RESOLVED, That the American Bar Association adopt revisions to Model Rule of Professional Conduct 6.1 and its Comment to read as follows:

RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE
A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Comment
Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. The American Bar Association urges all lawyers to provide a minimum of 50 hours of pro bono services annually. States, however, may decide to choose a higher or lower number of hours of annual service (which may be expressed as a percentage of a lawyer’s professional time) depending upon local needs and local conditions. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render on average per year, the number of hours set forth in this Rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation, such as post-conviction death penalty appeal cases.

Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government attorneys, even when restrictions exist on their engaging in the outside practice of law.

Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but nevertheless, cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women’s centers and food pantries that serve those of limited means. The term “governmental organizations” includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys’ fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b).
Paragraph (b) (1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono attorney to accept a substantially reduced fee for services. Example of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural and religious groups.

Paragraph (b) (2) covers instances in which attorneys agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this section.

Paragraph (b) (3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator and engaging in legislative lobbying to improve the law, the legal system or the profession are a few examples of the many activities that fall within this paragraph.

Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

The responsibility set forth in this Rule is not intended to be enforced through disciplinary process.
REPORT

I. Introduction

In 1991, the House of Delegates last considered and reaffirmed its 11 goals for the American Bar Association, the second of which is "promoting meaningful access to legal representation and the American system of justice for all persons regardless of their economic or social condition." It is a noble goal and one the Association has espoused for many years, as evidenced in part by its numerous pronouncements on the responsibility of all lawyers to engage in pro bono service. One objective of the proposed revision to Rule 6.1 is to bring together the essence of those many Association pronouncements and incorporate them into the Model Rules of Professional Conduct. By doing so, the Association will provide more guidance to individual attorneys who turn to the Model Rules to determine the standard of conduct that is expected of them.

Another goal of the revision is to provide a meaningful response to the crisis that exists in the delivery of legal services to the poor. The enormous unmet need for legal services among the poor has been well documented in numerous legal needs studies conducted across the country. The studies illustrate that the failure to obtain counsel can have a devastating impact on the poor because their legal problems often involve basic human needs such as food, shelter, medical care and physical safety. The proposed revision's emphasis on service to persons of limited means represents a recognition of the seriousness of this problem and demonstrates the Committee's belief that the bar must play an active part in solving it.

II. Background

A. Previous ABA Pro Bono Pronouncements

The American Bar Association has long recognized the responsibility of lawyers to engage in pro bono activities. As early as 1908, Canon 4 of the ABA Canons of Professional Ethics was adopted which provided that "a lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason and should always exert his best efforts in his behalf."

In 1969, the Association adopted the Model Code of Professional Conduct which clearly articulated each lawyer's ethical responsibility to perform pro bono service. Specifically, EC2-25 stated that the "basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer... Every lawyer, regardless of professional prominence or professional work load, should find time to participate in serving the disadvantaged."

Six years later, the ABA House of Delegates further promoted pro bono service by passing a resolution that has become known as the "Montreal Resolution." It provided that "it is the basic professional responsibility of each lawyer engaged in the practice of law to provide public interest legal services." Furthermore, it defined public interest
legal services as "service provided without fee or at a substantially reduced fee, which falls into one or more of the following areas:

1. Poverty Law: Legal services in civil matters and criminal matters of importance to a client who does not have the financial resources to compensate counsel.

2. Civil Rights Law: Legal representation involving a right of an individual which society has a special interest in protecting.

3. Public Rights Law: Legal representation involving an important right belonging to a significant segment of the public.

4. Charitable Organization Representation: Legal service to charitable, religious, civic, governmental, and educational institutions in matters in furtherance of their organizational purposes, where the payment of customary legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

5. Administration of Justice: Activity, whether under bar association auspices, or otherwise, which is designed to increase the availability of legal services, or otherwise improve the administration of justice.

The policy expressed in the Montreal Resolution was incorporated into the Model Rules of Professional Conduct which were adopted in 1983. Specifically, Rule 6.1 states in part that "a lawyer should render public interest legal service." However, Rule 6.1 does not define the term "public interest legal service" as explicitly as the Montreal Resolution does. Rather, some portions of that definition appear in the Rule, some in the Comment and some not at all. (See the Appendix for the complete text of Rule 6.1 and Comment.)

The most recent statement by the House of Delegates on pro bono service can be found in a resolution adopted in 1988 which is known as the "Toronto Resolution." It urges all lawyers "to devote a reasonable amount of time, but in no event less than 50 hours per year, to pro bono and other public service activities that serve those in need or improve the law, the legal system or the legal profession." Because this resolution was adopted five years after the adoption of Rule 6.1, the policy it sets forth is not reflected in any part of the present Rule.

In several states, amendments to the ethical rules or ethical codes have recently been adopted or proposed that incorporate the Toronto Resolution or variations of it. For example, in 1990, the Arizona Supreme Court amended its version of Rule 6.1 to include a 50 hour annual voluntary pro bono standard. In 1992, the Kentucky Supreme Court also incorporated into its Rule 6.1 a 50 hour annual voluntary standard, specifying that all 50 hours should be rendered in service to persons of limited means. The Supreme Courts of both Florida and Georgia are currently considering amendments to their ethical rules regarding pro bono service that would add an hourly annual voluntary standard and emphasize service to persons of limited means. In Florida, the Court has endorsed the concept of amending its rule to include a 20 hour annual voluntary
standard of pro bono service to the poor, although specific language has not yet been approved. In Georgia, the Court is considering a proposal by the State Bar of Georgia to amend EC-2-25 of the State Bar Rules, which addresses pro bono participation. The proposed amendment would add a 40 hour annual voluntary pro bono standard, with 20 of the 40 hours being devoted to work involving the direct provision of legal services to the poor, without an expectation of compensation.

Given the growing trend to quantify within the ethical rules the amount of annual pro bono service expected of lawyers, the Association should assume a leadership role on this issue. It can do so by incorporating into Model Rule 6.1 an annual hourly aspirational standard such as that set forth in the Toronto Resolution.

B. The Current Crisis In the Delivery of Legal Services To The Poor

As our society has become one in which rights and responsibilities are increasingly defined in legal terms, access to legal services has become of critical importance. This is true for all people, be they rich, poor or of moderate means. However, because the legal problems of the economically disadvantaged often involve areas of basic need such as minimum levels of income and entitlements, shelter, utilities and child support, their inability to obtain legal services can have dire consequences. For example, the failure of a poor person to have effective legal counsel in an eviction proceeding may well result in homelessness; the failure to have legal counsel present at a public aid hearing may result in the denial of essential food or medical benefits.

The inability of the poor to obtain needed legal services has been well documented: since 1983, when Rule 6.1 was adopted, at least one national and 13 statewide studies assessing the legal needs of the poor have been conducted. Of those studies reporting unmet legal need, there has been a consistent finding that only about 15%-20% of the legal needs of the poor are being addressed. The legal need studies also confirmed that unmet need exists in critical areas such as public benefits, utilities, shelter, medical benefits and family matters.

One consistent recommendation that is found in those legal need studies that include recommendations is that the private bar increase its level of pro bono service to help meet the need. For example, the Massachusetts study recommends that, "private attorneys and bar associations in Massachusetts should continue to expand their activities in support of the delivery of free civil legal services to low income persons." And in Maryland, it was recommended that bar associations "in coordination with legal services programs and others, expand private attorney pro bono delivery of civil legal assistance to low income persons through direct services, participation with legal services programs, training, community legal education, legal counsel to organizations serving low-income persons, and other appropriate approaches."

The Committee firmly believes that the private bar alone cannot be expected to fill the gap for service that exists among the poor. Rather, the federal government, through adequate funding of the Legal Services Corporation (LSC), should bear the major responsibility for addressing the problem. Although the federal government has never provided sufficient funding for the LSC, during the past decade funding has fallen even further, causing the crisis of unmet legal needs among the poor to be exacerbated.
Specifically, in FY 1981, the annual budget for LSC was $321 million, while in FY 1991, the annual budget was only $328 million. Given the fact that the consumer price index increased by well over 50% from 1980 to 1990 and that during that same time period the poverty population is estimated to have increased by 15.4%, funding for LSC is clearly inadequate.

