-1 Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia, it is ordered that Part VII – Lawyer Assistance Program, Chapter 1, Lawyer Assistance Committee, Preamble, Rule 7-101 (Committee); Rule 7-102 (Membership); Rule 7-103 (Responsibility); Rule 7-104 (Funding); Chapter 2, Guidelines for Operation, Rule 7-201 (Education, Information and Awareness); Rule 7-202 (Volunteers); 7-203 (Procedures for Receiving and Action on Information Concerning Request for Assistance); Rule 7-204 (Definitions); Chapter 3, Procedures, Rule 7-301 (Outsourcing of Clinical Services); Rule 7-302 (Confidentiality); Rule 7-303 (Reports); and Rule 7-304 (Immunity) be amended, effective August 8, 2019, to read as follows:

## **PART VII LAWYER ASSISTANCE PROGRAM**

### **CHAPTER 1 LAWYER ASSISTANCE COMMITTEE**

#### **Preamble.**

The purpose of the Lawyer Assistance Program (“LAP”) is to confidentially assist State Bar of Georgia members who may be experiencing mental, emotional, substance abuse, behavioral addiction, or stress-related problems that may impact their ability

to function effectively as lawyers or judges, through education, peer support and professional clinical services.

**Rule 7-101. Committee.**

The LAP shall be administered by the State Bar of Georgia's Lawyer Assistance Program Committee ("Committee"). The Committee shall monitor and provide advice to the staff and provide recommendations to the Executive Committee and Board of Governors of the State Bar of Georgia with respect to the rules, procedures, policies and operation of the LAP, while maintaining its obligation of privacy as set forth in these Rules. The Committee shall create internal rules for the day-to-day operation of the LAP and the implementation of these Rules. The internal rules and any amendments thereto shall be approved by the Executive Committee prior to implementation.

**Rule 7-102. Membership.**

(a) Committee members shall be appointed by the President of the State Bar of Georgia for a three-year term in accordance with Article VIII, Section 1 of the bylaws of the State Bar of Georgia. In addition, the President shall appoint four non-lawyers to serve on the Committee, provided that such non-lawyers are licensed, certified addiction counselors, certified employee assistance professionals, licensed therapists, or other licensed mental/behavioral health professionals or other persons who have experience in conducting alcohol and drug rehabilitation intervention programs or mental health assistance programs. The term of such non-lawyer appointment shall be three years. Any member of the Committee with a previously identified chemical or alcohol dependence or other addiction must have a period of sobriety of at least five years prior to becoming a member of the Committee. Any member of the Committee who has received inpatient treatment for mental illness must have been released from the

facility at which such treatment was provided at least two years prior to becoming a member of the Committee. The Committee may also appoint peer support volunteers as volunteer members in accordance with its rules. Peer support volunteers must comply with this Rule concerning substance abuse and mental illness. Any Committee member or peer support volunteer with a previously identified chemical or alcohol dependence or other addiction or who has received inpatient treatment for mental illness must certify their recovery, sobriety, or satisfactory completion of medical treatment and release from treatment as provided in the internal rules of the Committee.

(b) Any Committee member or peer volunteer who suffers a relapse related to a substance use disorder and/or experiences challenges related to a diagnosed mental illness of any type to the degree to which significantly impairs his or her ability to serve shall be removed as a member of the Committee and/or as a peer volunteer pursuant to its internal rules.

### **Rule 7-103. Responsibility.**

The Committee shall be responsible for implementing programs within the scope of these Rules to assist State Bar of Georgia members who request help from the LAP for mental, emotional, substance abuse, behavioral addiction, or stress-related issues. Such programs shall provide for education, support, and/or professional clinical services through a LAP health care provider or referral for other counseling or treatment where appropriate. All programs shall require approval of the Executive Committee prior to implementation.

### **Rule 7-104. Funding.**

The work of the Committee and any health care provider selected to assist the Committee in carrying out the work of the LAP,

with approval of the Executive Committee, may be funded from the general budget of the State Bar of Georgia and/or through donations and grants from the Georgia Bar Foundation or other public or private sources.

## **CHAPTER 2 GUIDELINES FOR OPERATION**

### **Rule 7-201. Education, Information and Awareness.**

The Committee shall promote and implement procedures to communicate to State Bar of Georgia members that there are programs within the LAP available and ready to help lawyers in need to overcome mental, emotional, substance abuse, behavioral addiction, or stress-related problems. All such communication procedures shall be approved by the Executive Committee prior to implementation.

### **Rule 7-202. Volunteers.**

The Committee may establish a network of peer support volunteers, as defined in Rule 7-204, who can provide support to lawyers in need.

