### RULES OF THE SOUTH CAROLINA BAR LAWYER REFERRAL SERVICE

**PREAMBLE:** The South Carolina Bar recognizes that there exist within the general public individuals who need assistance finding legal counsel. In order to respond to the needs of those persons, it is the decision of the South Carolina Bar that a lawyer referral service be established.

# I. THE SERVICE

The Service will be operated from the offices of the South Carolina Bar, utilizing the staff and under general supervision of the Executive Director. When appropriate, a person seeking a lawyer will be referred to a member of the Service on a rotating basis upon the agreement of such person to pay an initial consultation fee of up to \$50, if charged, provided the initial consultation does not exceed one-half hour. The Service will not charge the public for referrals, and the lawyer is not obligated to charge the consultation fee.

### II. MEMBERSHIP STANDARDS AND RULES

- (A) Any active member in good standing before the South Carolina Bar may apply for membership if he or she has at least two years of experience in the area of practice for which he or she seeks referrals and has regularly handled matters in the designated practice areas.
- (B) Members will be grouped by county.
- (C) In accepting the registration of an applicant, the Service may require such information and certification as it deems necessary to demonstrate the applicant's qualification to practice and adherence to recognized ethical standards of the profession.
- (D) In consideration for membership in the Service, an applicant, in filing the application, agrees:
  - 1. To grant an initial consultation for a fee of up to \$50, if charged, as set by the South Carolina Bar Board of Governors to any client referred by the Service, provided the conference does not exceed one-half hour; however, if, after initial contact with the applicant or applicant's office, either the client or the applicant determines that the consultation would not be beneficial, the applicant is under no further obligation to the client.
  - 2. That any charge for further services will be as agreed upon with the client and set forth in a written fee agreement that shall include all matters in which the client is charged fees over the 30-minute initial consultation fee and that shall notify the client that a portion of the fee is payable to the Service.
  - 3. To carry, and continue to carry, professional liability insurance in the amount of \$100,000 minimum.
  - 4. To grant all clients referred by the Service an appointment, or to respond in writing or via telephone as soon as practicable after request is made, subject to the provisions of II(D)(1) above.

- 5. To abide by all of the rules of the Service and in no event hold, or claim to hold, the South Carolina Bar or any of its officers, members or employees liable in connection with the operation of the Service or use of the information contained in the application in connection with the activities of the Service.
- 6. To hold harmless and indemnify the Service, the South Carolina Bar, or any of its officers, members or employees for any claims arising out of the acts of the applicant.
- 7. To maintain a business office in which to receive clients within the geographical area served.
- 8. To send to the Service within five (5) days of the effective date, by letter or email, notification of changes in insurance coverage.
- 9. That the initial \$50 fee shall include an initial legal consultation between the client and the applicant of at least one-half hour unless terminated earlier by the client. The discussion will include substantive review of issues and may include discussion of fees.
- 10. To maintain responsibility for each matter referred and accepted. The applicant, when retained to handle a matter referred by the Service, shall maintain responsibility for the matter. The applicant shall not transfer responsibility or control of any matter referred by the Service without the knowledge and permission of the Service, unless required by law or court order. Additionally, should the applicant feel it to be in the best interest of the client, he/she may ask another lawyer to act or to serve as co-counsel on the matter. The applicant shall notify the Service of the arrangement and remain responsible for the percentage fees due the Service on all lawyer's fees, unless written approval from the Service is obtained
- 11. To comply with all federal, state and local laws, rules and regulations pertaining to services that are rendered to the public, including but not limited to, 29 U.S.C. §784 et seq. (Rehabilitation Act) and 42 U.S.C. 2000e (Title VII). (For code sections and other resources, click here.)

#### III. AREAS OF COMPETENCY

- (A) All applicants shall certify that they comply with the requirements of II(A) above and are competent in the areas in which referrals are desired. Rule 1.1, SCACR, states "a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."
- (B) The Executive Director will identify the practice areas that may be selected, endeavoring to be comprehensive enough in delineation of practice areas to be helpful to potential clients, while limiting the number of choices available to avoid confusion.

(C) Applicants shall select the areas of practice for which they receive referrals. No applicant may select all areas. The Executive Director may seek input from the sections and committees of the Bar in arriving at standards for various areas for practice, and may require certification of competency based upon such standards. The Executive Director or designated staff may determine the maximum number of areas that may be selected.

# IV. FEES FOR MEMBERSHIP

- (A) Each member of the Service shall pay to the South Carolina Bar a non-refundable annual membership of \$50 for each county from which the member wishes to receive referrals. The fiscal year begins July 1 of each year, and there will be no fee adjustment for membership application made after this date. The membership fee will be used to defray the costs of the operation of the Service.
- (B) Each member shall make an additional payment of 10% of the collected net legal fee (excluding itemized costs and expenses and the first \$250), payable within 30 days of receipt of payment by or on behalf of the client. This obligation applies to fees recovered as a result of any and all actions or proceedings arising out of the same set of facts or circumstances that were the basis for the original referral. (e.g., if the client seeks a referral for a Workers' Compensation matter and it becomes clear that the client has a third party claim arising out of the same accident.) It does not apply to separate, unrelated legal matters for which the client may seek counsel. (e.g., if the client seeks a referral for drafting a will, but hires the lawyer to represent him in a recent auto accident.)
- (C) A client referred to a member by the Service may not be charged a fee for legal services in excess of the fees charged for similar work done for the lawyer's other clients. The fees charged to a client referred by the Service shall not be increased by reason of the obligation of the member to remit a percentage of the collected net.
- (D) If a member associates other counsel, the member remains responsible for ensuring that the percentage fee in Section (B) above is remitted at the conclusion of the case. The percentage fee is calculated on the full fee regardless of the portion due the member. See also II(D)11.

### V. WITHDRAWAL/SUSPENSION FROM MEMBERSHIP

- (A) A member at any time may withdraw his name from participation in the Service upon written notice to the Lawyer Referral Service Director, addressed to the South Carolina Bar Lawyer Referral Service, so long as the lawyer has fully completed reports on all referrals, paid any fees due to the Service and satisfied any other obligations to the Service in a timely manner and pursuant to the agreement between the lawyer and the Service and pursuant to these rules.
- (B) A member who voluntarily withdraws or is suspended under the provisions of Section C below shall not be entitled to a refund of the enrollment fee; shall not be relieved of the duty to dispose of, in accordance with standard practices, any pending case or obligation incurred during membership; and shall not be relieved of any obligation to pay the portion of any fee for cases referred prior to withdrawal or suspension.

- (C) An applicant will be denied registration and a Service member will be suspended from the Service if the applicant or service member has:
  - 1. willfully failed to pay to the Service any fee, timely render any report after reasonable notice, or otherwise abide by the rules of the Service;
  - 2. signed an application or other certification or submitted a report to the Service, which shall be found to be untrue in any material respect;
  - 3. resigned from the practice of law in South Carolina;
  - 4. ever been suspended or disbarred for disciplinary reasons from the practice of law in South Carolina, even if reinstated;
  - 5. consistently been unjustifiably unavailable to referred clients;
  - 6. consistently refused to make or keep appointments with referred clients;
  - 7. consistently or excessively had complaints lodged against him or her with the LRS or the South Carolina Bar's Resolution of Fee Disputes Board by referred clients;
  - 8. failed to provide adequate proof of insurance.
- (D) Notwithstanding the foregoing, if at any time the LRS Director receives notice or information giving him or her reasonable grounds to believe that a panel member does not meet the required standards of responsibility, capability, character and integrity, the LRS Director may suspend the Service member from participation, with the concurrence of the Public Services Director or Executive Director.
- (E) When a member receives a referral for a person he does not intend to represent, he may not refer the person to any other lawyer without the express approval of the LRS Director. A violation can be a basis for suspension or removal from panel membership.
- (F) Appeals shall be made to the Board of Governors in writing.

# VI. OPERATION OF THE SERVICE

- (A) Referrals will be made to members in rotation in the county requested by the client. If no member is listed for the area of practice in which the referral is requested, the referral will be made in the county closest to that requested by the client. Each member's open cases are available to the individual member via the online Case Manager System (CMS) program. Using CMS, members will update the status of their cases at least monthly and remit all percentage fees due. Percentage fees and renewal fees may be paid by credit card through the online system or by mailed check.
- (B) A member will accept for initial review any matter that comes within an area in which he or she is willing to handle referrals. The member will identify for the potential client any conflict of interest. Nothing herein will be construed to obligate a member to accept employment beyond the initial consultation.

- (C) Consultation with a partner or associate of the member by the client will be deemed an acceptance of the referral for initial interview by a member.
- (D) A client will not be referred to a member outside the county where the client is located unless the client either requests or agrees to such an arrangement.
- (E) The member may notify the Service if there is a period of time of one week or more in which the member will be unavailable for referrals because of vacations exceeding five days, trials or other reasons. Failure to do so may cause the member to lose place in the rotation order on the list.
- (F) A caller will be limited to two separate referrals regarding the same legal issue within a time period deemed reasonable by the Service, subject to modification only in the event of circumstances beyond the caller's control.

### VII. OUT-OF-STATE REFERRALS

- (A) When a referral is made for an out-of-state caller who cannot go to the member's office for an appointment, the caller may be directed to forward payment of the consultation fee to the member, either before or simultaneously to presentation of the caller's legal matters.
- (B) If contact with the member is to be made by mail, the member agrees to respond in writing, but is not obligated to spend more time in doing so than would have been spent for an office appointment.

### VIII. ACKNOWLEDGMENT AND REPORT OF REFERRALS

The member will respond to a referral report forwarded by the Service within thirty days after each referral by logging on to the online CMS program and designating the status of the case. The report will state whether representation will be undertaken on behalf of the caller, the representation was rejected, or the potential client was never seen. A panel member shall maintain a record of all Service referrals beyond the initial reporting period and notify the Service of any change in disposition. Nothing herein will require any member to violate the lawyer-client privilege.

### IX. RECORDS AND REVIEW

- (A) The Service may make regular and consistent attempts to obtain information that will enable the Service to discover: 1) if referred callers contacted the lawyer's office, 2) if the callers were satisfied with the lawyer's handling of the case, and 3) if all monies owed to the Service have been paid.
- (B) A member or former member of the Service, who has willfully failed to remit a fee due the Service or respond to reasonable efforts by staff to collect the fee, shall be reported to the Office of Disciplinary Counsel. Reasonable efforts shall include written notice to the member.
- (C) The Service will keep for a minimum of two years a confidential record of all referrals, which will be subject to examination and inspection by the Executive Director, the lawyer to whom a referral was made, the Board of Governors of the South Carolina Bar and the Commission on Lawyer Conduct.

# X. PUBLICITY

The Executive Director will have general discretion to determine how to publicize the Service in order to fulfill its objectives consistent with the Rules of Professional Conduct.

# XI. OVERSIGHT

The Board of Governors shall review the program's performance. On recommendation of appropriate staff, the Board may adjust all provisions set forth herein, including qualifications for membership in the Service, consultation fees, areas of practice, county registration fees, percentage of remittance and threshold before the percentage applies.

# XII. FUNDS

All monies received by the Service shall be used in its operation and promotion to the extent practicable. Surplus funds, at the discretion of the Board, may be applied to support delivery of civil legal services to indigents, support law related education programs, support other public service activities of the Bar and be invested in capital improvements.

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