RESOLVED, That the American Bar Association House of Delegates concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting Interpretation 302-10 concerning opportunities for law student participation in pro bono activities, dated August 2007, as an addition to the Standards for Approval of Law Schools and the Interpretations of the Standards.
Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of meaningful law-related service to persons of limited means or to organizations that serve such persons; however, volunteer programs that involve meaningful services that are not law-related also may be included within the law school’s overall program of pro bono opportunities. Law-related pro bono opportunities need not be structured to accomplish any of the professional skills training required by Standard 302(a)(4). While most existing law school include only activities for which students do not receive academic credit, Standard 302(b)(2) does not preclude the inclusion of credit-granting activities within a law school’s overall program of pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.
REPORT

At its meeting of December 2-3, 2005, Council of the Section of Legal Education and Admissions to the Bar approved a new Interpretation 302-10, concerning providing opportunities for law student participation in pro bono activities, upon the recommendation of the Standards Review Committee following a period of public comment. For consistency and clarity, the Council last year agreed that henceforth all revisions to the Standards and Interpretations that the Council has approved would be submitted to the House of Delegates at its August meeting so that, upon House concurrence, all Standards revisions would be effective at the start of a new academic year.

Interpretation 302-10 was adopted in part because of the request of law school deans for additional guidance for determining compliance with the requirements of Standard 302(b)(2), which the Council adopted in August 2004 and in which the House concurred in February 2005.

Standard 302(b)(2) provides:

(b) A law school shall offer substantial opportunities for:

. . . .

(2) student participation in pro bono activities . . . .

When the Council initially approved the pro bono requirement, the Council did not intend to exclude any significant existing types of law school pro bono activities from being considered in fulfillment of the new requirement. Thus the Interpretation, building on existing Interpretation 302-2 concerning the professional skills requirement, encourages law schools to be creative in developing their pro bono programs. In recognition of the fact that, although most pro bono programs are law-related, some involve non-law-related activities, the Interpretation states that pro bono programs “should generally” involve law related services, but it also makes it clear that non-law-related activities may be included within a school’s overall pro bono program. Some non-law-related activities could assist students in developing some useful professional skills; doing intake interviewing at a rescue mission, for example, would assist in honing interviewing and counseling skills.

Many pro bono activities currently undertaken at law schools do involve professional skills – such as having students work as volunteers on pro bono matters under the supervision of law faculty or licensed attorneys in public or public interest legal settings. The Council, however, thought it important to emphasize in the Interpretation that such pro bono opportunities need not be designed to fulfill curricular professional skills training objectives (and thus would not necessarily require the level of law school supervision required of field placement or externship programs under Standard 305). The AALS Pro Bono Handbook contains a statement with similar effect.
Interpretation 302-10 (attached) was on the agenda for concurrence by the House of Delegates of the ABA at its August 7, 2006 meeting in Honolulu. Immediately before the House convened, the Section leadership decided that Report 106A (recommending concurrence by the House) should be withdrawn from consideration so that the Section leadership could engage in further consultation with the leadership of the Pro Bono Committee regarding concerns about the effect of the Interpretation. The concerns were based upon a belief that the Interpretation did not conform to “the essence” of the ABA Model Rule of Professional Responsibility 6.1, which calls upon lawyers to render at least 50 hours of pro-bono service per year. Model Rule 6.1 calls upon lawyers to render at least 50 hours of pro bono publico service per year, the substantial majority of which should involve legal services to persons of limited means and/or organizations designed to address the needs of persons of limited means. Only lawyers hold the special privilege to provide these fundamentally needed services. Law school is the appropriate time to introduce this concept to aspiring lawyers. Consequently, the Pro Bono Committee felt the interpretation should be clear that, as law students prepare for entry into the legal profession, it is essential that schools provide opportunities to expose them to the legal problems of the poor and encourage their involvement as practitioners.

The Pro Bono Committee urged adoption of an amended version of Interpretation 302-10 making it clear that, as a baseline, law schools should offer students opportunities to render meaningful pro bono legal services to those unable to pay, without expectation of compensation or academic credit. The concern of the Standards Review Committee about this language is a belief that first and second law students cannot render legal services before admission to the bar (thus the use of the term “law related”). After interaction between the leadership of the Pro Bono Committee and the Standards Review Committee of the Section of Legal Education and Admissions to the Bar, the Standards Review Committee amended the draft Interpretation to add some of the language suggested by the Pro Bono Committee, and sent the new draft back to the Council of the Section for review and approval. The Council, at its December 2006, approved the new Interpretation, which is the one now before the House.

Two changes were made to the draft Interpretation:
1. the phrase “…at a minimum” was added to the second sentence to emphasize that students should be offered meaningful pro bono opportunities; and
2. the phrase “…so long as non-credit bearing activities are also part of the program.” was added to the end of the last sentence to emphasize that a mixture of programs is acceptable so long as non-credit bearing activities are part of the mix.

The Council believes that with the addition of these two phrases, the concerns of the Pro Bono Committee have been addressed and the “spirit” of Model Rule 6.1 has been preserved. The Council also believes that the Interpretation provides guidance that is useful and necessary with respect to the pro bono requirement without being unduly prescriptive and without unduly impairing the Accreditation Committee’s ability to make
appropriate individualized determinations as it applies Standard 302(b)(2) to the
particular facts presented by the programs of specific law schools. The Council
recognizes that, after some period of experience with the new Standard and
Interpretation, it might be appropriate to consider further revisions of these regulations.

The Council respectfully requests that the House of Delegates concur in the
addition of Interpretation 302-10 as amended to the Standards for Approval of Law
Schools and its Interpretations.

Respectfully submitted,

William R. Rakes, Chairperson
August 2007
GENERAL INFORMATION FORM

Submitting Entity:  Section of Legal Education and Admissions to the Bar

Submitted By:  William R. Rakes, Chairperson

1. **Summary of Recommendation(s).**

That the House concur in the decision of the Council of the Section of Legal Education and Admissions to the Bar to add Interpretation 302-10, concerning providing opportunities for law student participation in pro bono activities, to the Standards for Approval of Law Schools and its Interpretations.

2. **Approval by Submitting Entity.**

Approved by the Council of the Section of Legal Education and Admissions to the Bar at its meeting of December 1-2, 2006.

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

Yes. The Pro Bono Committee of the ABA expressed concerns about whether the Interpretation was consistent with the ABA Model Rule of Professional Responsibility 6.1 and offered suggested amendments to the Interpretation. The leadership of the Section decided to withdraw the Interpretation from the House and resubmit it after further discussions with the Pro Bono Committee. That has now been done as reflected in the Report.

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

The Interpretation provides additional guidance as to the requirements of Standard 302(b)(2), in which the House concurred in February 2005.

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

To promote and assure the smooth functioning of the ABA Standards for Approval of Law Schools and its Interpretations, it is useful and important that revisions that are developed, widely discussed and adopted in one academic year be effective at the beginning of the following academic year. This revision was developed and circulated for comment in June 2005 and adopted by the Council in December 2007. The matter is now ready for consideration at the August 2007 meeting of the House.

6. **Status of Legislation. (If applicable.)**

None.
7. **Cost to the Association.** (Both direct and indirect costs.)

None.

8. **Disclosure of Interest.** (If applicable.)

None.

9. **Referrals.**

The following groups were offered opportunities to comment on the proposed Interpretation: Deans of ABA-approved law schools, presidents of universities with ABA-approved law schools, chief justices of state supreme courts, bar admissions authorities, the ABA Standing Committee on Pro Bono and Public Service, the Law Student Division, the Young Lawyers Division, the Standing Committee on Legal Aid and Indigent Defendants, deans of unapproved law schools, and leaders of organizations interested in the law school approval process (including the Association of American Law Schools, the National Conference of Bar Examiners, the Law School Admissions Council, the National Association for Law Placement, the Conference of Chief Justices, and the National Conference of Bar Presidents). The proposed Interpretation and the memo soliciting comment also were posted on the Section’s website.

10. **Contact Person.** (Prior to the meeting.)

Hulett H. Askew, Consultant on Legal Education 312-988-6744
American Bar Association
321 N. Clark Street
Chicago, IL 60611

[At the Meeting, Nikko Hotel]

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

Jose Garcia Pedrosa, Esq., Section Delegate 305-243-5813
National Parkinson Foundation, Chief Operating Officer
1501 N.W. 9th Avenue
Miami, FL 33136; jgp@parkinson.org

[At the meeting, Nikko Hotel]

Sidney S. Eagles, Jr., Esq., Section Delegate 919-755-8771
Smith Moore LLP
2800 Two Hannover Square, BB&T Building
Raleigh, NC 27601; sid.eagles@smithmoorelaw.com

[At the Meeting, Nikko Hotel]