

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1336

Amending Alaska Bar Rules 30(g) and (i) concerning disabled, incapacitated, or incompetent attorneys.

IT IS ORDERED:

1. Paragraph (g) of Alaska Bar Rule 30 is amended to read:

(g) **Reinstatement.** No attorney transferred to disability inactive status under the provisions of this Rule may resume active or inactive status until reinstated by order of the Court. Any attorney transferred to disability inactive status under the provisions of this Rule will be entitled to apply for reinstatement to active or inactive status once a year, but initially not before one year from the date of the Court order transferring him or her to disability inactive status, or at such shorter intervals as the Court may direct in the order transferring the Respondent to inactive status or any modification thereto.

The attorney seeking transfer from disability inactive status shall file a verified application for reinstatement with the Court, with a copy served upon the

Director. In the application, the attorney will

(1) state that (s)he has met the terms and conditions of the order transferring him or her to disability inactive status;

(2) state the names and addresses of all his or her employers during the period of disability inactive status;

(3) describe the scope and content of the work performed by the attorney for each such employer;

(4) provide the names and addresses of at least three character witnesses who have knowledge concerning the activities of the attorney during the period of disability inactive status;

(5) provide the names and addresses of all health care providers, hospitals, and other institutions by whom or in which the attorney has been examined or treated since

his or her transfer to disability inactive status.

(6) state that the disability or incapacitating condition has been removed and attach the expert opinion of a physician, psychiatrist or psychologist that the disability or incapacity has been removed.

(7) state whether any of the incidents listed in Rule 2(1)(d)(1)-(10) have occurred during the period of disability inactive status.

Upon receipt of the application for reinstatement, the Director will refer the application to a Hearing Committee in the jurisdiction in which the attorney maintained an office at the time of his or her transfer to disability inactive status; the Hearing Committee will promptly schedule a hearing to take place within 30 days of the filing of the application; at the hearing, the attorney will have the burden of demonstrating that the attorney's disability has been removed and (s)he meets the standards of character

and fitness contained in Rule 2(1)(d); within 30 days of the conclusion of the hearing, the Hearing Committee will issue a report setting forth its findings of fact, conclusions of law, and recommendation; the Committee will serve a copy of the report upon the attorney and Bar Counsel, and transmit it, together with the record of the hearing, to the Board; any appellate action will be subject to the appellate procedures set forth in Rule 25.

Within 45 days of its receipt of the Hearing Committee's report, the Board will review the report and the record; the Board will file its findings of fact, conclusions of law, and recommendation with the Court, together with the record and the Hearing Committee report; the application will be placed upon the calendar of the Court for acceptance or rejection of the Board's recommendation within 60 days after receipt by the Court of the Board's recommendation.

In all proceedings concerning an application for reinstatement from disability inactive status, Bar Counsel may cross-

examine the attorney's witnesses and submit evidence in opposition to the application.

The application will be granted by the Court upon a showing that the attorney's disability has been removed and (s)he is fit to resume the practice of law. Upon application, the Court may take or direct any action it deems necessary to determine whether the attorney's disability or incapacity has been removed, including an order for an examination of the attorney by qualified medical and/or psychological experts that the Court may designate. In its discretion, the Court may order that the expense of the examination be paid by the attorney. In addition, the Court may direct that the necessary expenses incurred in the investigation and processing of any application for reinstatement from disability inactive status be paid by the attorney.

Prior to reinstatement, the attorney must pay to the Bar, in cash or by certified check, the full active membership fees due

and owing the Association for the year in which (s)he is reinstated.

2. Paragraph (i) of Alaska Bar Rule 30 is amended to read:

(i) **Waiver of Physician and Psychotherapist-Patient Privilege.** The filing of an application for reinstatement by an attorney transferred to disability inactive status because of disability or incapacity will be deemed to constitute a waiver of any physician and psychotherapist-patient privilege with respect to any treatment of the attorney during the period of his or her disability. The disabled attorney will be required to disclose the name of every ~~psychiatrist, psychologist, physician,~~ health care provider and hospital or other institution by whom or in which the attorney has been examined or treated since his or her transfer to disability inactive status. (S)he will furnish to the Court written consent for each person or organization to divulge information and records as requested by court-appointed medical experts.

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Effective Date: January 15, 1999
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DATED: July 23, 1998

EFFECTIVE DATE: January 15, 1999

/s/
Chief Justice Matthews

/s/
Justice Compton

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner