



**ORDER ESTABLISHING SUPREME COURT RULE 33
TENNESSEE LAWYER ASSISTANCE PROGRAM**

The Court hereby adopts a rule establishing a Tennessee Lawyer Assistance Program pursuant to the recommendations of the Tennessee Supreme Court Lawyers' Assistance Program Committee. It is ORDERED that the rule set forth herein be and is hereby adopted as Rule 33 of the Rules of the Supreme Court of Tennessee.

Rule 33.01 ESTABLISHMENT OF TENNESSEE LAWYER ASSISTANCE
PROGRAM (TLAP)

A. Establishment. There is hereby established a state-wide lawyer assistance program to be known as Tennessee Lawyer Assistance Program (or "TLAP") which shall provide immediate and continuing help to lawyers, judges, bar applicants and law students (hereinafter "members of the legal profession") who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice or serve.

B. Purpose. TLAP has three purposes:

- (1) to protect the interests of clients, litigants and the general public from harm caused by impaired lawyers or judges;
- (2) to assist impaired members of the legal profession to begin and continue recovery; and
- (3) to educate the bench and bar to the causes of and remedies for impairments affecting members of the legal profession.

C. Funding and Administration.

- (1) The Board of Professional Responsibility shall collect annually and remit to TLAP a ten dollar (\$10.00) annual fee from every

attorney, except those exempt under Rule 9, Section 20.2, for the purpose of funding the program established under this rule.

- (2) Funding for TLAP may also include gifts or bequests from any source and earnings on investments of the TLAP fund.

Rule 33.02 TLAP COMMISSION

A. Members. The Tennessee Supreme Court shall appoint commission members to administer the TLAP. Officers of the commission shall consist of a chair, vice chair and secretary/treasurer. The chair shall be appointed by the Supreme Court. Each of the other officers shall be elected by the members of the commission annually.

B. Composition. The commission shall consist of fifteen (15) members, chosen on the basis of geography and diversity and shall include three (3) citizens who are not members of the legal profession. The members shall have diverse experience, knowledge and demonstrated competence in the problems of addiction and other common difficulties that impair members of the legal profession.

C. Terms. Members shall be appointed for a three-year term. Appointments shall be staggered so that the number of terms expiring shall be the same each year. No member shall be appointed for more than two consecutive, full three (3) year terms.

D. Duties of the Commission. The commission shall have the following powers and duties:

- (1) To establish TLAP policy and procedures consistent with this rule. Such policies and procedures shall be established after reasonable notice to the Tennessee bench and bar and opportunity for comment.
- (2) To operate the program to achieve its purposes.
- (3) To assure the duties listed under Rule 33.03 are carried out in the absence of a director of the program.
- (4) To establish and administer a revolving loan fund as provided under Rule 33.09.

- (5) To make reports to the Tennessee Supreme Court annually or as otherwise required.

E. Meetings. The commission shall meet quarterly, upon call of the chair or upon the request of five (5) or more members.

Rule 33.03 DIRECTOR OF THE PROGRAM

A. Appointment/Hire. The commission shall recruit, retain, supervise and terminate the TLAP director.

B. Qualifications. The director shall have sufficient experience and training to enable the director to identify and assist impaired members of the legal profession and to work well with the volunteers.

C. Duties and Responsibility. The director shall:

- (1) Provide initial response to help line calls.
- (2) Help lawyers, judges, law firms, courts and others to identify and intervene with impaired members of the legal profession.
- (3) Help members of the legal profession and their families to secure expert counseling and treatment for chemical dependency and other illnesses, maintaining current information on available treatment services, both those that are available without charge as well as paid services.
- (4) Establish and maintain regular contact with other bar associations, agencies and committees that serve either as sources of referral or resources in providing help.
- (5) Establish and oversee monitoring services with respect to recovery of members of the legal profession for whom monitoring is appropriate under Rules 33.05(E) or 33.07.
- (6) Plan and deliver educational programs for the legal community with respect to all sources of potential impairment as well as treatment and preventative measures.
- (7) Provide information about TLAP services to members of the legal profession and their families.

- (8) Recruit, select, train and coordinate the activities of volunteer counselors.

Rule 33.04 VOLUNTEER COUNSELORS

The program shall enlist volunteer counselors whose responsibility may include:

- A. Assisting in interventions planned by TLAP;
- B. Acting as twelve-step program sponsors;
- C. Acting as a contact between TLAP and law schools, courts, bar organizations and local committees;
- D. Providing compliance monitoring when appropriate; or
- E. Performing any other function deemed appropriate and necessary by the commission to fulfill its purposes.

