

# **RULES OF OPERATION**

of the  
**LAWYER REFERRAL SERVICE**  
BAR ASSOCIATION of NORTHERN SAN DIEGO COUNTY  
(Revised 2/10/09)

## **ARTICLE ONE**

### **PURPOSE**

#### **SECTION 1.**

It is the purpose of the Lawyer Referral Service to render a public service by making legal advice available to members of the public unacquainted with the advantages of legal guidance in the complicated transactions of modern daily life.

## **ARTICLE TWO**

### **ORGANIZATION**

#### **SECTION 1.**

These Rules shall be called Rules of Operation of the Lawyer Referral Service of the Bar Association of Northern San Diego County.

#### **SECTION 2.**

As used herein the term Association means the Bar Association of Northern San Diego County; the term LRS Board means the board of directors of the Lawyer Referral Service of the Bar Association of Northern San Diego County, Inc.; the term Applicant means clients making application for legal services with the Lawyer Referral Service; the term Service means the Lawyer Referral Service of the Bar Association of Northern San Diego County.

#### **SECTION 3.**

The Service shall be operated, in accordance with these Rules and the Minimum Standards for a Lawyer Referral Service in California, which Minimum Standards and any amendments thereto as may be adopted from time to time by the Board of Governors of the State Bar of California,

are incorporated by reference herein as though fully set forth at length. Any conflict between the body of these Rules and the Minimum Standards as adopted by the State Bar, shall be resolved by reference to the Minimum Standards. The Service shall be administered by the Board of the Lawyer Referral Service of the Bar Association of Northern San Diego County, Inc.

#### **SECTION 4.**

The Service will be operated by the Executive Director who, together with other personnel, shall be selected and supervised by the LRS Board. The Executive Director shall make a monthly report to the LRS Board at any time the same is requested by the LRS Board. The Executive Director shall keep the records set forth in Section 10 of the Minimum Standards for a Lawyer Referral Service in California, and shall maintain a list of lawyers eligible to receive cases according to the type of case. Referrals generally shall be in rotation except that the Executive Director should keep in mind the distance involved from the home address of the Applicant to the office of the lawyer. Referrals shall be made on a geographical basis, and matters requiring fluency in a foreign language shall, to the extent possible, be referred to an attorney having fluency in that language. The Executive Director and the President of the LRS Board of the Service annually shall file with the State Bar, on a form to be supplied by it, a report on the activities of the Service and of the Board.

## **ARTICLE THREE**

### **ADMINISTRATION**

#### **SECTION 1.**

Any member in good standing of the State Bar of California engaged in active practice of the law with offices in North County Judicial District may apply for registration with the Service by signing and filing with the Executive Director a registration form to be provided by the Service, and by paying the application fee. The applicant shall not be

processed without the application fee. No more than one application fee per year shall be collected from any lawyer and the fee shall be retained whether or not a given application is approved. The panel fee shall be charged irrespective of when, in the course of the year, application is made, and shall serve as panel fee only to the end of the calendar year in which the application is made. The LRS Board shall determine the amount of such fee on an annual basis.

## **SECTION 2.**

Each member of the Service shall pay an annual registration fee due on, and each anniversary date after of their acceptance to each panel. Failure to timely pay the re-registration fee shall, at the option of the LRS Board, serve as a basis for de-registration with the Service. Re-registration may occur pursuant to standards established by the LRS Board.

## **SECTION 3.**

The LRS Board shall maintain such preference panels in the fields of law as it shall determine.

## **SECTION 4.**

The LRS Board shall review each application for a preference panel and shall evaluate, and at its option, investigate, the qualifications of the registrant for each preference panel requested in light of the current qualifications on file in the office of the Service. All applications for membership shall be in the form of a declaration under penalty of perjury with respect to the satisfaction of requirements for membership in the Service or panel thereof. If, in their opinion after evaluation or investigation, any registrant is not qualified to serve on such preference panel, the LRS Board shall reject his/her application for membership, shall so advise him/her in writing, shall specify the reasons for its decision and shall inform him/her that (s)he has ten (10) day within which to request a hearing before the LRS Board.

## **SECTION 5.**

For good cause, the LRS Board may review the qualifications of any member of any preference panel. If, in the LRS Board's opinion after such review, a member of any preference panel is not then qualified to serve on such preference panel, the LRS Board shall suspend or remove said member's name from such preference panel, shall so advise the member in writing, shall specify the reasons for

its decision and shall inform him/her that (s) he has ten (10) days within which to request a hearing before the LRS Board.

## **SECTION 6.**

Upon proof satisfactory to the majority of the LRS Board of a violation of any of these Articles or any rule of professional conduct of the State Bar of California, or of a failure to handle referred cases with reasonable professional competence and diligence, or a substantial over-charging of referred clients as determined by the State Bar of California; or by falsification of any material statement made to qualify for any panel or made in any required report, or a failure to do any of the following: (a) pay the annual fee, (b) forward all referral fees when due, (c) submit all required reports, (d) comply with all rules of the Service and/or maintain continuous eligibility, a panel member's name may be suspended or removed from the Service upon written notification to the panel member of the reasons for the LRS Board's action. Said written notification shall inform the panel member that (s)he has ten (10) days within which to request a hearing before the LRS Board.

## **SECTION 7.**

Request for Hearing

### **a) Notice of Decision:**

In all cases in which the LRS Board has given written notice of rejection, suspension, or removal to a registrant or panel member pursuant to Section 4, 5 or 6 of these Rules of Operation, the registrant or panel member shall have ten (10) days following the date of the receipt of such notice within which to request a hearing before the LRS Board. Said request shall be by notice to the Executive Director of the Lawyer Referral Service. In the event the registrant or panel member does not request a hearing within the time and in the manner hereinabove set forth, (s)he shall be deemed to have accepted the action involved and it shall thereupon become effective immediately.

### **b) Time and Place for Hearing:**

Upon Receipt of a request for hearing the Executive Director shall deliver such request to the LRS Board. The LRS Board shall within thirty (30) days after receipt of such request, schedule and arrange for a hearing. The LRS Board shall give notice to the registrant or panel member of the time, place and date of the hearing. The date of the commencement of the hearing shall not be less than forty-five (45) days, nor more than sixty (60) days from the date

of receipt of the request by the Executive Director for a hearing.

**c) Failure to Appear:**

Failure without good cause of the person requesting the hearing to appear and proceed at such a hearing, shall be deemed to constitute voluntary acceptance of the actions involved which shall become final and effective immediately.

**d) Postponements and Extensions:**

Postponements and extensions of time beyond the times expressly permitted in these Rules of Operation may be requested by anyone, but shall be permitted by the LRS Board or its chairman acting upon its behalf on showing of good cause.

**e) Decision of LRS Board:**

Within ten (10) days after final adjournment of the hearing, the LRS Board shall render a decision by majority vote. A copy of said decision shall be forwarded to the LRS Board. The decision shall contain a concise statement of the reasons justifying it. At the same time, a copy of the decision shall be delivered by registered or certified mail to the person who requested the hearing.

**f) The Appeal:**

The decision of the LRS Board shall be considered final.

## SECTION 8.

Hearing Procedure.

**a) Personal Presence Mandatory:**

Under no circumstances shall the hearing be conducted without the personal presence of the person requesting the hearing unless (s)he has waived such appearance or has failed without good cause to appear after appropriate notice.

**b) Representation:**

Neither the person requesting the hearing, the LRS Board, nor the LRS Board shall be represented in any phase of the hearing or appeals procedure by an attorney at law unless the LRS Board, in its discretion, permits representation by legal counsel.

**c) The Presiding Officer:**

The presiding officer at the hearing shall be the President of the LRS Board or any other board member so designated by him/her. The presiding officer shall act to insure that all participants in the hearing have a reasonable opportunity to be heard, to present all oral and documentary evidence, and that decorum is maintained. The presiding officer shall be entitled to determine the order or procedure during the hearing. The presiding officer shall have the authority and discretion, in accordance with these Rules of Operation, to make all rulings on questions which pertain to matters of law and to the admissibility of evidence.

**d) Prosecuting Officer:**

The President of the LRS Board shall appoint another member of the board to act as the prosecuting officer at the hearing. The prosecuting officer shall present the evidence and arguments against the registrant or panel member who requested the hearing. The prosecuting officer shall not participate in the deliberations or decision of the LRS Board.

**e) Record of Hearing:**

The LRS Board may maintain a record of the hearing by one of the following methods: A shorthand reporter present to make a record of the hearing, a recording, or minutes of the proceedings. The cost of such shorthand reporter shall be borne by the party requesting same. The LRS Board may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated by such body and entitled to notarize documents in the State of California.

**f) Rights of Both Sides:**

At a hearing, both the person requesting the hearing and the LRS Board shall have the following rights: To call and examine witnesses, to introduce exhibits, to cross-examine any witness on any matter relevant to the issues, to impeach any witness and to rebut any evidence. If the registrant or panel member does not testify in his/her own behalf, (s)he may be called and examined as if under cross-examination.

**g) Admissibility of Evidence:**

The hearing shall not be conducted according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted by

the presiding officer if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The person requesting the hearing and the LRS Board shall have the right to submit a memorandum of points and authorities.

**h) Official Notice:**

The presiding officer shall have the discretion to take official notice of any matters either technical or scientific, relating to the issues under consideration which could have been judicially noticed by the courts of this State. Participants in the hearing shall be informed of the matters to be officially noticed and they shall be noted in the record of the hearing. The person requesting the hearing shall have the opportunity to request that a matter be officially noticed or to refute the noticed matters by evidence or by written or oral presentation of authority. Reasonable or additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

**i) Basis of Decision:**

The decision of the LRS Board shall be based on the evidence produced at the hearing. This evidence may consist of the following:

1. Oral testimony of witnesses;
2. Briefs, or memorandum of points and authorities presented in connection with the hearing;
3. Any material contained in the Association's or Lawyer Referral Service's files regarding the person who requested the hearing;
4. Any and all applications, references, and accompanying documents;
5. All officially noticed matters; and
6. Any other admissible evidence.

**j) Burden of Proof:**

It shall be incumbent on the person who requested the hearing to initially come forward with evidence in support of his/her position. In all cases in which a hearing is conducted under these Rules of Operation, after all the evidence has been submitted, the LRS Board shall rule against the person who requested the hearing unless it finds that said person has proved, by clear and convincing proof, that the action of the LRS Board was arbitrary, unreasonable, or not sustained by the evidence.

**k) Adjournment and Conclusion:**

The presiding officer may adjourn the hearing and reconvene the same at the convenience of the participants without special notice. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The LRS Board shall thereupon, outside of the presence of any other person conduct its deliberations and render a decision as provided by Section 7, Sub-section (e) (Decision of the LRS Board) of these Rules of Operation.

**l) Right to One Hearing Only:**

Except as otherwise provided in these Rules of Operation, no registrant or panel member shall be entitled as a matter of right to more than one hearing before the LRS Board on any single matter which may be the subject of an appeal.

## SECTION 9.

Any panel member may withdraw from the Service upon giving five (5) days written notice to the LRS Board and completion of all payments and reports on all unreported referrals.

## SECTION 10

A master file of registration records of all members of the Service shall be maintained by the director of the Service. Reference of cases will be on a rotation basis, subject to the foreign language and geographic considerations set forth in Article Two, Section 4 above.

## SECTION 11.

All lawyers registered with the Service shall agree to render professional services for each layman referred by the Service upon the following fee basis:

a) All lawyers registered with the Service will charge each person referred by the Service nothing for the initial one-half hour consultation. All compensation for professional services rendered thereafter will be subject to agreement between the attorney and the referred person.

b) Disputes as to fees, at the request of the client, shall be submitted to the standing Committee on Arbitration of the Bar Association of Northern San Diego County. When an attorney first becomes aware of a fee dispute, (s) he shall provide the client with a written notice of his/her right to arbitrate, submitting a copy of this letter to the Bar Association of Northern San Diego County.

## SECTION 12.

Persons referred by the Service to panel members in the Service are to be given their first conference by the attorney to whom such person is referred or by a member of his/her firm providing the member of the firm is in compliance with LRS-CLE requirements. If, after the first conference, in the opinion of the panel member to whom the person is referred, said person is in need of further legal services which are outside the scope of the panel member, or the panel member or the referred person do not wish to work together, the panel member shall refer such person back to the office of the Service or obtain from the Service the name of another qualified panel member.

## SECTION 14.

Each panel member shall keep a record of the name of each client referred to him/her through the Service, the date of the reference, the general nature of the matter referred and the total fee received. Upon receipt of a fee or portion thereof, or upon disposition of the matter, the attorney shall report to the Service on the matter. Said report shall include pro rata payment of any fees collected. The total fee charged and received shall be reported by the panel member at any time such member is required to pay a forwarding fee to the Service. The Service may also from time to time request written reports on all matters being handled by said panel member.

## SECTION 15.

Each panel member shall be guided, governed and bound by the Rules of Professional Conduct as applied to members of the State Bar of California, and the initial contact with the panel member shall be made by or on behalf of the persons referred to said panel member.

## SECTION 16.

No lawyer shall be registered under the Service unless and until (s)he shall: warrant that (s)he is a member in good standing of the State Bar of California engaged in the active practice of law with offices in Northern San Diego County; active practice of law with offices in Northern San Diego County shall mean that said lawyer shall be present in the

office on a daily basis to participate in the day to day operation of the practice warrant that (s)he was not at any time prior to application neither under suspension from practice or disbarment by the State Bar of California, or serving a sentence or been on probation for a crime involving moral turpitude; acquire and maintain the minimum amount of errors and omissions insurance as set by the board, and waive liability and agree to indemnify and hold harmless the LRS of the Bar Association of Northern San Diego County, Inc., and its member (and board and its agents) from any and all claims, demands, actions, liability, or loss, which may arise from, or be incurred as a result of, the operation of the Service or referrals of clients to him/her through the Service, or the use of information contained in the registration form; agree that the information contained in the registration form may be furnished to applicants in the operation of the Service; agree that his/her name may be classified in the Service as the LRS Board shall direct; agree that his/her name may be withdrawn from any and all classifications, if any, of the Service at any time by the vote of the majority of the members of the LRS Board subject to review.

