



LAWYER REFERRAL SERVICE

Rules and Guidelines

Member Handbook

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Purpose of the Lawyer Referral Service

The Monroe County Bar Association's Lawyer Referral Service is a public service designed to:

- Serve the public with information and access to legal services
- Provide member attorneys with opportunities for clients and good PR
- Promote a positive image of the legal profession
- Express the Association's commitment to professional excellence

The MCBA LRS is not a pro-bono or low cost legal service. It is not intended for people who cannot afford an attorney, however it is not just a way to capture paying clients. The MCBA LRS assists more callers by referring them to more appropriate resources than are actually referred to an attorney. When a referral is made, we want them to be beneficial for the client and the attorney thereby promoting the Bar Association in every way. In order to better serve both attorneys and clients we have adopted these Standards and Rules.

Our Rules deal with how to handle referrals, make reports, and remit fees. You (or your firm's) attorney have signed an agreement to meet our standards and follow our rules.

This handbook is designed to make both the attorney and his/her firm gain the most from membership in the MCBA LRS.

Enrollment form

All forms must be signed and returned with the appropriate enrollment fee and a copy of a current declarations page for insurance coverage. There also must be a signed attorney affirmation on file. (Found at the end of this booklet).

Membership Requirements

1. Be admitted to the practice of law in New York State.
2. Be engaged in full-time, private practice of law, apart from any activity which would present a conflict of interest, or cause inaccessibility to a client during normal business hours.
3. Carry malpractice insurance of a least \$100,000 and provide the LRS Coordinator with a copy of your insurance cover sheet at time of enrollment and each insurance renewal year.
4. Submit a fully completed and executed enrollment application and affirmation together with the appropriate enrollment fee due at the time of enrollment.

5. Agree to all terms and conditions set forth in connection with the remittance of the 10% fee sharing plan on all matters other than modest means. Modest means require a 10% fee sharing after the initial \$500 in fees.
6. Waive right to confidentiality as to pending complaints to the extent that the LRS Coordinator is notified when either a complaint against said attorney is initially pending before the Professional Performance Committee of the MCBA, or when such a complaint has been resolved or referred to the 7th District Grievance Committee.
7. Collect and submit the \$40 referral fee to MCBA, **if applicable – most fees collected upfront by LRS staff.**
 - a. Reasonable efforts must be made to gather sufficient information and provide a basic consultation within the initial 30 minutes.
 - b. Before an attorney charges any additional fees for any consultation exceeding the 30 minute timeframe, they must notify the client at the end of the initial 30 minutes.
8. Responsibility for Matters Referred to Panel Members:
 - a. A panel member who is not retained on or does not accept a matter referred by LRS shall not refer the matter to another attorney outside of your firm or recommend another attorney to the client, but shall refer the client back to LRS for another referral.
 - b. A panel member who is retained on a matter referred by LRS shall maintain responsibility for and control of such matter. A panel member shall not transfer responsibility for or control of any matter referred by LRS without the knowledge and permission of LRS, unless required by law, court order or the written direction of the client.
 - i. This shall not restrict a panel member from engaging another attorney to handle limited aspects of a matter, provided such engagement is in the best interest of the client.
 - ii. Any fee charged by such other attorney shall be included in the amount of the panel member's fee for the purposes of determining the panel member's percentage fee.

The attorney shall indicate at the time of enrollment in LRS the areas of law in which clients will be accepted, noting that the area(s) of law indicated on the enrollment form are those in which the applicant attorney's practice is concentrated.

When a referral is made, the attorney will be emailed the referral form, identifying the pertinent information in order to start a file. There will be a brief description of the problem/issue and an attorney response form attached. The attorney response can be emailed, faxed or sent via US postal service back to the LRS in order to keep accurate records.

Modest Means Program

The MCBA LRS has a modest means program designed to help individuals in the lower income range (below 200% of the Federal Poverty Guidelines) secure the services of an attorney at a reduced rate. In addition to the MCBA only charging the client a \$20 referral fee (as opposed to \$40), the attorney agrees to reduce their regular rates. While the reduction is up to the attorney, we suggest at least a 25% reduction in the normal rates. There are increasing numbers of people whom need an attorney, yet can't quite afford one. We strongly suggest checking the modest means box on the application.

Adding and/or Changing Categories

Any LRS member attorney may drop or (add at a minimal fee) a category at any time with written request. (Email is accepted).

Free Categories

On the application form there are the categories of Mental Health, Veterans Administration, Military law and Pro Bono which may be checked at no additional charge. We encourage those who practice in those areas's to take advantage of this and serve the public in a meaningful way.

Referring to Others in the Firm

After the initial ½ hour consultation, the panel member may refer a LRS client to another insured, non-LRS member attorney IN YOUR FIRM, however all fees and correspondence relating to the referral will be sent to the initial Lawyer Referral Service panel member. If the attorney cannot assist and does not refer to another attorney in the Firm, then the client must be referred back to the MCBA LRS.

Case file identification

Because of the movement of attorneys between firms and practices, the cases that are retained from the LRS must have some type of file identifying that fact. Once a LRS case, always an LRS case and the attorney remains obligated to report and remit reports and fees as scheduled. The MCBA will provide Neon file folder identification stickers to be put on the file folder for identification purposes.

Proof of insurance

There has to be a current declarations page of insurance for the Panel member attorney on file at all times. There is no grace period for this and an attorney who does not submit current proof will be pulled out of rotation until he is compliant with all program specifications.

Serving Deaf and Hard of Hearing Clients

With Rochester having one of the highest deaf populations in the US, you may occasionally get a referral for a deaf person. Attorneys have responsibilities under the ADA to provide deaf clients with sign language interpreters and other accommodations that they may need to communicate. The MCBA has a deaf fund to help pay for the cost of services related to serving deaf clients. Information will be sent to you along with the referral confirmation page and can be found on our website at: <https://www.mcba.org/member-resources/DEAFund.aspx>.

Calculating Percentage Fees

The LRS collects percentage fees of 10% on the total amount collected from the client (minus disbursements). Ex. Referral Case # 6254 was retained at a total costs of \$3220 of which \$345 are court fees.

$$\begin{array}{r} \$3,220 \\ -\$345 \\ \hline =\$2,875 \end{array} \times 10\% \text{ to LRS} = \$287.50$$

Modest means cases collect fees of 10% of total amount collected above \$500 threshold. Ex. Modest means referral case # 7462 was retained at a total cost of \$1500 with no out of pocket expenses.

$$\begin{array}{r} \$1500 \\ -\$500 \\ \hline =\$1000 \end{array} \times 10\% \text{ to LRS} = \$100.00$$

The \$500 deduction is made only once with each client account. Referral fees for several cases may be paid together in one check. Please indicate on the form how much should be associated with each referral number.

Quarterly Reports

Each Quarter your office will receive, via email, a quarterly report summarizing the cases that have been referred to you. The purpose of this report is to maintain accurate records for the LRS and your office on the disposition of the referrals. Please send the report back with any missing case statuses and any percentage fees due. All attorneys are encouraged to remit fees as they are collected from the client, but **MUST** be paid no later than the end of the case. At a minimum, the percentage fee for the amount that has been paid to date must be remitted to the LRS annually.

Reporting Discrepancies

Periodically, client surveys will be sent out in order to better serve the public. In these surveys are spaces for the client to divulge the amount that the attorney charged them. Occasionally there is a discrepancy between what the client reports and what the attorney reports (either in case status or in the amount charged). In these cases, a letter will be sent asking the attorney to clarify the situation. The MCBA LRS reserves the right to request all billing information in order to properly credit the service.

Voluntary Declination, Suspension and Removal:

Attorneys may be suspended from the service by their own request or by action of the LRS. Annual membership dues are not refundable. Responsibility for current cases is not affected by membership status.

Voluntary Declination:

Should any LRS panel member face criminal action in any court of any jurisdiction, said panel member will decline participation in any new LRS matter. The duty shall be on the attorney to voluntarily decline assignment on any matter if contacted by LRS. If the final disposition in the criminal matter is favorable to the attorney, the attorney shall be reinstated to the LRS panel. If the final disposition is not favorable to the panel member, the coordinator may recommend suspension or termination of the attorney from LRS participation.

Membership Suspension, Termination, Denial and Withdrawal:

Suspension/Termination: The LRS committee chair is empowered to recommend to the President and/or Executive Director of the MCBA the suspension/termination of any panel member for any violation of rules or regulations covered herein. If the panel member is suspended from the service pursuant to LRS Rules and Regulations, the panel attorney shall be notified in writing within fifteen (15) working days of the action and the reasons therefore.

- A. If an attorney requests temporary or permanent suspension of membership, the LRS Coordinator will set status accordingly.
- B. The LRS coordinator will temporarily suspend attorneys who are delinquent in returning required reports, after a 30 day grace period the attorney will be notified a second time upon which he has 15 days to respond or the member will be suspended from the panel. The proof of insurance will be in within 1 day of expiration of old policy or the attorney will be suspended from the panel. On evidence of fulfillment of the requirements, the attorney will once again be activated.
- C. LRS is entitled to (a) know the outcome of any legal representation, and (b) the attorney's fees received, including all attorney(s) fees paid in the case, whether paid directly by another party, or by settlement proceeds, so that LRS may determine the portion of the attorney's fees to which it is entitled.
- D. The panel attorney is required to disclose any discipline imposed, any pending suit for legal malpractice or other private civil action alleging attorney misconduct, any pending inquiries or complaints, any pending grievance matters submitted to an evidentiary panel.

