

Lawyer Referral Service

By-Laws

I

Preamble

1.1

The Maine State Bar Association, hereinafter referred to as the “MSBA,” recognizes that there exists a substantial segment of the public who has difficulty in obtaining legal services. In order to respond to the needs of those persons, the MSBA established a Lawyer Referral Service, hereinafter referred to as the “LRS.

1.2

The LRS is operated for the benefit of the public and the legal community. It should be readily accessible and its existence should be known to the public to the greatest extent possible. The LRS will not discriminate on the basis of any protected class or disability.

1.3

The prime objectives of the MSBA in establishing the LRS is to assist the general public by providing a way by which any person may readily obtain legal services at a reasonable fee, or referral information for appropriate legal services, social services or both; and to assist member attorneys by promoting appropriate use of legal services by the public, and providing opportunities for members to provide legal services to new clients referred by LRS. Further objectives of the LRS are to:

- a. acquaint people in need of legal service with the value of consultation with an attorney;
- b. encourage lawyers to recognize their obligation to provide legal services to any person in need of such services at a reasonable fee;
- c. provide information about lawyers and the availability of legal services which will aid in the selection of a lawyer; and
- d. provide general legal information needed by the public.

1.4

The LRS will be operated from the MSBA office utilizing full and part-time staff members of the MSBA as deemed appropriate. A staff member of the MSBA, appointed by the MSBA Executive Director, shall serve as Director of the LRS.

II Committee Supervision and Reporting

2.1

An LRS Committee, hereinafter referred to as the “Committee,” will be charged with the supervision of the LRS as provided in this Statement of Standards and Rules. The Committee shall be subject at all times to the supervision of the MSBA Board of Governors.

2.2

The Committee will be composed of members of the MSBA appointed by the President of the Board of Governors, including a liaison from the Board of Governors. The Chairperson will be selected by the Committee. A Vice-Chairperson will be selected by the Chairperson. A member of the Committee may be removed by the President for failure to attend three consecutive meetings.

2.3

A quorum of three committee members will be required to transact any business of the Committee.

2.4

The Committee will meet at regular intervals during the year to review overall policy matters and areas of LRS development.

2.5

The Committee will formulate and adopt all rules for the conduct and operation of the LRS, subject to approval of the Board of Governors. The Committee shall maintain a record of Committee interpretations of these Rules.

III Requirements for Membership

3.1

Any member of the Maine Bar in good standing who has been in active practice for 24 months, has not been under suspension, disbarment, or resignation from the practice of law within the preceding twelve months, and who carries professional liability insurance with a minimum coverage of \$100,000 and as otherwise set forth in the rules for specific Experience Panels, shall qualify as an LRS member.

3.2

To join the Lawyer Referral Service, an applicant must submit the following documents, completed, dated, and signed, with the signature serving as self-certification that all entries are true:

- a. completed LRS Application, with additional Experience Panel pages for each Experience Panel applied for;
- b. signed and dated Member Agreement Form (see 3.3);
- c. proof of current professional liability insurance, commonly a declarations page, stipulating dates of coverage and amount of insurance;
- d. payment of annual dues, charged per office per attorney, at rates to be set by the Committee with Board of Governors approval; and
- e. for all candidates who are in partnerships, or firms in firms of three or more attorneys, a Statement of Obligation page signed by the partner of highest authority in the partnership/firm, indicating knowledge of and agreement to the obligations the candidate will take on as an LRS member.

3.3

These items are incorporated in the LRS membership agreement:

- a. attorney and attorney office/staff protocols for responding to LRS caller contact and requests;
- b. remittal of percentage fees to LRS;
- c. administrative agreements;
- d. communications with the LRS Director, Staff, and Committee; and
- e. protocols for handling LRS cases when leaving a firm or practice of law.

These agreements are subject to periodic revision, and are contained in the document *Lawyer Referral Service Standards & Rules*. Every applicant must read this document and then submit a signed LRS Member Agreement certifying that they have read, understood, and will abide by all the obligations and responsibilities articulated therein.

IV

Areas of Referral Panels

4.1

The Director, in consultation with the Committee, shall establish legal subject matter panels for referrals. In addition, the Committee shall establish additional criteria for membership in certain panels for which special expertise or experience is appropriate. The Committee may modify such additional membership criteria periodically as deemed necessary. All LRS applicants shall select panels as part of the membership enrollment process, and reselect their entire list with each annual membership renewal, providing documentation as necessary. Where there are not specific criteria set forth for membership in a panel, members will enroll only in panels in which they are experienced and competent, so certifying with their signatures.

V

Referral Procedures

5.1

Referrals shall not be made on the basis of race, sex, age, religion, national origin, or sexual preference.

5.2

For each caller/referral request, LRS staff will ascertain, to the best of their ability, whether the caller presents a problem or question appropriate for referral to a member attorney.

5.3

LRS staff will not give legal advice, and will make clear that they may not do so, if asked. Staff may refer callers to resources such as legal service providers and the Maine Attorney General's website, when appropriate.

5.4

The LRS staff shall endeavor to make the most appropriate referral, taking into consideration the geographic and other needs, as disclosed by the caller.

5.5

The client/applicant shall be informed of the LRS procedures including, but not necessarily limited to, the initial service administration fee, the initial consultation of up to one half-hour at no additional charge, future fee arrangements between the client and members, the method of selecting a lawyer, and the competence representation made by the members. Staff is not required to refer a client more than three (3) times with respect to a single request.

5.6

LRS staff reserves the right to discontinue discussions with abusive callers, and to refuse to make referrals to callers who have been inappropriate, refused to pay referral fees, or have caused consistent problems for multiple referred attorneys or intake staff.

VI

Financial Administration of LRS

6.1

The operation of LRS shall be financed with funds derived from the following sources:

- a. an annual non-refundable LRS membership fee paid to the MSBA for each office to be listed with LRS for each member attorney for each year of membership at rates set by the LRS Committee and approved by the Board of Governors;
- b. an initial administrative fee charged to the client, in an amount set by the Committee;
- c. a set percentage of any fee (exclusive of costs) in excess of a set minimum threshold collected for legal services for each LRS caller who retains the member beyond the initial

- free consultation, in accordance with the *LRS Standards & Rules*, upon receipt of payment for billed services, and not at time of retainer; and
- d. additional discretionary funding by the Maine State Bar Association, as may be determined in the yearly budget process by the Board of Governors.

VI I

Statistics/Record Keeping

7.1

The LRS shall keep and maintain records, including the following:

- a. For each member:
 - 1) documentation of qualification for service membership, as described above;
 - 2) panel selections, reports, and remittals;
 - 3) the names of all callers to whom each member has been referred, and in each case the nature of the legal question involved, the panel titles used in the database search, and the date when referred; and
 - 4) correspondence between LRS staff or Committee and each member, all written comments from referred callers, and any additional information pertaining to disputes or complaints from any party.
- b. For service performance history and analysis:
 - 1) financial records and minutes of all committee meetings;
 - 2) statistical records as requested by the Committee or Board of Governors, or as deemed useful by the Director; and
 - 3) copies of all complete applications to the ABA for yearly logo approval.

VIII

Quality Control

8.1

The LRS shall monitor public and member satisfaction with the service through feedback gathered by formal and informal methods including, but not limited to:

- a. routine Client Satisfaction Questionnaires;
- b. annual Member Satisfaction Questionnaires; and
- c. additional inquiries as advisable in response to client or member comments.

8.2

The LRS Director and staff will actively seek to improve both the quality of referrals, and the quality and sophistication of other resource recommendations, through consultation with member attorneys, peer agencies, ABA resources, and other community support and information resources.

IX

Regulation of LRS Membership

9.1

The LRS Director is authorized to remove members from rotation temporarily for failure to return reports, respond to requests for information within stipulated time requirements, or pay dues.

9.2

The LRS Director is authorized to review an LRS member's continuing eligibility and may request that the Committee suspend a member at any time for good cause. Good cause for suspension includes but is not limited to the following:

- a. suspension, disbarment, or resignation from the practice of law;
- b. failure to obtain, maintain, and report to LRS current legal malpractice insurance **as described in *LRS Members Standards & Rules***
- c. failure to pay annual dues;
- d. failure to forward other monies due LRS;
- e. evidence that a member signed an application, certification, or report that was untrue in any material respect;
- f. repeated or egregious failure to communicate within a timely fashion pertaining to any reports or questions regarding referral status or client complaint;
- g. arrest or charge for any criminal offense; and
- h. complaints from referred clients that provide reason to believe a member does not meet reasonable standards of courtesy, competence, and ethical behavior, or adherence to LRS rules.

9.3

Any request for reconsideration of active participation or suspension will be sent to the LRS Committee, and to the member in writing. The member shall be given an opportunity to present a written and/or oral response to the requested suspension at the next regularly scheduled LRS Committee meeting, when the LRS Committee shall determine whether to impose the requested suspension by a majority vote. The Committee shall inform the member of its decision within 30 days.

9.4

All information obtained by, or presented to, the LRS Director or Committee in connection with suspension or reinstatement proceedings shall be confidential.

X

Policy Regarding Significantly Delinquent Reports and Remittals

10.1

Communications and changes of member attorney status with regard to overdue reports, insurance, dues, or other necessary information will be handled initially at the Director's discretion, as described below.

10.2

If a member attorney, or former member attorney, fails to respond to requests for information or reminders regarding reports, the following protocol will apply:

- a. The Director will submit information/history of delinquent accounts to LRS Chairperson before the next scheduled LRS Committee meeting.
- b. The Chairperson will make known the name(s) of delinquent attorneys as part of the regular reports of each LRS Committee Meeting.
- c. The Chairperson will then call each of the delinquent attorneys to make diplomatic inquiries and urge completion of obligations.
- d. If the delinquent attorney is not forthcoming, the Chairperson will send a standard Notice of Delinquency letter to the attorney, giving the attorney 15 days to respond. The Chairperson will also inform the Director of each 15-day deadline so that the Director can notify the Chairperson if a response has been made on time.
- e. Any attorney so notified who remains delinquent after the 15-day deadline will be reported to the Maine State Bar Association Board of Governors (BOG) at that body's next regular meeting for action in accordance with the policies and procedures of that body, including a possible submission to the Board of Overseers of the Bar.
- f. The LRS Committee may, at its discretion, make a final personal appeal to the delinquent before the BOG meeting.

XI

Client Complaints

11.1

LRS does not arbitrate fee disputes or make judgments with regard to ethical impropriety. LRS callers seeking remedy in fee disputes for alleged ethical violations shall be directed to the Maine Board of Overseers of the Bar. The LRS shall, however, keep a record of client complaints for the purposes of monitoring and improving service performance and making member suspension determinations.

11.2

Complaints made verbally will be handled according to the discretion of the LRS Director and staff, including waiving or refunding the referral administration fee, follow-up with a member, or request to have the complaint submitted in writing.

11.3

A copy of any complaint received in writing against either LRS staff or member attorneys will be forwarded to the person against whom the complaint is made.

11.4

The Director will present a summary report of complaints received at every committee meeting.

11.5

If three or more complaints are received against a member within a membership year, or three or more complaints about a single specific behavior are received within two years, the Director will give notice to the member that a report will be made to the LRS Committee at its next meeting.

XII

Marketing and Publicity

12.1

The LRS will be marketed and publicized by such means and to such extent as may be determined by the Director, in consultation with the Committee, the MSBA Communications and Marketing Director, and the Board of Governors.

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