



# MEMBERSHIP STANDARDS & RULES

## **I Preamble**

- 1.1 The Maine State Bar Association, hereinafter referred to as the "MSBA," recognizes that there exists a substantial segment of the public who has difficulty in obtaining legal services. To respond to the needs of those persons, the MSBA established a Lawyer Referral Service, hereinafter referred to as "LRS."
- 1.2 LRS is operated for the benefit of the public & legal community. It should be readily accessible, & its existence should be known to the public to the greatest extent possible. LRS will not discriminate based on any protected class or disability.
- 1.3 The prime objectives of the MSBA in establishing LRS is to assist the public by providing a way by which any person may obtain legal services at a reasonable fee, or referral information for appropriate legal services, social services, or both; & to assist member attorneys by promoting appropriate use of legal services by the public & providing opportunities for members to provide legal services to clients referred by LRS. Further objectives of LRS:
  - a) Acquaint people in need of legal service with the value of consultation with an attorney
  - b) Encourage lawyers to recognize their obligation to provide legal services to people in need of such services at a reasonable fee
  - c) Provide information about lawyers & the availability of legal services which will aid in the selection of a lawyer; &
  - d) Provide general legal information needed by the public.
- 1.4 LRS will be operated from the MSBA office utilizing full & part-time staff members of the MSBA as deemed appropriate. A staff member of the MSBA, appointed by the MSBA Executive Director, shall serve as Director of LRS.

## **II Committee Supervision & Reporting**

- 2.1 An LRS Committee hereinafter referred to as the "Committee", will be charged with the supervision of LRS as provided in this Statement of Standards & Rules. The Committee shall be subject at to the supervision of the MSBA Board of Governors.
- 2.2 The Committee will be composed of members of the MSBA, including a liaison from the Board of Governors, & at least 1 other attorney who is not a member of LRS. The Chairperson will be selected by the Committee. A Vice-Chairperson will be selected by the Chairperson. A member of the Committee may be removed by the President for failure to attend 3 consecutive meetings.
- 2.3 A quorum of 3 committee members will be required to transact any business of the committee.
- 2.4 The Committee will meet at regular intervals during the year to review overall policy matters & areas of LRS development.
- 2.5 The Committee will formulate & adopt all rules for the conduct & operation of LRS, subject to approval of the Board of Governors. The Committee shall maintain a record of Committee interpretations of these Rules.

## **III LRS Membership Requirements**

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

3.2 Upon filing an application, members agree to:

- a) Maintain good standing with the Board of Bar Overseers of the State of Maine ("the Board")
- b) Report immediately to the Director about any suspension or disbarment by the Board, & accept being Out of Rotation status until returned to good standing by the Board;
- c) Grant all clients referred by LRS a consultation without charge with the member attorney of up to 30 minutes after request is made by the client or LRS staff. Is it at the attorney & client's discretion to decide whether the consultation takes place by phone or in person;

**NOTE:** Clients are advised that the attorney they are referred to has **3 business days** to schedule an appointment with them once the client contacts LRS member. LRS procedure is that the client will be re-referred to another LRS member if the original attorney has not contacted the caller within the promised 3-day period. In this instance, the name of the original attorney is not returned to the top of the rotation list, but continues to reflect his/her original selection.