### **Rule 7-203. Procedures for Receiving and Action on Information Concerning Request for Assistance.**

The Committee shall establish, design and implement procedures necessary for a health care provider to directly and confidentially receive information concerning lawyers requesting assistance with mental, emotional, substance abuse, behavioral addiction, or stress-related issues. All such procedures shall be approved by the Executive Committee prior to implementation.

## **Rule 7-204. Definitions.**

(a) **Lawyer.** A lawyer, for the purposes of this Rule, is a member of the State Bar of Georgia as defined in Part I, Chapter 2, Rule 1-202 of the Rules and Regulations of the State Bar of Georgia.

(b) **Health Care Provider.** A person authorized by the State of Georgia to practice a health care discipline and performing within the scope of his or her practice as defined by State law or an entity under Georgia law to employ such person.

(c) **Peer Support Volunteers.** Lawyers who have been approved by the Committee to serve as volunteer members by offering empathy and validation to a lawyer who may be suffering from a mental, emotional, substance abuse, behavioral addiction, or stress-related problem, generally by providing practical, social, and emotional support, potentially based on their own experiences with a similar illness, stress or condition.

(d) **Professional Clinical Services.** Services provided by licensed mental health and substance abuse counselors in connection with the diagnosis, assessment, evaluation, treatment or prevention of psychological, emotional, psychophysiological and behavioral problems and addiction. These services include procedures for understanding, predicting, and alleviating intellectual, emotional, physical, and psychological distress, social and behavioral maladjustment, mental illness and addiction, as well as other forms of discomfort.

(e) **Substance Abuse.** A dependence on an addictive substance, especially alcohol or drugs.

## **CHAPTER 3 PROCEDURES**

### **Rule 7-301. Outsourcing of Clinical Services.**

In carrying out its duties, the Committee, subject to the approval of the Executive Committee, is authorized to outsource the clinical portion(s) of the LAP to private sector health care providers.

### **Rule 7-302. Confidentiality.**

Except as provided in this Rule or by court order, all information in the possession or control of the Committee, its members, staff, consultants (including without limitation any health care provider selected pursuant to Rule 7-301), or any peer support volunteer or other designee, concerning any person who has sought, has been identified as a potential recipient of, or has received assistance from the LAP, or has volunteered to serve as a peer support volunteer, shall be maintained in confidence unless the person who is the subject of the information otherwise elects, except that any person may reveal:

(a) to police or emergency responders, or any person in imminent danger, information needed to avoid or prevent death or substantial bodily harm, and

(b) information that is:

(1) mandated by statute to be reported;

(2) necessary to respond in any proceeding to allegation of malfeasance concerning actions taken by such person as a member or designee of the Committee pursuant to any LAP

program, including any assistance he or she provided to a lawyer as part of a volunteer network established pursuant to Rule 7-102; or

(3) necessary for disclosure to counsel in order to secure legal advice about his or her compliance with these Rules.

Confidential information in the possession of the Committee, its members, staff, consultants (including without limitation any health care provider selected pursuant to Rule 7-301) or any peer support volunteer or other designee, also may be privileged under OCGA § 24-5-501 (a) (5), (a) (6), (a) (7) or (a) (8). Communications that are needed to carry out the LAP's purposes are authorized between or among members of the Committee, its staff, any peer support volunteers, and/or the employees, staff or agents of any health care provider selected under Rule 7-301. Such communications shall not constitute breaches of the confidentiality required under this Rule, provided that the identity of any lawyer who has sought assistance directly from a health care provider selected under Rule 7-301 shall not be disclosed to the Committee, its members, staff, or designees, unless said member of the State Bar of Georgia has consented to such disclosure. Statements by a lawyer seeking or receiving assistance from the LAP to the Committee, its members, staff, consultants (including without limitation any health care provider selected pursuant to Rule 7-301), or any peer support volunteer or other designee shall not be admissible against the lawyer in any disciplinary proceeding under the Georgia Rules of Professional Conduct.

### **Rule 7-303. Reports.**

The Committee shall implement and design such reports and documentation on an annual basis or as requested by the President of the State Bar of Georgia for reporting purposes to the Executive Committee and the Board of Governors, subject to the confidentiality provisions of Rule 7-302. Recognizing that disclosure

of the identity of members of the State Bar of Georgia who have sought LAP assistance would be contrary to the purposes for which the Committee was established, neither the Committee, peer support volunteers, nor any health care provider selected under Rule 7-301 shall be required to provide confidential information concerning any such person to any private or government entity except by court order or as provided in Rule 7-302.

**Rule 7-304. Immunity.**

The State Bar of Georgia, its employees, and members of the Committee and its selected clinical outsource private health care professionals shall be absolutely immune from civil liability for all acts taken in the course of their official duties pursuant to these Rules.

**SUPREME COURT OF THE STATE OF GEORGIA**  
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk