

PENNSYLVANIA BAR ASSOCIATION

MODEL PRO BONO PLAN

Approved October 1992

Pennsylvania Direct Service *Pro Bono* Plan

Introduction

The Pennsylvania Bar Association recognizes the responsibility of every lawyer to render public interest service. Rule 6.1 of the Rules of Professional Conduct provides:

A lawyer should render public interest service. A lawyer may discharge this responsibility by providing professional service at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession and by financial support for organizations that provide legal services to persons of limited means.

The model plan that follows is designed to provide individual lawyers, acting through their local bar Associations, with an opportunity to discharge their public interest service responsibility through participation in an organized direct service program. The program has been designed to encourage maximum participation by attorneys, the servicing of as large a number of disadvantaged individuals as possible, the utilization of technology for efficiency and effectiveness, and the delivery of high quality representation.

The plan is a model and it is anticipated that individual counties will incorporate variations and modifications which are appropriate to their individual circumstances and which local bars believe will enhance operations within their jurisdictions. This model plan is subject to review on an annual basis and will be modified based on the actual experience of individual attorneys and bar associations.

While Rule 6.1 recognizes each attorney's responsibility to provide public interest legal services (hereinafter referred to as "*pro bono services*"), the method of discharging that responsibility is at the discretion of each attorney. The purpose of this plan is to propose one method which addresses a clear public need which is perceived to exist in all counties of the Commonwealth. The Legal Services to the Public Committee of the Pennsylvania Bar Association may consider the development of additional model programs as is appropriate or useful to the bar in fulfilling the goal of public interest service.

The Legal Services to the Public Committee recommends that the addressing of the civil legal needs of all indigent persons not serviced by publicly funded legal service programs be adopted as special "*pro bono*" project of the Pennsylvania Bar Association and by the Bar Associations of each of the Counties in the Commonwealth. As a "special project", it is hoped that the Pennsylvania Bar Association and the County Bar Associations will encourage their members to extend meaningful public interest effort in programs which directly service the legal needs of the indigent in addition to the other forms of public service recognized in Rule 6.1.

It is recognized that many County Bar Associations have established programs and complex interactions between and among multiple programs, the local bar Association and foundations which must be coordinated to make comprehensive service to the indigent a reality. This model is not intended to replace existing programs, but to serve as a format for the establishment or modification of an organized direct

service program. The Legal Services to the Public Committee stands ready to work with any County Bar Association which believes that “outside” consultation may be of use in coordinating and implementing its program, in the implementation of this plan or a modification thereof.

The Legal Services to the Public Committee of the Pennsylvania Bar Association will attempt to monitor the implementation of this plan in various counties, to catalogue variations and modifications adopted by individual counties, to collect data concerning the operation of various county plans and to disseminate useful reports concerning the impact of this form of pro bono activity for evaluation by interested parties and institutions. The Committee will also attempt to analyze the cost of program administration and the proper allocation of those costs.

Rule 6.1 recognizes various forms of pro bono activities which fulfill a lawyer’s responsibility to render public interest legal services. This program, however, is designed only to address satisfaction of that responsibility through the provision of direct civil legal services to poor persons, the provision of legal services and financial aid to organizations which have as their primary purpose the provision of civil legal services or assistance to the poor, the training or monitoring of attorneys participating in *pro bono* programs or staffing legal service programs, and the development of and delivering of community education programs for low income individuals. Other programs and model programs which address other aspects of *pro bono publico* service may be produced and circulated for consideration by the profession in the future.

The Proposed Program

1. Start Up

Each County Bar Association will be asked to adopt a resolution committing it to establish or to maintain an ongoing direct service *pro bono* program. Bar Associations which currently operate direct service *pro bono* programs will be asked to review their programs in consideration of the model provided by this Program.

As part of the proposed resolution, each bar association should commit itself, where it has not already done so, to the establishment of a committee to oversee the establishment of the *pro bono* program, program evaluation, and to the implementation of any necessary changes.

A model resolution and program statement is attached.

