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MAINE RULES FOR THE MAINE ASSISTANCE PROGRAM FOR LAWYERS AND JUDGES

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PREAMBLE

The Supreme Judicial Court recognizes that a wide range of influences can detrimentally affect the performance of a lawyer or judge. Prominent among such influences are the effects of chemical dependence or mental conditions that result from disease, disorder, trauma or other infirmity that impair the ability of a lawyer or judge to practice or serve. Lawyer or judge impairment is detrimental to the interests of clients, litigants, our legal system and the general public. The vast majority of states have responded to the issue of lawyer impairment by creating funded lawyer assistance programs as contemplated by this Rule, acknowledging the principle that every member of the bar has an obligation to the public to participate in an appropriate response to lawyer or judge impairment. The Court finds that the Maine Assistance Program for Lawyers and Judges is an appropriate method for addressing the issue of lawyer or judge impairment and that the program will promote the integrity of the legal profession and will thereby directly benefit the people of Maine.

The Court hereby adopts these rules establishing a Maine Assistance Program for Lawyers and Judges.

RULE 1. ESTABLISHMENT OF MAINE ASSISTANCE PROGRAM FOR LAWYERS AND JUDGES (MAP)

A. Establishment: There is hereby established a state-wide lawyer assistance program to be known as Maine Assistance Program for Lawyers and Judges (or “MAP”) which shall provide immediate and continuing help to lawyers and judges (hereinafter “Members of the legal profession”) and University of Maine School of Law students and applicants for admission to the Bar of the State of Maine (hereinafter “students/applicants”) who suffer from the effects of chemical dependency or mental conditions that result from disease, disorder, trauma or other infirmity and that impair their ability to practice law or serve in a judicial capacity.

B. Purpose: MAP has three purposes:

(1) To protect the interests of clients and the general public from harm caused by impaired lawyers or judges;

(2) To assist impaired members of the legal profession and students/applicants to begin and continue recovery; and

(3) To educate the bench, the bar, and the public to the causes of and remedies for impairments affecting members of the legal profession and students/applicants.

C. Funding and Administration:

(1) MAP shall be funded from assessments made annually on members of the Bar of Maine. Every attorney required to register in accordance with the Maine Bar Rules, other than suspended attorneys, shall pay an annual fee as established by the Court, which shall be paid to the Board of Overseers of the Bar with the registration statement on or before August 31 as required by M. Bar R. 6(a)(1).

(2) MAP shall seek to establish additional private and public sources of funding.

(3) Funding for MAP may also include gifts or bequests from any source and earnings on investments of the MAP fund.

(4) The fiscal year of MAP shall run from July 1 to June 30.

(5) MAP may retain and invest its funds which may be carried over to future fiscal years.

RULE 2. MAP COMMISSION

A. Members: The Court shall appoint commission members to administer the MAP. Officers of the commission shall consist of a chair, vice chair and secretary/treasurer. The chair and vice chair shall be appointed by the Court. Each of the other officers shall be elected by the members of the commission annually.

B. Composition: The commission shall consist of eight (8) members, and shall include two persons who are not members of the legal profession. The members shall have diverse experience, knowledge and demonstrated

competence in the problems of chemical dependency or mental conditions that impair members of the legal profession.

C. Terms: The Court shall appoint commission members for initial terms as follows:

- (1) One lawyer for one year;
- (2) One non-lawyer for two years;
- (3) Two lawyers for two years;
- (4) One judge for two years;
- (5) One non-lawyer for three years; and
- (6) Two lawyers for three years.

Subsequent appointments shall be for a term of three years.

D. Duties of the Commission: The commission shall have the following powers and duties:

- (1) To establish MAP policies and procedures consistent with these rules. Such policies and procedures shall be established after reasonable notice to the Maine bench and bar and opportunity for comment.
- (2) To operate the program to achieve its purposes.
- (3) To develop private and public funding sources for MAP.
- (4) To assure the duties listed under Rule 3 are carried out in the absence of a director of the program.
- (5) To prepare an annual budget for approval by the Court.
- (6) To make reports to the Court annually or as otherwise required.

E. Meetings: The commission shall meet quarterly, upon call of the chair or upon the request of three (3) or more members. A quorum for any meeting shall be four (4) members.

F. Compensation: Members shall serve without compensation, but shall be reimbursed for their actual necessary expenses incurred in the discharge of their duties in accordance with existing reimbursement policies of the Judicial Branch.

RULE 3. DIRECTOR OF THE PROGRAM

A. Appointment/Hire: The commission shall recruit, hire, retain, supervise and may terminate the MAP director.

B. Qualifications: The director shall have sufficient experience and training to identify and assist impaired members of the legal profession and to work well with the volunteers. A lawyer is preferred.

