



ALL contact with KYLAP is confidential. S.C.R. 3.990(1)

## VOLUNTEER COUNSELOR INFORMATION

### **About the Kentucky Lawyer Assistance Program (KYLAP)**

KYLAP is a program of the Kentucky Bar Association that offers help to members of the Kentucky legal community (including law students) who are struggling with mental health issues, such as depression, alcohol and drug abuse, stress, compulsive gambling or any other condition that may adversely impact the individual's personal or professional life. KYLAP contact is confidential and there are no fees for services.

### **About KYLAP Volunteer Counselors**

KYLAP maintains a network of volunteer counselors to assist in carrying out its' mission. These persons are designated as volunteer counselors by the director and a list of their names is kept on file. This list may be distributed at CLE and other functions and any volunteer who does not want his/her name to appear may have it excluded. Volunteer counselors have the opportunity to help members of the legal community recover their life and possibly their career.

Policies and procedures relating to KYLAP volunteer counselors:

- At least 3/4ths of the total number shall be in recovery from impairments relating to KYLAP.
- Those in recovery shall have a minimum of two years of continuous recovery.
- Attend a minimum of three hours of ongoing training per year. This training shall be offered by KYLAP twice a year at no cost to the volunteers.
- Provide neither legal counsel nor mental health treatment or medical advice to any KYLAP participant.
- May act as monitors for Agency Referrals and Supreme Court Assignments, and shall make all required reports relating thereto. In special circumstances, act as monitors in self and third party referrals.
- May attend KYLAP volunteer counselor meetings at no cost.
- Assist the director upon request, and keep the director timely informed of KYLAP activities performed.

- Offer presentations about KYLAP to Law Schools, KBA seminars, local bar associations or any other group requesting information.
- Serve on the KYLAP Commission, if requested.
- Immediately notify the director if contacted by a new self or third party referral.

**KENTUCKY LAWYER ASSISTANCE PROGRAM (KYLAP)**  
**IF RETURN BY FAX – NO COVER SHEET REQUIRED – TO 1-866-364-7254 IF**  
**RETURN BY EMAIL TO: [ABEITZ@KYLAP.ORG](mailto:ABEITZ@KYLAP.ORG)**

Volunteer Questionnaire

**CONFIDENTIAL**

1. Volunteer Opportunities

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone number(s) where we may contact you:

Work: \_\_\_\_\_

Home: \_\_\_\_\_

Cell: \_\_\_\_\_

E-mail address: \_\_\_\_\_

FAX: \_\_\_\_\_

Area of state you are willing to cover: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

I am interested in working with:

Attorneys

Law Students

Judges

Enablers and co-dependents

who have:

substance issues:

drugs     alcohol     both

mental health issues (depression, bipolar disorders, etc.)

Specifically: \_\_\_\_\_

other addictions (gambling, sex, food, etc.)

Specifically: \_\_\_\_\_

physical illness and/or disability

Specifically: \_\_\_\_\_

stress, burnout, career change and related issues

I am available to participate in motivational meetings and/or interventions.

I am willing to assist with facilitation of cases for an impaired attorney.

I am willing to serve as a monitor.

I am willing to serve as a speaker at CLE events, local bar functions, law schools, etc.

Areas of special interest:

---

I am willing to share my personal story at such talks

of my own recovery

as a family/co-worker/friend of impaired attorney, judge or law student

D. Personal information (for example: specific personal recovery; length of time in recovery; family/friend recovery; experience with issues; specific physical, mental or other disabilities; other issues you feel might help):

---

---

3. Please indicate your preferences:

Feel free to give my name and phone number to anyone seeking assistance without calling first:  home  office  cell

Please call me before giving my name and number to anyone.

Questions? Comments? Suggestions?

