RESOLVED, That the American Bar Association encourages state, local, and territorial bar associations, and affiliated state, local, and territorial bar young lawyer organizations, to establish and implement Senior Outreach Projects to provide free legal services to homebound senior citizens without sufficient means to hire counsel.
REPORT

I. Introduction

"[Elder law] work deals day to day with issues and relationships which are precious, complicated, interconnected. It’s important work, and intrinsically rewarding."

There are now over thirty-three million persons age sixty-five and over in the United States; by 2030, there will be approximately seventy million older Americans, representing twenty percent of the population. (U.S. Administration on Aging, 1997). The number of persons aged 85+ is skyrocketing. "In 1996, the 85+ group numbered 3.8 million - 31 times as large as in 1900." Erica F. Wood, Associate Staff Director (ABA Commission on Legal Problems of the Elderly, Effective Counseling of Older Clients: The Attorney-Client Relationship, Washington D.C. at 1). Ninety-five percent of this population live in their own homes; only a relatively small number of people spend their last years in a nursing home. Id.

In response to the foregoing data and in concern for our senior citizens, the ABA Young Lawyers Division has developed a nationwide Service to Seniors initiative to address the special needs of the elderly, especially the homebound elderly, who suffer physical limitations that restrict their movement outside of the home, and are often without transportation and sufficient means to access legal services within their respective communities. As part of this initiative, the Maricopa County Bar Young Lawyers Division has implemented a pilot Senior Outreach Project aimed at providing companionship and free legal advice to homebound seniors and thereby bridging the long-standing gap in pro bono service to seniors. This successful pilot project now serves as the model for the ABA-YLD's Senior Outreach Project.

The Young Lawyers Division has contacted local affiliates throughout the country and discovered that many recognize the importance of this type of program and are committed to establishing Senior Outreach Projects in their communities. Over twenty affiliates have heretofore expressed interest in establishing the project, and four affiliates have taken necessary steps toward implementation of the project. Notwithstanding such interest, the fact remains that millions of homebound seniors throughout the country...
continue to be denied access to legal services due to insufficient resources and lack of transportation, and minimal, if any, contact with the legal community. In an effort to remedy this problem, the ABA/YLD encourages all bar associations and affiliated young lawyer organizations to implement Senior Outreach Projects.

II. Project Description and Implementation*

By the year 2000, more than half of the workforce will provide care not only for their children but for their elderly parents as well. Additionally, more individuals are living longer due to better overall health care. However, there are many elderly individuals who do not have family members to care for them, do not have sufficient resources to afford legal services, or cannot physically leave their homes except for brief medical trips. The Senior Outreach Project ("Project") seeks to meet those needs. The Project is designed to provide free legal services to homebound seniors. Lawyer volunteers respond to questions relating to consumer fraud issues and elder abuse; draft and review wills, living wills, financial powers of attorney, and powers of attorney for health care; and provide any other necessary legal assistance for project participants.

Historically, attorneys have stepped forward to meet the legal needs of many segments of their respective communities who otherwise could not afford legal assistance. Considering the increasing senior population, particularly the homebound segment, the ABA/YLD recognizes that pro bono projects are often lacking in this arena. Many homebound seniors are unable to afford legal services and cannot arrange transportation to meet with an attorney. In order to bridge this gap in pro bono service, the ABA/YLD is committed to establishing Senior Outreach Projects in communities across the nation.

As set forth above, the project's focus is to assist seniors in communities who cannot afford services and are confined to their homes. The affiliate must network with local agencies to determine those seniors in need of the pro bono assistance. Available resources to affiliates across the country are community hospices, hospitals, Visiting Nurse Associations and other home health care providers, Meals on Wheels, senior centers, senior agencies, state and county subsidized housing projects, churches, and other religious and social organizations. In order to form a partnership with such organizations for implementation of this project, a local affiliate must contact the

*The majority of this section is taken from the Maricopa County Bar Association Young Lawyers Division’s pamphlet entitled Senior Outreach Project: Home Visits.
organization and establish a forum to describe the project and its goals. Often an affiliate can add the Senior Outreach Project to an established relationship the affiliate has with one of these organizations. Factors to consider in assessing partnerships to effect the project are: (1) number of seniors requiring home visits; (2) cooperation and support of the respective organizations; (3) ability to follow up and evaluate the project; and (4) liability issues.

