

## A GUIDE TO PROFESSIONALISM COMMISSIONS

### Introduction

Since their founding, the American Bar Association and other bar associations across the country have regarded it as central to their mission to promote the highest ideals of professionalism. Other institutions of the legal profession, especially the courts and the law schools, have joined in this endeavor.

In the late 1980s and early 1990s, renewed attention was given to the state of professional practice among American lawyers.<sup>1</sup> The Conference of Chief Justices responded in 1996 by resolving to embark on study and action directed at promoting lawyer professionalism.<sup>2</sup> Its resolution recognized that "there is the perception and frequently the reality that some members of the bar do not consistently adhere to principles of professionalism and thereby sometimes impede the effective administration of justice." The study that followed culminated in the development of "A National Action Plan on Lawyer Conduct and Professionalism," and its adoption on January 21, 1999.

The Conference's action plan included a series of recommendations directed at state courts, bar associations, law schools, individual lawyers and others. It called upon the highest state appellate courts, in particular, to "take a leadership role in evaluating the contemporary needs of the legal community with respect to lawyer professionalism and coordinating the activities of the bench, the bar, and the law schools in meeting those needs." Further, it identified four specific efforts that the state judiciaries should undertake. The first was the establishment of "a Commission on Professionalism or other agency under the direct authority of the appellate court of highest jurisdiction."

At the time the Conference endorsed state professionalism commissions, only a handful existed. Thus, there were only a limited number of models to which courts and bar associations of other states might look for guidance. Even at that time, however, there was no singular conception of a state professionalism commission. As described in a briefing paper prepared for the Conference, the existing entities generally shared the objective of "ensur[ing] the promotion of professionalism among legal professionals" but differed in emphasis. For example,

Florida offers efforts that spread to law schools, local bar associations and the judiciary. The Georgia Chief Justice's Commission on Professionalism recognizes that lawyers exist to solve problems on behalf of their clients while acting within public interests, that lawyers can use their talents and leadership to help better society, and that social conscience and devotion to the public interest are integral units to lawyer professionalism. The New Jersey Commission emphasizes the spirit of professionalism; and the Ohio

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<sup>1</sup> See, e.g., *Teaching and Learning Professionalism*, Report of the Professionalism Committee of the American Bar Association Section of Legal Education and Admissions to the Bar 2-3 and nn.5-7 (citing books, articles and bar association reports).

<sup>2</sup> "National Study and Action Plan Regarding Lawyer Conduct and Professionalism," adopted by the Conference of Chief Justices in Nashville, Tennessee, at the Forty-eighth Annual Meeting on August 1, 1996.

Commission serves in a supervisory role in working with judicial organizations, bar associations, law schools and other entities in emphasizing and enhancing professionalism.

In the past few years, the number of state professionalism entities has grown. Professionalism commissions, which go by a variety of names, now operate in fourteen states – Alabama, Florida, Georgia, Hawaii, Illinois, Maryland, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, South Carolina, and Texas-as follows:

- Alabama Chief Justice’s Commission on Professionalism (no date available)
- Florida Bar’s Center for Professionalism and the Supreme Court Commission on Professionalism (established 1996)
- Georgia’s Chief Justice’s Commission on Professionalism (established 1989)
- Hawaii Supreme Court Commission on Professionalism (established 2005)
- Illinois Supreme Court Commission on Professionalism (established 2006)
- Maryland Court Commission on Professionalism (established 2004)
- New Jersey Commission on Professionalism in the Law (established 1995)
- Commission on Professionalism of the State Bar of New Mexico (established 2000)
- New York Judicial Institute on Professionalism in the Law (established 1999)
- North Carolina’s Chief Justice’s Commission on Professionalism (established 1998)
- Supreme Court of Ohio Commission on Professionalism (established 1992)
- Oregon Supreme Court/Oregon State Bar Joint Commission on Professionalism (established 1994) and Multnomah Bar Association Professionalism Committee (established 1987)<sup>3</sup>
- South Carolina’s Chief Justice’s Commission on Professionalism (established 2000)
- The Texas Center for Legal Ethics (established 1989)

These entities differ in a variety of ways, including not only in how they define their mission and the nature of the activities that they undertake, but also in how they are organized, operated, and funded. Thus, judges and lawyers seeking to establish a new professionalism entity in the future have an array of experiences on which to draw.

This publication describes the professionalism commissions now in operation. The first edition was developed under the auspices of the ABA Standing Committee on Professionalism and prepared in anticipation of the March 2001 conference of the Conference of Chief Justices on implementation of *A National Action Plan on Lawyer Conduct and Professionalism*. This guide is designed principally to assist judges and lawyers in states that do not yet have a professionalism commission as they contemplate the possibility of establishing one. It draws on the generous contributions of all fourteen existing professionalism entities, each of which responded to surveys and provided useful materials and some of which were represented at a meeting organized by the Standing Committee in October, 2000 at which information was exchanged and experiences shared.

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<sup>3</sup> Although the Multnomah Bar is not a state professionalism entity, it has been the most active professionalism entity in Oregon and serves a large segment of the Oregon lawyer population. Therefore, references to it have been included throughout this guide to benefit those states that, for whatever reasons, find it difficult to implement one of the state entity models and have a regional association that can fill in the gap.

As this guide describes, a state commission may select from a rich array of activities to promote professionalism among its state's lawyers. Those activities may, and probably should, differ from state to state depending on a variety of considerations, including the extent of the entity's resources, the nature of activities undertaken by other institutions within the state to promote professionalism, and the particularities of law practice and legal institutions within the state. Likewise, there is no single, best approach to how a professionalism entity should be operated and organized. The models described here should stimulate thinking about what will work best in one's own state. They might inspire further innovation. At the same time, the work of the fourteen existing entities should serve to confirm the Conference's conclusion twelve years ago that, however constituted, a state professionalism commission can make an important contribution to the combined efforts of the bench, the bar, and the law schools to promote professionalism among the jurisdiction's lawyers.

Although designed for judges and lawyers generally, this guide is also directed specifically at the state chief justices, not only because of the importance of their collective support for the establishment of state professionalism centers nationwide, but also because of their individual ability to promote the future development and success of professionalism centers in their own states. A state professionalism center may be established in many ways, as this guide describes. But, there is no question that a state chief justice is generally in a better position than anyone to ensure that a professionalism center is initiated in his or her state. Further, once established, a state professionalism center is most likely to thrive and to make the most positive possible contribution if it has the endorsement and active involvement of the state chief justice.

By way of background, Part I of this guide offers a short discussion of how the various professionalism commissions originated and describes their objectives. Part II concentrates on the varied activities and programs that these commissions have undertaken to promote lawyer professionalism. Part III describes the commissions' structure and organization. Part IV discusses how the commissions have been funded. Part V summarizes suggestions that representatives of the existing commissions have offered to those interested in following in their footsteps. Finally, the Appendix to this guide includes the contact information for the existing commissions and, to the extent relevant, the court orders establishing or the bylaws regulating those commissions.