## SECTION 17.

Each panel member agrees to pay to the Service upon receipt thereof in addition to the registration fee, a forwarding fee of fifteen percent (15%) of all fees received by the panel member, from any referral made by the Service, except for a case referred under Workers Compensation or a Personal Injury case involving a Minor, which shall be twelve percent (12%). The forwarding fee so paid shall be deposited in the Lawyer Referral Service commercial bank account. The net income of the Service together with funds presently on hand in the commercial bank account of the Service, shall be used for the general operation of the Service, subject to the provisions of Section 11.2 of the Minimum Standards for a Lawyer Referral Service in California.

## ARTICLE FOUR

### AMENDMENT

## SECTION 1.

These Rules may be added to, amended, or repealed by a majority vote of the LRS Board.

**SUBJECT MATTER  
PANELS AND REQUIRED QUALIFICATIONS**

LAWYER REFERRAL SERVICE OF THE  
BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY  
(Revised - 2/10/09)

**GENERAL REQUIREMENTS**

In addition to meeting the specific requirements for each panel applied for, admission to the Service and continued renewal is contingent upon the following:

- 1) **STATE BAR MEMBERSHIP:**  
Panel member/applicant must have membership in good standing with the State Bar of California, and have never been under suspension from practice or disbarred by the State Bar of California, nor served a sentence or been on probation for a crime involving moral turpitude.
- 2) **NOTIFICATION OF DISCIPLINARY ACTION:**  
Panel member/applicant must notify the Service of any disciplinary proceedings commenced by the State Bar of California.
- 3) **PROFESSIONAL LIABILITY INSURANCE:**  
Panel member/applicant must maintain Errors and Omissions insurance in the sum of **\$100,000/\$300,000**, and provide as proof of coverage a copy of the face sheet of the insurance policy indicating the dates of coverage and the persons insured.
- 4) **ANNUAL MEMBERSHIP FEE:**  
Panel members who are BANSDC members shall pay a membership fee of **\$60.00** for each panel; non-BANSDC members shall pay **\$180.00** for each panel, renewable annually.
- 5) **15% REFERRAL FEE:**  
Panel members shall forward fifteen percent (**15%**) of the gross fee received from any referral, except Workers' Compensation and Personal Injury **Minor cases only**, which are twelve percent (**12%**), to the Lawyer Referral Service on a monthly basis with a completed monthly report which will be supplied by the Service.
- 6) **INITIAL CONSULTATION:**  
An initial one half-hour consultation shall be given to all clients referred by the Service, and no consultation fee shall be charged by the panel member for such one half-hour.
- 7) **PANEL QUALIFICATION MODIFICATIONS:**  
Membership is subject to subsequent panel qualification modifications which may be made by the Lawyer Referral Service Board.
- 8) **CONTINUING LEGAL EDUCATION:**  
For admission and subsequent annual renewal to any panel with a continuing legal education requirement, the panel member/applicant must submit proof of completion of the required hours of study during the twelve (12) months immediately preceding the admission or renewal for such panel. The requirement may be fulfilled through either formal seminars or self-study (audio/video) of any State Bar of California approved program **or** any program sponsored by a local (San Diego County) State Bar of California certified association. Credit will be given for actual hours of participation whether obtained through seminars or self-study.

**ADDITIONAL NOTES:**

1. Any member of the State Bar of California who has been certified as a specialist in a particular field shall automatically qualify for the comparable panel herein.
2. Cases listed in satisfaction of experience requirements outside the State of California will **NOT** be considered towards fulfillment of any specific panel experience requirements.
3. For cases listed in satisfaction of experience requirements outside the County of San Diego, applicant may be required to submit supplemental information as may be requested.
4. For cases listed in satisfaction of trial requirements, only those cases in which applicant was **sole** or **lead** counsel will be considered in fulfillment of the requirements unless otherwise stated for a specific panel.

**INSTRUCTIONS FOR COMPLETING APPLICATION FOR MEMBERSHIP**  
**IN THE LAWYER REFERRAL SERVICE OF THE**  
**BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY**

Please review all Rules of Operation, Minimum Standards of the State Bar, and Preference Panels and Required Qualifications before completing application. Please complete a separate application package for each attorney applying to the Service. **IN ORDER TO EXPEDITE YOUR APPLICATION, BE SURE TO BE THOROUGH AND INCLUDE ALL OF THE FOLLOWING IN WITH YOUR APPLICATION.**

**1. APPLICATION FOR MEMBERSHIP**

**2. QUALIFICATION STATEMENT** (Include a separate statement for each panel applied for. Be sure to include copies of requested documents where indicated in requirements.)

**3. DECLARATION AND AGREEMENT STATEMENT**

**4. DECLARATION OF COMPLETION OF CLE** (Include a separate declaration for each panel for which CLE requirements apply.)

**5. CHECK FOR \$10.00 FOR APPLICATION PROCESSING**  
(Made payable to the Lawyer Referral Service.)

**6. MAIL ALL OF THE ABOVE TO: LAWYER REFERRAL SERVICE,**  
**P.O. Box 2802, Vista, CA 92085.**

Upon notification of acceptance to panels, membership fees and proof of insurance (see General Requirements) will be due.

**NOTE:** It is a policy of the Lawyer Referral Service Board to make every effort to act on all applications no later than the second meeting after receipt of the application. (Meetings are held on the fourth Thursday of each month.) A fully completed application with all required information will help to accomplish this goal.

**APPLICATION FOR MEMBERSHIP**  
**LAWYER REFERRAL SERVICE OF THE**  
**BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY**  
(Revised 02/10/07)

NAME: \_\_\_\_\_ TEL: \_\_\_\_\_ FAX: \_\_\_\_\_

ADDRESS \_\_\_\_\_

STATE BAR # \_\_\_\_\_ ADMIT DATE \_\_\_\_\_

**PANEL(s) APPLIED FOR:**

I hereby apply for membership on the following Lawyer Referral Service Panels (check or circle as appropriate):

- Attorney for a Reduced Fee
- Family Law Panel (**requires separate additional application**)
- Bankruptcy & Insolvency (circle sub-panels): **a. personal b. business**
- Borderline Indigent Panel:
- Level M-1 (**Misdemeanor reduced FLAT FEE; requires separate additional application and must qualify for regular criminal panel**)
- Level M-2 (**Misdemeanor payment schedule; must qualify for regular criminal panel**)
- Level F (**Felony, payment schedule, must qualify for regular criminal panel**)
- Construction Industry Litigation
- Corporation/General Business
- Criminal (circle which classes): **I II III IV V VI**
- Family Law
- General Civil Litigation
- Labor Law
- Juvenile Dependency
- Personal Injury (circle sub-panels) **(a) Personal Injury (b) Medical Malpractice**
- Probate (circle sub-panels): **(a) Guardianship (b) Probate**
- Real Estate Litigation
- Real Estate Transactions
- Taxation
- Unclassified (**Specify areas of practice**)
- Wills, Trusts & Estate Planning       Workers Compensation

# QUALIFICATION STATEMENT

## LAWYER REFERRAL SERVICE of the BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY

NAME: \_\_\_\_\_

Panel Applied For: \_\_\_\_\_

(Prepare separate statement for each panel applied for and include **information as outlined** in the "Qualification Statement Information" section listed for each panel in requirements.)