Actual lawyer volunteers for the home visits can be procured by mailing letters to prospective participants, placing notices in local bar journals or newspapers, establishing an elder law committee or subcommittee of a related committee such as family law, or conducting a seminar or workshop in a particular elder law area. In the event an affiliate cannot effect the foregoing, the local affiliate may assist in formulating a list of attorneys with any level of experience in this area of the law. The project’s timetable obviously depends on the number of volunteers, the effectiveness of the partnership between the affiliate and the local agency, and the number of seniors who require assistance.

III. Criticism

Up to this point, there have been two articulable criticisms of the Senior Outreach Project. First, certain critics claim that elder law is too specialized for volunteers. In response to such claim, project proponents assert that the project provides a basic needs assessment that can be performed by any lawyer who is provided a brief overview of the problem and relevant materials to work with and distribute. In the event that a homebound senior requires specialized assistance, the volunteer can work with local bar referral programs and/or attorneys with some level of expertise to solve the particular problem facing the senior. In addition, affiliates can conduct seminars to instruct volunteers on a specific area of elder law or other legal area of particular concern to seniors in their community.

Second, opponents urge that providing service to homebound seniors will usurp business from small firm and solo practitioners. Such claims is without merit, however, since the project targets seniors on fixed incomes who cannot necessarily afford legal assistance outside the program and affiliates can always establish guidelines for participation. In addition, few small firm or solo practitioners practice elder law exclusively, and for those who do, participation in the program can lead to name recognition and referrals among those seniors and their families who can afford legal services in elder law and other areas. More important, many of the areas covered in a Senior Outreach Project are preventative in nature, such as the drafting of a power of attorney for healthcare, or the discussion of an elder abuse safety plan or consumer fraud
prevention, and would provide little if any financial compensation yet can make a major impact in the life of a homebound senior.

IV. Conclusion

With the burgeoning growth of the senior population, more and more seniors, particularly homebound seniors, are without access to legal services which allow them to resolve important matters facing them in their later years. Senior Outreach Projects are meaningful steps to bringing peace of mind to seniors who are without sufficient means to hire an attorney, not to mention the inability to travel outside their home due to physical limitations or lack of transportation. Approval of this recommendation will encourage additional state, local, and territorial bars and affiliated young lawyer organizations to implement Senior Outreach Projects, thereby helping to satisfy the unmet legal needs of this important group.

Respectfully Submitted,

La Ronda D. Barnes, Chair
ABA Young Lawyers Division
February 1999
GENERAL INFORMATION FORM

Submitting Entity: ABA Young Lawyers Division

Submitted By: La Ronda D. Barnes, Chair, ABA/YLD

Summary of Recommendation: This recommendation encourages state, local, and territorial bar associations and affiliated young lawyer organizations to establish and implement Senior Outreach Projects that provide free legal services to homebound senior citizens.

Date of Approval of Submitting Entity: The Resolution was approved by the Young Lawyers Division Executive Council on October 29, 1998.

Has this or a similar recommendation been submitted to the ABA previously? No.

Are there any ABA policies that are relevant to this recommendation and, if so, how would they be affected by its adoption? The ABA has policy that addresses certain concerns of senior citizens, and this recommendation would serve to broaden and expand existing policy by specifically advocating access to justice for the homebound elderly.

Does this recommendation require immediate action at the next meeting of the House of Delegates? If so, why? The number of elderly persons in America increases daily, as does the number of persons who don’t have access to justice. It is important for the ABA to encourage the implementation of initiatives that will help provide access to justice for homebound elderly persons.

Status of the Legislation (If applicable): None.

Cost to the Association: None.

Disclosure of Conflict of Interest: None.

Referrals: This resolution has been referred to the Chairs and Staff Directors of ABA Sections, Divisions, and pertinent Standing Committees and Commissions.

Contact Person (Prior to the Meeting): Bo Landrum, Staff Director, ABA Young Lawyers Division, 750 N. Lake Shore Drive, 60611, Telephone: 312/988-5608; Fax: 312/988-5231; E-Mail: jlandrum@staff.abanet.org.

Contact Person (Who will present report to House of Delegates): To be determined from 5 YLD Delegates to the ABA House of Delegates: Raquel A. Rodriguez, Jeffrey M. Paskert, Fredrick H. L. McClure, William G. Seoggin, and John G. Allelo.