- d) Discuss additional legal service charges with the client. This fee will be established as clearly as possible during the initial consultation. The committee recommends a written fee agreement as part of a "best practices" approach to client/attorney agreements;
- e) Pay a referral fee to LRS when a client with a matter is referred to a member lawyer by LRS & the client retains that member lawyer for that matter, & pays legal fees over \$200 for that matter. The referral fee to be paid is computed based on 10% of the total fee for legal services received by the member lawyer for that matter, less the first \$200 of the fee earned by the member. Legal fees earned by the member lawyer do not include reimbursement for advanced client costs. For purposes of this paragraph, legal fees earned by the member lawyer include fees earned by associates, contract attorneys, partners, or others working for or with the member lawyer on the case. The member lawyer shall not add a surcharge to account for the referral fee;
- f) Pay the 10% LRS remittal to LRS as legal fees are received by the attorney. For fee advances that are deposited in the lawyer's trust account, remittals are forwarded to LRS as advances, or portions thereof, are applied toward attorney's fees earned. Members are specifically directed not to wait until the client account is paid in full, but to calculate & forward LRS percentage fee payments as they are collected (in brief, LRS is paid as you get paid for work done);
- g) Immediately notify LRS if Insurance Coverage has been cancelled or will not be renewed;
- h) Abide by all of the rules of the service & in no event hold, or seek to hold, the Association or any of its officers, members, or employees liable in connection with the operation of LRS;
- i) Abide by all decisions of the Committee re: application procedures & continued eligibility as a member of LRS;
- j) Proceed with due diligence on & not neglect any matter referred by LRS;
- k) Refer a prospective client back to LRS office if for any reason the member is unable to render services to LRS caller. Neither LRS members nor their staff may refer LRS callers to attorneys outside LRS member's own firm. Further, LRS membership is for individuals & not firms. Therefore, LRS attorneys may, after the initial consultation, bring in other members of the same firm to contribute legal services as appropriate, but will retain primary responsibility with regard to LRS client & fulfilling LRS eligibility, reporting, & remittal obligations;
- l) Develop & maintain a method of annotating client billing files to indicate when a file is an LRS referred case. The indicator shall be self-explanatory to an individual reviewing the billing of case file, & will identify that file as an LRS-referred case;
- m) Include a copy of LRS office closing policy statement inside the member's client trust fund file so that a person opening it will discover the statement. See **Statement of Obligation** with application.
- n) Immediately notify LRS office if member deems it necessary & prudent to associate another attorney as co-counsel & a written agreement from said co-counsel to remit fees due to LRS as specified in Rule 5.1(c) of these rules. The member shall remain primarily obligated to remit said fee, & render reports as requested, to LRS office;
- o) If the member changes firms, or leaves the practice of law, immediately notify LRS Director of this change, & update the disposition of all LRS referrals. For any open LRS case, the referred attorney will inform LRS Director if the case is remaining with the original firm, or going with him/her to the new practice; in either case, the member must notify any successor attorney or law firm that the ongoing obligation to LRS must be honored; & in the cases of ceasing to practice law, agrees to refer all open cases back to LRS for re-referral rather than pass on to another attorney outside the service;

- p) Provide any accommodation mandated by the Americans with Disabilities Act or the Maine Human Rights Act, or by rules promulgated by the Maine Human Rights Commission.
- q) Agree, by joining LRS, to be bound to the Standards & Rules of the service with regard to all referrals made to that member, directly or indirectly, including, without limitation, the requirement to provide accurate status reports & payments of referral fees. This obligation survives any resignation, suspension, termination or other change of status with regard to the member attorney.
- r) Agree, by joining LRS, to educate all peers & staff members to the agreements & requirements of LRS so that LRS cases & all LRS referrals are handled per our agreements, & all LRS reporting & participation requirements are adhered to.

#### **IV Areas of Referral Panels**

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

#### **V Financial Administration of LRS**

- 5.1 The operation of LRS shall be financed with funds derived from the following sources:
- a) **Each member of LRS who is not a member of the MSBA will pay a non-refundable fee for each year of membership at rates set by LRS Committee & approved by the Board of Governors.**
    - i. This rule is subject to change; any changes will be indicated in writing by email/mail.
    - ii. Refunds will not be issued for those who become members of MSBA more than 3 months from their acceptance into the LRS program.
  - b) An administrative fee, set by the Committee, will be charged to each client for referral to an appropriate attorney.
  - c) Each member agrees to pay to LRS 10% of any fee (exclusive of costs) over \$200 collected for legal services performed for each LRS caller who retains the member beyond the initial free consultation, upon receipt of payment for billed services, & not at time of retainer. Questions regarding the amount of referral fee due to LRS will be referred to the Committee for resolution.

#### **VI Withdrawal from Membership**

- 6.1 A member may at any time withdraw from participation in LRS with written notice to LRS Director. Such withdrawal does not entitle member to any refund & does not absolve member from completing & forwarding open case reports or from forwarding moneys owed LRS for percentage fees. For leaving the practice of law, see Section III 3.2 (j) (k) & (m).
- 6.2 While notice of intent to resign will remove a member from active rotation, a member's withdrawal is not effective until the member closes all open LRS cases, pays all percentage fees related to those cases, & returns accurate reports regarding referrals.

#### **VII Referral Service Procedures**

- 7.1 Referrals shall not be made on the bases of race, sex, age, religion, national origin, or sexual preference.
- 7.2 For each caller/applicant, LRS staff will ascertain, to the best of their ability, whether the caller has a problem appropriate for referral to a member attorney. LRS staff shall endeavor to make the most appropriate referral, taking into consideration the nature of the issue(s), the likely jurisdiction, & the geographical needs of the caller.
- 7.3 The client/applicant shall be informed of LRS procedures including, but not necessarily limited to, the initial service administration fee, the initial consultation of *up to 1 half hour at no charge*, future fee arrangements between the client & members, the method of selecting a lawyer, & the representation of competence made by the member. Staff is not required to refer a client more than 3 (3) times with respect to a single request.

## **VIII Statistics/Record Keeping**

- 8.1 Confidential communications from LRS callers shall be governed by the applicable provisions of the Code of Professional Responsibility of the Maine Bar Rules.
- 8.2 LRS shall keep & maintain records, including the following:
- a) For each member:
    1. Documentation of qualification for service membership, as described above; panel selections, reports, & remittals;
    2. The names of all callers to whom each member has been referred, & in each case the nature of the legal question involved, the panel titles used in the database search, & the date when referred; &
    3. Correspondence between LRS staff or Committee & each member, all written comments from referred callers, & any additional information pertaining to disputes or complaints from any party.
  - b) For service performance history & analysis:
    1. Financial records & minutes of all committee meetings; &
    2. Statistical records as requested by the Committee or Board of Governors, or as deemed useful by the Director.

## **IX Quality Control**

- 9.1 LRS shall monitor public & member satisfaction with the service through feedback gathered by formal & informal methods including, but not limited to:
- a) Routine Client Satisfaction Questionnaires;
  - b) Member Satisfaction Questionnaires as deemed practicable; &
  - c) Additional inquiries as advisable in response to client or member comments.
- 9.2 LRS Director & staff will actively seek to improve both the quality of referrals, & the quality & sophistication of other resource recommendations, through consultation with member attorneys, peer agencies, AMA resources, & other community support & information resources.

## **X Regulation of LRS Membership**

- 10.1 LRS Director is authorized to remove members from rotation temporarily for failure to return reports, respond to requests for information within stipulated time requirements, or pay dues, if applicable.
- 10.2 LRS Director is authorized to review an LRS member's continuing eligibility & may request that the Committee suspend a member at any time for good cause. Good cause for suspension includes but is not limited to the following:  
Suspension, disbarment, or resignation from the practice of law;
- a) Failure to obtain, maintain, & report to LRS legal malpractice insurance described in 3.1
  - b) Failure to pay annual dues (if applicable)
  - c) Failure to forward other monies due LRS
  - d) Evidence that a member signed application, certification, or report was untrue in any respect
  - e) Repeated or egregious failure to communicate within a timely fashion pertaining to any reports or questions regarding referral status or client complaint
  - f) Arrest or charge for any criminal offense
  - g) Complaints from referred clients that provide reason to believe member does not meet reasonable standards of courtesy, competence, & ethical behavior, or adherence to LRS rules.
- 10.3 Request for reconsideration of active participation or suspension will be sent to LRS committee & to the member in writing. The member will be given an opportunity to present written &/or oral response to the requested suspension at the next scheduled LRS Committee meeting, when LRS Committee will determine whether to impose the requested suspension by a majority vote. The Committee will inform the member of its decision within 30 days.
- 10.4 All information obtained by, or presented to, LRS Director or Committee in connection with suspension or reinstatement proceedings shall be confidential.

## **XI Policy Re: Significantly Delinquent Reports/Remittals**

- 11.1 Communications & changes of member attorney status about overdue reports, insurance, dues, or other necessary information will be handled initially at the Director's discretion, as described above. (X)
- 11.2 If a member attorney, or former member attorney, fails to respond to requests for information or reminders regarding reports, the following protocol will apply:

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

## **XII Client Complaints**

- 12.1 LRS does not arbitrate fee disputes or make judgments about ethical impropriety. LRS callers seeking remedy in fee disputes or alleged ethical violations shall be directed to the Board. LRS shall, however, keep a record of the client complaints for the purposes of monitoring & improving service performance & making member suspension determinations.
- 12.2 Complaints made verbally will be handled according to the discretion of LRS Director & staff, including waiving or refunding the referral administration fee, follow-up with a member, or request to have the complaint submitted in writing.
- 12.3 A copy of any complaint received in writing against either LRS staff or member attorneys will be forwarded to the person against whom the complaint is made.
- 12.4 The Director will present a summary report of complaints received at every committee meeting.
- 12.5 If 3 or more complaints are received against a member within a membership year, or 3 or more complaints about a single specific behavior are received within 2 years, the Director will give notice to the member that a report will be made to LRS Committee at its next meeting.

## **XIII Marketing & Publicity**

- 13.1 LRS will be marketed & publicized by such means & to such extent as may be determined by the Director, in consultation with the Committee.

Use of the ABA Lawyer Referral Service logo indicates that this Lawyer referral program has been reviewed by the ABA & meets the specific public service standards established by the ABA.

ABA approved lawyer referral programs:

- *Agree to establish & maintain objective experience criteria for their panel attorneys*
- *Provide a mechanism for client feedback & resolving client complaints*
- *Do not limit the number of attorneys who may join the Lawyer Referral Service, if they meet the objective requirements for panel membership*
- *Require that all LRS attorneys carry legal malpractice insurance.*

**The ABA does not review the qualifications of the individual lawyers participating in the service.**  
**For more details on the ABA standards, visit:**  
[www.americanbar.org/groups/lawyer\\_referral/policy/](http://www.americanbar.org/groups/lawyer_referral/policy/)