The Association has consistently called upon the President, the Legal Services Corporation and Congress to support substantially increased funding for LSC so that sufficient resources for high quality legal services programs are available. Although the response to those requests has been inadequate, the Committee urges the Association to continue its efforts. In addition, the Association must again turn to members of the private bar and call upon them to help ease the crisis that exists in the provision of legal services to the poor. The Committee believes that one effective means of doing this is by revising Model Rule 6.1 to reflect a new emphasis on service to the disadvantaged. In Kentucky, such an emphasis has already been added to that state’s Rule 6.1. Similar revisions are being considered in both Florida and Georgia. The Association can do much to further this important and valuable development by adopting the Committee’s proposed revisions to Rule 6.1.

III. Discussion Of The Proposed Revisions to Rule 6.1

The Committee distributed its first draft of revisions to Model Rule 6.1 in March 1992. Three hearings were held on the proposed revisions at which testimony was received from many individuals and entities. In addition, numerous written comments were sent to and reviewed by the Committee. In drafting its final version of proposed revisions to Model Rule 6.1, the Committee carefully considered all of the comments provided to it and amended portions of its first draft to address the major concerns raised by the commentators. Those concerns included the lack of a buy-out, the lack of a collective satisfaction provision and the lack of flexibility in determining the number of hours of pro bono service to be rendered annually. Each of the changes made to current Rule 6.1 is discussed in detail below.

In order to clarify that Rule 6.1 remains a voluntary aspirational standard, the words "aspire to" have been added to the first sentence of the Rule. The first sentence also contains one of the most notable changes proposed to Rule 6.1: the addition of language that specifies the minimum number of hours of activity on an annual basis that would be necessary to fulfill the pro bono responsibility. The House of Delegates previously addressed this issue when it adopted the "Toronto Resolution" which calls upon each lawyer to render a minimum of 50 hours of pro bono service annually. The proposed revision incorporates that standard into the Rule, but places the number "50" in parentheses to indicate that each state may determine the specific hourly standard to be adopted in its own version of Rule 6.1. The Committee believes that while 50 hours is a reasonable standard, each state should retain the flexibility to determine the standard that is best for it, based upon local needs and local conditions. While some states may adopt an annual standard that is lower than 50 hours, some states may decide on a higher number, as Oregon did in adopting a pro bono resolution calling upon all lawyers to render 80 hours of pro bono service annually.

-7-
To address the crisis in the delivery of legal services to the poor, the proposed revision provides that a substantial majority of the annual hours of pro bono legal services should be rendered at no cost to persons of limited means or to organizations in matters which are designed primarily to address the needs of persons of limited means. The Committee purposely chose the words "substantial majority" to make clear that a simple majority of the hours would not suffice. While the Committee recognizes the value and importance of other types of pro bono activity, it strongly believes that due to the enormity of the unmet need for legal services that exists among the disadvantaged, the provision of legal services to that group must be given priority over all other types of pro bono service.

The Comment clarifies that the term "legal services" encompasses a wide range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means. The Committee is acutely aware of the special concerns of certain types of attorneys, such as government attorneys and judges, who, because of statutory or other restrictions, are unable to represent individual clients. Nevertheless, given the broad definition of legal services contained in the Comment, such attorneys may be able to fulfill their pro bono responsibility in other ways, such as by providing training or mentoring to those who represent persons of limited means at no cost.

"Persons of limited means" are those who qualify for service under paragraphs (a)(1) and (2). This term was deliberately chosen to afford some flexibility to the individual attorney in determining who is eligible for assistance under this section. As the Comment makes clear, it includes more than those individuals whose incomes place them within the LSC guidelines. For those who have incomes slightly above the guidelines, it permits the individual attorney to consider factors such as the availability of legal services in the area, the available resources of the individual and the emergency nature of the problem. Thus, individuals who are facing eviction and the prospect of homelessness and who need most of their financial resources to pay their rent and so cannot afford to hire counsel, but do not fall within the strict financial guidelines of the LSC, would be eligible for service under paragraph (a)(1).