C. Duties and Responsibilities: The director's duties and responsibilities shall include but not be limited to the following:

(1) Maintain a telephonic help call line and provide initial response to help line calls;

(2) Help lawyers, judges, law firms, courts and others to identify and intervene with impaired members of the legal profession;

(3) Help members of the legal profession and their families as well as students/applicants to secure counseling and treatment for chemical dependency and mental conditions maintaining current information on available treatment services, both those that are available without charge as well as paid services;

(4) Establish and maintain regular contact with bar associations, bar counsel and other agencies or committees that serve either as sources of referral or resources in providing help;

(5) Establish and oversee monitoring services with respect to recovery of members of the legal profession and students/applicants for whom monitoring is appropriate under Rules 5(E) or 7;

(6) Plan and deliver educational programs for the legal profession and students/applicants with respect to all sources of potential impairment as well as treatment and preventative measures;

(7) Provide information about MAP services to members of the legal profession and their families as well as students/applicants;

(8) Recruit, select, train and coordinate the activities of volunteer lawyers and judges who will provide assistance and provide for their identities and addresses to be generally known to the courts, bar and other appropriate referral entities;

(9) Establish private and public sources of funding for MAP; and

(10) Such other duties and responsibilities established by the commission.

RULE 4. VOLUNTEER LAWYERS AND JUDGES

The program shall enlist volunteer lawyers and judges whose responsibilities may include:

A. Assisting in interventions planned by MAP;

B. Serving as twelve-step program sponsors;

C. Acting as a contact between MAP and the courts, the Committee on Judicial Responsibility and Disability, the Board of Overseers of the Bar, bar organizations and local committees;

D. Providing compliance monitoring when appropriate; and

E. Performing any other function deemed appropriate and necessary by the commission to fulfill its purposes.

RULE 5. SERVICES

MAP may provide the following services as the commission determines feasible based upon the available financial, volunteer and other resources:

A. Immediate and continuing assistance to members of the legal profession and students/applicants who suffer from the effects of chemical dependency or mental conditions that result from disease, disorder, trauma or other infirmity and that impair their ability to practice;

B. Planning and presentation of educational programs to increase the awareness and understanding of members of the legal profession and students/applicants to recognize problems in themselves and in their colleagues; to identify the problems correctly; to reduce stigma; and, to convey an understanding of appropriate ways of interacting with affected individuals;

C. Investigation, planning and participation in interventions with members of the legal profession and students/applicants in need of assistance;

D. After care services upon request, by order, or under contract that may include the following: assistance in structuring aftercare and discharge planning; assistance for entry into appropriate aftercare and professional peer support meetings; and assistance in obtaining a primary care physician or local peer counselor; and

E. Monitoring services under Rule 7 or under contract that may include the following: alcohol and/or drug screening programs, tracking aftercare, peer support and twelve step meeting attendance; providing documentation of compliance; and providing such reports concerning compliance by those participating in a monitoring program as may be required by the terms of that program.

RULE 6. REFERRALS

A. Self-referral: Any member of the legal profession and students/applicants may seek assistance from MAP.

B. Other Referrals: MAP shall receive referrals concerning any member of the legal profession or students/applicants from family members, colleagues, friends, law firms or any other source.

C. Bar Counsel Referrals: MAP shall receive referrals from Bar Counsel of the name of any lawyer or student/applicant whom Bar Counsel determines or believes should be contacted by MAP. This provision shall be construed in a manner consistent with M. Bar R. 7.3(k)(4)(ii). Upon the making of such a referral to MAP by Bar Counsel, the privilege for peer assistance or substance abuse communications set forth in M. Bar R. 7.3(o) shall be applicable.

RULE 7. REFERRALS FROM BOARD OF OVERSEERS OF THE BAR AND THE JUDICIARY

A. Referrals: MAP may accept referrals regarding lawyers under conditional, provisional, or probational status from the Court, or the Board of Overseers of the Bar, and referrals of judges from the Court or the Committee on Judicial Responsibility and Disability.

B. Progress Reports: When MAP accepts a referral under Rule 7(A), MAP may provide progress reports or reports of non-compliance by lawyers or judges who are voluntarily receiving monitoring by MAP, or who are subject to monitoring by MAP pursuant to a court order. Notwithstanding Rule 8, these reports may be used as evidence in any proceeding or appeal relating to such referral from the Court, Board of Overseers of the Bar or Committee on Judicial Responsibility and Disability.

RULE 8. CONFIDENTIALITY

A. Except as required by law, or to prevent the commission of a crime, information and actions taken by MAP shall be privileged and held in strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of MAP, unless such disclosure is authorized by the person to whom it relates or as provided in Rule 7(B). Except as provided in Rule 7(B), such information and actions shall be excluded as evidence in any complaint, investigation or proceeding before the Court, Board of Overseers of the Bar or Committee on Judicial Responsibility and Disability.

B. Commission members, employees, and agents including volunteers recruited under Rule 4 shall be deemed to be participating in “a lawyers assistance program approved by the Maine Supreme Judicial Court” as provided in M. Bar R. 7.3(o).

RULE 9. DUTIES AND RESPONSIBILITIES

A. The duties and responsibilities of commission members, employees and agents of MAP, including volunteers serving under Rule 4, are duties and responsibilities owed to the Court. Nothing in these rules shall be construed as creating a civil cause of action or right of suit.

B. Except as otherwise required by law, or to prevent the commission of a crime, Commission members, employees and agents of MAP including volunteers are relieved of the duty of disclosure of information to authorities required by M.R. Prof. Conduct 8.3(a) and (b), and the provisions of M.R. Prof. Conduct 8.3(c) are hereby made applicable to commission members employees and agents of MAP, including volunteers under Rule 4.

RULE 10. FACILITY

Any MAP office shall be so located as to be consistent with the privacy and confidentiality requirements of this rule.

These rules shall be recorded in the Maine Reporter.