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Clerk of the Supreme Court
of the State of New Mexico

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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. 05-8110

IN THE MATTER OF THE ESTABLISHMENT
OF A PRIVILEGE FOR COMMUNICATIONS
TO LAWYERS' ASSISTANCE PROGRAM AND
RULE FOR DOCKET MANAGEMENT
DURING LONG-TERM HEALTH CARE

SUPREME COURT OF NEW MEXICO
FILED

JUN 22 2005

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ORDER

WHEREAS, on May 25, 2005, an order was issued establishing the Committee on Confidential Healthcare for the purpose of facilitating assistance to judges, their staff, and families to deal with stress, depression, alcohol, substance or other abuses;

WHEREAS, the Committee on Confidential Healthcare has identified a need for an order that assures confidentiality of communications made to individuals associated with the Lawyers' Assistance Program and for an order specifying the procedure for docket management when a judge requires long-term confidential healthcare;

WHEREAS, this Court recognizes that effective treatment for individuals suffering from mental or emotional problems, or from the effects of alcohol or substance abuse, depends on protecting confidential communications from involuntary disclosure;

WHEREAS, this Court recognizes that for the Lawyers' Assistance Program to be effective individuals affiliated with the program must be able to assure those seeking its services of confidentiality; and

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WHEREAS, this Court recognizes that judges who have long-term healthcare needs must be able to assure appropriate and efficient management of their dockets, and the Court being sufficiently advised, Chief Justice Richard C. Bosson, Justice Pamela B. Minzner, Justice Patricio M. Serna, Justice Petra Jimenez Maes, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that communications made to a member, staff, or authorized agent of the Lawyers' Assistance Program, and any proceedings and records of the Lawyers' Assistance Program, are privileged as hereinafter described. The privilege shall apply in any court, Disciplinary Board, Board of Bar Examiner, or Judicial Standards Commission proceeding;

IT IS FURTHER ORDERED that a judge or justice requiring or seeking confidential healthcare for an extended period of time shall confer, in confidence, with the Chief Judge of their district and the Chief Justice to ensure that adequate arrangements are made for the orderly management of their docket during their absence. In the event a Chief Judge requires confidential healthcare for an extended period of time, the Chief Judge shall confer, in confidence, with the Chief Justice to ensure that adequate arrangements are made for the orderly management of their docket during their absence. A magistrate court judge requiring or seeking confidential healthcare for an extended period of time shall confer with the Director of the Magistrate Court Division of the Administrative Office of the Courts and with the Chief Justice to ensure that adequate arrangements are made for the orderly management of their docket during their absence. All communications conducted pursuant to this provision shall be privileged as hereinafter described.

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IT IS FURTHER ORDERED that the privileges referred to in this order are as follows:

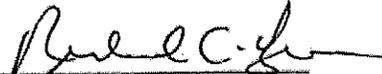
A. General Rule of Privilege. An individual seeking services from the Lawyers' Assistance Program, or other comparable program, has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to individuals associated with such program.

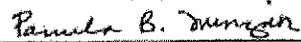
B. Confidential Communication. A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure would be made in furtherance of the provision of services to the individual seeking such services, or those reasonably necessary for the transmission of the communication.

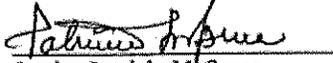
C. Who May Claim the Privilege. The privilege may be claimed by the individual seeking services or the individual's guardian or conservator. The individual associated with the Lawyers' Assistance Program or comparable program who participated in the confidential communication has authority to claim the privilege but only on behalf of the individual seeking services.

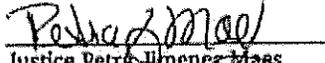
IT IS SO ORDERED.

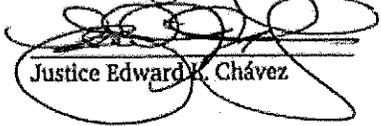
Done at Santa Fe, New Mexico, this 22nd day of June, 2005.


Chief Justice Richard C. Bosson


Justice Pamela B. Minzner


Justice Patricio M. Serna


Justice Petra Jimenez Maes


Justice Edward K. Chavez