

AGENDA ITEM

NOV MOC III D

Proposed Revisions – Addition of Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program—Request for Public Comment

DATE: October 19, 2007

TO: Members of the Board Committee on Member Oversight

FROM: The Oversight Committee of the Lawyer Assistance Program

SUBJECT: Proposed Revisions – Addition of Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program (Loans to Returning Participants) – Request for Public Comment

ATTACHMENT: Exhibit A: Proposed addition of Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program

EXECUTIVE SUMMARY

Pursuant to Section 6235 of the Business and Professions Code (Attorney Diversion and Assistance Act), the Financial Assistance Plan of Lawyer Assistance Program (“LAP”) was established to provide financial aid (loans) to those attorneys who are eligible to participate in the program (“participants”) and would otherwise be financially unable to do so. The Rules Governing the Financial Assistance Plan (“Rules”) instruct that a loan becomes immediately due and payable when a participant stops participating in the LAP prior to successful completion of the program. The Rules are silent regarding a prior participant with a balance that is due and payable who returns to the LAP and requests additional financial assistance in order to participate again.

The LAP Oversight Committee is proposing that Section 13 be added to the Rules to provide returning participants with a financial assistance loan balance due of \$1,000 or less the opportunity to combine the previous debt with a new, current loan if they continue to meet the criteria for financial assistance.

The Member Oversight Committee is being asked to authorize the circulation of this proposal for a shortened public comment period of thirty (30) days, pursuant to §4(B) of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations. Board members with questions or concerns may contact Richard Carlton, 415/538-2355 or richard.carlton@calbar.ca.gov

ISSUE

Should the Committee authorize the circulation of the proposed addition of Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program (“Rules”) for a thirty (30) day period of Public Comment?

BACKGROUND

The Rules Governing the Financial Assistance Plan (“Rules”) instruct that a loan becomes due and payable when a participant stops participating in the LAP, but has not achieved the status of Successful Completion. It is not uncommon for people with substance-related or other mental health disorders to be resistant to assistance and change, reluctant to be involved with the State Bar and initially unwilling to commit to LAP recommendations. In some cases, the participant will participate for a short while, withdraw from the program, and return at a later date—often with a higher level of commitment to carrying out LAP recommendations.

The Rules are silent regarding a participant with a balance that is due and payable who returns to participate in the LAP a second time and requests additional financial assistance. The LAP Oversight Committee recommends the removal of obstacles to the continuing involvement of returning participants by allowing these participants to combine their previous loan balance into a current loan if they continue to meet the criteria for financial assistance.

FISCAL IMPACT

This proposal would have no known personnel impact. It is unknown what the impact would be on the growth of outstanding loan obligations to the Financial Assistance Plan.

LENGTH OF PUBLIC COMMENT PERIOD

The Member Oversight Committee is being asked to authorize the circulation of this proposal for a shortened public comment period of thirty (30) days, pursuant to §4 of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

RECOMMENDATIONS AND RESOLUTIONS

The LAP Oversight Committee recommends that the proposed addition of Section 13, in the form attached hereto as Exhibit A, be circulated for public comment for a period of thirty (30) days. If the members of the Board Committee concur with the Oversight Committee’s recommendation, it should adopt the following resolution:

RESOLVED, that the Board Committee on Member Oversight authorizes the proposed addition of Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program, in the form attached hereto as Exhibit A, to be circulated for public comment for a period of thirty (30) days, as provided for by § 4(B) of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations.