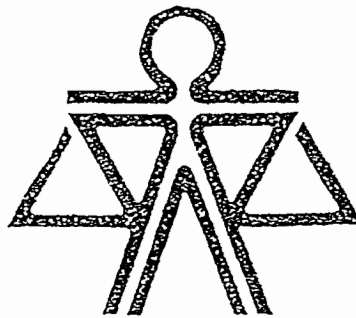


NEVADA COUNTY
LAWYER REFERRAL SERVICE
ATTORNEY HANDBOOK



NEVADA COUNTY LEGAL ASSISTANCE, INC.
LAWYER REFERRAL SERVICE

NEVADA COUNTY LAWYER REFERRAL SERVICE

ATTORNEY HANDBOOK

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I RULES OF OPERATION

1. ESTABLISHMENT AND PURPOSES

- 1.1 Nevada County Lawyer Referral Service is established as a division of Nevada County Legal Assistance, Inc., a non-profit corporation, for the following purposes:
- (a) To make legal services readily available to the general public by providing a way in which a person may be referred to a member of the Lawyer Referral Service. Services are provided primarily for residents of Nevada County;
 - (b) To particularly assist persons of low and moderate income who do not qualify for services of the Legal Aid Division in obtaining legal services;
 - (c) To provide general and legal information to the public concerning the availability of legal services;
 - (d) To develop voluntary legal services to meet identified legal needs, including pro-bono, limited fee and legal clinic programs;
 - (e) To improve the quality of legal services available to the public;
 - (f) To inform the public as to when and where to seek legal services; and
 - (g) To work cooperatively with members of the State Bar and County Bar Associations in providing legal assistance at an affordable cost to the public.

2. ORGANIZATION

- 2.1 The Lawyer Referral Service is a non-profit public service operated under the guidelines of the American Bar Association's Statement of Standards and Practices and the State Bar of California's Minimum Standards for a Lawyer Referral Service in California.
- 2.2 The Lawyer Referral Service shall be administered by the Board of Directors of Nevada County Legal Assistance, Inc., and by personnel employed or appointed by the Board of Directors in accordance with the Articles of Incorporation and By-Laws of Nevada County Legal Assistance, Inc. and these Rules of Operation.

- 2.3 The Board of Directors may, in its discretion, appoint an LRS Governing Committee, "Committee" to oversee or assist in the administration of Lawyer Referral Service as may be deemed appropriate. The Committee shall consist of at least three (3) members, fifty percent (50%) of whom shall be active members of the State Bar of California pursuant to Rule 10, paragraph 10.1 of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997. The Committee shall meet at least quarterly and shall review the annual report submitted by the Service pursuant to Rule 10 of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997 in accordance with Rule 5, paragraph 5.2. The members of the Committee shall be selected each year from active members of the Board of Directors.

3. ADMINISTRATION

- 3.1 The Board of Directors and/or Committee shall review the operation records of Lawyer Referral Service each month pursuant to Rule 10, paragraphs 10.1 and 10.2 of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997, and shall request staff to prepare appropriate reports.
- 3.2 The Lawyer Referral Service shall maintain complete records of its operation, including the following:
- (a) An Attorney Application for each member of the Service containing the name, address and pertinent qualifications of the attorney;
 - (b) Client application forms for each applicant containing the name, address and personal data of each client;
 - (c) Referral forms showing the name of the panel member to whom the referral was made, the type of matter presented by the client, and the date and time of the appointment that was made;
 - (d) Status/Disposition forms for each client referred indicating the status or disposition of the case including total fees charged by the attorney to the client;
 - (e) Evaluation forms from a random sampling of clients pursuant to Rule 10, paragraph 10.3 of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997.
 - (f) Financial records of all income and expenses of the service and other records concerning the operation of the service in

accordance with the requirements of Rule 15, paragraph 15.1 (a), (b), and (c) of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997.

(g) A complete and continuous log of all referrals made pursuant to Rule 15, paragraph 15.1b of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997.

3.3 The Board of Directors and/or the Committee shall annually prepare or cause to be prepared and filed with the State Bar, all forms and reports as required by paragraph 15.2 of the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997.

3.4 To cooperate with the State Bar regarding an independent audit or investigation of the Service, at State Bar expense.

3.5 Proceeds derived from fees charged and collected as specified by the Rules shall be used as follows:

(a) For payment of the expenses of operation, promotion and development of the Lawyer Referral Service;

(b) In no event shall proceeds from the Service be used to defray the costs or operating expenses of the sponsoring association, other than those properly apportionable as expenses of the Service, or be used solely for the benefit of the members of such association or members of the State Bar.

4. SUBJECT MATTER PANELS

4.1 The Lawyer Referral Service shall attempt maintain such panels and programs as deemed necessary to meet the needs of the attorney and client communities including, but not limited to:

(a) Regular Referral Panels:

Bankruptcy
Business and Contract Law
Conservatorship & Guardianship Law
Criminal (Felony, Misdemeanor, Juvenile)
Estate Planning and Elder Law
Family Law & Domestic Violence
General Civil Litigation
Labor & Employment Law

any application for registration on any panel of the Service, or to suspend or remove a panel member after proper notice and opportunity to be heard is provided. If an applicant or panel member is dissatisfied with any action taken pursuant to this paragraph, such person may file a written appeal with the President of the Board of Directors of Nevada County Legal Assistance, Inc. or the Chairman of the Committee.

- 5.4 The Service shall require each panel member to be covered by a policy of errors and omissions insurance in an amount not less than \$100,000.00 for each occurrence and \$300,000.00 aggregate per year, or provide alternative proof of financial responsibility in the same amounts.
- 5.5 All applicants for registration as Panel Members shall agree, in writing, to the following:
 - (a) To abide by all the Rules of Operation contained in the Nevada County Lawyer Referral Service Handbook, the Rules of Professional Conduct, and any applicable provisions contained in the Minimum Standards for a Lawyer Referral Service, effective January 1, 1997.
 - (b) To submit any fee dispute with a client referred by the Service, if the client so elects, to binding arbitration by a Fee Arbitration Committee of a Bar Association or other established Fee Arbitration Committee established pursuant to Business and Professions Code, Section 6200, et seq.
 - (c) That information contained in the application may be furnished to clients applying for legal services and may be used in a Directory of Lawyers containing pertinent biographical and other information useful to persons seeking an attorney.
 - (d) To waive any and all claims against the Lawyer Referral Service, Nevada County Legal Assistance, Inc., and its agents and employees for any liability whatsoever in connection with the operation of the service or the use of information contained in the attorney application.
 - (e) To indemnify and hold harmless the Lawyer Referral Service and the Board of Directors, members, officers and employees of Nevada County Legal Assistance, Inc., from any and all actions, claims or liabilities, expenses or losses resulting in whole or in part from handling any referral made by the Lawyer Referral Service.

6. FEES AND COLLECTION

- 6.1 Referral Fee: Each client referred shall pay, in advance to the Service, or to the attorney if more convenient, an administrative fee set by the Board of Directors of not less than \$ ~~35.00~~ for a regular referral, \$10.00 for a limited means referral and no charge for a Pro-Bono referral. Payment of said fee entitles the client to a one-half (1/2) hour consultation with a panel member of the Service upon presentation of a receipt for such payment and referral forms prepared by Lawyer Referral Service Staff. Said consultation does not include preparation of papers or letters.
- 6.2 Compensation for Further Services: For professional services rendered beyond the initial half-hour consultation, moderate and reasonable fees shall be fixed by agreement in writing between the client and attorney.
- 6.3 Forwarding Fees: Each panel member shall pay forwarding fees to the Lawyer Referral Service in the amount of ten percent (10%) of all fees received in excess of \$300.00, but not over \$20,000.00 per client referred. All fees accruing to the Service shall be paid within thirty (30) days of collection from client. Each panel member shall complete and return to the Service the Attorney Referral Report indicating the status and/or disposition of the case status.
- 6.4 Arbitration of Fees: State Bar Rules of Procedure for a Fee Arbitration and Procedures of the Nevada County Bar Association Fee Arbitration Committee shall apply to any fee dispute.

7. REFERRAL AND REPORTING PROCEDURES

- 7.1 The Lawyer Referral staff shall interview applicants to the Service to determine the nature of the legal service required. The referring staff members will also determine if the client should be referred to a special program of the Service. The referring staff members will telephone the office of the panel member whose card appears first in the index for that particular area of practice to make an appointment for the client. If, for any reason, an appointment cannot be made at a time satisfactory to the client, the referring staff members shall refer to the next panel member's index card, and so on, until an appointment is made. The panel member shall personally grant a one-half (1/2) hour consultation to any client referred to him by the Service. All prospective clients shall be referred to individual panel members (rather than the attorney's office). Each attorney to whom a client is referred is individually responsible for serving such client.

- 7.2 If an attorney to whom a client is referred elects not to accept a referral, he shall not refer the client to another attorney outside his office, but rather shall refer the client back to the Service for referral to another panel member attorney. In the event the client referred has a case, but one in an area which the attorney does not handle, the attorney will refer said client back to the Service. In the above cases, the subsequent referral shall be at no additional charge to the client.
- 7.3 A panel member may transfer a referral to a partner or associate within his office who complies with the following:
- (a) Is presently a member of the Service in good standing;
 - (b) The client is informed of the transfer or "covering" basis and consents thereto.
 - (c) Participates on the panel from which the client was originally referred.
 - (d) The attorney must notify the Service of the change.
- 7.4 If a member of the panel is unavailable because of illness or absence from the area, of an extended or undetermined duration, the Service shall be notified and the referring staff members shall place that member's card on hold until further notice from the panel member. If a member is consistently unavailable for any other reason, or should a member of the panel consistently refuse to make an appointment or keep appointments with clients referred to him by the Service, his name may be removed from the panel after proper notification.
- 7.5 The Lawyer Referral Service shall attempt to determine at the outset whether a conflict of interest exists before the client is referred to the attorney. However, it shall be the obligation of each attorney to determine if a conflict does exist, and if so, to immediately report such determination to the Service and, thereupon facilitate the referral of the client to the next available panel member at no additional charge.
- 7.6 Each attorney is expected to handle referral clients with the same courtesy and diligence as is shown to non-referral clients. No referral shall be made on the basis of race, sex, age, religion, national origin or on any other basis prohibited by law.
- 7.7 At the conclusion of the initial interview with each client, the attorney shall, within three (3) days, acknowledge the referral by returning the proper section of the referral form to the Service, completed as to the status of the referral, and the administrative fee if collected by the

attorney. The Service shall request the panel member to provide periodic and/or quarterly status reports on forms provided. Such reports shall include information regarding the status of all matters referred to the attorney and the fees, if any, received and the ultimate disposition of the case. The attorney shall, within thirty (30) days of his receipt of such report form, provide the information requested and any referral fees then due the Service. Failure of the panel member to provide such information shall be grounds for suspension or termination of membership in the Service.

- 7.8 Nevada County Lawyer Referral Service may, from time to time, audit its records and those records of its panel members which concern matters referred by the Service. All panel members shall make available for audit, upon request of the Service, all office files, records, accounts, ledgers and any other records related to the Service or any matter referred by the Service. Should the Service assess a deficiency against any panel member, the assessment shall be presumed correct, and the panel member shall bear the burden of showing its inaccuracy in any proceeding, formal or informal. Failure of any panel member to comply with the request of the Service to inspect such records, shall be grounds from removal from membership. All assessments shall bear interest at eight percent (8%) per annum, and the Service shall be entitled to reasonable attorney's fees in any action or proceeding brought to enforce any provision of these Rules of Operation or any Agreement executed by the panel member in connection with Lawyer Referral Service.

8. WITHDRAWAL, RESIGNATION, SUSPENSION AND REMOVAL

- 8.1 Any panel member so desiring shall be permitted to withdraw his membership from the Service upon five (5) days written notice to the Service. Such withdrawal shall not affect any obligation on the part of the panel member to make reports or pay referral fees for matters or clients referred to the panel member prior to such withdrawal.
- 8.2 Any panel member may be suspended by the Board of Directors for so long as there is a failure, after ten (10) days written notice, to carry out any of the following activities:
- (a) Payment of annual registration fee (if applicable).
 - (b) Collection and forwarding of any fees due the Service.
 - (c) Submission of any required report.

