

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO SCR 106.5 REGARDING LAWYER
WELLNESS PROGRAMS; PRIVILEGE
AND LIMITATION.

ADKT 0540

FILED

FEB 05 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Angela*
CHIEF DEPUTY CLERK

*ORDER SCHEDULING PUBLIC HEARING
AND REQUESTING PUBLIC COMMENT*

On February 4, 2019, the Board of Governors of the State Bar of Nevada filed a petition to amend Supreme Court Rules (SCR) 106.5 regarding lawyer wellness programs. The proposed amendments are attached as Exhibit A.

The Nevada Supreme Court will conduct a public hearing on the petition on Tuesday, March 5, 2019, at 1:30 p.m. in the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 408 East Clark Avenue, Las Vegas, Nevada.

Further, this court invites written comment from the bench, bar, and public regarding the proposed amendments. Comments may be submitted electronically or in hard-copy format to: Elizabeth A. Brown, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., February 21, 2019. Persons interested in participating in the hearing must notify the Clerk no later than February 21, 2019.

Hearing date: March 5, 2019, at 1:30 p.m.
Supreme Court Courtroom
201 South Carson Street
Carson City, Nevada 89701

Comment deadline: February 21, 2019, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

DATED this 5th day of February, 2019.

 _____, C.J.

cc: All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Richard Pocker, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Administrative Office of the Courts

EXHIBIT A

1 Rule 106.5. ~~[Lawyers Concerned for Lawyers]~~ Lawyer wellness programs:
2 privilege and limitation.

3 1. ~~[Definition]~~ Purpose. The board of governors may establish lawyer
4 wellness programs ~~[Lawyers Concerned for Lawyers program is a voluntary~~
5 ~~program created by the board of governors]~~ to assist lawyers who are suffering
6 from a psychological disorder or impairment, ~~[or]~~ a drug, alcohol, gambling, or
7 other addictive or compulsive disorder, or issues related to mental health.

8 2. Definitions.

9 (a) The Lawyers Concerned for Lawyers (LCL) program provides confidential
10 peer-to-peer support. A lawyer's participation in LCL is voluntary.

11 (b) The Nevada Lawyer Assistance Program (NLAP) provides clinical
12 assessment, treatment or therapy services. Services provided through NLAP may
13 be sought on a voluntary basis or may be ordered on condition of a diversion
14 agreement under SCR 105.5 or may be Court ordered.

15 [2] 3. Privilege. Individuals who make a good faith report to ~~[the Lawyers~~
16 ~~Concerned for Lawyers program]~~ LCL or NLAP, the board of governors and its
17 members, bar counsel, and staff, and the coordinator, agents, or employees of the
18 ~~[Lawyers Concerned for Lawyers]~~ LCL or NLAP program, shall be absolutely
19 immune from civil liability for any activities related to the ~~[Lawyers Concerned for~~
20 ~~Lawyers]~~ LCL or NLAP program, including, but not limited to, making referrals to
21 a counselor, therapist, medical, psychological or behavior health care provider. No
22 action may be predicated upon the filing of a good faith report with the ~~[Lawyers~~
23 ~~Concerned for Lawyers]~~ LCL or NLAP program or any action taken in connection
24 with such a filing by the coordinator, agents, or employees of the ~~[Lawyers~~
25 ~~Concerned for Lawyers]~~ LCL or NLAP program.

[3] 4. Limited use policy. All information obtained by the ~~[Lawyers~~
18 ~~Concerned for Lawyers]~~ LCL program or as a result of voluntary services sought
19 from NLAP, including the initial report and any subsequent information provided
20 to the program thereafter, shall be confidential and shall not be admissible in any
21 state bar disciplinary, admission, administrative or other state bar proceeding.

22 (a) This rule is not meant to preclude the state bar from using evidence or
23 information which is independently discovered from a source separate from the
24 ~~[Lawyers Concerned for Lawyers]~~ LCL or NLAP program.

25 (b) This rule is not meant to preclude the state bar from requiring participation
in NLAP as part of a diversion program under SCR 105.5, in which case, the
attorney is subject to the rules under SCR 105.5.