



Rule 1. Purposes

The purposes of the lawyer Referral Service of the San Mateo County Bar Association are:

- 1.1 To provide a method by which any person may be referred to a lawyer who is able to render and is interested in rendering needed legal services for particular legal problems.
- 1.2 To provide information about lawyers and the availability of legal services, which will aid in the selection of a lawyer for assistance.
- 1.3 To inform the public when and where to seek legal services.
- 1.4 To promote high standards of practice and encourage the highest quality of legal service; and
- 1.5 To provide legal services at an affordable cost to the public.

Rule 2. Administration/Supervision Of The Service

- 2.1 The Lawyer Referral Service, hereinafter referred to as "The Service", or "LRS", shall be operated, pursuant to Business and Professions Code section 6155 and Article 1. Certification, Chapter 3. Lawyer Referral Service, Division 5. Providers of Programs and Services, Title 3. Programs and Services under the rules approved by, and as a public service of, the San Mateo County Bar Association, hereinafter referred to as "the SMCBA" or "The Bar Association".
- 2.2 The Service shall be comprised of:
 - 2.2.1 A staff which processes the requests for legal assistance from the public;
 - 2.2.2 A panel of lawyers who provide the legal assistance; and
 - 2.2.3 The Lawyer Referral Service Committee hereinafter referred to as "The Committee".
- 2.3 The Service shall be administered and supervised in its establishment and operation by The Committee as appointed annually by the President of The Bar Association.
 - 2.3.1 The number of committee members shall be not less than three (3) members having authority to make decisions necessary to operate The Service.
 - 2.3.2 At least fifty percent least fifty percent (50%) of The Committee shall not receive referrals from The Service.
 - 2.3.3 The SMCBA Associate Executive Director shall be the Administrator of The Service and an exofficio member of The Committee without vote.
 - 2.3.4 The Chairperson of The Committee shall be an active member of the State Bar of California, and The Committee may also select advisory members who shall serve without a vote.
- 2.4 The Committee shall meet at least quarterly, and shall, at least annually, review the operation records kept by The Service pursuant to Section 10 of the *Minimum Standards For A Lawyer*



Referral Service In California and Article 1. Certification and Article 2. Minimum Standards for Lawyer Referral Services, Chapter 3. Lawyer Referral Service, Division 5. Providers of Programs and Services, Title 3. Programs and Services.

- 2.5 The Committee shall also annually review the results of a random sampling sent to at least ten percent (10%) of the clients referred, as to the clients' satisfaction with the lawyer'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 Service, as it deems necessary.
- 2.6 The Committee shall have the responsibility of regularly reviewing these Rules and, with the approval of the Board of Directors of The Bar, making such changes and additions hereto as may be deemed appropriate from time to time to carry out the purposes of The Service.

Rule 3. Application Requirements

- 3.1 Each applicant must complete an application, on the form to be determined by The Committee, which shall include provisions for requiring each applicant to complete and return the forms and fees or assessments as required by The Committee and the Board of Directors of the Bar Association. The application shall include a waiver of any and all claims against The Bar Association, its members and employees, and The Committee, and its agents, for any liability or loss arising out of the operation of The Service or the referral of clients.
- 3.2 Each applicant shall remit the annual membership fee with the completed LRS application. Fees shall be as established annually by the Board of Directors of the SMCBA, with the recommendations of The Committee being considered in connection therewith.
- 3.3 An additional fee shall be charged to non-member attorneys wishing to participate in LRS and such fees may be applied to Bar Association membership. Non-member attorney fees shall be: \$300 for attorneys admitted to the State Bar of California 10 years or more; \$200 for attorneys admitted to the State Bar of California for less than 10 years.
- 3.4 The Committee may refuse any applicant membership on the LRS Panel upon failure to meet any one or more of the requirements set forth in these Rules.
- 3.5 The Committee shall act upon each application at the next quarterly meeting following the filing of the application, unless (1) further investigation is warranted pursuant to Rule 4.1 or (2) time is extended with the applicant's consent.
- 3.6 Rejected applicants must be advised in writing of the grounds for rejection to panel membership. Rejected applicants shall have the right to appeal such decision to the Board of Directors of The Bar Association by giving written notice to such Board within twenty (20) days of receipt of the written notice of rejection. The appeal procedure shall be the same as provided for suspended members as set forth in Rule 5 of these Rules.
- 3.7 An applicant may apply to serve on any or all of the General Practice Panels described in



Rule 6, but may apply to serve on not more than five (5) of the Subject Practice Specialty Panels at the same time.

Rule 4. Membership, Eligibility And Renewal Membership

- 4.1 Membership on any LRS Panel shall be by written application only, which application shall be submitted on the form provided by The Committee. The Committee shall review all applications for admission before any member is admitted to any panels.
- 4.2 In addition to the requirements of Rule 3 of these Rules, each panel member applicant: must
 - 4.2.1 Certify active membership in good standing of the State Bar of California;
 - 4.2.2 Maintain a law office within the geographical service area (defined as all of the County of San Mateo and the Palo Alto/Mountain View Judicial District of the County of Santa Clara);
 - 4.2.3 Certify that at least 25% of professional time and practice is devoted to and in the geographical service area;
 - 4.2.4 Provide proof of Errors and Omissions Insurance is maintained in an amount set annually by The Committee and approved by the Board of Directors of the Bar Association, the amount of which shall be shown on the LRS panel registration form, or show financial responsibility in the form of liquid assets equal to the minimum amount of such insurance, and agreement to indemnify and hold harmless the Bar Association, its members and employees, The Committee, and its agents, from any and all claims, demands, actions, liability or loss, which may arise from or be incurred as a result of, any and all referrals of clients to any LRS panel attorney through The Service;
 - 4.2.5 Not have been previously removed from an LRS Panel within the immediately preceding three (3) years for any reasons set forth in Rule 5 of these Rules;
 - 4.2.6 Certify a special interest in each panel applied for;
 - 4.2.7 Certify familiarity with, and agree to abide by, these Rules For The Lawyer Referral Service;
 - 4.2.8 Agree to submit any fee dispute with a referred client to binding arbitration under the rules of Bar Association;
 - 4.2.9 Waive and release all claims against The Bar Association for any liability or loss arising out of the activities of The Service, or referral of clients there from.
 - 4.2.10 Notify The Service of the dates of scheduled time away from the office (i.e., trial dates, vacation, etc.) so that The Service does not make referrals to the Panel member during those timeframes.
- 4.3 Any panel member who has not resigned or been removed from panel membership, and who is not under suspension from panel membership under the provisions of Rule 5, may renew LRS



panel membership for the succeeding calendar year by remitting the annual LRS panel fee, together with any other required sums and forms, on the form and in such manner as the Committee shall provide to the effect that the information provided on the panel member's original application form remains the same except as expressly noted in the statement. The said remittance and statement shall be forwarded to the SMCBA Associate Executive Director.

- 4.4 The Committee may, in its discretion, conduct further investigation, remove or suspend from any panels, and/or deny admission to any panels as to:
- 4.4.1 Any applicant or member who has been disciplined by the State Bar of California or any other state bar, within the past ten years, and is to consider the reason for such discipline as well as any rehabilitation shown;
 - 4.4.2 Any applicant or member who has been a party to no fewer than three (3) fee disputes before the fee arbitration program of the San Mateo County Bar Association or the State Bar of California within the past ten years;
 - 4.4.3 Any applicant or member who has, in a criminal proceeding, been found to have rendered ineffective assistance of counsel within the meaning of *Strickland v. Washington*, 466 U.S. 668 (1984) such that a conviction was set aside or a civil judgment rendered;
 - 4.4.4 Anything which could cause the Committee to question whether that Applicant can or would provide ethical, professional and competent services to those clients referred to that attorney by the Lawyer Referral Service.

Rule 5. Resignation, Suspension And Removal From Panel

- 5.1 Any panel member may resign at any time.
- 5.2 No referral will be made to a panel attorney if the panel attorney fails to:
 - 5.2.1 Pay annual membership fee within thirty (30) days from the date of billing, or July 1, whichever is later;
 - 5.2.2 Remit within fifteen days of receipt from such fees from the client, fifteen percent (15%) of all fees collected, except if total fees are \$100.00 or less no percentage is due The Service.
 - 5.2.3 Provide proof of Errors and Omission Insurance, as provided in paragraph 4.2.4 of these Rules.
- 5.3 The Committee may issue a letter of reprimand to, or remove, or suspend any panel member for a period not to exceed three (3) years if a majority of the Committee finds that there has been:
 - 5.3.1 A failure to comply with any of the Rules for The Lawyer Referral Service;
 - 5.3.2 Falsification of any material statement made in any required report; or
 - 5.3.3 Other good cause.