## **DECLARATION AND AGREEMENT STATEMENT**

### **FOR THE LAWYER REFERRAL SERVICE OF THE BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY**

I, \_\_\_\_\_, DECLARE, UNDER PENALTY OF PERJURY,  
THAT THE FOLLOWING IS TRUE AND CORRECT:

I am an active member of the State Bar of California engaged in an active practice of law with offices in Northern San Diego County which shall mean that said lawyer shall be present in the office on a daily basis to participate in the day-to-day operation of the practice.

I agree to indemnify and hold harmless the Bar Association of Northern San Diego County and its officers, directors, members, and employees, and the Lawyer Referral Service board of directors from any and all claims, demands, actions, liability, or loss which may rise from, or be incurred as a result of, any and all referrals of clients to me of professional malpractice.

I agree to conduct the initial consultation with each client referred on any of the panels of which I am a member for up to one-half hour free of charge to such client.

I have read, and am familiar with, all of the Rules, agree to abide by all said Rules and such other and further rules as may be hereinafter adopted, and agree to abide by the qualifying procedures as set forth under the Rules. I have read the Required Qualifications for the member panels and hereby certify that I am qualified for the panels applied for.

I agree to waive any and all claims against the Bar Association of Northern San Diego County and its officers, directors, members, and employees, and the LRS Board, for any liability or loss arising out of the operation of the Service or the referral of clients hereunder.

I agree to submit any disputes with clients referred to me by the Service to the Bar Association of Northern San Diego County's Committee for binding arbitration if the client so elects.

I agree to promptly notify the Service in the event I become ineligible or disqualified to serve on any panels, or become unable to accept referrals from the Service.

I understand that I shall be permitted to withdraw my registration from any or all panels of the Service at any time upon five (5) days written notice to the Lawyer Referral Service board of directors.

I understand that if I withdraw from the panel or that if I am suspended for cause, I will not receive a refund of any portion of my registration fee.

**Declaration and Agreement Statement (continued)**

**Page Two of Two**

I have never been under suspension from practice or disbarred by the State Bar of California nor served a sentence or been on probation for a crime involving moral turpitude.

I agree that the information contained in this application form will be submitted to the LRS committee for review.

I agree to personally perform or directly supervise all legal services performed on behalf of all clients referred to me by the service. "Direct supervision" means that I agree to routinely, regularly, and personally review an associate attorney's work and routinely, regularly, and personally review the client's files. I personally assure that any attorney who handles a case referred to my office is in compliance with LRS-CLE requirements.

I agree, pursuant to the provisions of 11.1(b) of the Minimum Standards for a Lawyer Referral Service in California, that referred clients shall not be charged any higher fees or receive any decrease in the quality or quantity of legal services provided by me than he/she would have otherwise paid or received absent the involvement of the Service.

I agree to provide the Service, on a monthly basis, any information requested by the Service regarding the status of any matter referred to me by the Service, along with any referral fees owing the Service.

I agree that, in the event the Lawyer Referral Service institutes litigation to enforce any of my obligations as a panel member, I will pay all reasonable attorney fees and costs incurred in such litigation.

**Executed at \_\_\_\_\_, California, on the \_\_\_\_ day of \_\_\_\_\_, (Year)\_\_\_\_\_**

\_\_\_\_\_  
Signature of Applicant

# LAWYER REFERRAL SERVICE of the BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY

## Summary of Annual CLE Requirements for Admission to and Renewal of Panel Membership

**PLEASE NOTE:** This is **not** related to the **State Bar MCLE**. Our local CLE requirements are in place to ensure that panel members stay current with their particular area of law. Therefore, the hours submitted for credit **MUST** be in the area of law related to the panel for which the credit is being submitted.

As stated in the Preference Panels and Required Qualifications: "For admission to and subsequent annual renewal to any panel with a continuing legal education requirement, the panel member/applicant must submit proof of completion of the required hours of study **during the twelve (12) months immediately preceding the admission or annual renewal to such panel**. The requirement may be fulfilled through either formal seminars or self study (audio/visual) of any State Bar of California approved program **OR** any program sponsored by a local (San Diego County) State Bar of California certified association. **Credit will be given for actual hours of participation, whether obtained through seminars or self study.**"

## Panels Requiring CLE

### **BANKRUPTCY & INSOLVENCY**

Three (3) or more hours.

### **CRIMINAL LAW**

Class I - Six (6) hours.

Classes II & III - Twelve (12) hours.

Classes IV & V - Twelve (12) hours, including training for the defense of cases involving alleged sexual abuse and child abuse.

### **FAMILY LAW**

**Eight (8) hours broken down as follows:**

- Two (2) hours specializing in child support, spousal support and modification of support;
- Four (4) hours in the area of division of community property, deferred compensation, confirmation of separate property, taxation issues incident to dissolution;
- One (1) hour in the area of dissolution contempt and/or enforcement; and
- One (1) hour in the area of custody/visitation.

### **JUVENILE DEPENDENCY**

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

### **PERSONAL INJURY**

**Six (6) hours as follows:**

- Three (3) hours specializing in some aspect of personal injury practice such as accident reconstruction, insurance law, or medical/legal; and
- Three (3) hours in any litigation-related area such as discovery, law and motion, or trial practice.

### **PROBATE AND GUARDIANSHIP**

Four (4) hours relating to any of the areas covered by this Panel, as least one (1) hour of which must concern Conservatorship/Guardianship and/or the problems of aging and incapacity.

### **TAXATION**

Four (4) hours related to taxation law.

### **WILLS, TRUSTS & ESTATE PLANNING**

Four (4) hours relating to any of the areas covered by this Panel, at least one (1) of which must concern taxation of estates.

### **WORKERS' COMPENSATION**

Eight (8) hours each **twenty four (24) month** period (the general requirement of hours per year is waived to every two years, due to limited frequency and availability of Workers' Compensation seminars.)

### **ALL OTHER PANELS**

Four (4) or more hours per year of MCLE in the field of law covered by the Panel:

**Construction Industry Litigation  
Corporation/General Business  
Employment/Labor  
General Civil Litigation  
Real Estate Litigation  
Real Estate Transaction  
Unclassified (General Panel)**

**DECLARATION OF COMPLETION OF CLE**

**LAWYER REFERRAL SERVICE OF THE  
BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY**

I, \_\_\_\_\_ DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOLLOWING IS TRUE AND CORRECT:

Within the twelve (12) months immediately preceding the execution of this declaration, I have completed the following courses related to continuing legal education, in fulfillment of the requirements for admission or continued membership on the following panel: \_\_\_\_\_. (Include a separate declaration for each panel.) Complete the following information, or forward a copy of completion certificate if available.

**(Use additional sheets or attach your own list if necessary. Your signature is still required)**

NAME OF COURSE & SUBJECT MATTER:

NAME OF PROVIDER:

DATE COMPLETED:

HOURS OF CREDIT:

**Executed at** \_\_\_\_\_, California, on the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Declarant

# LAWYER REFERRAL SERVICE PANEL QUALIFICATIONS

BANKRUPTCY AND INSOLVENCY .....	1
CONSTRUCTION INDUSTRY LITIGATION .....	2
CORPORATION/GENERAL BUSINESS LAW .....	3
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## **LAWYER REFERRAL SERVICE PANEL QUALIFICATIONS**

### **BANKRUPTCY AND INSOLVENCY**

- 1.0 Definition:** Includes all matters related to debtor problems involving insolvency, unmanageable debts, wage levies, repossessions, and bankruptcy or wage earner petitions.
- 2.0 Qualifications:** Qualified attorneys will be placed in two separate sub-panels:
- A. Personal bankruptcies:** Have taken to completion at least four (4) Chapter 7 proceedings and at least four (4) Chapter 13 proceedings. (Simultaneous proceedings for husband and wife to be deemed as one (1) proceeding)
- B. Business bankruptcies:** Have taken to completion at least four (4) Chapter 7 proceedings and at least four (4) Chapter 11 proceedings. (Simultaneous proceedings for husband and wife to be deemed as one (1) proceeding)
- 3.0 Qualification Statement Information:** Prepare a written Qualification Statement listing:
- A.** The following information for each of the required cases:
- Case Title; Case Number; Filing Date; Discharge or Plan Confirmation Date; District Court Where Filed; Any special aspects of case.
- B.** Proof of completion of the Continuing Legal Education courses submitted in satisfaction of Section 3.0 setting forth:
- Date and time of program; provider of program; issues covered; and credit hours earned.
- 4.0 Continued Panel Certification:** (include proof of completion with application)
- Four (4) or more hours per year of Continuing Legal Education in the field of Bankruptcy Law

### **CONSTRUCTION INDUSTRY LITIGATION**

- 1.0 Definition:** Includes all matters related to enforcement of building contracts, mechanic's liens, stop notices, and government construction contracts.
- 2.0 Qualifications:** Have handled two or more lien foreclosure or stop notice foreclosure proceedings to conclusion, including the filing of pleadings.
- 3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required cases:
- Case Name; Case Number; Court; Date of filing; Date of conclusion
- 4.0 Continued Panel Certification:** (include proof of completion with application)
- Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel

### **CORPORATION/GENERAL BUSINESS LAW**

- 1.0 Definition:** Includes all matters related to the formation, financing and dissolution of business, charitable and fraternal entities and associations, including incorporations, partnership agreements and joint ventures. It also includes advice and preparation of documents on operations and relationships between entity and members.
- 2.0 Qualifications:** Have handled three (3) or more matters involving an incorporation, a partnership agreement, a

sale of business, a buy-and-sell agreement, or a business dissolution, and must in any event have handled at least one matter involving either the organization of or the dissolution of a corporation and at least one matter involving the organization of or the dissolution of a partnership. For public issues and franchising, must also have handled at least one such matter previously.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required items:

Incorporation: Name of Corporation; Date of Incorporation; Secretary of State Filing Number

Partnership Agreement: Nature of partnership; Date of execution of partnership agreement Enclose a copy of agreement, using appropriate discretion to maintain confidentiality of client.

Sale of Business: Nature of business; Date of sale

Buy-Sell Agreement: Name of Corporation or Business; Date of Incorporation; Secretary of State filing number. Enclose a copy of agreement, using appropriate discretion to maintain any necessary confidentiality of client.

Dissolution: Name of entity dissolved; Type of entity (corporation or partnership); Date of dissolution.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

**CRIMINAL - GENERAL**

**1.0 Definition:** Includes all matters related to violations of penal statutes and ordinances involving prosecution by the District Attorney's office, City Prosecutor or County Counsel, violations of the Vehicle Code involving the Department of Motor Vehicles, and violations of penal statutes involving prosecution by all agencies of the Federal Government.

**2.0 Qualifications:** The qualifications are in part those established by the Judiciary of San Diego County for appointment to the defense of indigent defendants in conflict cases. Criminal defense attorneys are divided into classes which correspond to the classes of offenses which they are qualified to defend.

**A. CLASS I**

1. Has handled to completion six (6) cases as solo, two (2) of which must have been through trial, one (1) of which must be a jury trial, or served one (1) year as a District Attorney or Public Defender;
2. Provides proof of completion of six (6) hours related Continuing Legal Education during the past 12 months; and
3. Includes two reference letters from attorneys and two reference letters from judges.

**B. CLASS II**

1. Has handled to completion twenty (20) cases, two (2) of which went to jury trial, or served one (1) year as District Attorney or Public Defender;
2. Provides proof of completion of twelve (12) hours related Continuing Legal Education during the past 12 months; and

3. Includes reference letters as required for Class I.

### **C. CLASS III**

1. Has handled to completion ten (10) misdemeanors and ten (10) felony matters, including three (3) misdemeanor jury trials, two (2) felony jury trials, and three (3) preliminary hearings;
2. Provides proof of completion of twelve (12) hours related Continuing Legal Education during the past 12 months; and
3. Includes reference letters as required for Class I.

### **D. CLASS IV**

1. Has handled to completion twenty (20) felony matters, five of which must be a jury trial to verdict;
2. Provides proof of completion of twelve (12) hours related Continuing Legal Education during the past 12 months, including training for the defense of cases involving alleged sexual abuse and child abuse; and
3. Includes reference letters as required for Class I.

### **E. CLASS V**

1. Has handled to completion eight (8) Class IV felonies, four of which must have been taken to a jury trial verdict;
2. Provides proof of completion of twelve (12) hours related Continuing Legal Education, including training for defense of cases involving alleged sexual abuse and child abuse; and
3. Includes letters of reference as required for Class I.

### **F. CLASS VI**

1. Includes proof that requirements for **Class V** are met;
2. Has been the principal attorney on one (1) first degree murder trial to verdict;
3. Proves completion of one (1) death penalty seminar; and
4. Has served as second chair counsel for a death penalty case at a time when applicant was able to meet qualifications for **Class IV** requirements.

