

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 In the matter of Amendments to SCR
3 214, SCR 98 and SCR 121.1 regarding
4 completion of the Introduction to
5 Nevada Practice and Procedure
6 Program, establishing mentorship
7 program, and suspending an attorney's
8 license for noncompliance, respectively

ADKT NO.: 0464

FILED

NOV 16 2012

TRACEY K. KIDWELL
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

8 **PETITION**

9 The Board of Governors of the State Bar of Nevada (State Bar) hereby
10 petitions this Court to amend SCR 214 regarding exemptions to minimum
11 continuing legal education requirements as defined in SCR 210. The State Bar
12 also petitions this Court to amend SCR 98 establishing a mandatory mentorship
13 program, Transitioning into Practice (TIP), and SCR 121.1(1) concerning the
14 entity responsible for suspending an attorney's license for noncompliance.

15 The proposed rules, as amended, are attached hereto in their entirety as
16 Exhibit A.

17 **DISCUSSION**

18 The proposal would amend SCR 214(1) in relevant part to read:

19
20 1. The following attorneys are entitled to an exemption from the
21 requirements of Rule 210:

22 (a) Any active member who has successfully completed the Nevada state
23 bar examination in the present calendar year. The exemption shall be for the
24 remainder of the calendar year in which the examination was successfully
25 completed and the first full calendar year thereafter. Commencing on
January 1 of the second calendar year after the successful completion of the
examination, the active member becomes subject to these rules.
Notwithstanding this exemption, each active member of the state bar,
[within the first year] following admission shall complete the [Introduction

1 ~~to Nevada Practice and Procedure program]~~ Transitioning into Practice
2 program.

3 The proposal would also amend SCR 98(2) establishing the Transitioning into
4 Practice (TIP) program as mandatory for all active members upon admission.

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6 2. *Active practice in Nevada.* Every person actively engaged in the practice
7 of law in this state shall enroll as an active member. Every active member
8 admitted on or after November 16, 2011, shall, within 4 weeks, enroll in the
9 Transitioning into Practice (TIP) program, certify exemption from TIP, or
10 request deferment. Completion of TIP, pursuant to the guidelines
11 established by the Standing Committee on Transitioning into Practice, shall
12 be by December 31 of the first full calendar year following admission.

13 (a) *Exemption.* Members may certify exemption from TIP based on prior
14 practice in another jurisdiction or current residency as set forth in the
15 Mentor Program Manual.

16 (b) *Deferral.* Active members who are unemployed or judicial law clerks
17 may request deferral from TIP until they begin practicing, at which time
18 they must enroll in the next available TIP cycle. The Standing
19 Committee on Transitioning into Practice may grant deferrals for up to
20 two years from the date of admission.

21 (c) *Penalty for noncompliance.* An attorney subject to this rule who fails to
22 timely comply with its provisions shall be subject to suspension and a
23 \$250 fine upon order of the board of governors from membership in the
24 state bar until compliance with the requirements of this rule is met.

25 (d) *Conflicts and confidentiality in outside mentoring.* An outside
mentoring relationship exists when the mentoring lawyer and new
lawyer are not members of the same law firm or organization.

i. The mentoring lawyer may provide or the new lawyer may seek
short-term limited guidance or counsel, within the mentoring
relationship, without expectation by either lawyer or the new
lawyer's client(s) that a lawyer-client relationship has been formed
or that representation is being provided in the matter by the
mentoring attorney.

ii. Where practical, the mentoring lawyer and the new lawyer shall
discuss new lawyer client specific issues in hypothetical terms. If
hypothetical terms are not practical under the circumstances as

1 determined by the lawyers, Nevada Rule of Professional Conduct
2 1.6(b)(4) applies.

3

4 The proposal would also amend SCR 121.1(1) making the State Bar the entity
5 responsible for issuing notices of suspension for failure to timely complete TIP.

- 6 1. *Entity responsible.* If the attorney's suspension was imposed under Rule
7 98 for failure to pay state bar dues or under Rule 214(1) for failure to
8 timely complete TIP, then the state bar shall be responsible for issuing
9 the notices required by Rule 121.1(2) and (3). If the attorney's
10 suspension was imposed under Rule 212 for failure to comply with
11 continuing legal education requirements, then the board of continuing
12 legal education shall be responsible for issuing the notices required by
13 Rule 121.1(2) and (3). In all other cases, bar counsel shall be responsible
14 for issuing the notices required by Rule 121.1(2) and (3).

15

16 Overview

17 For years, the State Bar has operated the Introduction to Nevada Practice
18 and Procedure program, commonly referred to as "Bridge the Gap." This one-day
19 program was designed as a one-size-fits-all model for attorneys, regardless of the
20 attorney's area of practice or level of experience. To make this program more
21 meaningful to those attorneys in attendance, the State Bar, in conjunction with the
22 Professionalism Summit Committee, developed TIP to replace Bridge the Gap and
23 provide a more personal experience to newly admitted attorneys.

24 The TIP program is modeled after similar programs in Georgia, New
25 Mexico, Oregon, Texas, Utah and Wyoming where experienced attorneys are
26 paired with new attorneys practicing in the same or similar areas of law. These
27 programs are designed to introduce new attorneys to the high standards expected
28 in the profession, including, but not limited to: integrity, professional conduct,
29 professional competence and service to the public.

Program Goals

The TIP program provides transitional support to newly admitted attorneys as they enter into the practice of law. The program is not intended to provide substantive advice or training in the practice of law. Instead, the goals of the program are to:

- Assist new lawyers in acquiring the practical skills and judgment necessary to practice in a highly competent manner;
- Train new lawyers on Nevada-specific rules and procedures not specifically taught in traditional learning environments;
- Sharpen and enhance the practical skills necessary to compete in today's legal environment;
- Match new lawyers with more experienced lawyers for training in professionalism, ethics and civility;
- Provide support, foster relationships and create networking opportunities for newly admitted members; and
- Provide a means for all Nevada attorneys to learn the importance of organizational mentoring, including the building of developmental networks and long-term mentoring relationships.

Program Operation

Within four (4) weeks of admission to the State Bar, unless exempt or granted deferment by the State Bar's Standing Committee on TIP, all newly admitted attorneys must enroll in TIP. Subject to Court approval, the TIP program will operate on two (2) six (6)-month cycles per year, beginning in January 2013.

Upon completion of TIP and no later than December 31 of the first full year admitted to practice, the attorney must submit to the State Bar proof of program

1 completion, which is verified by the mentor. Those not completing this
2 requirement will be subject to suspension and a \$250 fine. The State Bar will be
3 responsible for monitoring timely completion of TIP and will be responsible for
4 administering orders of suspension pursuant to Rule 121.1 and imposing the fine.

5 *TIP Curriculum*

6 The State Bar has established a TIP Mentor Plan that sets forth a core
7 curriculum of mandatory activities and elective elements that must be completed
8 during the six (6) month program cycle. The curriculum is designed to cover
9 topics such as:

- 10 a. The Nevada legal community;
- 11 b. Personal and professional development and ethics;
- 12 c. Law office management and the practice of law; and
- 13 d. Client communications, advocacy and negotiation.

14 In addition to these topics, mentors and attorneys are encouraged to develop
15 and complete electives in the attorney's area of practice, as well as in other
16 elements such as: litigation and transactions; alternative dispute resolution;
17 negotiation; and client interviewing and counseling.

18 Attorneys and their mentors are encouraged to meet at least once a month.
19 The number of meetings and time needed to complete the program vary depending
20 on each mentoring relationship and the mentoring plan developed between each
21 attorney and mentor. Meetings may occur in person, by conference call or
22 videoconference, and through email communication. Additionally, attorneys
23 mentored within their law firm, corporate legal department or governmental unit
24 may complete some of their required activities in small group settings.

TIP Mentors

Potential mentors submit an application with the State Bar and provide a general profile including practice type, office size and area(s) of practice. Mentors must be a member in good standing for at least seven (7) years; however, the Standing Committee on TIP and the Board of Governors may grant a waiver for years of service if the attorney can demonstrate sufficient experience in another jurisdiction. State Bar staff screens each applicant for prior disciplinary actions and pending complaints and submits the applications for approval by the Standing Committee on TIP and the Board of Governors. Following formal appointment by the Court, mentors undergo training and are provided a TIP manual outlining program policies and procedures, including instruction on how to engage in communications that do not reveal client confidentiality.

There are currently 227 Court appointed mentors located throughout the State. Newly admitted attorneys may select a mentor from a list of approved mentors or ask to be assigned a mentor. In the event an attorney's mentor of choice is not available or a specific mentor is not requested, the State Bar matches the attorney with a mentor based principally on geographic location and practice areas.

Mentor recruitment will continue on an ongoing basis and the State Bar will submit petitions to the Court to appoint new mentors on a semi-annual basis.

1 *Program Evaluation*

2 On November 16, 2011, the Court submitted an order suspending Bridge
3 the Gap and establishing the TIP pilot program. The first six (6) month TIP pilot
4 cycle began in April 2012 and ends on October 30, 2012. The second six (6)
5 month TIP pilot cycle began in August 2012 and will end in February 2013.

6 Throughout the TIP cycles, State Bar staff solicited comments from
7 program participants informally. In September 2012, the State Bar conducted
8 focus group program evaluations with mentors participating in the first pilot cycle
9 in northern and southern Nevada. The State Bar also sent surveys to all mentors
10 and attorneys participating in that cycle. The purpose of the focus group
11 evaluations and surveys was to gain insight into how well the program operates
12 and gain suggestions for future program changes. The comments received from
13 the focus group evaluations and surveys generally support the concept of TIP and
14 provided suggestions for improvement related to mentor resources, training and
15 communication.

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1 CONCLUSION

2 The State Bar of Nevada supports the TIP program as an effective means of
3 introducing newly admitted attorneys to the practice of law in Nevada. The
4 program creates one-on-one mentoring relationships, networking opportunities
5 and important instruction critical to the development of professional habits,
6 practices and character. Additionally, TIP is flexible enough to compliment and
7 coordinate with existing law firm training programs as well as the special training
8 needs of government, corporate, and public interest practices.

9 Respectfully submitted this 29th day of October, 2012.

10
11 STATE BAR OF NEVADA
12 BOARD OF GOVERNORS

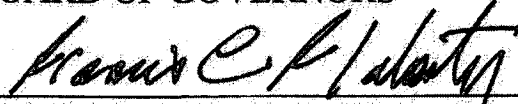
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25

EXHIBIT A

Rule 214. Exemptions.

1. The following attorneys are entitled to an exemption from the requirements of Rule 210:

(a) Any active member who has successfully completed the Nevada state bar examination in the present calendar year. The exemption shall be for the remainder of the calendar year in which the examination was successfully completed and the first full calendar year thereafter. Commencing on January 1 of the second calendar year after the successful completion of the examination, the active member becomes subject to these rules. Notwithstanding this exemption, each active member of the state bar, ~~[within the first year]~~ following admission shall complete the ~~[Introduction to Nevada Practice and Procedure program]~~ Transitioning into Practice program.

(b) Any active member who is a full-time member of the federal judiciary.

(c) Any member of the state bar who, while not in default of the obligations imposed by these rules, has been voluntarily placed on inactive status; provided, however, that such voluntary placement must have been given in writing to the state bar and the board prior to the expiration of the applicable calendar year for which the exemption is claimed.

(d) Any active member who has attained the age of 70 years.

(e) Any active member who is deployed on full-time active duty in the armed forces of the United States, until the member's release from active military service and resumption of the practice of law.

2. The board, in its discretion, may grant an attorney subject to these rules an exemption upon circumstances constituting exceptional, extreme and undue hardship unique to the attorney, subject to the following:

(a) The attorney seeking the exemption shall promptly file with the board a verified application, specifying in detail the circumstances which the attorney believes afford a basis for an exemption;

(b) The board may, but need not, exempt the attorney from all or a portion of these rules; and

(c) The board may condition the exemption upon such terms and conditions, and limit the exemption or partial exemption to such period of time, as the board may deem appropriate.

1 **Rule 98. Membership in state bar; classes; resignation; membership fees;**
2 **penalties for nonpayment of fees; register of members.**

3 1. *Classes.* Members of the state bar shall be divided into four classes:

4 (a) Active members admitted to practice in any jurisdiction 5 years or more.

5 (b) Active members who are also members of the federal judiciary, regardless
6 of years of admission prior to practice in any jurisdiction.

7 (c) Active members admitted to practice in any jurisdiction less than 5 years.

8 (d) Inactive members.

9 2. *Active practice in Nevada.* Every person actively engaged in the practice of
10 law in this state shall enroll as an active member. Every active member admitted
11 on or after November 16, 2011, shall, within 4 weeks, enroll in the Transitioning
12 into Practice (TIP) program, certify exemption from TIP, or request deferment.
13 Completion of TIP, pursuant to the guidelines established by the Standing
14 Committee on Transitioning into Practice, shall be by December 31 of the first full
15 calendar year following admission.

16 (a) *Exemption.* Members may certify exemption from TIP based on prior
17 practice in another jurisdiction or current residency as set forth in the Mentor
18 Program Manual.

19 (b) *Deferral.* Active members who are unemployed or judicial law clerks may
20 request deferral from TIP until they begin practicing, at which time they must
21 enroll in the next available TIP cycle. The Standing Committee on Transitioning
22 into Practice may grant deferrals for up to two years from the date of admission.

23 (c) *Penalty for noncompliance.* An attorney subject to this rule who fails to
24 timely comply with its provisions shall be subject to suspension and a \$250 fine
25 upon order of the board of governors from membership in the state bar until
compliance with the requirements of this rule is met.

(d) *Conflicts and confidentiality in outside mentoring.* An outside mentoring
relationship exists when the mentoring lawyer and new lawyer are not employed
by the same law firm or organization.

i. The mentoring lawyer may provide or the new lawyer may seek short-
term limited guidance or counsel, within the mentoring relationship, without
expectation by either lawyer or the new lawyer's client(s) that a lawyer-client
relationship has been formed or that representation is being provided in the matter
by the mentoring attorney.

ii. Where practical, the mentoring lawyer and the new lawyer shall discuss
new lawyer client specific issues in hypothetical terms. If hypothetical terms are
not practical under the circumstances as determined by the lawyers, Nevada Rule
of Professional Conduct 1.6(b)(4) applies.

1 3. *Active practice in other jurisdictions.* Members of the state bar residing in
2 other jurisdictions and engaging in the practice of law therein may enroll as
3 inactive members of the state bar if they are not actively engaged in the practice of
4 law in this state.

5 4. *Inactive status.* Any member of the state bar who is not actively engaged in
6 the practice of law in this state, upon written request, may be enrolled as an
7 inactive member. No member of the state bar actively engaged in the practice of
8 law in this state, or holding any judicial office in this state, or occupying a
9 position in the employ of or rendering any legal service for an active member, or
10 occupying a position where he is called upon to give legal advice or counsel or
11 examine the law or pass upon the legal effect of any act, document or law in this
12 state, shall be enrolled as an inactive member. Law clerks and staff attorneys of
13 the supreme court, and law clerks and legal assistants employed by the state and
14 federal courts, who are precluded by their employers from actively engaging in
15 the practice of law, may enroll as inactive members.

16 Active members who retire from practice shall be enrolled as inactive members
17 at their request. Inactive members shall not be entitled to hold office or vote. They
18 may, on application and payment of all registration fees required, become active
19 members. Inactive members shall have such other privileges, not inconsistent with
20 these rules, as the board of governors may provide.

21 5. *Resignation.*

22 (a) *By members in general.* Any member of the state bar who is not actively
23 engaged in the practice of law in this state, upon written application on a form
24 approved by the state bar, may resign from membership in the state bar if the
25 member:

(1) has no discipline, fee dispute arbitration, or clients' security fund matters
pending and

(2) is current on all membership fee payments and other financial
commitments relating to the member's practice of law in Nevada. Such
resignation shall become effective when filed with the state bar, accepted by the
board of governors, and approved by the supreme court.

(b) *By members with pending disciplinary charges.* A member of the state bar
against whom disciplinary charges are pending may tender a written application
resigning from membership in the state bar and relinquishing the right to practice
law. No such resignation shall become effective unless and until ordered by the
supreme court after consideration and recommendation by bar counsel.

(c) *Resignation is irrevocable.* A member who has resigned may return to the
practice of law in Nevada by making application as a new admittee, subject to the
provisions of these rules and applicable law, including the requirements that the
resigned member:

1 (1) demonstrates that he or she is of good moral character and willing and able
2 to abide by the high ethical standards required of attorneys and counselors at law
and

3 (2) takes and passes the Nevada State Bar Examination.

4 (d) *State bar's continuing jurisdiction.* The state bar shall retain jurisdiction to
investigate and take action with respect to matters involving a past member's
conduct prior to the member's resignation from the state bar.

5 (e) *Notice.* An attorney who resigns must comply with Rule 115. If the
6 attorney fails to do so, then the state bar shall proceed under Rule 118. The state
bar shall also comply with Rule 121.1.

7 6. *Transfer from active to inactive member.* An active member, if in good
8 standing, may be enrolled as an inactive member upon written request, and there
shall be no rebate of any membership fee after March 1 of the year in which such
9 request is filed.

10 7. *Transfer from inactive to active member.* An inactive member, if in good
standing, may be enrolled as an active member upon written request. Upon the
11 filing of such request and the payment of a \$1 registration fee and the full annual
membership fee for an active member, for the current calendar year, less any
12 membership fee paid by him as an inactive member for such year, the applicant
shall be immediately transferred from the inactive to the active roll.

13 8. *Rights of inactive members.* An inactive member may attend the annual and
14 special meetings and participate in any debates at such meetings, may be
appointed by the board of governors upon any committee other than a local
15 administrative committee, and may be employed in a clerical position by the state
16 bar.

17 9. *Membership fees.* Subject to approval by the supreme court, the board of
governors shall have the power to fix annual membership fees. The annual
18 membership fees are:

19 Active members admitted to practice in any jurisdiction 5 years or more.... \$450
20 Active members who are also members of the federal judiciary, regardless of
years of admission to practice law in any jurisdiction..... \$100
21 Active members admitted to practice in any jurisdiction less than 5 years... \$250
22 Inactive members \$125

23 10. *Payment of fees.* Membership fees cover the calendar year and shall be due
on January 1 of each year and shall be payable by those already members of the
24 state bar on or before March 1 in each year, and shall be due and payable by those
25 admitted to practice at the time of admission and registration.

1 No part of the membership fee shall be apportioned to fractional parts of the
2 year and no part of the membership fee shall be rebated by reason of death,
3 resignation, suspension or disbarment.

4 11. *Delinquent fees.* On March 2 of each year a penalty shall attach to all
5 delinquent membership fees as follows:

<i>Membership Category</i>	<i>Penalty Amount</i>
Active.....	\$100.00
Inactive.....	\$50.00

7 12. *Suspension for failure to pay fees.* Any member, active or inactive, failing
8 to pay any fees after the same become due, and after 2 months' written notice of
9 his or her delinquency, must be suspended from membership in the state bar, but
10 may be reinstated upon the payment of accrued fees and such penalties as may be
11 imposed by the board of governors, not exceeding double the amount of the
12 delinquent fees. All fees shall be paid into the treasury of the state bar, and when
13 so paid shall become part of its funds.

14 Upon the expiration of a period of 70 days after the date of mailing the notice
15 provided in these rules, the executive secretary shall deliver to the board of
16 governors a list of all members who have failed to make the required payment,
17 with proof of the mailing of the notice to them. The board of governors shall make
18 an order suspending the delinquent members, and a certified copy of such order
19 thereupon shall be filed with the clerk of the supreme court and with the county
20 clerk of each county.

21 A member who is suspended for failure to pay dues must comply with Rule
22 115. If the member fails to comply with Rule 115, then the state bar shall proceed
23 under Rule 118. The state bar shall also comply with Rule 121.1.

24 13. *Reinstatement after fee suspension.* Whenever a member so suspended for
25 nonpayment of membership fees has paid all accrued fees and penalties, the
executive secretary may reinstate him as a member of the state bar, and shall
thereupon certify his reinstatement to the clerk of the supreme court and to the
county clerk of each county. The state bar shall also comply with Rule 121.1.

14. *Membership records.* The state bar under the direction of the executive
director shall maintain a database and other records of the membership of the state
bar. In appropriate places therein entries shall be made showing the address of
each member, date of admission and category of membership, date of transfer
from one category to another, if any, date and period of suspension, if any, and
such other useful data as the board of governors may from time to time require
each member to furnish.

1 Every member shall at a minimum furnish the following information to the
2 state bar in whatever form requested:

3 (a) Surname and given name or names.

4 (b) All information and disclosures required by Rule 79.

5 (c) When admitted to practice in Nevada, giving date.

6 (d) Places and dates of practice prior to admission in Nevada (city and state).

7 (e) Date and place of birth. If not born in the United States, stating when and
8 where naturalized.

9 (f) If admitted to U.S. District Court, U.S. Circuit Court of Appeals, or U.S.
10 Supreme Court.

11 (g) Membership, if any, in bar associations, giving name of each.

12 (h) Whether ever disbarred, and if so, when and where, and when readmitted.

13 (i) Whether any disbarment or other proceedings of a like nature have ever
14 been instituted against him, or whether by resignation, withdrawal or otherwise
15 the member has terminated or attempted to terminate his office as an attorney,
16 and, in either or any of the cases above referred to, giving full particulars.

17 15. *Exemption from payment of fees.* A person licensed to practice law in this
18 state who has reached the age of 70 years, shall be exempted from the payment of
19 annual membership fees commencing with the calendar year succeeding the year
20 in which the member reaches age 70.

21 **Rule 121.1. Dissemination of discipline and disability information.**

22 1. *Entity responsible.* If the attorney's suspension was imposed under Rule 98
23 for failure to pay state bar dues or under Rule 214(1) for failure to timely
24 complete TIP, then the state bar shall be responsible for issuing the notices
25 required by Rule 121.1(2) and (3). If the attorney's suspension was imposed under
Rule 212 for failure to comply with continuing legal education requirements, then
the board of continuing legal education shall be responsible for issuing the notices
required by Rule 121.1(2) and (3). In all other cases, bar counsel shall be
responsible for issuing the notices required by Rule 121.1(2) and (3).

2. *Public notice of change in license status and discipline imposed.* The entity
responsible under Rule 121.1(1) shall cause notices of orders that subject an
attorney to disbarment or any form of suspension, including suspension under
Rule 98 or Rule 212, that transfer an attorney to or from disability inactive status,
that reinstate an attorney to the practice of law, or to be published in the state bar
publication. The responsible entity also shall make these notices available to a
newspaper of general circulation in judicial district of this state in which the
attorney maintained an office for the practice of law or carried on a substantial
portion of his or her practice.

1 The responsible entity shall also cause a notice of a public reprimand issued by
2 the supreme court to be published in the state bar publication.

3 The entity responsible for compliance with this provision has discretion in
4 drafting public notices required by this rule, which may consist simply of the
5 orders themselves. However, notices of orders that impose discipline should
6 include sufficient information to adequately inform the public and members of the
7 bar about the misconduct found, the rules violated, and the discipline imposed.

8 *3. Notice to the courts.* The entity responsible under Rule 121.1(1) shall
9 promptly advise all courts in this state of orders that suspend or disbar an attorney,
10 that transfer an attorney to or from disability inactive status, that approve an
11 attorney's resignation, or that reinstate an attorney to the practice of law.

12 *4. Disclosure to National Discipline Data Bank.* Bar counsel shall notify the
13 National Discipline Data Bank maintained by the American Bar Association
14 Standing Committee on Professional Discipline of all public discipline imposed
15 by the supreme court on an attorney, transfers to or from disability inactive status,
16 reinstatements to the practice of law, and resignations with discipline pending.

17 *5. Publication of supreme court orders.* The clerk of the supreme court shall
18 cause any order issued by the supreme court that subjects an attorney to any form
19 of public reprimand, suspension or disbarment, that transfers an attorney to or
20 from disability inactive status, that approves an attorney's resignation, or that
21 reinstates an attorney to the practice of law to be published in pamphlet form and
22 disseminated to all subscribers of the advance sheets of the Nevada Reports and to
23 all persons and agencies listed in NRS 2.345.

24 *6. Publication of public reprimand issued by state bar.* Bar counsel shall cause
25 a public reprimand issued by the state bar under Rule 113 to be published in the
state bar publication.