



MEMO

Date: July 6, 2009
To: MOC MCLE Task Force
From: Phyllis J. Culp
Re: Report following June 24, 2009 Conference Call

The MCLE Pro Bono Task Force met by conference call on June 24, 2009. Participants included the Task Force Chair, Howard Miller; members Paul Kramer, Angela Davis, and Bill Hebert; legal services experts Justice Laurie Zelon and Toby Rothschild, General Counsel of the Legal Aid Foundation of Los Angeles; and State Bar staff, Pat Lee and Mary Flynn. The group discussed how pro bono legal services (free legal assistance provided to indigent individuals or not-for-profit organizations) could be increased, especially in the area of family legal issues, and whether there was any way to involve the MCLE program in encouraging pro bono.

As a result of the discussions and subsequent staff discussions, the following proposals are being considered:

- **Permit discounted or waived registration for Legal Services and Pro Bono attorneys at State Bar Section MCLE activities.** Attorneys employed by legal services providers or attorneys who volunteer a set number of pro bono hours through a legal services entity would be permitted to attend education sponsored by the State Bar Sections. Options include:
 - The State Bar, particularly the Sections, could waive fees for legal services attorneys and pro bono lawyers, offering a certain number of slots in the scheduled MCLE activities.
 - Education could be in the subject matter of the volunteer legal work, or it could be offered after the pro bono work was completed as an added benefit for completing the volunteer work; the education can be in any subject area of interest to the attorney.

- **Work to establish government pro bono policies**, similar to the ones that Janet Reno and John Van de Kamp had in place, therefore encouraging Government attorneys to increase the number of pro bono hours. (NOTE: In 1996 the Board amended the MCLE Rules that permit state and federal employees to provide pro bono services through a qualified legal services project without losing their exemption from the MCLE requirement.)
- **Expand the Pro Bono Practice Program** (formerly the Emeritus Attorney Pro Bono Participation Program) to make the program more flexible and attractive for possible participants. Options include:
 - permitting attorneys who volunteer in this program to include work in a court-based self-help center or other settings beyond the current IOLTA or LRS placements;
 - allowing a minimal amount of other unpaid law practice for family members while also clarifying that MCLE appropriate to that non-legal services work should be undertaken, so that the attorneys are competent to provide that representation (MCLE for the pro bono portion of their work is required and is provided free of charge, wherever feasible);
 - Significantly promoting the Pro Bono Practice Program to expand participation and increase services for legal services clients.
- **Waive MCLE provider fees for IOLTA recipients.**

Recommendation on MCLE Credit for Pro Bono. The Task Force determined not to propose amending the MCLE Program rules to permit pro bono legal services or mentoring to satisfy the education requirement for the reasons below:

- There are two duties that are separate and independent and should not be confused – the duty to be competent and the duty to do pro bono;
- Representing poor people should not be considered “training” – it is the actual practice of law, and saying otherwise sends the wrong message;
- Offering MCLE credit for anything that is not education undercuts the purpose of MCLE.