- 8.3 Any panel member may be removed or suspended from any or all panels by the Board of Directors and or the Committee for any of the following reasons:
- (a) Failure to maintain continuous eligibility and qualifications under these Rules of Operation.
 - (b) Failure to handle Service cases with professional competence and diligence.
 - (c) Evidence of unprofessional conduct.
 - (d) A demonstrated lack of competence in any of the subject areas covered in the panel or panels for which said attorney is registered.
 - (e) In court appointed cases, at the request of the court.
 - (f) Falsification of any material statement made to qualify for any panel or made in any required report.
 - (g) Violation of the State Bar Act or Rules of Professional Conduct of the State Bar of California.
 - (h) Repeated discourtesy to Service clients or staff.
- 8.5 Pursuant to Rule 10, paragraph 10.3 the Board of Directors and/or the Committee shall conduct an evaluation of the quality of the services provided by member attorneys every year.
- 8.5 Any panel attorney may appeal a decision of suspension or removal by filing a written appeal with the President of the Board of Directors of Nevada County Legal Assistance, Inc. and/or the Chairman of the Committee within ten (10) days of being notified of such action.

9. PUBLICITY

- 9.1 The Lawyer Referral Service will endeavor to maintain publicity programs to inform the public of the availability through the Service of a lawyer to any person who needs one, to inform the public of all special programs of the Service and to make the directory available to members of the public. Any and all media available may be used to publicize the Service. Particular emphasis shall be placed on media publicity designed to reach those persons unlikely to have an attorney and/or those who may fail to recognize a problem as being legal in nature. All publicity

shall comply with the Minimum Standards for Lawyer Referral Services, in effect at the time.

- 9.2 Copies of written advertising will be furnished to the State Bar as required by Rule ~~14~~ paragraph 14.1 of the Minimum Standards for Lawyer Referral Services.

10. AMENDMENTS

- 10.1 These Rules of Operation may be amended from time to time by a majority vote of the Board of Directors and/or the Committee upon recommendation of the Supervising Attorney and/or the Board of Directors. Any amendment adopted shall be distributed forthwith to all panel members.

II PANEL AND PROGRAM DESCRIPTIONS

BANKRUPTCY	This category includes wage attachments, and all advice and actions under the Bankruptcy Laws.
BUSINESS/ CONTRACTS	This category includes reviewing and drafting contracts; the formation, operation, sale and dissolution of various business entities including, partnerships, limited partnerships, corporations and sole proprietorships; and all matters pertaining to contractual relationships and/or business and commercial matters.
CONSERVATORSHIP/ GUARDIANSHIP	Proceedings to establish a temporary parental relation over a child or a custodial or proprietary relationship over the person or property of an incompetent adult. Includes actions under the Probate as well as Civil Codes.
CRIMINAL	This panel includes all criminal matters, felony, misdemeanor and juvenile. This includes drug offenses, alcohol related offenses and traffic/driving related offenses.
ESTATE PLANNING & ELDER LAW	This category includes all matters related to preparation of wills, codicils, trusts, intervivos gifts, estate planning and gift and estate tax planning. Includes all matters dealing with the needs and concerns of the elderly and their friends and family members.
FAMILY LAW/ DOMESTIC VIOLENCE	This panel includes matters involving annulment, dissolution of marriage, legal separation, child custody, visitation, support, restraining orders, enforcement and modification of orders, adoptions, name change, emancipation, and all matters covered by the Domestic Violence Act.
GENERAL CIVIL LIT.	This includes all civil matters that are or may be the subject of civil litigation that do not fall under any other specific area of expertise.
LABOR/EMPLOYMENT	This panel includes employment problems including employment discrimination and matters dealing with unemployment insurance and eligibility including appeals.
LANDLORD/TENANT	This panel includes all matters dealing with landlord & tenant relationships including reviewing and drafting lease and rental agreements. Includes unlawful detainer matters:

notices, court proceedings and enforcement of judgments.

PERSONAL INJURY

This panel includes any loss or injury to a person and/or property. This panel includes Products Liability. It does involve injuries connected with employment that are covered by Workers Compensation. Workers Compensation cases would only be referred to those members of the personal injury panel who specifically request such referrals and who have completed an experience panel questionnaire for Workers Compensation.

PROBATE

This category includes all matters relating to Probate including will contests.

REAL ESTATE

This category includes matters relating to the purchase, sale, lease, rental and ownership of real property. Includes matters related to easements, boundaries, CC & Rs, homeowner associations, property taxes, zoning problems, general plan designations, disputes over uses of real property, easements, etc. Includes administrative and court proceedings involving land division, subdivision, variances, use permits, etc.

SOCIAL SECURITY

Includes all matters related to Social Security including, disability eligibility, appeals, survivor benefits, etc.

eff. 1-1-1997

Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services

Rule 1. Purpose of Rules

1.1 The purpose of these Rules and Regulations Including Minimum Standards ("Rules") is to establish minimum standards for the operation of Lawyer Referral Services and facilitate the enforcement of Business & Professions Code §6155 pertaining to Lawyer Referral Services.

Rule 2. Citation of Rules

2.1 These Rules shall be cited and referred to as the Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services Including Minimum Standards for Lawyer Referral Services in California ("Rules"). With the approval of the Supreme Court, these Rules are subject to amendment, repeal or other action by the Board of Governors of the State Bar of California.

Rule 3. Policy of the State Bar Regarding Lawyer Referral Services

3.1 It is the policy of the State Bar of California that every community be served by one or more certified Lawyer Referral Service. Where the size of the community or the number of lawyers serving it make the establishment of a separate Lawyer Referral Service impractical, the State Bar encourages the establishment of a regional Lawyer Referral Service embracing two or more such communities, subject to Rule 8.2 which requires separate certification for each county in which a Lawyer Referral Service operates.