The Comment clarifies that if an attorney fails to collect an expected fee, the legal services rendered do not qualify as pro bono service under paragraphs (a)(1) or (2). This term was deliberately chosen to afford some flexibility to the individual attorney in determining who is eligible for assistance under this section. As the Comment makes clear, it includes more than those individuals whose incomes place them within the LSC guidelines. For those who have incomes slightly above the guidelines, it permits the individual attorney to consider factors such as the availability of legal services in the area, the available resources of the individual and the emergency nature of the problem. Thus, individuals who are facing eviction and the prospect of homelessness and who need most of their financial resources to pay their rent and so cannot afford to hire counsel, but do not fall within the strict financial guidelines of the LSC, would be eligible for service under paragraph (a)(1).

The Comment clarifies that if an attorney fails to collect an expected fee, the legal services rendered do not qualify as pro bono service under paragraphs (a)(1) or (2). This is the case because offers in such situations, the "bad debt" client is not of limited means. But more importantly, the intent to provide free service is an essential element of pro bono work. For that reason, a lawyer who intends to render pro bono service, accepts a case on a pro bono basis and is awarded statutory attorneys fees, is still considered to have rendered pro bono service. Examples of these types of situations may include employment discrimination cases in which statutory fees are received and post-conviction death penalty appeals in which fees are awarded under the Criminal Justice Act. In such cases, the Comment suggests that an appropriate portion of the fee should be contributed to organizations or projects that benefit persons of limited means, assuming that the attorney retains control over these fees. The appropriate amount of the contribution is a matter of individual conscience, but factors to be considered in determining the amount include the out of pocket costs assumed by the individual attorney, his or her overhead and the size of the recovery.
Because the intent to render pro bono service is a critical element in determining if the services provided are pro bono under paragraphs (a)(1) and (2), it is vital that the attorney clearly communicate that intent to the client at the beginning of the attorney-client relationship. The Committee believes that the best way to accomplish this is by executing a written document and urges all lawyers to do so.

As the Comment makes clear, it is possible to fulfill the annual pro bono responsibility exclusively through the provision of free legal services to persons of limited means or organizations that serve them. To the extent the entire responsibility is not satisfied in this way, the proposed revisions to Rule 6.1 provide a variety of ways in which to complete the commitment, all of which are encompassed within the current Rule.

Paragraph (b)(1) provides for a wide range of issues that can be addressed and a variety of organizations that can be represented in pro bono activities. This section directly incorporates the definition of “public interest legal services” that was adopted by the House of Delegates in the 1975 Montreal Resolution, with three exceptions. First, that definition included “poverty law” but, because poverty law activities are included in paragraphs (a)(1) and (2), they are not included in this section. Second, “civil liberties” claims are added because now that term has a distinct meaning from “civil rights” claims that may not have been as clear in 1975 when the resolution was adopted. Specifically, civil liberties refer to claims involving issues such as free speech and the separation of church and state, whereas civil rights claims most often refer to those involving discrimination based upon a particular classification or characteristic. Finally, the term “community” is added to the list of organizations that can be represented because the Committee believes that such groups provide valuable services, often on very limited budgets, and therefore should be included.

The activities described in paragraphs (b)(2) and (3), service to persons of limited means at reduced fees and participating in activities for improving the law, the legal system or the profession, are ones that are included in current Rule 6.1. Specific examples of work that qualifies under each of these paragraphs are included in the Comment.

Both the current version of the Comment and the proposed revision recognize that the ethical responsibility set forth in Rule 6.1 is an individual responsibility, personal to each lawyer. Nevertheless, as the new Comment makes clear, there may be times when it is not feasible for a lawyer to render pro bono service. Such times may include when a lawyer is serving as a judge, is prohibited by statute or regulation from engaging in the outside practice of law, or is physically or mentally infirm. Under these and similar circumstances, a lawyer may fulfill his or her pro bono responsibility by providing financial support to organizations that provide free legal services to persons of limited means. The Comment specifies that the contribution made should be reasonably equivalent to the value of hours that would have otherwise been provided.

The Committee believes that there may be times when it is more feasible to satisfy the pro bono responsibility collectively and that view is reflected in the new Comment. Forms of collective satisfaction may include a law firm’s decision to permit a small group of attorneys to devote many hours of pro bono time to a class action or its...
"lending" a member of the firm to a legal services program for a set period of time. In addition, it may consist of lawyers in a corporate or government law office or a group of otherwise unaffiliated attorneys who join together to satisfy their pro bono responsibility collectively.

