

THE RULES OF DISCIPLINE STUDY COMMITTEE SEEKS COMMENTS
FROM THE BENCH, THE BAR AND THE PUBLIC ON THE ADOPTION OF
RULES TO SEPARATELY ESTABLISH THE
MISSISSIPPI LAWYERS AND JUDGES ASSISTANCE PROGRAM.

Comments should be filed with the Clerk of the Supreme Court,
Gartin Justice Building, P.O. Box 249, Jackson, Mississippi 39205-0249.
Deadline: **October 3, 2010**

MISSISSIPPI LAWYERS AND JUDGES ASSISTANCE PROGRAM

RULE 1. AUTHORIZATION

The Supreme Court of Mississippi (the Court) hereby establishes the Mississippi Lawyers and Judges Assistance Program (LJAP). The Court authorizes the Board of Commissioners of The Mississippi Bar (the Bar) to establish a program of intervention, referral for evaluation and treatment, and monitoring and assistance for judges, attorneys, and law students who suffer from chemical dependence or from physical, emotional, or mental disabilities that result from disease, disorder, trauma, or age, and which impairs or tends to impair their ability to practice law or to perform their judicial functions, impairs their professional conduct, or impairs or could impair their admission to the practice of law.

Such program shall be implemented by a Lawyers and Judges Assistance (LJA) Committee appointed by the President of the Bar; provided, no member of any disciplinary agencies shall be a member of the LJA Committee. Such Committee's creation shall in no way be construed to hinder, limit, or otherwise affect any disciplinary processor Bar Admission process.

The LJA Committee shall be governed by appropriate regulations promulgated by the LJA Committee and approved by the Board of Commissioners of the Bar consistent with these Rules.

The LJA Committee may, under appropriate rules and regulations approved by the Board of Commissioners of the Bar, create action groups which may exercise any or all of the functions set forth herein to the extent provided in any such rules and

regulations. Such action groups shall have all of the immunities provided for the LJA Committee.

RULE 2. POWERS AND DUTIES

(a) The LJA Committee shall have jurisdiction to confidentially investigate and evaluate allegations of impairment arising from chemical dependency or physical, mental, or emotional disability which are self reported by any attorney, judge, or law student. Investigation and evaluation specifically includes, but is not limited to, conferring with any attorney, judge, or law student who self reports such allegations and making recommendations to such attorney, judge, or law student, should it be determined that he or she is in fact impaired, of sources of remedial assistance.

(b) The LJA Committee shall have jurisdiction to confidentially investigate and evaluate allegations of attorney, judge, or law student impairment arising from chemical dependency or physical, mental, or emotional disability if the attorney, judge, or law student is referred to the LJA Committee by a law firm, attorney, friend, family member, client, judge, law school professor, law school dean, law school staff, or member of the general public. Investigation and evaluation specifically includes, but is not limited to, conferring with any attorney, judge, or law student who is referred and making recommendations to such attorney, judge, or law student, should it be determined that he or she is in fact impaired, of sources of remedial assistance.

(c) The LJA Committee shall have jurisdiction to investigate, to refer for evaluation and treatment, and to monitor an attorney or judge who is referred to the LJA Committee by the Court or by an attorney or judicial disciplinary agency regarding allegations of impairment arising from chemical dependency or physical, mental, or emotional disability. The LJA Committee shall report the results of the investigation, evaluation, treatment, monitoring, and compliance of the attorney or judge to the Court or referring disciplinary agency in the time and manner directed by the Court or referring disciplinary agency.

(d) The LJA Committee shall have jurisdiction to investigate, to refer for evaluation and treatment, and to monitor a law student applying for admission to the Mississippi Bar if the law student is referred to the LJA Committee by the Court or by the Mississippi Board of Bar Admissions regarding allegations of impairment arising from chemical dependency or physical, mental, or emotional disability. The LJA Committee shall report the results of the investigation, evaluation, treatment, monitoring, and compliance to the Court or the Mississippi Board of Bar Admissions

in the time and manner directed by the Court or the Mississippi Board of Bar Admissions.

(e) The LJA Committee may, under appropriate rules and regulations approved by the Board of Commissioners of the Bar, provide assistance through volunteer attorneys or judges to an attorney or judge who is temporarily unable to proceed due to physical and/or mental disability or illness. The assistance provided shall be only of a procedural nature to effect continuances, postponements, extensions of time, notifications to clients, courts, other attorneys involved in a matter or matters, or other procedural tasks necessary to protect the interests of clients, the legal system, and the profession. Volunteer attorneys and judges who provide such assistance through the LJA Committee and to the extent provided in any such rules and regulations shall have all of the immunities provided for the LJA Committee.

RULE 3. PROTECTION OF THE PUBLIC, THE LEGAL SYSTEM, THE PROFESSION

When contacted by the LJAP regarding an attorney or judge who is on contract with LJAP and is engaged in treatment and rehabilitation, courts, judges, and attorneys are encouraged to accommodate requests from LJAP for continuances, postponements, extensions of time, notifications to clients, courts, and other attorneys involved in a matter or matters, or other procedural tasks in order to protect the interests of clients, the legal system, and the profession.

RULE 4. CONFIDENTIALITY

Except as noted in these Rules, allegations and information furnished, investigations, results of investigations, referrals, conferences, evaluation and treatment reports, and monitoring reports, and information learned through assistance provided by the LJA Committee, its action groups, or its volunteer attorneys, shall be privileged communication and held in the strictest confidence between the attorney, judge, or law student involved and the LJA Committee. However, the status of compliance of an attorney, judge, or law student who has been referred to the LJA Committee by the Court, an attorney or judicial disciplinary agency, or the Mississippi Board of Bar Admissions with the terms and conditions imposed upon the attorney, judge, or law student by the LJA Committee shall not be privileged communication for the purpose of the LJA Committee reporting such information to the Court, the referring disciplinary agency, or the Mississippi Board of Bar Admissions. For good cause shown, where the allegations of impairment are made

by the family of the attorney, judge, or law student, the LJA Committee may, in its discretion, release such information to immediate family members as in its judgment will be in the best interest of the attorney, judge, or law student involved.

RULE 5. IMMUNITY

The LJAP, the LJA Committee, the LJAP officers, directors, staff, assistants, employees, monitors, action groups, and volunteer attorneys, in their actions regarding allegations of impairment affecting attorneys, judges, and law students, shall be immune from civil suit for any conduct arising out of the performance of their official duties. Every person shall be immune from civil suit for all evidence or testimony given or submitted during the course of any investigation, evaluation, monitoring, hearing, formal hearing, or proceedings arising from the LJA Committee's work under these Rules.

Rule 8.3, Mississippi Rules of Professional Conduct, shall not require disclosure of information otherwise protected by Rule 1.6, Mississippi Rules of Professional Conduct, or information gained by an attorney or judge while participating in the LJAP.