3.2 It is also the policy of the State Bar of California that activities in violation of these Rules, the Business & Professions Code, or other authorities pertaining to Lawyer Referral Services, be curtailed.

Rule 4. Definition of a Lawyer Referral Service

4.1 "Lawyer Referral Service" means an individual, partnership, corporation, association, or any other entity, or a service or agency of an entity, which operates for the direct or indirect purpose of referring potential clients to lawyers, whether or not the term "referral service" is used. This definition shall not apply to those entities or persons exempted by Business & Professions Code §6155, subdivision (c) or (h).

4.2 "Entity" means an individual, partnership, corporation, association or any other form of organization.

4.3 A Lawyer Referral Service shall be comprised of these separate parts:

- (a) A staff which processes the requests for legal assistance;
- (b) A panel of lawyers who provide legal assistance; and
- (c) A committee or governing body as defined in Rule 10.1.

Rule 5. Purposes of a Lawyer Referral Service

5.1 The purposes of a Lawyer Referral Service shall be:

- (a) to provide a way in which any person may be referred to a qualified, insured lawyer who is able to render and is interested in rendering needed legal services;
- (b) to provide information about lawyers and the availability of legal services which will aid the public in their selection of a lawyer;
- (c) to inform the public when and where to seek legal and dispute resolution services;
- (d) to provide general, legal and dispute resolution information needed by the public;
- (e) to improve the quality of legal services available to the public; and
- (f) to provide access to affordable legal services to the public.

Rule 6. Application for Certification to Operate a Lawyer Referral Service

6.1 Application for certification or recertification as a Lawyer Referral Service shall be made on a form supplied by the State Bar which from time to time may be amended by the State Bar. Certification shall be granted only upon a showing that the Lawyer Referral Service has complied with each of these Rules, Business & Professions Code §6155 and other relevant authorities.

6.2 All applications, reports and other documents required to be filed with the State Bar by Lawyer Referral Services shall be signed and verified by the owner or duly authorized agent of the Lawyer Referral Service and filed at the State Bar's Lawyer Referral Services Certification Program in San Francisco, California.

6.3 Applications for first time certification may be filed at any time during the year. Applications for recertification must be submitted in conjunction with the filing of the annual report to the State Bar pursuant to Rule 15.2.

6.4 For the purpose of determining whether an application is timely, the application shall be deemed submitted when actually delivered to the State Bar's Lawyer Referral Services Certification Program in San Francisco or when deposited in the United States mail, first

class postage prepaid, addressed to the Lawyer Referral Services Certification Program, State Bar of California in San Francisco.

6.5 The Chief Executive Officer of the State Bar or a person or persons designated by the Chief Executive Officer shall review each application and within a reasonable time thereafter approve or deny the application and notify the applicant of the reasons therefore, or seek additional information regarding an incomplete or insufficient application. If the application is determined to be complete and in compliance with these Rules and other applicable authorities, a certificate of compliance shall be issued. This review may include an investigation and administrative audit as provided in Rule 16.

6.6 The applicant shall be notified in writing if an application is incomplete or deficient. If an applicant fails to complete the application or correct any deficiency within sixty (60) days of written notification, the application shall be deemed withdrawn without a refund of the fee except as provided in Rule 9.

Rule 7. Denial of Application for Certification to Operate a Lawyer Referral Service

7.1 The Chief Executive Officer of the State Bar, or a person or persons designated by the Chief Executive Officer, may deny an application for certification or recertification for failure to submit a complete and sufficient application, for failure to demonstrate full compliance with these Rules and other applicable authorities, or for other good cause. Cause for denial of certification or recertification shall include but not be limited to:

- (a) Noncompliance with any provision of the statutes, these Rules or other authorities governing Lawyer Referral Services;
- (b) Sharing common or cross ownership, interests, or operations with any entity which engages in referrals to licensed or unlicensed health care providers;
- (c) Direct or indirect consideration regarding referrals between an owner, operator or member of a Lawyer Referral Service and any licensed or unlicensed health care provider; or
- (d) Advertising or soliciting on behalf of attorneys in violation of the Rules of Professional Conduct.

7.2 Written notice of the denial of the application and of the reason(s) for the denial shall be served by mail upon the applicants. Notice shall also be given to the panel attorneys listed in the application.

7.3 An applicant may request review of the denial of its application within thirty (30) days of the date of the notice of denial. The request must be in writing, set forth the reasons review is sought and include all relevant evidence supporting the position of the applicant.

The request shall be considered by a subcommittee appointed by the Board of Governors or another committee appointed for this purpose by the Board of Governors. The subcommittee shall provide the Lawyer Referral Service with an opportunity to be heard consistent with due process requirements.

7.4 Upon the completion of such consideration, the subcommittee shall 1) certify the Lawyer Referral Service with or without conditions as the subcommittee determines appropriate; 2) request further information or amendment to the application; or 3) decline to certify the Lawyer Referral Service.

7.5 The subcommittee shall report in writing its findings, determinations and reasons for its determinations. A copy of that report shall be served by mail upon the applicant.

7.6 An applicant may request review of the action of the subcommittee within thirty (30) days of service of the report of the subcommittee. The request must be in writing, set forth the reasons review is sought and include all relevant evidence supporting the position of the Applicant. The request shall be considered by the Board Committee on Legal Services or another committee appointed by the Board of Governors for this purpose. The Board Committee shall review the determinations of the subcommittee. It may hold hearings as it deems appropriate.

7.7 The Board Committee shall record in writing its findings and determinations and make such additional comments as it deems appropriate. Notice of such action shall be served by mail upon the applicant.

7.8 Any further review of the issues shall be in accordance with rule 952(d), California Rules of Court.

Rule 8. Certification

8.1 Certification shall be for no more than two years from the date issued or for such shorter periods of time as may be determined by the State Bar. Certification shall be renewed every two years or for such shorter periods of time as may be determined by the State Bar, by the filing of a recertification application.

8.2 If a Lawyer Referral Service operates in more than one county, it shall apply for separate certification for each county in which the Lawyer Referral Service operates and fulfill these Rules for each county. For the purpose of this Rule, a Lawyer Referral Service "operates" in a county if it makes referrals to attorneys in that county.

A Lawyer Referral Service will not be required to establish a separate office in each county in which it operates. For the purposes of this Rule, District 1 will be considered as if it were one county. State Bar District 1 counties: Butte, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity and Yuba.

This requirement may be waived if the Lawyer Referral Service presents written evidence to the State Bar that good cause exists for not fulfilling all these Rules for each county in which it operates.

8.3 If an application for recertification is timely completed and filed, the existing certification shall continue in effect until recertification is issued or denied, or until the existing certification is suspended or revoked pursuant to Rule 19.

8.4 If certification is not renewed or is revoked pursuant to Rule 19, it shall expire and terminate. All activities subject to certification must cease upon the expiration of certification, non-renewal of certification or upon notice of revocation of certification, unless certification is extended pursuant to Rule 8.3.

8.5 Denial of an application for first time certification shall not prohibit the filing of a new application. Upon reapplication, the applicant must demonstrate full compliance with all requirements for certification. The fee for reapplication shall be the same as for application.

8.6 Upon the expiration or revocation of certification or following denial of an application for recertification, an applicant may re-apply for certification but must do so in accordance with the Rules pertaining to first time certification.

Rule 9. Fees

9.1 An applicant for certification or recertification shall pay, as a condition to the filing of an application, fees established by the Board of Governors, in such reasonable amounts as may be determined, and from time to time modified, by the Board of Governors.

9.2 Such fees shall be determined, in whole or in part, by a consideration of any combination of the following factors: a Lawyer Referral Service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or non-profit status; provided that such application or recertification fees not exceed ten thousand dollars (\$10,000) or one percent (1%) of the applicant's gross annual revenues generated by lawyer referral activity, whichever is less.

9.3 Certification and recertification fees not paid within thirty (30) days after due shall be delinquent and shall be subject to late charges in such reasonable amounts as may be determined, and from time to time modified, by the Board of Governors.

9.4 Written notice of delinquent fees shall state: the amount of the unpaid fee; the amount of any late charges; that failure to pay all fees due including late charges may result in suspension or revocation of certification; and that a certified Lawyer Referral Service may voluntarily relinquish certification in lieu of suspension or revocation.

9.5 Certification may be revoked due to failure to pay fees after written notice of delinquency.

9.6 If an application is withdrawn in writing within twenty (20) days after submission, fifty percent (50%) of the application fee shall be refunded. There shall be no refund of fees after that period of time.

9.7 An applicant may request in writing a waiver or reduction of fees based on financial necessity. The State Bar shall approve or deny the request for waiver or reduction of fees based on a consideration of, among other factors, the Lawyer Referral Service's gross annual revenues, panel size, geographic area served, and length of time in operation.

Rule 10. Ownership and Supervision

10.1 The Lawyer Referral Service shall be supervised in its establishment and operation by a Governing Committee ("Committee") consisting of a minimum of three (3) members, having authority to make decisions necessary to operate the Lawyer Referral Service. At least 50% of the Committee shall be active members of the State Bar of California, and at least 50% of the Committee shall not receive referrals from the Lawyer Referral Service.

10.2 The Committee shall meet at least quarterly and shall review the annual report submitted by the Lawyer Referral Service pursuant to Rule 15.2.

10.3 The Committee shall also conduct and annually review the results of a random sampling of at least 10% of the clients referred to attorneys as to the client's satisfaction with the attorney's handling of the case and whether the client felt the fee charged was reasonable. Based on its review, the Committee shall make such alterations to the operation of the Lawyer Referral Service as it deems necessary.

10.4 A Lawyer Referral Service shall not be owned or operated, directly or indirectly, wholly or in part, by those lawyers to whom, individually or collectively, more than 20 percent of referrals are made. For purposes of this subdivision, a Lawyer Referral Service that is owned or operated by a bar association shall be deemed to be owned or operated by its Governing Committee so long as the Governing Committee is constituted and functions in the manner described by these Rules.

10.5 A Lawyer Referral Service shall establish and provide, to each client referred to an attorney, an address and telephone number in his or her county to which complaints about the Lawyer Referral Service or its attorneys may be directed, and shall inform clients that any unresolved complaints should be addressed to the State Bar of California.

Rule 11. Eligibility and Approval of Panel Attorneys

11.1 (a) Membership on any panel operated by the Lawyer Referral Service shall be open to all active members of the State Bar of California practicing in the geographical area served who are qualified by virtue of suitable experience in conformity with Rule 12.2. Attorney registration and membership fees shall be limited to reasonable amounts and shall encourage widespread attorney membership. Those Lawyer Referral Services with total registration and panel membership fees in excess of \$1,000 per month will be required to demonstrate that fees are reasonable and encourage widespread attorney membership. The factors which may be considered in evaluating the reasonableness of membership fees include, but are not limited to, the following:

- (1) the number of attorneys in the geographic service area as well as the number of attorneys applying to be members of the Lawyer Referral Service who are accepted and who are rejected;
- (2) the cost of advertising, operations and member services;
- (3) the panel membership fees of other certified Lawyer Referral Services operating in the same area;
- (4) the number of attorneys who are members of the Lawyer Referral Service and the number of clients served by members of the Lawyer Referral Service;
- (5) the nature and extent of programs for persons of limited means pursuant to Rule 12.5 undertaken by the Lawyer Referral Service.

(b) Membership on a panel may not be made contingent upon membership in a sponsoring entity; however, a separate, nominal administrative charge may be made to non-members of the sponsoring entity to reimburse the entity for its administrative services.

(c) Any arrangement, promise, agreement or understanding for or purchase by an attorney of more than one contract with the same Lawyer Referral Service or for the same subject matter panel of that Lawyer Referral Service is grounds for denial of certification or recertification or for decertification.

(d) Panel membership fees shall not be set with any representation, promise, agreement, understanding or guarantee to attorneys of a minimum number of contacts, calls, cases, referrals or clients or any arrangement or practice by a Lawyer Referral Service which directly or indirectly produces a guaranteed number of contacts, calls, cases, referrals or clients, including but not limited to: compensation for rejected referrals; free or reduced-fee extension of the attorney's contract with the Lawyer Referral Service; representation of referrals based upon

past averages or formulas. Lawyer Referral Services may disclose actual past performance when the information is accurate, complete and not misleading.

11.2 Each attorney member of a Lawyer Referral Service panel shall agree in writing to abide by all rules and regulations of the Lawyer Referral Service including the requirement that each panel member submit any fee dispute arising between such member and a client referred by the Lawyer Referral Service, if the client so elects, to binding arbitration by a Fee Arbitration Committee of a bar association or other established Fee Arbitration Committee established pursuant to Business & Professions Code §§6200 et seq., or by means otherwise acceptable to the State Bar.

11.3 Each Lawyer Referral Service shall require each panel member to possess a policy of errors and omissions insurance in an amount not less than \$100,000 for each occurrence and \$300,000 aggregate per year. Proof of insurance shall be provided to the State Bar upon request.

11.4 The Governing Committee or its designee shall establish a method of review for continued panel membership. Such review shall be conducted at least once every two years and shall evaluate the quality of services provided by member attorneys.

11.5 Each Lawyer Referral Service shall establish a uniform procedure to review refusals to admit an attorney to, and decisions to suspend or remove an attorney from, membership on any panel. In every case where a Lawyer Referral Service refuses to admit an attorney to a panel or suspends or expels an attorney from a panel, the Lawyer Referral Service must give the attorney a written statement of the reasons for its decision and offer the attorney a meaningful opportunity to be heard.

11.6 Each Lawyer Referral Service shall provide every panel member with a copy of these Rules.

Rule 12. Organization of Panels

12.1 Each Lawyer Referral Service shall establish such number and variety of panels as it determines will best enable the Lawyer Referral Service to make referrals that are responsive to individual client needs, pursuant to Rule 5.1.

12.2 Each Lawyer Referral Service shall establish one or more specific subject matter panels, and is encouraged to establish moderate and no fee panels, foreign language panels, alternative dispute resolution panels, and other special panels which respond to the referral needs of the consumer public, eligibility for which shall be determined on the basis of experience and other substantial objectively determinable criteria. Any attorney who is certified by the California Board of Legal Specialization as a specialist in a particular field shall be qualified for membership on the subject matter panel for such field by virtue of his or her certification. A Lawyer Referral Service may maintain a general panel.

12.3 For each subject matter panel, the Committee shall establish and file with the State Bar standards and procedures for:

- (a) determining the qualifications for membership on the subject matter panel;
- (b) reviewing the qualifications of a member to remain on or to be removed from the subject matter panel; and
- (c) appealing decisions to suspend or remove a member from the subject matter panel, pursuant to Rule 11.5.

12.4 Each subject matter panel established must have a minimum of four (4) attorney panel members. This requirement may be waived if the Lawyer Referral Service presents written evidence to the State Bar of California that good cause exists to have fewer than four (4) attorney members.

12.5 In an attempt to increase access to the justice system for all Californians, the Lawyer Referral Service shall establish separate ongoing activities or arrangements that serve persons of limited means, unless it can demonstrate that it is unreasonable and impractical to do so. These activities or arrangements may include, but are not limited to programs that: provide free legal services to indigents; provide legal services at a reduced fee; and provide free legal advice and clearing house referral services to the public; or other cooperative efforts with existing pro bono programs.

To determine whether it is unreasonable and impractical for a Lawyer Referral Service to comply with this section, the following factors, among others, may be considered:

The financial resources of the Lawyer Referral Service, size of staff, total number of panel attorneys, the specialty areas of attorney members of the Lawyer Referral Service, the fees charged by the attorney members to clients of the Lawyer Referral Service, and the needs of the community, including the existence and accessibility of other local pro bono or legal services programs able to meet these needs.

12.6 There must be a minimum of twenty (20) attorney members to whom referrals can be made, and at least ten (10) attorney panel members must be from separate and independent law firms. This requirement may be waived or modified if the Lawyer Referral Service presents written evidence to the State Bar that good cause exists based on the local population, the attorney population or the geographic area to be served.

Rule 13. Referral Procedures

13.1 The Governing Committee shall establish rotational procedures to assure that each referral is made in a fair and impartial manner. To the extent feasible, such procedures

shall be designed to respond to all circumstances of the client, including the type of the legal problem presented, geographic convenience and language needs.

The Lawyer Referral Service shall not operate so that all referrals from a specific geographical area are made to a single lawyer or law firm.

Failure to rotate sequentially all referrals to lawyers on the panel and/or failure to keep and maintain complete, current and continuous records of all referrals made to attorneys are grounds for denial of certification or recertification or for decertification.

13.2 No referral shall discriminate on the basis of race, color, sex, age, religious creed, national origin, ancestry, sexual orientation, disability, medical condition, marital status, political affiliation or veteran status.

13.3 No referral shall be made which violates any provision of the State Bar Act or Rules of Professional Conduct, including, but not limited to, restrictions against unlawful solicitation and false and misleading advertising.

13.4 The staff persons making the referrals and processing the requests for legal assistance may not be employees of any attorney to whom referrals are made.

13.5 A Lawyer Referral Service shall not be principally operated by a telephone answering service or device.

Rule 14. Publicity

14.1 Any publicity program or advertising developed, maintained or utilized by a Service shall promote the purposes of a Lawyer Referral Services as set forth in Rule 5. A copy of all materials used in publicity programs, advertising or other disseminations to the public shall be filed with the State Bar with any application for certification or recertification, and with the Lawyer Referral Service's annual report upon request of the State Bar.

14.2 The form and content of all publicity of the Lawyer Referral Service shall not be false or misleading and shall comply with the standards for such publicity defined in the Rules of Professional Conduct and Business & Professions Code. For the purpose of public information and evaluation of the Service and its advertising, all advertising shall include the identity of the sponsor(s), the fact that it is a Lawyer Referral Service, the counties in which it operates and the State Bar Certification number of the Lawyer Referral Service.

Rule 15. Records and Reports

15.1 Each Lawyer Referral Service shall maintain and provide to the State Bar, upon request, current records of its operation including at least the following information:

(a) the name, address and pertinent qualifications of each panel member and the number and types of matters referred to each panel member;

(b) the name, address and type of matter presented by each client referred, the name of the panel member to whom the referral was made, and the date the referral was made;

(c) the total fees the Lawyer Referral Service requires of its panel attorneys, including but not limited to: registration fees to join the Lawyer Referral Service; fees paid to belong to each panel an attorney elects to join; referral or consultation fees remitted back to the Lawyer Referral Service; forwarding fees; advertising fees or other miscellaneous fees paid by the panel attorney to the Service.

15.2 The Committee of each Lawyer Referral Service shall file with the State Bar an annual report on the activities of the Service and of the Committee. Such report shall include at least the following:

(a) statistics derived from the operating records required by Rule 15.1 and what, if any, alterations have been made in the conduct of the Service by the Committee pursuant to Rule 10.3;

(b) a detailed accounting of all sources and amounts of income to the Service, all expenses related to the operations and promotion of the Lawyer Referral Service, the amount of current reserves held by the Lawyer Referral Service, and the specific disposition over the past two years of any reserves and/or surpluses derived from the Lawyer Referral Service; and

(c) the number of cases sampled pursuant to Rule 10.3, together with the results of the random sampling.

15.3 Failure to file the annual report by the recertification due date without a showing of good cause to the State Bar shall result in the immediate withdrawal of certification to operate a Lawyer Referral Service.

15.4 All documents, records, communications, and other materials from or pertaining to a Lawyer Referral Service, including its application for certification, shall become the property of the State Bar and shall be held in confidence and not released except upon prior order of the Board of Governors or by consent of the applicant.

Rule 16. Investigative Audits

16.1 Prior to certification or recertification and/or waiving the application or renewal fee under Rule 9.7, the State Bar of California shall review and conduct an investigation and administrative audit of each Service, as the State Bar deems appropriate and as resources allow, to determine and assure compliance with these Rules.

16.2 The State Bar shall have the right at any time to conduct an audit or investigation of any Service. Any audit or investigation under Rule 16 shall be at the Service's expense. The Service and its sponsoring entity shall have the obligation to cooperate fully therewith.

Rule 17. Fees Charged by a Lawyer Referral Service

17.1 A Lawyer Referral Service may require that:

(a) Each panel member pay to the Lawyer Referral Service a registration fee, "referral" or "percentage" fee (computed on a percentage basis or otherwise), or other like participating fee, or any two or more of such fees, as a condition of panel memberships, provided that such membership fees are reasonable and do not discourage widespread attorney membership;

(b) Each panel member pay the Lawyer Referral Service a referral, initial consultation or similar fee, or any two or more of such fees, as a condition of referral; provided, however, that no Lawyer Referral Service may require any fee that is, or any combination of fees that are, either in conflict with statutory or other legal provisions for the award of attorney fees or unreasonable, whether those fees be required of applicants, panel members or both. A Lawyer Referral Service is prohibited from charging a combination of fees which increases the client's cost for legal services beyond that which he or she would normally pay, or decreases the quantity or quality of services which he or she would otherwise receive, absent involvement of the Lawyer Referral Service.

17.2 The income generated by a non-profit Lawyer Referral Service shall be used only to pay reasonable operating expenses of the Service and/or to fund programmatic public service activities of the Service or its sponsoring entity, including the delivery of pro bono legal services.

Rule 18. Complaints

18.1 Complaints regarding Lawyer Referral Service activity must be in writing and submitted to the State Bar's Lawyer Referral Services Certification Program at the State Bar's San Francisco address. Complaints must provide sufficient factual information for the State Bar to determine if the complaint establishes a violation of these Rules or other applicable authorities.

18.2 The Chief Executive Officer of the State Bar, or a person or persons designated by the Chief Executive Officer, shall review all complaints and within a reasonable time thereafter determine what action, if any, is appropriate. The complainant shall be entitled to notice of what action, if any, is taken in connection with the complaint. The State Bar shall provide the entity complained against with written notice of the complaint and an

opportunity to respond when it appears that a violation of these Rules or other applicable authorities is involved.

18.3 Upon receipt, a complaint shall become the property of the State Bar. Complaints and investigations shall remain confidential until service of written notice of intent to revoke or suspend certification.

Rule 19. Revocation or Suspension of Certification

19.1 The Chief Executive Officer of the State Bar, or a person or persons designated by the Chief Executive Officer, may revoke or suspend certification for failure to demonstrate full compliance with these Rules or other applicable authorities, or for other good cause including but not limited to:

- (a) Noncompliance with any provision of the statutes, these Rules or other authorities governing Lawyer Referral Services;
- (b) Sharing common or cross ownership, interests, or operations with any entity which engages in referrals to licensed or unlicensed health care providers;
- (c) Direct or indirect consideration regarding referrals between an owner, operator or member of a Lawyer Referral Service and any licensed or unlicensed health care provider; or
- (d) Advertising on behalf of attorneys in violation of the Rules of Professional Conduct.

19.2 Revocation or suspension may include an investigation and administrative audit as provided in Rule 16.

19.3 Written notice of intent to revoke or suspend certification and of the reason(s) for such action shall be served by mail upon the Lawyer Referral Service.

19.4 A Lawyer Referral Service may request review of a determination to suspend or revoke certification within thirty (30) days of written notice of the intent to revoke or suspend. The request must be in writing, set forth the reasons review is sought and include all relevant evidence supporting the position of the Lawyer Referral Service. The request shall be considered by a subcommittee appointed by the Board of Governors or another committee appointed for this purpose by it. The subcommittee shall provide the Lawyer Referral Service with an opportunity to be heard consistent with due process requirements.

19.5 Upon the completion of such consideration, the subcommittee shall 1) revoke or suspend a certificate of compliance; 2) request further information; 3) decline to revoke or

suspend a certificate of compliance, with or without conditions as the subcommittee may determine appropriate.

19.6 The subcommittee shall report in writing its findings, determinations and reasons for its determinations. A copy of that report shall be served by mail upon the Lawyer Referral Service, and the affected panel attorneys shall be given notice of any adverse action taken.