## **CLASSIFICATION OF CRIMINAL OFFENSES**

Criminal offenses are divided into six (6) categories by the Department of Alternative Defense Counsel as shown below:

**A. CLASS I:** All misdemeanors except those listed as Class II offenses.

**B. CLASS II:**

1. All felonies charged as misdemeanors;
2. All offenses charged under the following Penal Code Sections: 148, 192, 242, 270, 272, 273, 452, 488, and 647(a);
3. Any offense which requires registration under Penal Code Section 290;
4. All welfare fraud charges;
5. All offenses charged under the following Vehicle Code Sections: 23152(a) or (b) with prior alleged, 23152(a) or (b) under influence of drugs, and 23104;

- C. **CLASS III:** All felony offenses alleging a crime against property or a drug offense.
- D. **CLASS IV:** All felony offenses alleging a crime against another person.
- E. **CLASS V:** All felony offenses alleging first or second degree murder or alleging an attempt to do either of them.
- F. **CLASS VI:** All death penalty cases.

3.0 **Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required cases:

Case name; Case number; Filing date; Court; Charges; Disposition

4.0 **Continued Panel Certification:** (include proof of completion with application)

Proof of completion of six (6) hours per year of related Continuing Legal Education as to Class I and twelve (12) hours per year of related Continuing Legal Education as to Classes II through VI.

### **CRIMINAL - BORDERLINE INDIGENT PANEL**

1.0 **Definition:** Includes all matters related to violations of penal statutes and ordinances involving prosecution by the District Attorney's office, City Prosecutor or County Counsel, violations of the Vehicle Code involving the Department of Motor Vehicles, and violations of penal statutes involving prosecution by all agencies of the Federal Government, where the accused has limited financial means by which to pay for legal services. Fees described do not include out-of-pocket costs, which are a separate item between attorney and client.

2.0 **Qualifications:** All applicants must first qualify for the Criminal Law Panel eligible to receive referrals for the class of case involved.

A. **LEVEL M-1:** Includes all matters described under the Criminal Panel, Class I and II, except misdemeanor manslaughter (Penal Code section 192,) for which the client has been referred by the Court and is deemed to be able to afford the following fee payment structure per open case:

1. **Before trial:**

- a. \$250.00 paid initially as a flat fee covering all hearings and pretrial motions, *e.g.* 1538.5, 1377, Motion to Strike Prior Conviction, etc., which specifically does not cover trial fees; plus
- b. \$125.00 each, paid initially, for previously adjudicated cases, *e.g.*, trailing probation violations.

2. **If the case goes to trial:**

- a. Initial additional payment of \$500.00 to be deposited with attorney for trial fees on or before the readiness conference, to be applied to a charge for trial of \$250.00 per half day (including any probation violation proceedings); with
- b. The balance over \$500.00 in trial fees, if any is incurred, payable at \$250.00 per month, starting with the first calendar month following the readiness conference

B. **LEVEL M-2:** Includes all misdemeanor matters described under the Criminal Panel, Classes I through

III, for which the client has been referred by the Court and is deemed to be able to afford the following fee payment structure per open case:

1. **Before trial:**

- a. Total fee determined by negotiation between attorney and client, anticipated to be attorney's normal fee, of which \$500.00 is paid initially, to be applied to all hearings and pretrial motions, *e.g.*, 1538.5, 1377, Motion to Strike Prior Conviction, etc., but which specifically does not cover trial fees;
- b. The balance over \$500.00 in fees, if any is incurred, payable at \$250.00 per month, starting with the first calendar month following the readiness conference

2. **If the case goes to trial:**

- a. Initial additional payment of \$750.00 to be deposited with attorney on or before the readiness conference; with
- b. The balance over \$1250.00 in fees, if any is incurred, payable at \$250.00 per month, starting with the first calendar month following the readiness conference.

C. **LEVEL F:** Includes all felony matters described under the Criminal Panel, Classes II through V, for which the client has been referred by the Court and deemed to be able to afford the following fee payment structure:

1. **Before trial:**

- a. Total fee determined by negotiation between attorney and client, anticipated to be attorney's normal fee, of which \$750.00 is paid initially, to be applied to all hearings and pretrial motions, *e.g.* 1538.5, 1377, Motion to Strike Prior Conviction, etc., but which specifically does not cover trial fees;
- b. The balance over \$750.00 in fees, if any is incurred, payable at \$250.00 per month, starting with the first calendar month following the readiness conference

2. **If the case goes to trial:**

- a. Initial additional payment of \$1000.00 to be deposited with attorney on or before the readiness conference; with
- b. The balance over \$1750.00 in fees, if any is incurred, payable at \$250.00 per month, starting with the first calendar month following the readiness conference.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required cases:

Case name; Case number; Filing date; Court; Charges; Disposition.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Proof of completion of six (6) hours per year of related Continuing Legal Education as to Class I and twelve (12) hours per year of related Continuing Legal Education as to Classes II through VI (same as CRIMINAL - GENERAL.)

**EMPLOYMENT DISCRIMINATION/WRONGFUL DISCHARGE [LABOR]**

**1.0 Definition:** Includes all matters related to Labor Law.

**2.0 Qualifications:** Has handled:

- A. Three (3) cases in Employment Discrimination and or/Wrongful Discharge through the discovery process within the last five years; and
- B. One civil jury trial or two arbitrations and/or court trials, within the last seven years

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required items in 2.0 A. and B.:

Case Name; Case Number; Court; Filing Date; Judgment Date, if any; Issues

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

**FAMILY LAW - GENERAL**

**1.0 Definition:** Includes all matters related to advice and handling of proceedings involving annulment, legal separation, dissolution of marriage, support enforcement, custody, change of name, adoptions and advice and preparation of marital related agreements (settlement, post nuptial, premarital, etc.) and other related family law actions under the California Family Code.

**2.0 Qualifications:** Has:

A. Handled

- 1. Twenty (20) or more contested Order to Show Cause proceedings involving one or more issues set forth in section 1.0; or
- 2. Ten (10) or more contested Order to Show Cause proceedings involving one or more issues set forth in section 1.0; and
  - a. Three (3) or more trials of 3 hours or more in length, with oral testimony, involving one or more issues set forth in section 1.0; or
  - b. Five (5) or more contested hearings of 1 hour or more in length, with oral testimony, involving one or more issues set forth in section 1.0; and

B. Completed five (5) or more negotiated written settlements involving one or more issues set forth in section 1.0; and

C. Completed during the immediate 12 months preceding the application, the following Continuing Legal Education courses:

- 1. Two (2) hours regarding child support, spousal support and modification of support; and
- 2. Four (4) hours regarding dissolution of marriage or legal separation issues involving division of community property, property characterization, deferred compensation, and taxation issues; and
- 3. One (1) hour regarding contempt and/or enforcement of orders involving one or more issues set forth in section 1.0; and
- 4. One (1) hour regarding child custody and visitation issues under the California Family Code.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information:

A. The following information for each item submitted in satisfaction of sections 2.0 A. and B. above:

Case Title; Case Number; Filing Date; Filing Date of Court Order or Judgment and issues covered thereby; Filing Date of Negotiated Written Settlements and issues covered thereby

B. Proof of completion of the Continuing Legal Education courses submitted in satisfaction of Section 2.0 setting forth:

Date and time of program; provider of program; issues covered; and credit hours earned.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Completed during the immediate 12 months preceding the application, the following Continuing Legal Education courses:

A. Two (2) hours regarding child support, spousal support and modification of support; and

B. Four (4) hours regarding dissolution of marriage or legal separation issues involving division of community property, property characterization, deferred compensation, and taxation issues; and

C. One (1) hour regarding contempt and/or enforcement of orders involving one or more issues set forth in section 1.0; and

D. One (1) hour regarding child custody and visitation issues under the California Family Code.

**FAMILY LAW - ATTORNEY FOR A REDUCED FEE**

**1.0 Definition:** Includes all matters listed under the regular Family Law Panel, but for clients who have met financial eligibility requirements. (Separate application required.)