In addition to voluntarily rendering pro bono service, the revised Rule 6.1 calls upon every lawyer to voluntarily make financial contributions to organizations providing legal services to persons of limited means. In those cases in which a lawyer determines that it is not feasible to render legal services and makes a financial contribution instead, he or she is expected to make an additional contribution pursuant to the last sentence of the new Rule. The Committee firmly believes that given the severe crisis that exists in the delivery of legal services to the poor, lawyers should not only provide pro bono services directly, but also should help to financially support the very important work that is carried out by legal services programs throughout the country.

It is the Committee's intent that the ethical responsibility set forth in Rule 6.1 apply to all lawyers and not just those currently engaged in the practice of law. Thus, any reference found to that status in the existing Comment has been eliminated in the revised one.

Although neither the Rule nor the Comment explicitly so states, it should be self-evident that every lawyer is expected to provide the same quality of legal services to pro bono clients as he or she would provide to paying clients. Thus, the ethical standard set forth in Model Rule 1.1 that, "a lawyer shall provide competent representation to a client," applies whether that client pays a fee or is represented on a pro bono basis. Therefore, to the extent that an attorney is unfamiliar with a given area of the law, he or she is expected to seek advice or training in that area before advising a client, either for a fee or on a pro bono basis. Many pro bono programs provide free training on a wide range of topics to assist their volunteer attorneys in attaining competency to handle the cases referred to them. The Committee strongly endorses the provision of these training events and urges pro bono attorneys to take advantage of them whenever possible.

Consistent with present Rule 6.1, the Comment to the revised Rule explicitly states that the pro bono responsibility is not intended to be enforced through the disciplinary process. Thus as drafted, revised Rule 6.1 does not mandate pro bono. Although the Committee recognizes that since 1988, mandatory pro bono programs have been considered in many states and remain under active consideration in several of them, it nevertheless believes that it is not practical nor feasible at this time to address the issue of mandatory pro bono on a national level. Rather, the Committee views the question of mandatory pro bono as an issue that needs to be examined by state and local bar associations. Some communities might find mandatory pro bono helpful; others may determine it to be counterproductive.

The reporting of pro bono service is another issue that the Committee believes must be left to local decision makers. Only in Florida has the supreme court indicated that it will implement a system of mandatory reporting. The Kentucky Supreme Court
simply encourages all lawyers to voluntarily report their pro bono service and the Arizona Supreme Court did not address the issue of reporting in its approved revisions to Rule 6.1.

IV. Conclusion

Lawyers can play a critical role in helping to alleviate the crisis that exists in the delivery of legal services to the poor by providing additional pro bono services. The Committee believes that revising Rule 6.1 to include an annual hourly standard and a new emphasis on service to persons of limited means would send a powerful message to lawyers regarding that role, resulting in increased provision of legal services to the poor. In addition, it would further the Association’s goal of promoting meaningful access to legal representation of all persons regardless of their economic or social condition. For these reasons, the Committee urges that the revisions be adopted.

Respectfully submitted,

Robert E. Hinnion, Chair
Standing Committee on Lawyers’ Public Service Responsibility

Louise A. LaMothe, Chair
Section of Litigation

Peter B. Prestley, Chair
Section of Tort and Insurance Practice

Mark G. Sessions, Chair
Young Lawyers Division

Harvey I. Saferstein, President
State Bar of California

Robert A. Guzy, President
Minnesota State Bar Association

February 1993


5. Action Plan for Legal Services to Maryland’s Poor, p. 34.


7. Id. at pp. 1, 2.
Rule 6.1 Pro Bono Publico Service
(Adopted August 1983)

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities to improve the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

Comment

The ABA house of Delegates has formally acknowledged "the basic responsibility of each lawyer engaged in the practice of law to provide public interest legal services" without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation and the administration of justice. This Rule expresses that policy but is not intended to be enforced through disciplinary process.

The rights and responsibilities of individuals and organizations in the United States are increasingly defined in legal terms. As a consequence, legal assistance in coping with the web of statutes, rules and regulations is imperative for persons of modest and limited means, as well as for the relatively well-to-do.

The basic responsibility for providing legal services for those unable to pay ultimately rest upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional work load, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer as well as the profession generally, but the efforts of individual lawyers are often not enough to meet the need. Thus, it has been necessary for the profession and government to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services and other related programs have been developed, and others will be developed by the profession and government. Every lawyer should support all proper efforts to meet this need for legal services.
GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on Lawyers' Public Service Responsibility (SCLPSR)
Section of Litigation
Section of Tort and Insurance Practice
Young Lawyers Division
State Bar of California
Minnesota State Bar Association

Submitted By: Robert E. Hirshon, Chair of SCLPSR

1. Summary of Recommendation(s).

Revise Model Rule of Professional Responsibility 6.1 (Pro Bono Publico Service) and supporting comment to: (1) clarify the voluntary nature of the Rule; (2) add an hourly annual standard of pro bono service, consistent with a prior Association policy statement; and (3) emphasize pro bono service to persons of limited means due to the severe crisis that exists in the delivery of legal services to the poor.

2. Approval by Submitting Entity.

This recommendation was approved by SCLPSR at its committee meeting on September 26, 1992. In addition, it was approved by the Section of Tort and Insurance Practice at its Council meeting on October 23, 1992; the Minnesota State Bar Association at its Board of Governors' meeting on October 31, 1992, the State Bar of California at its Board of Governors' meeting on October 31, 1992, the Section of Litigation at its Council meeting of November 7, 1992, and the Young Lawyers Division at its Council meeting on May 14, 1992, and reaffirmed by its officers at the Division's Affiliate Outreach Program on October 24, 1992.

3. Has this or a similar recommendation been submitted to the House or Board previously?

No.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

In August 1975, the ABA House of Delegates adopted the "Montreal Resolution" which calls upon all lawyers to provide "public interest legal service" and defined that term as legal services without fee or at a substantially reduced fee in the areas of poverty law, civil rights law, public rights law, charitable organization representation or the administration of justice. In August 1983, the ABA House of Delegates adopted current Model Rule 6.1. In August 1988, the ABA House of Delegates adopted the "Toronto Resolution" which calls upon all lawyers to provide a minimum of 50 hours of pro bono service annually.
By adopting the Recommendation, current Model Rule 6.1 would be modified to: incorporate the Montreal and Toronto Resolutions, add an emphasis on pro bono service to persons of limited means and clarify the voluntary, aspirational nature of the Model Rule.

5. What urgency exists which requires action at this meeting of the House?

Action is needed at this meeting in order to respond to the crisis that exists in the delivery of legal services to the poor and to provide leadership to the states, several of which have amended or are considering amending their pro bono ethical rules.

6. Status of Legislation. (If applicable.)

Not applicable

7. Cost to the Association. (Both direct and indirect costs.)

None

8. Disclosure of Interest. (If applicable.)

None

9. Referrals.

On March 11, 1992, an initial draft of the recommendation and report was mailed to:
  All ABA Sections, Divisions and Committees
  All State Bar Associations
  All Local Bar Associations of Over 300 Members
  All Affiliated Organizations Represented in the House of Delegates

On November 12, 1992, the final draft of the recommendation and report was mailed to each of the entities listed above.

Responses:
The Standing Committee on Professional Discipline, the Standing Committee on Legal Aid and Indigent Defendants, the Consortium on Legal Services and the Public, the Special Committee on the Delivery of Legal Services, the Commission on Legal Problems of the Elderly and the New Hampshire Bar Association endorse the recommendation. The Standing Committee on Ethics and Professional Responsibility and the Standing Committee on Professionalism oppose the recommendation.
10. **Contact Person.** (Prior to the meeting.)

Robert E. Hirshon  
Drummond Woodsum Plimpton & McMahon  
245 Commercial Street  
Portland, ME 04101  
(207) 772-1941

Beverly Groudine, Assistant Committee Counsel  
Standing Committee on Lawyers' Public Service Responsibility  
American Bar Association  
541 N. Fairbanks Court  
Chicago, IL 60611  
(312) 988-5771

11. **Contact Person.** (Who will present the report to the House.)

Robert E. Hirshon  
Drummond Woodsum Plimpton & McMahon  
245 Commercial Street  
Portland, ME 04101  
(207) 772-1941