



1625 K Street, NW, Suite 800
Washington, D.C. 20006-1604
T: 202.452.0620
F: 202.872.1031
www.nlada.org

Lish Whitson, Chair
ABA Task Force on the Definition of the Practice of Law
Lish Whitson, PLLC
999 3rd Avenue, Suite 3800
Seattle, WA

Dear Mr. Whitson:

The National Legal Aid & Defender Association (NLADA) represents legal aid programs providing civil legal services to low-income clients and public defender programs representing indigent persons accused of crimes. Its members include those civil legal services programs funded by the Legal Services Corporation. NLADA has worked closely with the ABA for many years to ensure that legal services programs have the resources to meet the legal needs of the low-income community and the capacity to provide free legal services to their clients in the most efficient and effective way possible

NLADA appreciates the tireless efforts that the American Bar Association has made to support the delivery of legal services to the low-income community. We also appreciate the difficulty of many of the issues that the ABA has addressed over the years. The ABA Task Force on the Definition of the Practice of Law has undertaken an issue of great complexity that could have broad implications for the practice of law for years to come. We understand that the Task Force has undertaken its task with the goal of protecting the public from unqualified and often unscrupulous individuals who provide inadequate services that do not meet the needs of those who seek their assistance and who are not accountable for their actions. NLADA certainly supports that goal. Nevertheless, we believe that the definition that the Task Force has drafted has the potential to affect the capacity of legal aid programs to provide free legal services effectively and efficiently, and, as a result, we would like to share these comments with the Task Force.

First, we wish to associate ourselves with the comments that were submitted to the Committee on January 21, 2003, by Jonathan Ross, Chair of the ABA's Standing Committee on Legal Aid and Indigent Defendants (SCLAID). We agree with the three points made in the Ross letter:

- There is ambiguity in the phrase "giving advice & counsel" that could cause problems for legal aid programs if the provision of legal information through the use of websites, brochures or other written materials is included within the definition of the phrase. Legal services programs often provide such generic information to persons who seek legal assistance and, in many instances, such information is adequate to address the needs of the individual without the intervention of an attorney or a paralegal.

- Paralegals and lay advocates are permitted under law to represent persons in various administrative forums under federal and state law, including certain Social Security hearings, welfare and Food Stamps “fair hearings,” and unemployment insurance hearings. Although these individuals are trained and, in some instances certified, they often do not work under the direct supervision of an attorney, and any definition must recognize that such representation is permissible and does not constitute the practice of law.
- The completion of forms and other documents through the insertion of relevant information by trained non-lawyers should not necessarily be considered the practice of law. Legal services programs have developed numerous forms and templates that can be utilized and completed by trained non-lawyers who incorporate information provided by clients and, under appropriate circumstances, produce high quality legal documents that fully meet the needs of the programs’ clients.

In addition, we are concerned that the definition generally does not take into account the fact that non-commercial legal aid programs are motivated not by the need to realize a profit but by a desire to provide high quality services to the low-income community.

Legal services programs have very limited resources and must often rely on the use of trained non-lawyer case handlers, paralegals and lay advocates who provide a variety of services that are related to the provision of legal assistance, but should not be considered to constitute the practice of law. Unless the definition is flexible enough to permit non-lawyers to provide these services, legal aid programs will be further limited in their ability to provide the full range of free legal services to the low-income client community.

NLADA appreciates the opportunity to share these comments with the Committee and we would be happy to discuss these issues further with members of the Committee or with the ABA staff that is working on the development of the definition.

Thank you very much.

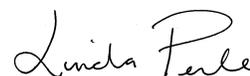
Sincerely,



Clint Lyons,
President and CEO



Don Saunders,
Director of Civil Legal Services



Linda Perle
NLADA Counsel

Cc: Art Garwin, Publication & Professionalism Counsel, ABA