**2.0 Qualifications:** Must meet all general requirements, and have completed during the immediate 12 months preceding the application, the following Continuing Legal Education courses:

A. Two (2) hours regarding child support, spousal support and modification of support; and

B. Four (4) hours regarding dissolution of marriage or legal separation issues involving division of community property, property characterization, deferred compensation, and taxation issues; and

C. One (1) hour regarding contempt and/or enforcement of orders involving one or more issues set forth in section 1.0; and

D. One (1) hour regarding child custody and visitation issues under the California Family Code.

**3.0 Qualification Statement Information:** Provide proof of completion of the Continuing Legal Education courses submitted in satisfaction of Section 2.0 setting forth:

Date and time of program; provider of program; issues covered; and credit hours earned.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Completed during the immediate 12 months preceding the application, the following Continuing Legal Education courses:

A. Two (2) hours regarding child support, spousal support and modification of support; and

- B. Four (4) hours regarding dissolution of marriage or legal separation issues involving division of community property, property characterization, deferred compensation, and taxation issues; and
- C. One (1) hour regarding contempt and/or enforcement of orders involving one or more issues set forth in section 1.0; and
- D. One (1) hour regarding child custody and visitation issues under the California Family Code.

### **GENERAL CIVIL LITIGATION**

**1.0 Definition:** Includes all matters not covered by any other litigation panel, including such things as creditor's and debtor's non-bankruptcy remedies (including collections), commercial code questions, consumer fraud, civil harassment, and name changes.

**2.0 Qualifications:** Has:

- A. Handled two (2) or more litigation matters to judgment, at least one of which includes active participation in trial; and
- B. Handled two (2) law and motion matters, at least one of which includes a provisional remedy.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required items in 2.0 A. and B.:

Case name; Case number; Court; Filing date; Judgment date, if any; Issues.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

### **JUVENILE DEPENDENCY**

**1.0 Definition:** Includes all matters related to advice and handling of juvenile dependency court proceedings involving jurisdiction, detention, review, dependency status, permanency planning, adjudication, disposition and termination, and related juvenile dependency matters.

**2.0 Qualifications:**

- A. Has actively practiced a minimum of three (3) years and
  - 1. Has handled ten (10) or more cases under the Child Welfare Services Act in juvenile dependency court, including a minimum of five contested hearings, specifically: jurisdictional; dispositional; review; and/or selection and implementation; or
  - 2. Has been certified by the San Diego County Juvenile Court to appear before it for a period of at least one year, such certification having been in effect within the past five years; and
- B. Has completed a minimum of twelve (12) hours of Continuing Legal Education within the previous twelve months, of which six (6) include any of the following dependency areas:

1. Mental/emotional diagnosis or impairments;
2. Chemistry of addiction;
3. Indian Child Welfare Act;
4. Culture and Ethnicity; and/or
5. Child development, particularly as it relates to issues of attachment.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement including the following information:

- A. List of dependency court bench officers in front of whom applicant has practiced;
- B. Description of three juvenile dependency cases handled (with any confidential information redacted), including: Case Number; Brief Description of Case; Disposition of Case; Name of Judge/Bench Officer; Year Case handled; and
- C. Letters of recommendation from three (3) bench officers in front of whom applicant has handled cases, at least one of whom is a juvenile dependency bench officer.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

### **PERSONAL INJURY/MEDICAL MALPRACTICE**

**1.0 Definition:** Includes all matters related to personal injury.

**2.0 Qualifications:**

**A. Personal Injury Sub-Panel:** Has:

1. Taken three (3) personal injury jury trials to judgment; or one (1) personal injury trial to judgment and at least three (3) other jury trials to judgment, at least one of which involved an expert witness;
2. Alternate Dispute Resolution:
  - a. Arbitrated a minimum of six (3) cases involving live testimony;
  - b. Mediated a minimum of (4) cases;
3. Settled, after filing of a complaint, at least six (6) personal injury matters; and
4. Completed the following Continuing Legal Education courses:
  - a. Three (3) hours specializing in some aspect of personal injury practice, such as accident reconstruction, insurance law, or medical/legal; and
  - b. Three (3) hours in any litigation related area such as discovery, law and motion or trial practice

**B. Medical Malpractice Sub-Panel:** Has:

1. Met the requirements for the Personal Injury Sub-Panel, except that one (1) of the required jury trials shall have been a Medical Malpractice jury trial to judgment; or

2. Met the requirements for the Personal Injury Sub-Panel, and **additionally** have completed four (4) Medical Malpractice arbitrations or court trials to decision or judgment; or
3. Met the requirements for the Personal Injury Sub-Panel, and if 1 or 2 above are not met, explain why you believe you qualify by reason of substantial and equivalent experience.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required items in 2.0 A. and/or B.:

Case Name; Case Number; Court; Filing Date; Identity of Expert Witness, if any; Trial or Arbitration Dated, if applicable; Judgment or Settlement Date, if applicable; Issues

**4.0 Continued Panel Certification:** (include proof of completion with application)

Six (6) or more hours per year of Continuing Legal Education in the field of law covered by the panel, including:

A. Three (3) hours specializing in some aspect of personal injury practice, such as accident reconstruction, insurance law, or medical/legal; and

B. Three (3) hours in any litigation related area such as discovery, law and motion or trial practice.

### **PROBATE AND GUARDIANSHIP**

**1.0 Definition:** Includes all matters related to decedent's estate administration, joint tenancy terminations, estate tax, guardianships, conservatorships and other probate code proceedings.

**2.0 Qualifications:**

**A. Conservatorship Sub-Panel:** Has acted as or represented a guardian or conservator in at least two (2) private guardianship or conservatorship administrations through the completion of the first accounting.

**B. Probate Sub-Panel:** Has:

1. Handled at least two (2) proceedings involving a probate of a will or an intestate's estate administration through final distribution;
2. Prepared and processed at least one accounting in connection with a probate of a will or an intestate's estate administration; and
3. Handled at least two (2) of the following matters: (two different matters are required).
  - a. The contest of a will
  - b. Petition to Determine Heirship
  - c. Petition for Instructions
  - d. A Trust Termination
  - e. Preparation and Filing of IRS Form 706
  - f. Preparation and Filing of a 13650 Petition
  - g. Petition for widow's allowance
  - h. Petition for return of sale of real property

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information:

**A. (Conservatorship/Guardianship)** As to items required in 2.0 A. above:

Case Name; Case Number; Court; Filing Date; First Accounting Date; Whether Conservatorship or Guardianship;

**B. (Probate)** As to items required in 2.0 B. above:

1. Case name; Case number; Court; Filing Date; Distribution Date; Whether Will or Intestate; and
2. Case name; Case number; Court; Final Accounting Date; Whether Will or Intestate; and
3. Pertinent information relating to the handling of two (2) of the matters listed in 2.0 B. 3. above (a-h) in the requirements (i.e., Case Name, Case Numbers, Filing Dates, which requirement each fulfills, etc.).

