Practice standards seek to clarify the roles and responsibilities of attorneys who represent children in child abuse and neglect cases. The ABA, National Association of Counsel for Children (NACC), and more recently the Quality Improvement Center on Child Representation at the University of Michigan have all issued national practice standards to guide practice in this area.

States have also adopted their own standards, usually modeled on one or more of the national standards, with tweaks to reflect unique state issues.

Two states, Pennsylvania and Washington, are at different stages of implementing their practice standards. Pennsylvania’s practice guidelines have been in place for 10 years and were recently evaluated for effectiveness. Washington has just adopted practice standards for children’s attorneys and is in the process of implementing them. Both states recently issued reports describing these efforts. Their experiences offer insights for all practitioners working to ensure their representation is guided by accepted practice standards.

**Pennsylvania—Are Standards Making a Difference?**

Ten years after implementing practice guidelines for children’s attorneys in Pennsylvania, researchers set out to learn if they’re making a difference. The researchers surveyed 99 public and private children’s lawyers and 39 social workers from 34 counties. They also conducted courtroom observations in several counties and a literature review.

Lawyers in the study were asked about their practices representing children in dependency cases in such areas as out-of-court advocacy, client visits, caseload levels, training, support, and compensation. The researchers then analyzed the responses using Pennsylvania’s Juvenile Act, which was amended in 2000 to include guidance for children’s attorneys on minimum expectations of practice, and several well-established sets of practice standards for child dependency cases.

The good news is that children in Pennsylvania’s child welfare system were found to be more aware of their legal rights and their lawyers were more involved in court and shaping their clients’ child welfare cases.

The good news is that children in Pennsylvania’s child welfare system were found to be more aware of their legal rights and their lawyers were more involved in court and shaping their clients’ child welfare cases. Representation quality, however, had not improved much. Many children’s lawyers were not complying with Pennsylvania’s Juvenile Act or other practice standards. The researchers also found wide differences in how lawyers practiced between counties, despite uniform legal standards and judicial rules.

The researchers concluded that imposing uniform legal standards alone cannot change practice. There also needs to be a strong infrastructure in place that supports, guides, and gives feedback to lawyers on their work quality. In addition, caseload standards, adequate compensation, and regular training are needed to make it possible for lawyers to meet the practice standards. Creating such an environment in fiscally tough times in a state that lacks an agency to oversee performance is a challenge, however.

**Key Findings**

Highlights from the attorney surveys are shared here. For more detail, and for social workers’ responses, refer to the full study (see Resources).

**Caseloads.** The results showed caseloads were too high for most lawyers. Private practitioners averaged 74.5 cases annually, while public/nonprofit attorneys averaged 225.3 cases. Both numbers are actually higher when scaled to fulltime dependency practice caseloads (neither attorney group represented children in dependency cases exclusively). When scaled to a fulltime dependency practice, private attorneys carried a caseload of 271.5 cases, while public attorneys carried 335.8 cases. Both figures were beyond the maximum 100 annual caseload levels recommended by the ABA and the NACC. The researchers noted that attorneys with smaller caseloads were found to know their clients and their issues better, whereas attorneys with large caseloads had limited client contact.

**Client Meetings.** The researchers asked about lawyers’ meetings with clients before court appearances. Few public or private attorneys met...
with clients before shelter care hearings, but met with clients at least half of the time before adjudicatory hearings. More private attorneys (68.2%) reported meeting with clients before permanency hearings than public attorneys (36.4%), but fewer than half of both attorneys spent 30 minutes or more at these meetings.

**Out-of-Court Advocacy.** Since representation also involves much out-of-court work, the attorneys were asked about their involvement visiting the child, participating in family service plan meetings and client case plan meetings, attending school meetings, and case monitoring.

- Slightly over half of public attorneys (51.5%) met with child clients in their placements, while only 34.8% of private attorneys reported doing so.

- More public attorneys (66.8%) attended family service plan meetings than private attorneys (28.8%), but attorneys in both groups were less likely to participate in their clients’ case plan meetings (27.3% public; 15.2% private).

- Few public (15.2%) or private (4.5%) attorneys attended school meetings.

- Case monitoring was high for both attorney groups—76-81% of all lawyers reported that they monitored case progress for child clients and their families.

**Social Worker Partnerships.** Children’s attorneys in private practice were found to lack partnerships with social work professionals that are key to quality representation. The researchers noted that social workers perform many tasks that allow attorneys to focus on their mandated tasks. However, only public attorneys partnered with social workers in child dependency proceedings. None of the private attorneys reported working in offices that hired social workers to perform services in child dependency proceedings. Using other trained and qualified professionals to perform certain case tasks is one way to improve representation quality, according to the researchers.

**Compensation.** Compensation models differed by county. Some attorneys were salaried employees of the public defender or legal services office, while others were employed by the guardian ad litem office or the county. Some attorneys received an hourly rate or an annual flat rate. For all models, compensation was tied to the county budget, which reimbursed counties at 50% of the cost of providing children legal representation. The researchers noted this rate was too low and did not represent an adequate investment in legal services for children. They also noted that high caseloads combined with low pay makes it hard to maintain high representation standards.

**Training.** Many attorneys did not answer questions about their own training. Among 20 public attorneys who responded that their office has training for new attorneys, 14 said the training was adequate. Only six private attorneys were aware of such training, with three reporting that they were adequate.

Ongoing attorney training was less common, with 15 public attorneys saying their offices offered it for attorneys and staff, 11 of whom found it adequate. Among the private attorneys, nine said their offices offered ongoing training, but only two found it adequate. Training needs identified by respondents covered such topics as discharge planning, special education, and independent living services.

**Casework Time.** Public and private attorneys spent most of their time on a case at court hearings. Time spent working on cases outside hearings differed, with public attorneys spending an average of 12.7 hours and private attorneys spending an average of 6.5 hours. Social workers spent the most time outside court working on cases: on average, 11.2 hours visiting children, 11.1 hours filing paperwork in court, and 10.1 hours contacting others involved in the case.

**Recommendations**

Recommendations identified by the researchers to address trouble spots identified by the survey and support efforts to implement attorney practice standards include:

- Increase compensation for children’s attorneys to match workloads by increasing the state’s share in cost of providing children’s attorneys, and developing a uniform pay scale.

- Cap caseloads by statute or court rule to ensure lawyers meet their duties to their clients.

- Amend court rules and practice to require that youth attend all court hearings, except for cause, and that lawyers meaningfully consult with child clients before hearings.

- Develop a uniform structure for oversight, supervision, and monitoring of children’s lawyers that ensures quality performance and independent advocacy.

  - Create a centralized system for administering, funding, and overseeing children’s attorney services.

  - Create and implement a protocol of options counties must select to ensure proper supervision, monitoring, and quality control.

- Mandate uniform training for lawyers who represent children in dependency cases. Require minimum training before a lawyer may take a dependency case and require continued training as a condition of continuing to represent children.
Clarify in statute and court rules that the role of the child’s attorney is to represent the client’s expressed wishes.

Washington’s New Standards
In Washington State, a workgroup recently proposed new recommended practice standards for attorneys representing children in child welfare cases. The Washington State Supreme Court Commission on Children in Foster Care commissioned the workgroup to craft practice standards, including caseload and voluntary training standards, in response to a statutory mandate. Washington’s standards address two key areas that Pennsylvania had not – caseloads and training.

The workgroup modeled the recommendations on the ABA Standards of Practice for Attorneys Representing Children in Abuse and Neglect Proceedings, making alterations to address unique aspects of Washington’s child welfare system. The standards apply statewide anytime an attorney is appointed to represent a child of any age. Its eight sections cover general duties, relationship/communication with clients, communication with other professionals, discovery and court preparation, hearings, advocacy for services, post hearings/appeals, and withdrawal and termination of representation.

The caseload standards recommend that fulltime attorneys representing children in dependency and termination proceedings carry no more than 60 clients at once, involving no more than 80 cases. These numbers were set after surveying attorneys who represent parents in the Washington State Office of Public Defense, and attorneys who represent dependent children in Washington. Respondents emphasized that cases involving youth involve as much time as those involving adults and often demand more time when they raise legal or capacity issues due to mental health conditions, educational delays, substance abuse, or criminal acts.

Attorney training requirements were also included. The workgroup recommended a minimum of 40 hours of initial training on a variety of child welfare topics over three years, with a minimum of 10 hours of training each year. After completing the initial 40 hours of training, attorneys receive a certificate and must then commit to completing 10 hours of additional child welfare-related training each year. While one-third of the initial and continuing training hours may be completed through electronic means (video, teleconference), the remaining hours must be live, in-person training.

To ensure training quality, the standards call for instructors to have at least five years experience in their fields and that they be well versed in adult learning styles and teaching practices. While no oversight body was created to monitor and issue training certificates, the workgroup recommended that the Administrative Office of the Courts take this responsibility.

Conclusion
Pennsylvania’s practice guidelines have spurred some positive changes relating to awareness of legal protections and attorney involvement in court. But increased attorney resources, support, training, and compensation are needed to ensure the standards lead to better representation quality. Adopting the strategies identified by the researchers to help attorneys address the barriers to implementing the standards during the last 10 years could make a difference. Yet, the current economic realities may slow the process.

While Washington is just starting to implement its practice standards, it could benefit from applying the strategies identified by the Pennsylvania research, particularly ensuring a strong infrastructure to oversee the standards and support and give feedback to attorneys as they work to follow them. Ensuring adequate compensation to cover the many tasks outlined in the standards is also key. Washington’s efforts to set manageable caseloads and training requirements should enhance attorneys’ abilities to fulfill the new standards.

Claire S. Chiamulera is an editor at the ABA Center on Children and the Law, Washington DC.