19.7 A Lawyer Referral Service may request review of the action of the subcommittee within thirty (30) days of service of the report of the subcommittee. The request must be in writing, set forth the reasons review is sought and include all relevant evidence supporting the position of the Lawyer Referral Service. The request shall be considered by the Board Committee on Legal Services or another committee appointed by the Board of Governors for this purpose. The Board Committee shall review the determinations of the subcommittee. It may hold hearings as it deems appropriate.

19.8 The Board Committee shall record in writing its findings and determinations and make such additional comments as it deems appropriate. Notice of such action shall be served by mail upon the Lawyer Referral Service.

19.9 Any further review of the issues shall be in accordance with rule 952(d), California Rules of Court.

19.10 During the pendency of proceedings pertaining to suspension or revocation of certification, the existing certification shall remain in effect, subject to directives from the subcommittee or Board Committee based on appropriate findings.

THE STATE BAR OF CALIFORNIA

§6155. Lawyer Referral Service—Ownership, Operation; Formulation and Enforcement of Rules and Regulations; Fees

(a) An individual, partnership, corporation, association, or any other entity shall not operate for the direct or indirect purpose, in whole or in part, of referring potential clients to attorneys, and no attorney shall accept a referral of such potential clients, unless all of the following requirements are met:

(1) The service is registered with the State Bar of California and (a) on July 1, 1988, is operated in conformity with minimum standards for a lawyer referral service established by the State Bar, or (b) upon approval by the Supreme Court of minimum standards for a lawyer referral service, is operated in conformity with those standards.

(2) The combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed the total cost that the client would normally pay if no referral service were involved.

(b) A referral service shall not be owned or operated, in whole or in part, directly or indirectly, by those lawyers to whom, individually or collectively, more than 20 percent of referrals are made. For purposes of this subdivision, a referral service that is owned or operated by a bar association, as defined in the minimum standards, shall be deemed to be owned or operated by its governing committee so long as the governing committee is constituted and functions in the manner prescribed by the minimum standards.

(c) None of the following is a lawyer referral service:

(1) A plan of legal insurance as defined in Section 119.6 of the Insurance Code.

(2) A group or prepaid legal plan, whether operated by a union, trust, mutual benefit or aid association, public or private corporation, or other entity or person, which meets both of the following conditions:

(A) It recommends, furnishes, or pays for legal services to its members or beneficiaries.

(B) It provides telephone advice or personal consultation.

(3) A program having as its purpose the referral of clients to attorneys for representation on a pro bono basis.

(d) The following are in the public interest and do not constitute an unlawful restraint of trade or commerce:

(1) An agreement between a referral service and a participating attorney to eliminate or restrict the attorney's fee for an initial office consultation for each potential client or to provide free or reduced fee services.

(2) Requirements by a referral service that attorneys meet reasonable participation requirements, including experience, education, and training requirements.

(3) Provisions of the minimum standards as approved by the Supreme Court.

(4) Requirements that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provided that the application and renewal fees do not exceed ten thousand dollars (\$10,000) or 1 percent of the gross annual revenues, whichever is less.

(5) Requirements that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.

(e) A violation or threatened violation of this section may be enjoined by any person.

(f) With the approval of the Supreme Court, the State Bar shall formulate and enforce rules and regulations for carrying out this section, including rules and regulations which do the following:

(1) Establish minimum standards for lawyer referral services. The minimum standards shall include provisions ensuring that panel membership shall be open to all attorneys practicing in the geographical area served who are qualified by virtue of suitable experience, and limiting attorney registration and membership fees to reasonable sums which do not discourage widespread attorney membership.

(2) Require that an entity seeking to qualify as a lawyer referral service register with the State Bar and obtain from the State Bar a certificate of compliance with the minimum standards for lawyer referral services.

(3) Require that the certificate may be obtained, maintained, suspended, or revoked pursuant to procedures set forth in the rules and regulations.

(4) Require the lawyer referral service to pay an application and renewal fee for the certificate in such reasonable amounts as may be determined by the State Bar. The State Bar shall adopt rules authorizing the waiver or reduction of the fees upon a demonstration of financial necessity. The State Bar may require that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provided that the application and renewal fees do not exceed ten thousand dollars (\$10,000) or 1 percent of the gross annual revenues, whichever is less.

(5) Require that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.

(6) Require each lawyer who is a member of a certified lawyer referral service to comply with all applicable professional standards, rules, and regulations, and to possess a policy of errors and omissions insurance in an amount not less than one hundred thousand dollars (\$100,000) for each occurrence and three hundred thousand dollars (\$300,000) aggregate, per year. By rule, the State Bar may provide for alternative proof of financial responsibility to meet this requirement.

(g) Provide that cause for denial of certification or recertification or revocation of certification of a

lawyer referral service shall include, but not be limited to:

- (1) Noncompliance with the statutes or minimum standards governing lawyer referral services as adopted and from time to time amended.
- (2) Sharing common or cross ownership, interests, or operations with any entity which engages in referrals to licensed or unlicensed health care providers.
- (3) Direct or indirect consideration regarding referrals between an owner, operator, or member of a lawyer referral service and any licensed or unlicensed health care provider.
- (4) Advertising on behalf of attorneys in violation of the Rules of Professional Conduct or the Business and Professions Code.

(h) This section shall not be construed to prohibit attorneys from jointly advertising their services.

- (1) Permissible joint advertising, among other things, identifies by name the advertising attorneys or law firms whom the consumer of legal services may select and initiate contact with.
- (2) Certifiable referral activity involves, among other things, some person or entity other than the consumer and advertising attorney or law firms which, in person, electronically, or otherwise, refers the consumer to an attorney or law firm not identified in the advertising.

(i) A lawyer referral service certified under this section and operating in full compliance with this section, and in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services, shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code.

(j) The payment by an attorney or law firm member of a certified referral service of the normal fees of that service shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code, provided that the attorney or law firm member is in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services.

(k) Certifications of lawyer referral services issued by the State Bar shall not be transferable. (Added by Stats. 1987, ch. 727; Amended by Stats. 1992, ch. 150; Stats 1994, ch. 711.)

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