Rule 33.05 SERVICES

TLAP shall provide the following services:

- A. Immediate and continuing assistance to members of the legal profession who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice;
- B. Planning and presentation of educational programs to increase the awareness and understanding of members of the legal profession to recognize problems in themselves and in their colleagues; to identify the problems correctly; to reduce stigma; and, to convey an understanding of appropriate ways of interacting with affected individuals;
- C. Investigation, planning and participation in interventions with members of the legal profession in need of assistance;
- D. Aftercare services upon request, by order, or under contract that may include the following: assistance in structuring aftercare and discharge planning; assistance for entry into appropriate aftercare and

professional peer support meetings; and assistance in obtaining a primary care physician or local peer counselor; and

- E. Monitoring services under Rule 33.07 or under contract that may include the following: alcohol and/or drug screening programs; tracking aftercare, peer support and twelve step meeting attendance; providing documentation of compliance; and providing such reports concerning compliance by those participating in a monitoring program as may be required by the terms of that program.

Rule 33.06 REFERRALS

- A. Self-referral. Any member of the legal profession may seek assistance from TLAP.
- B. Other Referrals. TLAP shall receive referrals concerning any member of the legal profession from family members, colleagues, friends, law firms or any other source.

Rule 33.07 REFERRALS FROM BOARD OF PROFESSIONAL RESPONSIBILITY, COURT OF THE JUDICIARY, BOARD OF LAW EXAMINERS OR OTHER DISCIPLINARY AGENCIES

- A. Referrals. TLAP may accept referral of lawyers, judges or bar applicants under investigational, provisional or probational status with the Tennessee Board of Professional Responsibility, Tennessee Court of the Judiciary, Tennessee Board of Law Examiners or any disciplinary agency with disciplinary authority.
- B. Progress Reports. When TLAP accepts a referral under Rule 33.07(A), TLAP may provide progress reports or reports of non-compliance. Notwithstanding Rule 33.10, these reports may be used as evidence in any proceeding or appeal relating to such referral from the Tennessee Board of Professional Responsibility, the Tennessee Court of the Judiciary, the Tennessee Board of Law Examiners or a disciplinary agency with disciplinary authority.

Rule 33.08 COOPERATION WITH LOCAL BAR PROGRAMS

TLAP shall coordinate its activities with local impaired lawyer programs.

Rule 33.09 REVOLVING LOAN FUND

From the funds received under Rule 33.01(C)(2), TLAP may establish a revolving loan fund. Such fund shall be made available to impaired lawyers and judges under rules and regulations established by the commission, as a low interest loan either for the purpose of maintaining client obligations or for defraying the cost of treatment.

Rule 33.10 CONFIDENTIALITY

A. Information and actions taken by TLAP shall be privileged and held in strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of TLAP, unless such disclosure is authorized by the member of the legal profession to whom it relates or as provided in Rule 33.07(B). Except as provided in Rule 33.07(B), such information and actions shall be excluded as evidence in any complaint, investigation or proceeding before the Tennessee Board of Professional Responsibility, Tennessee Court of the Judiciary, Tennessee Board of Law Examiners or disciplinary agency with jurisdiction.

B. Commission members, employees, and agents including volunteers recruited under Rule 33.04 shall be deemed to be participating in "a lawyers assistance program approved by the Tennessee Supreme Court" as provided in Tenn. Code Ann. § 23-4-103(1) and all information furnished to the program shall be governed by Tenn. Code Ann. §§ 23-4-104 and 23-4-105.

Rule 33.11 IMMUNITY

A. Any person reporting information to commission members, employees or agents including volunteers recruited under Rule 33.04 shall be entitled to the immunities and presumptions under Tenn. Code Ann. §§ 23-4-101, 23-4-102 and 23-4-103.

B. Commission members, employees and agents including volunteers recruited under Rule 33.04 shall be entitled to the immunities and presumptions under Tenn. Code Ann. §§ 23-4-101, 23-4-102 and 23-4-103.

C. Commission members, employees and agents including volunteers recruited under Rule 33.04 are relieved of the duty of disclosure of information to authorities as imposed by Rule 8, DR 1-103.

Rule 33.12 FACILITY

The TLAP office shall be so located as to be consistent with the privacy and confidentiality requirements of this rule.

Rule 33.13 PROGRAM REVIEW

TLAP shall be reviewed annually by the Tennessee Supreme Court and shall cease to exist on December 31, 2006 unless the Tennessee Supreme Court provides otherwise.

IT IS SO ORDERED.

E. Riley Anderson, Chief Justice

Frank F. Drowota, Justice

Adolpho A. Birch, Jr., Justice

Janice M. Holder, Justice

William M. Barker, Justice