2. Eligibility

The Plan adopted by each local bar association must include a definition of those eligible for service. The eligibility standard must be known to and accepted by the members of the association. The Legal Services to the Public Committee of the Pennsylvania Bar Association recommends that the eligibility standards for service from the governmentally funded legal services organizations be adopted by each local program.

3. Participation of Bar Association Members

Participation. It is well recognized that neither government funded nor *pro bono* programs, alone or jointly, can meet the legal needs of the poor. It is also recognized that financial assistance in and of itself would not

meet the need. Thus, Bar Association members are encouraged to give of their time and financial resources to help meet the legal needs of the indigent.

Assumed Participation. Although participation in the direct service pro bono program is strictly voluntary, as a special pro bono project of the County bar Association in response to Rule 6.1, all members of the local bar association will initially be assumed to want to participate in it. The model program provides appropriate methods for the collection of information from the members of local associations concerning their views, areas of interest and capacities.

Financial Contribution. Rule 6.1 recognizes the giving of financial support “for organizations that provide legal services to persons of limited means” as one of the methods by which a lawyer may discharge his or her responsibility to provide public interest service. In addition to direct service, all attorneys are encouraged to consider making financial contributions to civil legal service programs.

It is recognized that some members will elect to address their public interest obligations solely with contributions. While the amount of any contribution in lieu of service must rest with the conscience of each individual attorney, the Pennsylvania Bar Association suggests that an appropriate annual payment would be equal to the value of the average number of hours of time program in a normal calendar year. The great differences in billing rates customary in various “financial contribution” fee a matter peculiarly within the oversight of each County Bar Association. It is recommended that the annual financial contribution amount should be forwarded to the local legal services program or to such other entity which provides free civil legal services to persons of limited means as the attorney may select.

Services Anticipated. Participants in this direct service pro bono program can anticipate providing service in several ways. The direct provision of legal services to needy individuals is anticipated to be the most common. It is important for each program to set a target for the quantity of service which will be requested of each participant. The target may be stated as a number of cases or as a number of hours of service. The Pennsylvania Bar Association recommends that local bar associations consider targets of a minimum of three cases or fifteen to twenty-five hours per calendar year¹.

Special forms of providing service through mentoring an co-counseling with legal service attorneys, provision of staff training to formal legal service an *pro bono* programs and the provision of public educational programs on matters of interested to disadvantaged persons can also be expected to be available trough this Program. The Legal Services to the Public Committee of the Pennsylvania Bar Association is currently considering model mentoring and public and professional educational programs which will be available to local bar associations as adjuncts to and as part of this direct service *pro bono* program.

4. Administration

The local bar association is responsible for establishing a workable administration for the Program. Cooperation between local bar associations and the legal service program servicing that county is encouraged. Where a local bar association has staff, the *pro bono* program may be administered by the local staff in coordination with the local legal services program. Where a local bar association is without staff, the *pro bono* program may be administered by the local legal services program in coordination with the local oversight committee appointed by the bar association as may be agreed to by the bar association and the legal services program.

¹ See, Pennsylvania Bar Association, *Report of the Task Force for Legal Service to the Needy*, December 1990, Recommendation IX (5), Page A-6.

5. Professional Responsibility and Quality Control

Clients accepted by attorneys through this Program become direct clients of the attorney upon acceptance of the matter by the attorney. Each such client is entitled to all of the diligence, care and obligations which the attorney owes to all other clients. Where a lawyer has agreed to provide pro bono service through the direct rendering of legal assistance to indigent individuals, and where referral is made by the local legal services program, each lawyer will be responsible for providing the local legal services program with a closing summary indicating action taken with the consent of the client absent other agreement between the local bar association and the local legal services program.

6. Client Satisfaction

Local bar associations and their members should recognize and agree that the legal service program may send periodic inquiries concerning the status of cases and send a questionnaire on how the case was handled and what happened to each client referred by that legal service program.

7. Professional Liability Insurance

The local bar association should be certain that participating attorneys and the referral agency are covered by reasonable policies of professional liability insurance. Local bar associations should be aware that coverage is available through local legal services programs upon negotiation of acceptable cooperation agreements.

8. Program Initiation and Monitoring

The Legal Services to the Public Committee of the Pennsylvania Bar Association will work with local bar associations to assist in the implementation of local programs based upon this model across the Commonwealth. The Legal Services to the Public Committee of the Pennsylvania Bar Association will also attempt to collect information and data concerning the operation of local bar association programs which will be of use in improving the delivery of public interest service in the future.

9. Future Adjuncts to the Direct Service *Pro Bono* Program

The Legal Services to the Public Committee of the Pennsylvania Bar Association is currently working to develop the following adjuncts to the Direct Service *pro bono* program outlined herein. It is intended that these future programs will enhance and expand the direct delivery of legal services to persons of limited means and will provide additional and fulfilling ways in which lawyers will be able to discharge their public interest service responsibilities.

a.) The Training Program:

The Pennsylvania Bar Association and the Pennsylvania legal services community, on an annual basis, will provide at least one annual training on substantive poverty law issues and on trial advocacy skills for those attorneys participating in county *pro bono* programs. Additionally, the legal services community will provide participating *pro bono* attorneys with pleading forms and other information about cases with which the attorneys are unfamiliar. As herein noted, the Legal Services to the Public Committee of the Pennsylvania Bar Association and the Pennsylvania legal services community are currently cooperating in

the development of mentoring and other professional education programs for legal services and *pro bono* attorneys.

b.) The Community Education Program:

The Legal Services to the Public Committee of the Pennsylvania Bar Association and the Pennsylvania legal services community will develop a Community Education Program specially designed to inform disadvantaged individuals of their rights and responsibilities under the law. The program will utilize written and videotaped material on various poverty law issues, both for informational and self-help purposes. The Pennsylvania Bar Association and the Pennsylvania legal services community will produce such material jointly and, where necessary, will help local bar associations and local legal services programs secure equipment and facilities necessary for such programs.

c.) The Mentoring Program:

The Legal Services to the Public Committee of the Pennsylvania Bar Association and the Pennsylvania legal services community will develop a training program designed to pair experience private sector litigates with inexperienced *pro bono* attorneys and legal services staff to help develop the litigation skills of said attorneys. The mentoring program is anticipated to include, but not be limited to, training in issue identification, client communication, case theory and strategy, development of pleadings, trial advocacy and the co-counseling of cases. The cases used to develop such skills could come from either the inexperienced or experienced litigator's office. The mentoring concept may also be extended to other areas of special expertise within the private bar which may be of use to legal service and *pro bono* attorneys.

d.) Other Public Interest Programs:

In addition to the foregoing, the Legal Services to the Public Committee will explore the development of other model programs designed to assist local bar associations in productively channeling the public interest legal service efforts of their members in areas such as the provision of services at reduced fees to persons of limited means.

1. The Technical Assistance Program

The Pennsylvania Bar Association acting through its Legal Services to the Public Committee and the Pennsylvania legal services community will attempt to provide technical assistance to local bar associations and legal services programs in the development, implementation, and evaluation of *pro bono* programs upon request.

COUNTY BAR ASSOCIATION

RESOLUTION

(Establishing the Direct Service Pro Bono Program)

I. Background

This Association is mindful of the historic role of the legal profession in the development of this society, the protection of individual rights of all citizens, the development of the law and the profession. The Association also acknowledges and supports the codification of the lawyer's role in such matters in the Code of Professional Responsibility which provides:

Rule 6.1. Pro Bono Publico Service. A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal service to persons of limited means.

The Association believes that it is appropriate for it to assist its members in fulfilling their responsibilities to render public interest legal service through the development and operation of appropriate public interest legal service programs. The Association has determined that a continuing need exists among the indigent of this County for the provision of free legal services. A Service to the Indigent Program has been developed by the appropriate committee of the Association.

Further, the Association believes that meeting the legal needs of indigent persons not serviced by the local governmentally funded legal service organization is a priority need in our community and must be addressed as a special project by this Association in addition to all other forms of public interest legal service.

