

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
CERTIFICATION AND LICENSING) Administrative Order
COMPLAINT DIVERSION) No. 2012 - 83
PILOT PROGRAM)
)
)
_____)

The Certification and Licensing Division (CLD) of the Administrative Office of the Courts (AOC) supervises the activities of certain professions pursuant to, among other authority, Arizona Code of Judicial Administration (ACJA) § 7-201 through § 7-208. These code provisions, in part, require CLD to investigate complaints against certificate holders and present its findings and recommendations to the appropriate certification board.

In the performance of its duties, CLD investigates a number of complaints that, if true, are allegations of misconduct that involve minor, non-repetitive behavior or technical violations unlikely to cause harm to the public. The investigation and resolution of many of these complaints are very time consuming for boards, staff, and the regulated professionals and usually result in informal discipline such as letters of concern.

Therefore, pursuant to Article VI, Section 3, of the Arizona constitution,

IT IS ORDERED that:

1. In an effort to better serve the public and the regulated professionals, and more efficiently use CLD and board resources on complaints of misconduct more likely to affect public health, safety, or welfare, a two-year pilot diversion program authorizing the CLD division director to divert certain complaints or allegations of misconduct in the manner described in this Order is established.
2. Diversion may only be offered in those situations in which the division director determines that the activities alleged in the complaint, if true, may be corrected through diversion, there is a reasonable probability that the diversion will be successful in eliminating the possibility of future complaints, and that the public will be further served and protected by completion of diversion.
3. In determining whether the public will be further protected by completion of diversion, the division director shall consider the discipline history of the certificate holder. The successful completion of diversion does not affect the use of the misconduct resulting in the diversion to demonstrate a pattern of discipline issues in

future disciplinary proceedings.

4. A diversion program may consist of any or all of the following: consultation, advisory letters, required additional education or training, or required improvement of policies and procedures. Diversion that includes additional education, training, or improvement of policies and procedures shall be evidenced in writing and signed both by the division director and the participating licensed professional.
5. If diversion is not successfully completed, the division director and the respective board may take such further action as appropriate and allowed by ACJA § 7-201 through § 7-208.
6. The Certification and Licensing Division shall draft and circulate for comment a revision to the ACJA that incorporates the provisions of this pilot program.
7. The division director or designee shall report the number of approved diversions, the nature of the complaint or alleged misconduct, the type of diversion, and whether the diversion program has been successfully completed. Quarterly reports shall be filed with the AOC deputy director and included as an informational item for the respective board meetings.

IT IS FURTHER ORDERED that the pilot diversion program shall remain in effect until a new code section is adopted and no later than December 31, 2014.

Dated this 21st day of November, 2012.

REBECCA WHITE BERCH
Chief Justice