



THE STATE BAR OF CALIFORNIA

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OFFICE OF LEGAL SERVICES

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MEMORANDUM

To: Rex Heinke, Chair of Board Committee on Legal Services
From: Rodney Low, Office of Legal Services
Re: Status Report on Limited Scope Legal Assistance
Date: April 28, 2010

EXECUTIVE SUMMARY:

This report briefly reviews the Board Resolution from May 2009 (agenda item number MAY 164, attached as Exhibit A) regarding Limited Scope Legal Assistance, also known as “unbundling” (attached as Exhibit B). The State Bar, in partnership with Practising Law Institute, produced five programs on unbundling, will present two more at the 2010 Annual Meeting in Monterey, and trained twenty-five certified Lawyer Referral Services on creating subject matter panels using Limited Scope Representation in Homeowners Association law. In 2010 - 2011, the State Bar will approach the State Bar sections to design educational programs based on their subject matter areas using the unbundling delivery system. Additionally, the State Bar will work with the malpractice carriers, courts and law schools to infuse their programs with the Limited Scope Representation service model.

Brief History of Resolution:

In May of 2009, the State Bar Board of Governors passed the Resolution (attached) regarding Limited Scope Legal Assistance, also known as “unbundling”. This resolution recognized the continuing need for legal representation of Californians of low and moderate income and that Limited Scope Representation was a proven method of providing increased access to affordable legal services. The resolution urged expanded education, development and support of Limited Scope Representation in a variety of legal sectors, including specific State Bar Sections, certified Lawyer Referral Services, law school curricula and clinics, professional negligence insurance carriers, and court policy and procedures. Throughout 2009 and 2010, a number of activities and events occurred that included programming on Limited Scope Representation.

There is a developed history of support for the implementation of the 2001 Report on Limited Scope Legal Assistance with Initial Recommendations, prepared by the Limited Representation Committee of the California Commission on Access to Justice. In July of 2001, the Board of Governors approved the Commission’s recommendations:

“The State Bar should support the expansion of such limited scope legal assistance as part of its ongoing effort to increase access to legal services.”

Status Report of Activities:

In 2009, the State Bar, in partnership with the Practising Law Institute, produced the following MCLE programs on Limited Scope Representation at no cost to the attendees:

- Unbundling Training of Trainers (attendance, 375)
- Expanding Your Practice Using Limited Scope Representation (attendance, 755)
- Limited Scope Representation for Legal Services Providers (attendance, 484)
- Protecting the Rights of Homeowners with Limited Scope Representation (attendance, 580)
- Protecting Domestic Violence Survivors and Their Children (attendance, 571)

These programs continue to be available on archived-status and attorneys can access these programs at their convenience.

At the 2009 Lawyer Referral Service Forum, twenty-five certified lawyer referral services were presented with materials and training on how to create a subject matter panel that specialized in Homeowners Association law with a limited scope delivery model. This provided them with a turnkey model of a lawyer referral subject area that was growing in demand and gave low and moderate income Californians access to legal services. Lawyer Referral Services continue to add subject matter panels applying the Limited Scope Representation model of delivery of legal services and the Office of Legal Services will continue to assist and encourage their development.

The Standing Committee on Delivery of Legal Services will present two programs at the 2010 Annual Meeting with Limited Scope Representation as the basis for employment law claims and common interest development actions. The Employment Law Section, the Real Property Section, and Solo & Small Firm Section, will be notified and asked to help publicize these programs among their members. (In 2009, the State Bar's Standing Committee on the Delivery of Legal Services had planned on presenting a program on Limited Scope Representation for Common Interest Development Claims for presentation at the Annual Meeting in San Diego as a joint program for the California Bench Bar Conference. Unfortunately, the Bench Bar Conference was cancelled due to the court's budgetary issues.)

This curriculum, along with previously produced educational material, represents an existing body of training materials regarding Limited Scope Representation available to all practitioners. With the state of the economy, attorneys are exploring all avenues for generating business and revenue, which provides new opportunities for unbundling, which has been long misunderstood and ignored, to take root and flourish.

Proposed Activity for 2010-2011:

Sections - In 2010, Office of Legal Services will follow up with the Family Law, Solo and Small Firm, Business Law, Real Property, and the Trusts & Estates Sections of the State Bar to design and produce educational programs using Limited Scope Representation as an ethical and viable way to expand attorneys' practice areas while serving the public.

Courts – Efforts to increase judicial education of Limited Scope Representation in courts beyond Family Law have been planned, though delayed due to budgetary

limitations. However, the Elkins Family Law Task Force has reported a need for renewed education in Family Law Courts permitting and, in the appropriate situations, encouraging Limited Scope Representation. The State Bar will assist in designing Limited Scope Representation training for court staff and judges.

Law Schools - The State Bar's Office of Legal Services will follow up with law schools, particularly those with clinics, to encourage them to add Limited Scope Representation as a delivery model. While most law school curricula focus on subject matter areas, as opposed to delivery systems, Limited Scope Representation has a vital element of ethics in the attorney's decision-making process of applying the practice to the client's legal issues, which would be appropriate in the law school setting.

Conclusion:

Now that there is a body of educational material on Limited Scope Representation, with the Board of Governors resolution to support and encourage its expansion, and the courts acceptance of unbundling as a standard of the practice of law, the State Bar can move forward to encourage its sections, insurance carriers, and law schools to adopt it as a delivery model. This will result in the availability of more representation at the point when it can assist the client in the most effective way.