



**South
Carolina
Bar**

House of Delegates



May, 2017

Dear Member of the House:

The House of Delegates of the South Carolina Bar will convene at 1:00 p.m. on Thursday, May 18, 2017, at Somerset Point, 1274 Chicora Drive, Pinopolis, South Carolina. When you arrive, please be certain to sign in so that the minutes will reflect your attendance. Lunch will be served at the start of the meeting.

The proposed agenda precedes the first tab of the attached book. You may remove for discussion any item from the Consent Agenda before the agenda is adopted at the start of the meeting. Please remember the restrictions on positions which may be supported by a mandatory bar association. There is a brief description of these restrictions behind the agenda.

You are encouraged to participate in thorough debate on agenda items. But, please respect your fellow House members by making your remarks succinct and pertinent to agenda items being debated.

Please arrive early to review any additional materials which may be distributed at the meeting. Available materials have been sent to you to allow you an opportunity to consult your constituency concerning the matters on the agenda. Please read the materials and obtain input from your peers.

During the Assembly, Elizabeth "Babs" Warner will be sworn in as President of our Bar. You are cordially invited to a reception in honor of Babs beginning at 4:30 p.m. at Somerset Point.

I look forward to seeing and spending some time with all of you in Pinopolis. If I can assist you in any way prior to the meeting, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Hagood Tighe".

J. Hagood Tighe
Chair



May, 2017

Dear House Member:

Thank you for your service to our Bar through your membership in the House of Delegates. The House sets the policies of the Bar and speaks for all our members. I look forward to discussing with you the matters on our agenda.

During the course of the meeting, a portion of our agenda is allotted for me to address the House with brief remarks and a summary of the year's highlights. We have accomplished a great deal this year, and I am excited about sharing a few of those accomplishments with you.

At the beginning of our meeting will be the presentation of several awards. Criteria for these awards, along with a listing of previous recipients, are located under Tabs 2 – 5 of these materials. Please congratulate those we honor with our awards.

Please review your materials and discuss them with the Bar members you represent for their perspectives. As always, your attention to and input regarding these matters is very much appreciated.

It has been a pleasure serving as your Bar President for the past year and I look forward to seeing you in Pinopolis!

Sincerely,

A handwritten signature in black ink that reads "William K. Witherspoon".

William K. Witherspoon
President

AGENDA
SOUTH CAROLINA BAR HOUSE OF DELEGATES
May 18, 2017 @ 1:00 p.m.

CALL TO ORDER
SET THE AGENDA

J. Hagood Tighe
Chair

- | | | |
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| 1. | Approval of Consent Agenda | J. Hagood Tighe
Chair |
| | a. Approval of Minutes of Meeting Held on January 19, 2017 | |
| | b. Receipt of March Financial Statements | |
| | c. Request from Solo and Small Firm Section to Amend
Section Bylaws | |
| | d. Request from the Dispute Resolution Section to Amend
Section Bylaws | |
| 2. | Presentation of Pro Bono Lawyer of the Year Awards | Fred W. Suggs, Jr.
Pro Bono Board Chair |
| 3. | Presentation of Legal Services Lawyer of the Year Award | Rosalyn W. Frierson
Commission Member |
| 4. | Presentation of Young Lawyer of the Year Award | I. Ryan Neville
YLD President |
| 5. | Presentation of Law Related Education Lawyer of the Year Award | Stephen M. Cox
Board Member |
| 6. | Report on the Activities of the SC Bar Foundation | Sidney J. Evering II
President |
| 7. | Recognition of Mentor of the Year | William K. Witherspoon
President |
| 8. | Report of the President | William K. Witherspoon
President |
| 9. | Request from Professional Responsibility Committee to
Enable Court Regulation of Legal Services | J. Leeds Barroll
Committee Chair |
| 10. | Request from Practice and Procedure Committee to Amend
Rule 13(a), SCRCrimP | Jonathan W. Lounsberry
Committee Chair |
| 11. | Request from Elder Law Committee to Oppose H. 4013 | Andrew J. Atkins
Committee Chair |

- | | | |
|-----|--|--|
| 12. | Request from Limited Scope Task Force in re Limited Scope Representation | John S. Nichols
Task Force Chair |
| 13. | Election of the Members of the Nominating Committee | Beverly A. Carroll
Secretary |
| 14. | Approval of Bar and CLE Division Budgets | M. Dawes Cooke, Jr.
Treasurer |
| 15. | Recognition of Outgoing President | Elizabeth H. Warner
President-Elect |

