

Corrective Order #2 to Rule Change #2000(20)

**The Colorado Rules of Civil Procedure
Chapter 20. Colorado Rules of Procedure Regarding
Attorney Discipline and Disability Proceedings,
Colorado Attorneys' Fund for Client Protection,
and Mandatory Continuing Legal Education and Judicial Education**

Rule 251.13. Alternatives to Discipline

(a) - (b) [***NO CHANGE]

(c) Diversion Agreement. If an attorney agrees to an offer of diversion as provided by this rule, the terms of the diversion shall be set forth in a written agreement. If the agreement is entered prior to a determination to proceed is made pursuant to C.R.C.P. 251.9, the agreement shall be between the attorney and Regulation Counsel. If diversion is offered and entered after a determination to proceed is made pursuant to C.R.C.P. 251.9 but before authorization to file a complaint, the diversion agreement between the attorney and Regulation Counsel shall be submitted to the committee for consideration. If the committee rejects the diversion agreement, the matter shall proceed as otherwise provided^d by these Rules. If diversion is offered and entered after a complaint has been filed pursuant to C.R.C.P. 251.14, the diversion agreement shall be submitted to the Presiding Disciplinary Judge or Supreme Court, whichever body before which the matter is pending for consideration. If the diversion agreement is rejected, the matter shall proceed as provided^d by these Rules.

The agreement shall specify the program(s) to which the attorney shall be diverted, the general purpose of the diversion, the manner in which compliance is to be monitored, and any requirement for payment of restitution or cost.

(d) - (h) [***NO CHANGE]

(i) Confidentiality. All the files and records resulting from the diversion of a matter shall not be made public except by order of the Supreme Court. Information of misconduct admitted by the attorney to a treatment provider or a monitor while in a diversion program is confidential if the misconduct occurred before the attorney's entry into a diversion program.

Rule 251.34. Advisory Committee

(a) - (b)(8) [***NO CHANGE]

(9) Select one or more peer health assistance programs as designated providers.

The administering entity referred to herein shall be a non-profit entity that is qualified under Section 501(c) of the federal "Internal Revenue Code of 1986," as amended. The administering entity shall distribute the funds collected, less expenses, to the approved designated provider, as directed by the

Advisory Committee; and provide an annual accounting to the Advisory Committee of all amounts collected, expenses incurred, and amounts disbursed. The administering entity may recover the actual administrative costs incurred in performing its duties under this rule in an amount not to exceed two percent of the total amount collected.

To be eligible for designation by the Advisory Committee, an attorney's peer health assistance program shall provide for the education of attorneys with respect to the recognition and prevention of physical, emotional, and psychological problems and provide for intervention when necessary; offer assistance to an attorney in identifying physical, emotional, or psychological problems; evaluate the extent of physical, emotional, or psychological problems and refer the attorney for appropriate treatment; monitor the status of an attorney who has been referred for treatment; provide counseling and support for the attorney and for the family of any attorney referred for treatment; agree to receive referrals from the Advisory Committee or the Regulation Counsel; and agree to make their services available to all licensed Colorado attorneys.

Nothing in this rule shall be construed to create any liability on the Advisory Committee, the administering entity, or the Supreme Court for the actions of the Advisory Committee in funding peer assistance programs, and no civil action may be brought or maintained against the committee, the administering entity, the committee-selected peer assistance program, or the supreme court for an injury alleged to have been the result of the activities of any committee-selected peer assistance program or the result of an act or omission of an attorney participating in or referred by a committee-selected peer assistant program.

(b)(10) [***NO CHANGE]

This Corrective Order is Adopted on January 8, 2001 nunc pro tunc effective September 12, 2000.

BY THE COURT:

**Rebecca Love Kourlis
Justice, Colorado Supreme Court**