Call:

Office: (502) 226-9373

Director cell phone: (859) 221-0806

Or e-mail:

Yvette at [yhourigan@kylap.org](mailto:yhourigan@kylap.org)

Ashley at [abeitz@kylap.org](mailto:abeitz@kylap.org)

### About being a KYLAP Volunteer Monitor

Occasionally, an agency (which includes the Supreme Court of Kentucky, the Office of Bar Admissions and the Kentucky Bar Association Office of Bar Counsel) will refer someone to KYLAP with the understanding he/she will enter into a Monitoring Agreement with KYLAP as part of an Order, conditional admission to the Bar or as discipline. The monitor's job is to have regular contact with the monitored attorney, determine (to the extent possible) whether the person has complied with the conditions of the Monitoring Agreement and fill out a quarterly report for the KYLAP Director. The Monitor is not a friend or sponsor and is not expected to ensure the person complies with the conditions. The Monitor's job is simply to determine whether conditions have been met and to file a report accordingly. If the Monitor learns of a breach of any of the conditions, the Monitor is expected to immediately report the breach to the KYLAP Director who will inform the appropriate agency. KYLAP will send volunteer monitors Quarterly Monitoring Report forms when required.

You have an opportunity to give life to the Supreme Court's recognition that in some cases a judge, attorney or law student may, with the right support and guidance provided by KYLAP, recover their career. KYLAP relies on trained volunteers to monitor these agreements, and thereby advance not only the discipline system in our profession, but save lives. We hope you will join us.

Please return this form to:

Yvette Hourigan  
Office: (502) 226-9373  
Cell: (859) 221-0806  
Yhourigan@kylap.org

Ashley Cooper, Assistant to the Director  
Office: (502) 226-9373  
abeitz@kylap.org

Kentucky Lawyer Assistance Program (KYLAP)  
P. O. Box 1437  
Frankfort, KY 40602

If you have any questions, comments or suggestions for the KYLAP Volunteer Counselor program, please contact us.

# ADDITIONAL INFORMATION FOR KYLAP VOLUNTEER COUNSELORS

## KENTUCKY LAWYER ASSISTANCE PROGRAM (KYLAP)

### POLICIES AND PROCEDURES

The Kentucky Lawyer Assistance Program (KYLAP) is a program of the Kentucky Bar Association (KBA) whose mission is to assist members of the legal community who may be impaired by reason of chemical dependency or mental disease or defect, and whose impairment is adversely affecting, or has the potential to affect, their ability to effectively practice law. The assistance offered to self referrals and third party referrals is confidential (pursuant to Kentucky Supreme Court rule). This confidentiality extends to the names of anyone who communicates with KYLAP and all information gathered, records maintained and actions taken by KYLAP. There is a specific prohibition against disclosing such information to any agency of the Court and any department of the KBA.

### SELF REFERRALS

KYLAP, its' staff, including volunteer counselors, upon contact by an individual seeking assistance for him or herself, shall immediately make arrangements for contact to be made with that individual by a volunteer counselor or by the Director of KYLAP. An initial consultation shall be conducted to determine the nature of the impairment and, when appropriate, a referral may be made for further evaluation, assessment and or treatment to a medical and/or clinical resource. KYLAP may assist in the development of a recovery plan, which may include participation in KYLAP. With permission of the individual, the Director of KYLAP may appoint a volunteer counselor to monitor and assist in recovery. The impaired individual may, at his/her discretion, enter into a Supervision Agreement with KYLAP. The Director of KYLAP may terminate KYLAP's involvement at any time should it be determined, with the advice and consent of two or more volunteer counselors, that the impaired individual is non-compliant or non-participatory, and no longer benefits from the efforts of KYLAP.

### THIRD-PARTY REFERRALS

KYLAP, its' staff, including volunteer counselors, upon contact by an individual seeking assistance for another individual, shall obtain detailed information from the referral source regarding the nature of the impairment, the referral source's relationship to the individual for whom assistance is being sought and the circumstances giving rise to the referral. The identity of the referral source shall remain confidential unless the referral source directs otherwise. KYLAP, by and through its' Director, staff and/or volunteer counselors, shall conduct a discreet inquiry to determine the possibility of impairment. If a determination is made by KYLAP that an impairment does exist, the Director of KYLAP shall decide whether the impaired individual should be approached directly or whether arrangements can be made for a "formal intervention" and, if so, assist in its' arrangements. If the impaired individual is willing to seek treatment and/or recovery, KYLAP may consult with that individual and assist in arrangements for assessment, evaluation and treatment by a medical and/or clinical resource. KYLAP may assist in the development of a recovery plan, which may include participation in KYLAP. With permission of the individual, the Director of KYLAP may appoint a volunteer counselor to monitor and assist in recovery. The impaired individual may, at his/her discretion, enter into a Supervision Agreement with KYLAP. The Director of KYLAP may terminate KYLAP's involvement at any time should it be determined, with the advice and consent of two or more volunteer counselors, that the impaired individual is non-compliant or non-participatory, and no longer benefits from the efforts of KYLAP.