II. Resolution

NOW THEREFORE, be it resolved by this Bar Association and it is hereby resolved by and with the authority thereof as follows:

1. Assurance of the meeting of the legal needs of all indigent citizens of this County is adopted as a priority special project of this County Bar Association.
2. The goal of fully addressing the legal needs of the indigent of this County shall be accomplished through expanded cooperation between this Association and (name of local governmentally funded legal service program) and through immediate implementation of the attached Direct Service to the Indigent Program which is hereby approved and adopted as an ongoing special project of this Bar Association.
3. All members of the Association shall be notified of the adoption of this resolution and the establishment of the Service to the Indigent Program through the provision of true and correct copies hereof.
4. All members of the Association are urged to participate in the program hereby adopted in addition to any other public interest legal services rendered by them.
5. The program shall be supervised and administered by the _____ Committee (by a special committee to be known as the _____ Committee which shall consist of _____ members and one Chairman, all of whom shall be appointed annually by the President of the Bar Association.)

COUNTY BAR ASSOCIATION

Direct Service *Pro Bono* Plan

1. *Purpose.* The Purpose of the Direct Service *Pro Bono* Plan (the Plan) is to provide free legal service to persons of limited means.
2. *Eligibility.* Persons are eligible for service under the Plan if they meet the eligibility requirements for free service of the (here insert the name of the governmental funded legal services corporation servicing the county or specify any specific eligibility guidelines adopted by the local association.)
3. *Participation.* All members of the Association shall initially be assumed to desire to be participants in the Plan. Within twenty days of the adoption of the Plan by the Association, all members shall be requested to file an information form with the (insert the name of the local committee overseeing the Plan) in the form attached to this Plan as Exhibit “A”. The Secretary of the Association shall complete a form for any participant who fails to return a completed information form. In completing forms for such participants, the Secretary shall assume that any such member is available for unlimited service in all areas of law.¹
4. *Service Goal.* It is the goal of the Plan for each participant to accept and complete representation in at least (insert number—recommendation is three) cases in each year of Plan operation. / or/ It is the goal of the Plan for each participant to provide a minimum of (insert number—recommendation is fifteen to twenty-five) hours of service during each year of Plan operation.
5. *Oversight.* The implementation and operation of the Plan shall be overseen by the (insert name of the local committee). / or/ A special committee of the Association to be known as the *Pro Bono* Committee shall be appointed by the President of the Association to oversee the implementation and operation of the Plan. The Committee shall consist of (insert number) members and one chairman all of whom shall serve for one year terms and all of whom shall be appointed by the President of the Association.
6. *Administration.* The Plan shall be administered (insert custom information about administration of the Plan).

¹ Persons designing local direct service programs are advised that experience in established programs indicates that a majority of the clients demand will be in the area of domestic relations. Any program which does not encourage all members to accept domestic relations cases can anticipate difficulties in meeting the actual needs of the client group sought to be serviced.

Some options Are:²

. . . by the office of the Executive Director of the Bar Association in accord with procedures, policies and standards from time to time established by the (insert name of local oversight committee).

. . . by the (insert name of local legal services program) in accord with procedures, policies and standards from time to time established by that corporation and approved by the (insert name of local oversight committee).

. . . by individual participants providing public interest service in evaluating, qualifying and referring cases for representation in accord with procedures, policies and standards from time to time established by the (insert name of local oversight committee).

. . . by the Court Administrator of (insert name) County in accord with procedures, policies and standards from time to time established by that office and approved by the (insert name of local oversight committee).

Administrative procedures, policies and standards approved by the (insert name of local oversight committee) shall be maintained in written form and shall be available to all participants. Copies of all approved policies and standards and of all amendments thereto shall be promptly sent to the Legal Service to the Public Committee of the Pennsylvania Bar Association.

7. *Professional Liability Insurance.* The (insert name of local oversight committee) shall ascertain and assure that the Association and its members are protected by reasonable professional liability coverage for all acts and omissions which occur during the operation of the Plan.
8. *Adjunct Programming.* The Association may adopt expansions and modifications to this Plan as may, from time to time, be deemed appropriate.

² It is impossible to catalog all possible administrative formats or to anticipate the administrative needs of all counties. The options listed in this draft are believed to be the most common forms useful in small to medium sized counties. Persons attempting to implement programs in larger counties who find the listed options to be inadequate are urged to contact the Legal Services to the Public Committee of the Pennsylvania Bar Association for additional assistance.