

IN THE SUPREME COURT OF THE STATE OF HAWAII

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In the Matter of the Amendment  
of the  
Rules of the Supreme Court of Hawaii

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AMENDED  
ORDER AMENDING RULE 16 OF THE  
RULES OF THE SUPREME COURT OF THE STATE OF HAWAII  
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rule 16 of the Rules of the Supreme Court of the State of Hawaii, is amended, effective January 1, 2007<sup>1</sup>, as follows (deleted material is bracketed and stricken; new material is underscored) :

**Rule 16. ATTORNEYS AND JUDGES ASSISTANCE PROGRAM.**

**16.1. Purpose; scope.**

(a) The purpose of the Attorneys and Judges Assistance Program ("AAP") is to provide immediate and continuing assistance to attorneys who practice law in the State of Hawaii, [and] judges of the courts of the State of Hawaii, and law students of the University of Hawaii at the Richardson School of Law (law students) who suffer from problems, disability or impairment which affect their professional performance for any reason ("impairment"), including but not limited to excessive use of alcohol or drugs ("substance abuse"), physical or mental illness, or other infirmity. Professional performance is affected when an attorney, [or] judge, or law student is incapable of devoting the time and attention to, and providing the quality of service in, his or her law practice, [or] judicial duties, or law studies which is necessary to protect the interest of a client, [or] litigant, or law school career.

(b) The AAP shall consist of at least the following categories of programs.

(1) VOLUNTARY PROGRAM. A voluntary program addressing "self-referrals" entering treatment without the formal prior intervention of the AAP.

(2) INTERVENTION PROGRAM. A program primarily addressing attorneys, [and] judges, and law students who are not "self-referrals" and who have not yet been the subject of a complaint that warrants a disciplinary petition, but whose impairment affects their professional performance and may put them at risk of disciplinary action if the impairment continues.

(c) AAP shall not provide treatment to impaired attorneys, [and] judges, and law students but shall instead provide education and guidance concerning substance abuse, refer impaired attorneys, [and] judges, and law students to appropriate substance abuse and/or mental health treatment providers, and provide emotional support to impaired attorneys, [and] judges, and law students.

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#### **16.4. Voluntary program.**

(a) The Director shall administer the Voluntary Program of the AAP in accordance with policies and procedures adopted by the Board.

(b) The Director shall provide a source of evaluation and treatment for attorneys, [and] judges, and law students who, on a strictly voluntary basis, desire to avail themselves of such services.

(c) Attorneys, [and] judges, and law students who voluntarily seek assistance from the AAP shall be evaluated, provided education and guidance concerning substance abuse, referred to appropriate substance abuse or mental health treatment providers, and provided emotional support by attorneys and judges who are recovering substance abusers.

#### **16.5. Intervention program.**

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(c) The Lawyer Volunteer Committee is established as a committee to utilize intervention exclusively with attorneys, [and] judges, and law students who are impaired to facilitate their entry into diagnosis, treatment and rehabilitation.

(d) The Director and/or Lawyer Volunteer Committee shall review all information submitted regarding potentially impaired attorneys, judges, and law students and make a determination of the appropriateness of intervention.

#### **16.6. Confidentiality; privilege not to disclose.**

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(c) A participant in the AAP has a privilege to refuse to disclose and to prevent any other person from disclosing information provided to or maintained by the AAP. A "participant" shall include, but not be limited to, the Director, any

employee or agent of the AAP, members of the Board, members of the Lawyers Volunteer Committee, and attorneys, [or] judges, and law students seeking assistance under the AAP.

DATED: Honolulu, Hawai i, December 18, 2006.

1. The Order Amending Rule 16 of the Rules of the Supreme Court of the State of Hawai i, entered on December 12, 2006, had an incorrect effective date of July 1, 2007.