- 5.4 Before voting for the suspension or removal of a panel member, The Committee shall:
- 5.4.1 Advise the panel member in writing of the apparent violations or probable grounds for removal or suspension; and,
 - 5.4.2 Afford the panel member a reasonable opportunity to be heard by written response, or by oral presentation to The Committee, or both, at the option of the panel member.
- 5.5 If a majority of the full Committee votes for suspension or removal, the member shall be removed or suspended and the panel member shall be advised in writing of the grounds for such action by Certified Mail at the address on their application for LRS membership.
- 5.6 Any panel member who has been suspended or removed pursuant to this Rule 5 shall have the right to appeal such finding and decision to the Board of Directors of the Bar Association by giving written notice to said Board within twenty (20) days of being notified of suspension or removal from the panel. Upon receipt of such notice, the President of The Bar Association shall promptly select five (5) members of the Board of Directors to serve as an Appeals Board.
- 5.6.1 The Appeals Board shall consist of five (5) members of the Board of Directors of The Bar Association who have been actively engaged in the practice of law for the immediately preceding five (5) years or more.
 - 5.6.2 The Appeals Board shall have the same authority and discretion as The Committee and shall be bound by these Rules For The Lawyer Referral Service.
 - 5.6.3 The vote of at least three (3) members of the Appeals Board shall be required to overrule the finding of The Committee, and the appeal procedure shall be completed within forty-five (45) days of the written notice of appeal unless time is extended with the applicant panelist's consent. The decision of the Appeals Board shall be final and conclusive of the matter.
 - 5.6.4 All communications, deliberations, results and records of The Committee and the Appeals Board shall be confidential, excepting such reporting as required by the State Bar.

Rule 6. Panel Lists

- 6.1 The lists of panel members shall be recorded and maintained in the office of The Lawyer Referral Service
- 6.2 A separate list shall be maintained for each Practice Panel. Each list shall contain an entry for each attorney who is a member of the panel, showing the name, office address, telephone number, and qualifications of the panel member, together with the number and types of matters referred to the member.
- 6.3 Client referrals will be made on a rotational basis to the attorneys on the lists. New attorneys will be placed at the beginning of the list.
- 6.4 A separate list shall be maintained for each client referral showing the client's name and address, type of matter presented, the name of the panel member to whom the referral was made, and the date of referral.



- 6.5 The Committee shall establish General Practice and Subject Practice Specialty Panels as the Committee deems appropriate.
- 6.6 The Subject Practice Specialty Panels may be divided into as many sub-panels as The Committee determines to be appropriate.
- 6.7 There shall be one (1) General Practice Panels which may be divided into as many sub-panels as The Committee determines to be appropriate.
- 6.8 The qualifications for each Subject Practice Panels shall be established by The Committee in conformity with Article 1. Certification and Article 2. Minimum Standards for Lawyer Referral Services, Chapter 3. Lawyer Referral Service, Division 5. Providers of Programs and Services, Title 3. Programs and Services. promulgated by the California State Bar Association. Such qualifications, shall be set forth on the application requesting placement on a Subject Practice Specialty Panels, and shall be completed and certified to be true by the attorney requesting placement on such panel.
- 6.9 A majority vote of the Committee shall be necessary to adopt panel requirements.
- 6.10 The requirements for each Practice Specialty Panels shall be reviewed periodically by the Committee but in no event less than once every five (5) years.

Rule 7. Referral Procedures

- 7.1 The Service may not be located in the office of any practicing attorney, nor may any LRS staff person making referrals, be an employee of any attorney to whom referrals are made.
- 7.2 Any person may contact The Service and request a referral to an attorney. No referral shall discriminate on the basis of race, sex, age, religion, national origin, sexual preference, or any handicap.
- 7.3 The LRS interviewer shall question the prospective client in order to determine the type and degree of difficulty of the legal problem presented, as well as the geographical convenience, and language needs of the client. If the interviewer cannot make the determination, the question shall be referred to the Administrator of The Service, who, if necessary, shall consult the Chairman of The Committee or a Committee member or members.
- 7.4 The Service will attempt to refer all matters to attorneys on a rotation basis, subject to geographical placement at the convenience of the client and the ability of the attorney to arrange an appointment in accordance with the convenience and need of the client. Each panel shall rotate independently. When a referral to an attorney on a panel is made, the name of that attorney shall be placed at the bottom of that panel's rotation list, provided that the attorney has promptly forwarded all consultation fees and promptly returned or responded to the case disposition reports. In the event attorney has not, the name shall be removed from rotation, pending response or suspension. If for any reason the first panel member is not available, the LRS interviewer shall assign the client to the appropriate panel member whose last referral from the panel was next farthest, followed until a referral is made.
- 7.5 The LRS interviewer shall collect from the client, in advance of making a referral, the initial



consultation fee and then promptly inform the client of the name, address and telephone number of the panel member with the client should call to schedule an appointment.

- 7.6 The LRS interview then shall promptly notify the panel member that a referral has been made.
- 7.7 If a panel member refuses for any reason, other than a conflict of interest, vacation schedules, illness, or trial court activity, to take a referral for an initial consultation with a client, the refusal shall be recorded and treated as a referral for purposes of determining the order of future referrals.
- 7.8 The Service may insist that the panel member arrange to meet with the referred client not later than the end of the fifth (5th) business day following the date the referral is made.

Rule 8. Handling Of Referrals

- 8.1 All prospective clients shall be referred to individual panel attorneys, rather than the attorney's office. Each attorney to whom a client is referred is individually responsible for serving such client. In the event of a scheduling conflict or any other situation causing an inability to meet with the client or the subject matter of the consult is not within the attorney's qualifications, the attorney shall notify The Service and refer the client back to The Service for a new referral.
- 8.2 Each attorney to whom a client is referred is expected to accept that client and handle the case in the same manner as the case of any other client would be handled which the attorney would accept in usual practice.
- 8.3 No panel member shall be obligated to render service beyond the initial one-half (1/2) hour consultation in the event the attorney is unable to reach a reasonably satisfactory fee arrangement with the client for further services within the spirit of these Rules, or in the event any other valid reason appears why further services should not be rendered to the client by the attorney.
- 8.4 It shall be the obligation of each attorney to whom a client is referred to determine at the outset whether a conflict of interest exists, and, if so, immediately report such determination back to the referring agent of The Service and thereupon facilitate the reference of the client to the next available panel member.

Rule 9. Fees

- 9.1 Each panel member to whom a client is referred by The Service shall consult with such client at a mutually agreeable time within five (5) business days of the referral, in the attorney's office or by telephone, for up to one-half (1/2) hour.
- 9.2 The Service shall collect said sum in cash in advance of the appointment.
- 9.3 If the attorney expects to seek compensation for a longer consultation or for services (such as preparing any legal document or representation in any case or venture), or if a longer consultation or further services are requested by the client, the attorney and the client shall



- agree in advance thereof upon a fee arrangement therefore.
- 9.4 In the event the client engages the attorney for additional services at a fee, if such engagement is made for any matter and at any time within one hundred eighty calendar days of the date of the initial meeting between the referred client and the attorney, the attorney shall further be required to immediately report that fact to The Service, and remit the additional sum of fifteen per cent (15%) of all fees collected, as they are collected, including the first \$100.00, except if total fees are \$100.00 or less, no percentage is due the service.
- 9.5 Records shall be maintained by The Service indicating the total fee charged by the panel member that is the basis of the referral fee.
- 9.6 Collection of referral fees by The Service, as to both initial consultations or further representation of the client by the attorney, shall be in accordance with these Rules and approved by the Board of Directors of The Bar Association.

Rule 10. Publicity And Public Affairs

- 10.1 The Committee, subject to the approval of the Board of Directors of The Bar, and consistent with the Rules Of Professional Conduct, shall at all times maintain an adequate publicity program to promote the purposes of The Service. The Committee may publicize that LRS will make referrals to attorneys “experienced” in particular substantive areas, but shall not use such terms as “specialist” or “special qualifications” that may be confused with specialty certification conferred by the California Board of Legal Specialization unless such panels contain only the names of certified specialists.
- 10.2 The Committee, subject to the approval of the Board of Directors of The Bar, may employ one or more public relations representatives to counsel and/or carry out its publicity and public relations program(s). The Committee Chairperson may appoint a Publicity Subcommittee to supervise and review such programs, and to cooperate and work with other Bar Association Committees having similar or related interests.
- 10.3 The Committee, subject to the approval of the Board of Directors of The Bar, may use any and all media available to publicize The Service. Particular emphasis shall be placed on media designed to reach those persons who probably do not have an attorney, and/or those persons who are likely to fail to recognize a problem as a legal one.
- 10.4 All advertising shall identify the San Mateo County Bar Association as the sponsor of The Service.
- 10.5 The Committee shall file a copy of all materials used for paid advertising for dissemination to the public with the State Bar as part of the annual State Bar report.

Rule 11 Forms And Records

- 11.1 The Service shall maintain records of its operation and shall adopt such forms as it deems necessary including:



- 11.1.1 Rules and Regulations of The Service;
 - 11.1.2 Attorney's Registration form;
 - 11.1.3 Client's Form;
 - 11.1.4 Attorney's Disposition Form;
 - 11.1.5 Attorney's Status and Final Report Forms;
 - 11.1.6 Such other forms as may from time to time be required by the State Bar of California or by The Committee for the conduct of its affairs.
- 11.2 The Committee shall periodically review such forms and records and make such changes, additions and deletions as appear appropriate.
- 11.3 All Committee records shall be available for inspection by Committee members, the officers of The Bar Association and the State Bar, at all reasonable times, but shall otherwise be treated as confidential.
- 11.4 Within ninety (90) days after the end of each fiscal year, The Committee shall prepare and submit to the President of The Bar Association an annual report of the activities of The Service.
- 11.5 The Committee shall annually file with the State Bar, on a form to be supplied by the State Bar, a report on the activities of The Service and of The Committee.

Rule 12. Modest Means Panel Referrals

- 12.1 A Modest Means Panel case is one in which the client is not qualified to receive representation by Legal Aid, either because of the client's economic status or the subject matter of the case, and is unable to employ private counsel with a usual and customary retainer.
- 12.2 There shall be three (3) Modest Means Panels:
- 12.2.1 Criminal Law;
 - 12.2.2 Family law;
 - 12.2.3 Wills for senior citizens at no fee; and
 - 12.2.4. The Committee may establish Modest Means, Pro Bono and Limited Scope Panels as the Committee deems appropriate.
- 12.3 At the time of enrollment for LRS, every attorney applicant shall indicate how many Modest Means cases the attorney will accept in any one year in each of the Modest Means Panels for which he registers. This number may range from one (1) up to as many as the attorney could receive on a rotational basis.
- 12.4 Any member of the LRS may choose to be on any or all of the Modest Means Panels for which he or she is a member. In the event an attorney wishes to apply for Modest Means Panel cases, but not for any other LRS panels, the application will be accepted without fee.
- 12.5 A list will be maintained for each of the Modest Means and Limited Scope Panels and all referrals will be made on a rotation basis within the panel.
- 12.6 An attorney accepting a Modest Means Panel referral shall set the fee for professional services in



accordance with this rule. Since it is contemplated that in all Modest Means Panel cases the client will be unable to pay either a retainer or a fee that would be customarily charged for the legal services rendered, the attorney should thoroughly investigate with the client any sources available for payment of fees and reach an agreement embodying a reasonable fee and method of payment satisfactory to both parties. The client shall be responsible for paying all costs unless the Court approves an Application for Waiver of Court Fees and Costs.

- 12.7 A written fee agreement is mandatory in all Modest Means Panel cases.
- 12.8 In the event an attorney determines that a case has been improperly referred as a Modest Means Panel case, he shall either refer the client back to The Service, or refer the client to Legal Aid, and in either case, shall advise LRS of the reason for such action.
- 12.9 In the event that it appears to the attorney that there has been a material change or circumstances in the client's financial condition for a Modest Panel referral, arrangements can be made to continue handling the case, charge for services, and collect fees, as if the case were not a Modest Means Panel case. (For example, the former welfare recipient who is now employed but at a marginal level has not undergone a material change of circumstances but the former welfare recipient who has inherited \$10,000 has undergone such a material change.) The new arrangement for charging and collecting fees shall be embodied in a written agreement between the attorney and the client.