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel, at least one (1) hour of which must concern Conservatorship-Guardianship and/or the problems of aging and incapacity

### **REAL ESTATE LITIGATION**

**1.0 Definition:** Includes all matters related to advice regarding preparation of, and litigation arising from real estate documentation, including but not limited to, sales agreements, escrow and financing documents, leases, options, as well as litigation regarding real estate problems, such as boundary disputes, foreclosures and lien priorities.

**2.0 Qualifications:** Have handled one or more matters in each of the following four categories, including the handling of litigation in at least two of such matters to judgment and the handling of two (2) law and motion matters, at least one of which includes a provisional remedy.

- A. Negotiation of, or litigation (other than unlawful detainer) concerning, a lease of real property;
- B. Negotiation for and consummation of, or litigation concerning, a sale of real property;
- C. Preparation or review of a note and deed of trust;
- D. Handling to completion one other type of real property transaction.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the items required by 2.0 above:

Case Name; Party Represented; Date; If litigated: Case Number; Court; Filing Date; Judgment Date; and, as to Law and Motion Matters, Ruling.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

### **REAL ESTATE TRANSACTIONS**

**1.0 Definition:** Includes all matters related to advice and preparation of sales agreements and other sales, escrow and financing documents, and advice and preparation of leases, options, and related real estate transactions, including boundary disputes.

**2.0 Qualifications:** Has:

- A. Prepared escrow instructions or supervised the opening, administration and closing of an escrow; and
- B. Handled one or more matters in each of the following four categories:
  1. Negotiation of, or litigation (other than unlawful detainer) concerning, a lease of real property;

2. Negotiation for and consummation of, or litigation concerning, a sale of real property;
3. Preparation or review of a note and deed of trust;
4. Handling to completion one other type of real property transaction.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information for each of the required cases:

- A. Escrow: Date and Nature of Escrow. (Enclose a copy of related escrow documents, using discretion to protect confidentiality of client.)
- B. (1. - 4.) Nature of Transaction; Party Represented; Date; **If Litigated\***: Case Name; Case Number; Court; Filing Date; Judgment Date, if any

**\*For above matters NOT litigated, in place of case information, enclose a copy of the applicable document(s), using discretion to protect the confidentiality of client.**

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

## TAXATION

**1.0 Definition:** Includes all matters related to preparation of federal and state tax returns, estimated tax returns, applications for tax refunds, advice on income tax reporting and payment, income tax planning, sales and use tax deposits, business tax planning and other related taxes.

**2.0 Qualifications:**

- A. Either:
  1. Has rendered a written opinion on a significant tax question in at least three (3) tax cases; or
  2. Holds an L.L.M. in taxation; or
  3. Holds a Certified Public Accountant's certificate; or
  4. Has obtained at least two (2) rulings from the national office of the Internal Revenue Service; or
  5. Has completed two (2) tax proceedings before the Appellate Division of the Internal Revenue Service; and
- B. Has prepared and filed at least three (3) federal and state income tax returns for clients.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information:

- A. Either:
  1. Include proof of L.L.M. in taxation; or
  2. Include proof of Certified Public Accountant's certificate; or
  3. As to the three (3) written opinions in tax cases:

Date of Opinion; Issues; (Enclose copy of opinion, using discretion to protect confidentiality of client); or

4. As to the two (2) Internal Revenue Service rulings:

Date of ruling; Issues; or

5. As to the two (2) Internal Revenue Service Appeals:

Case number; Date of Appeal; Issues; and

- B. Three (3) Federal and State income tax returns:

Taxpayer Name; Date Filed (Enclose copy of opinion, using discretion to protect confidentiality of client)

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

**UNCLASSIFIED**

**1.0 Definition:** Includes all matters related to problems involving areas of practice not expressly covered by any other panel, and which cannot be referred to a panel member qualified by interest and background to give initial consultation in such matters, and which cannot be more effectively handled by any other existing agency.

**2.0 Qualifications:** Must have a genuine interest and experience in handling legal matters not included in other panels, but in any event, must comply with all general requirements and rules of operation.

**3.0 Qualification Statement Information:** Submit proof of compliance with all general requirements.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in a field of law reasonably related to that as to which the Panel Member seeks referrals.

**WILLS, TRUSTS AND ESTATE PLANNING**

**1.0 Definition:** Includes all matters related to wills, inter vivos gifts, trusts, powers of attorney, living wills, estate tax, and other death tax planning.

**2.0 Qualifications:** Have prepared and supervised execution of:

A. Wills: At least four (4) wills (reciprocal wills for husband and wife to be counted as one will; pour-over wills do not count); and

B. Inter vivos Trusts:

1. Three probate-avoidance or "one-pot" trusts; and

2. Three of any of the following: A-B trust, A-B-C trust, disclaimer trust, or irrevocable trust; and

C. Powers of Attorney:

1. Two durable powers of attorney for health care, and advanced directives.

2. Two general durable powers of attorney

D. Two Community Property or Aggregate Property Agreements

**3.0 Qualification Statement Information:** In the case of each document cited in 2.0 A. through D., inclusive above, state the date of execution and describe the matter, in terms of complexity, for which the document was prepared. Submit copies of the following: One will and one each of the distinct types of trusts cited. Take care to mask names, etc., sufficiently well to protect the confidentiality of client.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel, at least one (1) hour of which must concern taxation of estates.

### **WORKERS' COMPENSATION**

**1.0 Definition:** Includes all matters related to prosecution of claimant's claims for industrial injuries from on-the-job accidents.

**2.0 Qualifications:** Has

- A.
  1. Handled at least five (5) industrial compensation cases involving different claimants, from application through findings and awards within the past-twenty four (24) months; and
  2. Handled at least two (2) matters on reconsideration before the Workers' Compensation Appeals Board; and
  3. Affirmed that he or she is knowledgeable in the areas of benefits and rights to which an injured worker may be entitled; or
- B. Has handled one hundred (100) industrial compensation cases through conclusion in the last five (5) years.

**3.0 Qualification Statement Information:** Prepare a Qualification Statement listing the following information:

- A. As to five (5) industrial compensation cases completed within the past twenty-four (24) months:  
Case Name; Case Number; Court; Completion Date; and
- B. As to two (2) matters on reconsideration:  
Case Name; Case Number; Court; Reconsideration Date.

**4.0 Continued Panel Certification:** (include proof of completion with application)

Four (4) or more hours per year of Continuing Legal Education in the field of law covered by the Panel.

**Rules and Regulations of the State Bar of California  
Pertaining to Lawyer Referral Services  
Including Minimum Standards for a Lawyer Referral Service**

**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.