



Staff Memorandum

HOUSE OF DELEGATES Agenda Item #8

REQUESTED ACTION: Approval of a scheduling resolution to manage discussion and debate of mandatory pro bono reporting at the June 2014 House meeting.

At the January 31, 2014 House meeting, the Executive Committee presented a proposed resolution to express the Association's continued opposition to mandatory pro bono reporting of lawyers' pro bono service and financial contributions to legal services organizations. After lengthy debate, a motion was adopted to postpone consideration of the resolution to the June 21, 2014 meeting.

As with past House items that are expected to engender significant discussion and proposal of amendments and alternatives, it has been proposed that the House adopt a scheduling resolution to govern the submission of comments and amendments and guide the debate at the June 21 meeting. The scheduling resolution (which is attached, together with the Executive Committee resolution that was postponed at the January meeting) provides for the submission of comments and amendments by June 9, 2014 in order to be distributed to the House in advance of the meeting. The resolution also requests that members who intend to speak at the meeting give notice of their intent by that date. This request is being made in order to gauge the extent of debate and discussion at the June meeting and does not preclude others from speaking at the June meeting.

The proposed resolution will be presented by President-elect designee David P. Miranda.

**PROPOSED RESOLUTION TO GOVERN CONSIDERATION
OF THE EXECUTIVE COMMITTEE RESOLUTION ON
MANDATORY PRO BONO REPORTING**

RESOLVED, that the House of Delegates hereby adopts the following procedures to govern consideration at the June 21, 2014 meeting of the House of the Executive Committee Resolution on Mandatory Pro Bono Reporting:

1. The resolution will be circulated with other materials for the meeting to members of the House, sections and committees, county and local bar associations, and other interested parties.
2. **Comments on or amendments to resolution:** Any comments on the resolution, or any proposed amendments to the resolution, shall be submitted in writing to the Secretary of the Association at the Bar Center by June 9, 2014. All comments and proposed amendments complying with this procedure shall be distributed to the members of the House in advance of the June 21, 2014 meeting.
3. **Speaking on the resolution:** Those members of the House intending to speak on the resolution are requested to provide notice to the Secretary and whether they intend to speak for, or against, the resolution by June 9, 2014. This notice is a courtesy for scheduling purposes and will not prevent the chair from recognizing speakers on the issue who fail to provide such notice.
4. **Consideration of the resolution at the June 21, 2014 meeting and any subsequent meetings:** The resolution will be scheduled for formal debate and vote at the June 21, 2014 meeting and considered in the following manner:
 - a. A representative of the Executive Committee shall be given an opportunity to present the resolution.
 - b. All those wishing to speak with regard to the resolution may do so only once for no more than three minutes.
 - c. The Executive Committee representative may respond to questions and comments as appropriate.
 - d. Procedural motions shall be considered out of order until debate on substantive issues is concluded.

**RESOLUTION OF EXECUTIVE COMMITTEE
JANUARY 30, 2014**

WHEREAS, the Appellate Divisions of the Supreme Court amended Rule 6.1(a)(1) of the New York Rules of Professional Conduct by increasing the aspirational number of pro bono hours to be provided annually by all lawyers from 20 to 50, effective May 1, 2013; and

WHEREAS, the Appellate Divisions of the Supreme Court amended Rule 6.1(a)(2) of the New York Rules of Professional Conduct by providing that lawyers should aspire to make annual financial contributions to organizations that provide legal services to poor persons in an amount at least equivalent to: (i) the amount typically billed by the lawyer (or the firm with which the lawyer is associated) for one hour of time, effective May 1, 2013; and

WHEREAS, concurrent with the amendments to Rule 6.1 as set forth above, section 118.1(e)(14) of the Rules of the Chief Administrator was enacted, effective May 1, 2013, requiring lawyers to report the following information on their biennial registration forms: (a) the number of hours that the lawyer voluntarily spent providing unpaid legal services to poor and underserved clients during the previous biennial registration period; and (b) the amount of voluntary financial contributions the lawyer made to organizations primarily or substantially engaged in providing legal services to the poor and underserved during the previous biennial registration period; and

WHEREAS, the Committee on Standards of Attorney Conduct (“COSAC”) of the New York State Bar Association (the “Association”) has proposed an amendment to the Comment to Rule 6.1 which would make the Comment consistent with the black letter text of Rule 6.1 as amended by the Appellate Divisions, to reflect the increase from 20 hours to 50 hours; and

WHEREAS, this amendment to the Comment to Rule 6.1 is ministerial only, and does not in any way constitute or reflect support, endorsement or approval by the Association of the amendments to Rule 6.1 of the New York Rules of Professional Conduct, nor of section 118.1 of the Rules of the Chief Administrator, which were promulgated without consultation with the Association and, to the extent they require mandatory reporting of pro bono services and mandatory reporting of financial contributions to organizations engaged in providing legal services to the poor and underserved, are contrary to established policy of the Association; it is therefore

RESOLVED, that the amendment to the Comment to Rule 6.1 proposed by COSAC be and hereby is adopted: and it is further

RESOLVED, that the Association reiterates and reaffirms its opposition to mandatory reporting of pro bono services and mandatory reporting of financial contributions to organizations engaged in providing legal services to the poor and underserved; and it is further

RESOLVED, that the Association shall continue to express its opposition to such mandatory reporting to the Chief Judge of the State of New York and the Presiding Justices of the Appellate Divisions of the Supreme Court of the State of New York, and shall pursue such other and

further actions as may be appropriate, for the purpose of achieving the repeal of Rule 118.1(e)(14) of the Rules of the Chief Administrator; and it is further

RESOLVED, that, while the Association reaffirms its opposition to mandatory pro bono services, nothing contained herein shall be construed as diminishing the Association's support for voluntary pro bono services by its members to poor and underserved clients, and for adequate public funding of organizations engaged in providing legal services to poor and underserved clients