Recess to Convene Assembly

William K. Witherspoon
President

*** Special Order at 2:30 p.m.**

Installation of Board Members, Officers and President

President	Elizabeth H. Warner
President-Elect	M. Dawes Cooke, Jr.
Treasurer	Beverly A. Carroll
Secretary	LeRoy F. Laney
Board, 1 st Judicial Region	Allen D. Fretwell
Board, 3 rd Judicial Region	John E. Roxon
Board, 4 th Judicial Region	R. Bruce Wallace
Board, At Large	Shaheena R. Bennett
Board, YLD Representative	I. Ryan Neville
Board, YLD Representative	Ashleigh R. Wilson
ABA State Bar Delegate	J. Steedley Bogan

Keller v. State Bar of California, 496 U.S. 1 (1990)

“Here the compelled association and integrated bar are justified by the State’s interest in regulating the legal profession and improving the quality of legal services. The State Bar may therefore constitutionally fund activities germane to those goals out of the mandatory dues of all members. It may not, however, in such manner fund activities of an ideological nature which fall outside of those areas of activity.” 496 U.S. at 13-14.

“Precisely where the line falls between those State Bar activities in which the officials and members of the Bar are acting essentially as professional advisors to those ultimately charged with the regulation of the legal profession, on the one hand, and those activities having political or ideological coloration which are not reasonably related to the advancement of such goals, on the other, will not always be easy to discern.” 496 U.S. at 15.

Minutes
House of Delegates
January 19, 2017

The House met on January 19, 2017, at the Hyatt Regency Hotel in Greenville. Present were: Richard Whitney Allen; Samuel K. Allen; Daniel Joseph Ballou; J. Leeds Barroll, IV; Samuel Robert Bass, II; Sara Pendarvis Bazemore; Mark S. Berglind; Susan B. Berkowitz; J. Steedley Bogan; Brittany F. Boykin; James Edward Bradley; Robin A. Braithwaite; Wendell Lawrence Brown; Christopher W. Burrows; Beverly A. Carroll; George B. Cauthen; Mark Dale Chappell; Randall L. Charpia; Amie L. Clifford; M. Dawes Cooke, Jr.; Daniel West Cooper; Lee Deer Cope; Leslie A. Cotter, Jr.; Stephen M. Cox; John Vernon Steensen Crangle; William Carey Crantford; Charles Harmon Crawford, III; Elise Freeman Crosby; Andrew Scott Culbreath; W. Kyle Dillard; Daniel L. Draisen; Rhett C. Dunaway; Anne S. Ellefson; John D. Elliott; Eric K. Englebardt; Frank L. Eppes; Stinson Woodward Ferguson; Allen O. Fretwell; Kenneth S. Generette; C. Allen Gibson, Jr.; Bernadette Shawan Gillians; Robert Fredrick Goings; Harry L. Goldberg; Jack D. Griffeth; William B. Harvey, III; Daryl G. Hawkins; Anne Marie Hempy; Sean Joseph Hinton; Jason Michael Imhoff; Russell Thomas Infinger; Jacob H. Jennings; Daniel Edward Johnson; Lindsay Anne Joyner; Catherine H. Kennedy; Hon. Howard P. King; Edwin Thompson Kinney; Arial Burnside Kirk; Wes A. Kissinger; Christopher R. Koon; Lanneau Wm. Lambert, Jr.; LeRoy Free Laney; Angus H. Macaulay; John Lucius McCants; Kathleen McColl McDaniel; J. Edwin McDonnell; John O. McDougall; David B. Miller; Julie Jeffords Moose; Catherine Elizabeth Mubarak; Randall K. Mullins; Ivory L. Narcisse; Adam Christopher Ness; Irish Ryan Neville; William M. O'Bryan, Jr.; Cynthia Hall Ouzts; James Graham Padgett, III; James C. Parham, Jr.; Alice F. Paylor; Jason P. Peavy; Dayne C. Phillips; Richard A. Phinney; Ross Buchanan Plyler; Sheally Venus Poe; Benjamin R. Pogue, III; Jeremy Poindexter; Ashlin Blanchard Potterfield; A. Marvin Quattlebaum, Jr.; Marie-Louise Ramsdale; Pamela Jane Roberts; Pamela DeFanti Robinson; John Edward Roxon; Martha Kent Runey; Dowse Bradwell Rustin, IV; Carmelo Barone Sammataro; Stephen T. Savitz; Mary Elizabeth Sharp; Reid T. Sherard; Jane Opitz Shuler; Mary Amanda Harrelson Shuler; Lana H. Sims, Jr.; Lisa Lee Smith; Michael Benjamin Smith; Joshua D. Spencer; Christian Giresi Spradley; Megan Finch Stevens; Randell Croft Stoney, III; Hal M. Strange; Fred W. Suggs, Jr.; Jason F. Taylor; David L. Tedder; William R. Thomas; John Hagood Tighe; Samuel Barton Tooker; Matthew N. Tyler; Robert E. Tyson, Jr.; Regina Bechtler Ward; Elizabeth H. Warner; J. Calhoun Watson; Dean Robert M. Wilcox; Donald B. Wildman; Marguerite S. Willis; Mitchell Willoughby; William M. