

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 540

FILED

MAR 21 2019

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

ORDER AMENDING SUPREME COURT RULE 106.5

WHEREAS, on February 4, 2019, the Board of Governors of the State Bar of Nevada filed a petition seeking to amend Supreme Court Rule 106.5 to define the Lawyers Concerned for Lawyers (LCL) program and the Nevada Lawyer Assistance Program (NLAP), expand the confidentiality and privilege provisions in SCR 106.5 to include the voluntary services sought through the NLAP, and clarify when participation in NLAP may be required; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on March 5, 2019; and


WHEREAS, it appears that amendment of Supreme Court Rule 106.5 is warranted; accordingly,

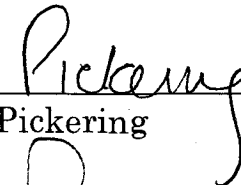
IT IS HEREBY ORDERED that Supreme Court Rule 106.5 shall be amended and shall read as set forth in Exhibit A.

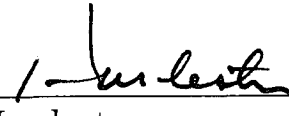
IT IS FURTHER ORDERED that this amendment to the Supreme Court Rules shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all

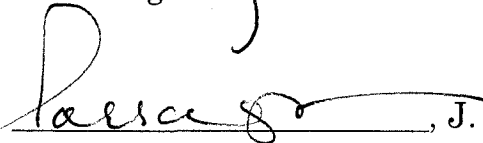
persons and agencies listed in NRS 2.345. and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

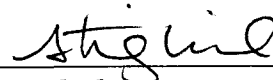
Dated this 21st day of March, 2019

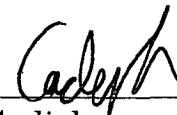

_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich


_____, J.
Cadish


_____, J.
Silver

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

EXHIBIT A

AMENDMENT TO SUPREME COURT RULE 106.5

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

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

2. Definitions.

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

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

3. Privilege. Individuals who make a good faith report to ~~[the Lawyers Concerned for Lawyers program,]~~ LCL or NLAP; the board of governors and its members, bar counsel, and ~~[staff,]~~ staff; and the coordinator, agents, or employees of the ~~[Lawyers Concerned for Lawyers program,]~~ LCL or NLAP program shall be absolutely immune from civil liability for any activities related to the ~~[Lawyers Concerned for Lawyers]~~ LCL or NLAP program, including, but not limited to, making referrals to a counselor, therapist, medical, ~~[psychological]~~ psychological, or behavior health care provider. No action may be predicated upon the filing of a good faith report

with the ~~[Lawyers Concerned for Lawyers]~~ LCL or NLAP program or any action taken in connection with such a filing by the coordinator, agents, or employees of the ~~[Lawyers Concerned for Lawyers]~~ LCL or NLAP program.

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

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

(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.