

# AGENDA ITEM

## **MARCH 54-134**

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

**DATE:** February 20, 2008

**TO:** Members of the Board Committee on Member Oversight  
Members of the Board of Governors

**FROM:** Richard Carlton  
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 — Return from Public Comment

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### **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 proposed changes came before this Board Committee on November 9, 2007. The Board Committee authorized the distribution of the proposed changes for a public comment period of thirty days. The public comment period ended on December 31, 2007. No public comment was received. It is now appropriate for the Board of Governors to approve the proposed revisions to Section 7. Board members with questions or concerns may contact Richard Carlton, 415/538-2355 or richard.carlton@calbar.ca.gov.

## **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 AND PERSONNEL 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.

## **BOARD BOOK / ADMINISTRATIVE MANUAL IMPACT**

None.

## **RULE AMENDMENTS IMPACT**

The proposed changes would add Section 13 to the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program.

## **PROPOSED BOARD COMMITTEE RECOMMENDATION**

Should the Board Committee on Member Oversight agree with the proposed recommendation, adoption of the following resolution would be appropriate.

**RESOLVED**, following publication for comment and no comments having been received, that the Board Committee on Member Oversight recommends that the Board of Governors of the State Bar of California amend the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program to include the proposed Section 13, to read as set forth below; and that the modifications be effective immediately.

## **PROPOSED BOARD RECOMMENDATION**

**RESOLVED**, following public comment period and no comments having been received, and upon recommendation of the Board Committee on Member Oversight, that the Board of Governors of the State Bar of California hereby amends the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program to include Section 13, to read as set forth below; and that the modifications be effective immediately.

**The Rules Governing the Financial Assistance Plan of the State Bar of California  
Lawyer Assistance Program**

13. Loans to Returning Participants

- (A) In the event that an Applicant who previously participated in the PROGRAM returns to the PROGRAM with an amount due on a previous loan from the Plan and requests additional assistance, an eligible Applicant will/may be allowed to consolidate the existing debt into a new, current loan, if the amount currently due is \$1,000 or less. This consolidation privilege may only be used once, except that for cases of undue hardship, or for other cause, the COMMITTEE may, at its discretion, agree to consolidate an Applicant's loans more than one time.
- (B) Participants with a balance of more than \$1,000 will be required to make payments against their prior balance before being granted additional assistance. The amount of the payment will be determined by the Oversight Committee. For cases of undue hardship, or for other good cause, the COMMITTEE may, at its discretion, waive the payment requirement.