### AGENCY REFERRALS

The procedure for Agency Referrals is set out in SCR 3.970. It is the duty of the Director to ensure that all KYLAP procedures are properly followed and the director shall work jointly with the referring agencies and other resources, including, but not limited to the volunteer counselors, to ensure compliance.

## **SUPREME COURT ASSIGNMENTS**

The procedure for Supreme Court Assignments is set out in SCR 3.980. It is the duty of the Director to ensure that all KYLAP procedures are properly followed and the Director shall work jointly with the Supreme Court and other resources, including, but not limited to, volunteer counselors, to ensure compliance.

## **VOLUNTEER COUNSELORS**

KYLAP shall maintain a network of volunteer counselors to assist in carrying out its' mission. These persons shall be designated as volunteer counselors by the director and a list of their names kept on file. This list may be distributed at CLE and other functions and any volunteer who does not want his/her name to appear shall have it excluded.

The following shall apply to the volunteer counselors:

- At least 3/4ths of the total number shall be in recovery from impairments relating to KYLAP.
- Those in recovery shall have a minimum of two years of continuous recovery.
- Attend a minimum of three hours of ongoing training per year. This training shall be offered by KYLAP twice a year at no cost to the volunteers.
- Provide neither legal counsel nor mental health treatment or medical advice to any KYLAP participant.
- May act as monitors for Agency Referrals and Supreme Court Assignments, and shall make all required reports relating thereto. In special circumstances, act as monitors in self and third party referrals.
- May attend KYLAP volunteer counselor meetings at no cost.
- Assist the director upon request, and keep the director timely informed of KYLAP activities performed.
- Offer presentations about KYLAP to Law Schools, KBA seminars, local bar associations or any other group requesting information.
- Serve on the KYLAP Commission, if requested.
- Immediately notify the director if contacted by a new self or third party referral.

## **DIRECTOR**

The Director has the following duties:

- Establish and maintain an orderly records keeping system, including development of appropriate forms, that will produce accurate, detailed statistics in order to measure the success of the program. (Information which identifies individuals by name will be considered confidential.) Attend and provide written statistical reports along with program activities reports at each Board of Governors meeting.
- Receive all inquiries regarding the program and develop, as well as implement, a plan to publicize availability of the program.
- Maintain a thorough knowledge of available treatment programs in order to evaluate the referral resources and develop a resource listing for Bar members needing evaluation, treatment or aftercare.
- The LAP Director is prohibited from directly providing treatment but assists with facilitating activities such as interventions which may lead to treatment as well as assisting members in obtaining appropriate treatment, or participating in an appropriate recovery program.

- Maintain an adequate number of volunteer counselors across Kentucky and assists with recruiting and training new volunteers.
- Work with the three law schools in Kentucky to develop programs for law student impairment awareness and make presentations to law students.
- Upon approval of the Board of Governors, develop additional funding sources to supplement budget allocations received from the KBA budget.
- As needed, work closely with the Office of Bar Counsel and all other KBA staff offices, the Inquiry Commission and Character and Fitness Committee to promote the program and carry out the mission of the Kentucky Bar Association as set forth in Supreme Court Rule 3.025.
- Work closely with AOC and Judicial Conduct Commission regarding identification, assistance and alternatives to discipline for members of the judiciary.
- Develop and maintain expertise regarding the relationship between impairment and professional misconduct and the appropriate use of rehabilitation and monitoring programs as alternatives to traditional disciplinary sanctions.
- In cooperation with the CLE Commission and independently, develop means and programs to heighten awareness of the membership to impairment problems, prevention and treatment including, but not limited to, participation in KBA publications and events.
- Develop policies and procedures to govern the work and purposes of the Program, for review and approval by the Board of Governors.
- Develop protocol and submit proposed rules designed to address the issues of confidentiality and immunity in the work of the Program and its volunteers, for review and approval by the Board of Governors.
- Other duties and responsibilities to further the success of the program may be assigned by the Board of Governors and KBA Executive Director.

#### **ADMINISTRATIVE ASSISTANT**

The Administrative Assistant shall assist the Director of KYLAP in the performance of the Directors duties and, in the Directors' absence, perform the duties of Director.

#### **KYLAP FEES**

In the case of agency referrals and assignments from the Supreme Court, KYLAP shall charge the sum of \$25.00 per month as a monitoring fee. This fee may be waived at the discretion of the director with the advice and consent of the referring agency or the Supreme Court.

#### **FILE CLOSING**

The Director may at his discretion, with the advice and consent of two KYLAP volunteer counselors close inactive KYLAP files, however, all files opened by KYLAP shall remain open for a minimum period of two years at which time they may be closed in accordance with these Policies and Procedures.

Approved and adopted by the KYLAP Commission at its' meeting on June 6, 2003.



Supreme Court of Kentucky

IN RE: ORDER  
AMENDING  
RULES OF THE SUPREME COURT (SCR) 2003-

04

---

KENTUCKY LAWYER ASSISTANCE PROGRAM (KYLAP)

19. SCR 3.900      Definitions

New rule SCR 3.900 shall read:

As used in SCR 3.900 through SCR 3.980:

- (1) "Impairment" means and includes any mental, psychological or emotional condition that impairs or may foreseeably impair a person's ability to practice law or serve on the bench. Impairment may result from addiction to intoxicants or drugs, chemical dependency, substance abuse, mental disease, mental disorder or defect, or psychological or emotional illness.
- (2) "The Kentucky legal community" means and includes (a) all members of the Kentucky Bar Association, including judges; (b) all applicants for admission to the practice of law in Kentucky; (c) all students enrolled at law schools in the Commonwealth; and (d) all members of the Association who have been suspended from the practice of law pursuant to the Rules of the Supreme Court.

20. SCR 3.910      Kentucky Lawyer Assistance Program (KYLAP)

New rule SCR 3.910 shall read:

- (1) There is hereby established a state-wide program to be called the Kentucky Lawyer Assistance Program (or "KYLAP"), which shall be operated by the Association in accordance with these Rules. It shall be the mission and purpose of KYLAP to address impairment issues within the Kentucky legal community in a manner that serves and promotes the general mission and purpose of the Association as set forth in SCR 3.025.
- (2) KYLAP shall offer certain types of assistance as described in this Rule to members of the Kentucky legal community who suffer from actual or potential impairment, and may proceed to provide such assistance to any member of the said community as requested or authorized. The types of assistance offered and provided by KYLAP in a particular case may include lay counseling and encouragement; assisting, planning and execution of interventions; providing information about treatment alternatives; monitoring progress of recovery from impairment, which may include assistance in arranging, scheduling and tracking attendance at recovery programs, appointments with counselors, therapists and medical care providers and compliance with alcohol or drug screens; monitoring compliance with voluntary or involuntary treatment or recovery programs, which may include documentation and reports concerning compliance or non-compliance; obtaining authorizations in conformity with federal and state law; and other related tasks that may assist a member of the said community in addressing an actual or potential impairment; provided, however, that KYLAP shall perform the aforesaid types of assistance in such a manner that KYLAP's staff does not render legal or medical advice and does not engage in any activity which constitutes the practice of law or medicine.
- (3) KYLAP shall develop and present educational programs for the Kentucky legal community regarding issues of impairment and shall pursue other appropriate opportunities to increase

awareness and understanding of such matters and cultivate an environment in which issues of impairment are properly addressed.

- (4) KYLAP shall serve as a resource within the Association with respect to matters of impairment, so that all functions and activities of the Association may benefit from KYLAP's information and expertise in matters of impairment.
- (5) KYLAP may engage in other activities consistent with these Rules and as authorized by the operating policies and procedures adopted by the KYLAP Commission.
- (6) KYLAP shall perform all of the aforementioned duties in a manner consistent with the confidentiality provisions of Rule 3.990.
- (7) KYLAP shall be funded from the annual dues collected by the Association pursuant to these Rules. KYLAP may also charge reasonable and appropriate fees for services rendered and accept monetary gifts in support of its activities, to the extent authorized by the KYLAP Commission and approved by the Board.
- (8) KYLAP may, with the approval of the Board, establish such non-profit tax exempt Foundations as are necessary for the purpose of carrying out its mission. This may include establishment of a Foundation to obtain donations in order to furnish financial assistance, in the form of loans, to enable members of the legal community to obtain treatment for their impairment. The Board will appoint the Directors of any such Foundation. (eff. 3-1-2012).

21. SCR 3.920 Kentucky Lawyer Assistance Program Commission  
(KYLAP Commission)

New rule SCR 3.920 shall read:

- (1) The Board of Governors shall appoint a Commission to be called the Kentucky Lawyer Assistance Program Commission or "KYLAP Commission", which shall have general responsibility for the administration of KYLAP in accordance with these Rules.
- (2) The Commission shall consist of fifteen (15) persons, as follows: (a) two members of the Board of Governors; (b) an active member of the Association (either a lawyer or judge) from each of the seven Supreme Court Districts; (c) two other active members of the Association (either lawyers or judges); and (d) four (4) citizens of the Commonwealth who are not members of the Kentucky legal community. The Board shall appoint persons who have a demonstrated interest in issues of impairment and shall also endeavor to make appointments which create a diversity of knowledge and life experience within the Commission's membership.
- (3) Each member of the Commission shall be appointed for a period of four (4) years. However, in order to achieve staggered terms, the initial members of the Commission shall be appointed as follows:
  - (a) Five of the Commission members who are lawyers or judges shall be appointed for two-year terms;
  - (b) Four of the Commission members who are lawyers or judges shall be appointed for three-year terms;
  - (c) Two of the Commission members who are lawyers or judges shall be appointed for four-year terms;

- (d) Two of the Commission members who are not members of the Kentucky legal community shall be appointed for three-year terms; and
- (e) Two of the Commission members who are not members of the Kentucky legal community shall be appointed for four-year terms.

Thereafter, when any vacancy occurs in the membership of the Commission, that vacancy shall be filled by appointment by the Board of Governors. When a vacancy occurs prior to the expiration of a member's term, the new member shall be appointed for the remainder of the unexpired term. When a vacancy occurs because of the expiration of a term, the new member shall be appointed for a four-year term.

- (4) The Commission shall have a Chair and a Vice-Chair. The Chair shall be appointed annually by the Board of Governors with input from the Commission and the KYLAP Director. The Vice-Chair shall be elected annually by the members of the Commission.
- (5) The Commission shall meet quarterly or upon call of the Chair or upon the request of five (5) or more members. A member's failure to attend three (3) consecutive meetings will automatically result in the vacancy of that member's position on the Commission.
- (6) The Commission shall have general responsibility for the administration of KYLAP in accordance with these Rules. In discharging its responsibility KYLAP shall have the authority to:
  - (a) Adopt operating policies and procedures as necessary and appropriate to implement these Rules and administer KYLAP, provided that, before such policies and procedures are implemented, they shall receive approval of the Board; and
  - (b) Make reports to the Board and Court annually or as otherwise required, provided that such reports shall be of a statistical and summary nature and shall not compromise the confidentiality of any referral under SCR 3.950 or any assignment under SCR 3.960.

22. SCR 3.930 KYLAP Program Director and Staff

New rule SCR 3.930 shall read:

The Board of Governors, through the Executive Director of the Association, shall appoint a KYLAP Program Director and sufficient staff to provide administrative support for the KYLAP Commission and the KYLAP program. The Program Director shall be responsible for the administration of KYLAP.

23. SCR 3.940 KYLAP Volunteer Counselors

New rule SCR 3.940 shall read:

KYLAP may enlist volunteer counselors to assist KYLAP in discharging KYLAP's duties under these Rules. Such volunteer counselors shall be subject to all provisions of these Rules including the provisions of SCR 3.910(2) limiting the types of assistance provided by KYLAP and the confidentiality requirements of SCR 3.990.

24. SCR 3.950 Self-Referrals

New rule SCR 3.950 shall read:

Any member of the Kentucky legal community may contact KYLAP to obtain information about KYLAP's services or to request assistance from KYLAP regarding an actual or potential impairment. Any such communication with KYLAP shall be confidential in nature and shall be held in strict confidence by KYLAP's staff and by all other persons involved in the implementation and delivery of KYLAP's services. Upon receiving any such inquiry, KYLAP may offer assistance of the nature described in Rule 3.910(2) as

appropriate to the person's situation and circumstances, and may proceed to provide such assistance as authorized by that person.

25. SCR 3.960 Third Party Referrals

New rule SCR 3.960 shall read:

- (1) Any person may contact KYLAP and request or suggest that KYLAP offer assistance to a member of the Kentucky legal community who is suffering or may be suffering from an actual or potential impairment.
- (2) When a person contacts KYLAP pursuant to this Rule, his or her communication with KYLAP shall be confidential in nature and shall be held in strict confidence by KYLAP's staff and by all other persons involved in the implementation and delivery of KYLAP's services. Further, if KYLAP proceeds to communicate with the member of the Kentucky legal community who is the subject matter of the contact, KYLAP shall not disclose any information about its communications with the person who made the third-party referral, except as authorized by that person.
- (3) Any person who contacts KYLAP pursuant to this Rule shall be immune from any liability to the person who is the subject matter of the contact, or to any other person, by reason of contacting KYLAP.

26. SCR 3.970 Agency Referrals

New rule SCR 3.970 shall read:

- (1) A member of the Kentucky legal community who is the subject of a pending admission or disciplinary proceeding before an agency of the Supreme Court of Kentucky may authorize that agency to make a confidential request for assistance from KYLAP in evaluating or addressing any actual or potential impairment that may be relevant to the issues which the agency is charged with considering in the proceeding. In particular:
  - (a) A member of the Kentucky legal community who is the subject of an application for admission, restoration or reinstatement to the practice of law in the Commonwealth may authorize the Office of Bar Admissions to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to the OBA's consideration or disposition of the application for admission, restoration or reinstatement.
  - (b) A member or former member of the Association who is the subject of a disciplinary complaint or investigation pending before the Inquiry Commission may authorize that Commission to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to that Commission's consideration or disposition of that complaint or investigation.
  - (c) A member or former member of the Association who is the subject of an investigation or prosecution by the Office of Bar Counsel may authorize OBC to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to OBC's recommended disposition of that investigation or prosecution.
- (2) Before an agency of the Court makes any contact with KYLAP pursuant to paragraph (1) of this Rule, it shall obtain a written authorization from the person who is the subject of the proposed

assistance clearly evidencing the fact that such person has authorized the agency to communicate with KYLAP for one or more purposes set forth in paragraph (1).

- (3) Upon receiving any request for assistance from an agency of the Court pursuant to paragraph (1) of this Rule, KYLAP shall satisfy itself: (a) that the person who is the subject of the proposed assistance has authorized the agency to communicate with KYLAP, in accordance with paragraphs (1) and (2) of this Rule; and (b) that the requested assistance falls within the scope of KYLAP's mission and services as set forth in Rule 3.910. KYLAP shall not take any other steps in response to the request until it has satisfied itself of these two threshold matters.
- (4) After satisfying itself of the threshold matters set forth in paragraph (3), KYLAP shall determine whether it is able to provide any assistance to the requesting agency and respond appropriately to that agency. KYLAP is not obligated by these Rules to accept any request for assistance or become involved in any proceeding before any agency of the Court, and shall do so only when it determines that it is able to provide assistance in accordance with these Rules.
- (5) Before providing any assistance pursuant to a request from an agency of the Court, KYLAP shall obtain a written authorization, waiver and release from the person who is the subject of the proposed assistance, in which that person authorizes KYLAP to:
  - (a) provide appropriate status reports to the requesting agency, and to any other appropriate agencies of the Court, regarding any aspect of the assistance provided by KYLAP after the date KYLAP has accepted the request for assistance, including, without limitation, (i) any assessment or diagnosis of the person's condition rendered after the date KYLAP has accepted the request for assistance, (ii) the person's progress in addressing the actual or potential impairment after the date KYLAP has accepted the request for assistance, and (iii) the person's compliance or non-compliance with any terms or conditions imposed by the Court, any agency of the Court, or KYLAP, after the date KYLAP has accepted the request for assistance;
  - (b) disclose to the requesting agency, and to any other appropriate agencies of the Court, any information gathered or received by KYLAP after the date KYLAP has accepted the request for assistance, for use as evidence in any admission, disciplinary, restoration or reinstatement proceeding, subject to the rules of evidence and procedure in that proceeding; and
  - (c) provide testimony in any admission, disciplinary, restoration or reinstatement proceeding regarding assistance provided by KYLAP after the date KYLAP has accepted the request for assistance, subject to the rules of evidence and procedure in that proceeding.

27. SCR 3.980 Supreme Court Assignments to KYLAP

New rule SCR 3.980 shall read:

- (1) The Supreme Court may assign appropriate tasks and responsibilities to KYLAP relating to the evaluation of an impairment or the monitoring of a person's progress toward recovery from impairment as part of the Court's final disposition of any application for admission to the bar, petition for temporary suspension, charge of professional misconduct or application for restoration or reinstatement, where an issue of impairment has been raised in the proceeding, provided that in no event shall KYLAP become involved in any proceeding prior to the final disposition of that proceeding without the consent of the lawyer.
- (2) The Board of Governors may recommend that the Court assign appropriate tasks and responsibilities to KYLAP as described in paragraph (1) of this Rule as part of the Board's

recommendation to the Court in any disciplinary, restoration or reinstatement proceeding, where an issue of impairment has been raised in the proceeding.

- (3) When KYLAP receives a matter by assignment from the Court pursuant to paragraph (1) of this Rule:
  - (a) KYLAP shall proceed to provide assistance of the nature described in Rule 3.910(2) in accordance with the terms of the Court's order, and may impose additional requirements on the person who is the subject of the assignment as necessary to perform the assignment;
  - (b) KYLAP may provide reports to the Court, and to one or more agencies of the Court, as authorized or required by the terms of the Court's order;
  - (c) Any information gathered or received by KYLAP after the date of the Court's order and in the course of discharging the tasks and responsibilities assigned by the Court as part of a final disposition under paragraph (1) of this Rule may be used as evidence in any admission, disciplinary, restoration or reinstatement proceeding regarding the person who is the subject of the assignment, subject to the rules of evidence and procedure in that proceeding; and
  - (d) One or more representatives of KYLAP may be called as witnesses in any admission, disciplinary, restoration or reinstatement proceeding for the purpose of testifying about information gathered or received by KYLAP after the date of the Court's order and in the course of discharging the tasks and responsibilities assigned by the Court as part of a final disposition under paragraph (1) of this Rule, subject to the rules of evidence and procedure in that proceeding.

28. SCR 3.990 Confidentiality.

New rule SCR 3.990 shall read:

- (1) All communications to KYLAP and all information gathered, records maintained and actions taken by KYLAP shall be confidential, shall be kept in strict confidence by KYLAP's staff and volunteers, shall not be disclosed by KYLAP to any person or entity, including any agency of the Court and any department of the Association, and shall be excluded as evidence in any proceeding before the Board of Governors or the Office of Bar Admissions, except that:
  - (a) if the person who is the subject of KYLAP's assistance has provided a written release authorizing disclosure of communications to KYLAP or information gathered, records maintained or actions taken by KYLAP, KYLAP may disclose such information in strict accordance with the terms and conditions of that written release;
  - (b) if the matter was assigned to KYLAP by the Court pursuant to paragraph SCR 3.980, KYLAP may issue reports, disclose information and provide testimony as set forth in paragraph (3) of that Rule, and this Rule 3.990 shall not be construed as a basis for excluding otherwise admissible evidence from any admission, disciplinary, restoration or reinstatement proceeding; and
  - (c) if KYLAP provides assistance pursuant to an agency referral under SCR 3.970, KYLAP may issue reports, disclose information and provide testimony as set forth in paragraph (5) of that Rule, and this Rule 3.990 shall not be construed as a basis for excluding otherwise admissible evidence from any admission, disciplinary, restoration or reinstatement proceeding.

- (2) The foregoing requirement of confidentiality shall apply to all members of the KYLAP Commission, all KYLAP staff members and volunteers, all employees of the Association, all volunteer counselors, all persons who provide information or other assistance to KYLAP in connection with any referral or assignment, and all other persons who participate in the performance or delivery of KYLAP's services.

29. SCR 3.995 Immunity.

New rule SCR 3.995 shall read:

The duties imposed by these Rules are duties owed to the Supreme Court, not to any other person or entity. Nothing in these Rules shall be construed as creating any cause of action or right of suit against any person or entity.

All concur.

ENTERED: October 17, 2003.

Chief Justice Joseph E. Lambert

---

Chief Justice Joseph E. Lambert