On being informed by the Grievance Committee that a panel member has been recommended for discipline, the LRS Coordinator will suspend the attorney's membership until the resolution of the ethics matter. If the Grievance Committee chooses not to pursue discipline, the LRS Coordinator will reactivate the member. If discipline is recommended, the suspension will remain in place until satisfactory fulfillment of the disciplinary requirements. Attorneys will not receive referrals during any time when their right to practice is suspended or when an attorney is placed on probation. Attorneys who are disbarred will be permanently removed from LRS.

- E. An attorney may also be suspended from the service by action of the LRS Chair for up to 60 days for the reasons in the following paragraph. The LRS committee chair will review the complaint with the LRS Committee and then impose a suitable discipline, whether lifting the suspension, extending the suspension, removing the attorney from the service, or other such discipline the LRS Committee deems appropriate.

Suspension may be implemented for the following reasons: consistent unavailability to accept referred clients; record of failure to keep appointments with referred clients; excessive complaints from referred clients; providing misinformation regarding referral dispositions and/or fees; re-referral of LRS referred clients to other attorneys; failure to pay fees when due; and any other conduct determined unprofessional with the mission of LRS. Notice of suspension will be given to the panel attorney in writing within 15 days of such suspension, with information regarding the process.

- F. An attorney who has been removed from the LRS for reasons of discipline may not reapply the following year. After the attorney has been off the LRS panel for one full membership year, any application for being returned to the LRS panel will be reviewed by the LRS Committee.

Appeal Process

An LRS panel attorney may appeal the decision of the LRS Committee by filing written notice of appeal to the MCBA Executive Director within ten (10) days of receipt of a written decision from the LRS Committee.

The appeal shall be granted or denied within forty-five (45) days of receipt of the notice of appeal unless time is extended with the panel attorney's consent.

Note: If participation was previously terminated due to non-compliance with LRS rules, application will be accepted for LRS panel membership only on approval by the Executive Director of the MCBA. If termination was voluntary, LRS membership may be reinstated by the Executive Director.

Thank you for adhering to these rules and guidelines!

ATTORNEY AFFIRMATION

(To be returned to LRS coordinator)

1. I affirm that the information contained in the enrollment application is true.
2. I affirm that I will notify the Lawyer Referral Service Coordinator of the Bar Association if my professional liability coverage set forth above is terminated or modified.
3. I affirm I am currently registered with the Office of Court Administration, and I am an attorney in good standing in the State of New York.
4. I will service persons referred to me by LRS at no charge for the first consultation (up to ½ hour) with the understanding that it is to cover advice only. I may charge for the preparation of letters and/or any legal papers. If I cannot personally handle the referral, I will direct the client to call the LRS for another referral or an attorney in my firm. If any case is referred to another attorney in my firm, I understand that I am responsible for the remittance of any percentage fees that arise from the case.
5. I agree that on referrals, I will remit to the Monroe County Bar Association LRS ten percent (10%) of legal fees received (excluding disbursements) on all cases. For modest means cases, I will remit 10% of legal fees in excess of the initial \$500 threshold. The Monroe County Bar Association reserves the right to take legal action in the event that a percentage fee is not returned. Action will be taken only upon consent of Committee and Board of Directors.
6. I certify that I possess the professional qualifications to handle matters competently in the area(s) which I have indicated on the enrollment application, that I am personally handling cases in these areas of law, and that I am in compliance with the rules as determined by the LRS Committee described in this packet.
7. Applicant agrees to indemnify, defend, and hold harmless the Monroe County Bar Association, its officers, directors, members, and employees (MCBA) and the Lawyer Referral Service and its Committee from any claim, demand, action, liability, expense, or loss resulting in whole or in part from applicant's handling of any referral hereunder, the referral by the MCBA, or by applicant's failure to comply with any provision of this application.

8. I agree to complete and return quarterly reports, percentage fee and other correspondence to the Monroe County Bar Association office within thirty days or by date specified. If I am removed from the panel for any reason OR if a case generates a percentage fee when/if I am no longer a Lawyer Referral Panelist, I will remit 10% of the fees to the Bar Office. Failing to return quarterly reports or percentage fees, I understand my name may be removed from the active panel rotation list of the Lawyer Referral Service per LRS rules.
9. I understand that client follow-up will be regularly conducted, and if three (3) instances of negative feedback are reported by separate clients regarding my services, I may be called before the Lawyer Referral Committee and/or removed from the panel.
10. I have read and reviewed the MCBA's Lawyer Referral Service Rules and Guidelines and agree to follow the same.

Signature _____

Date
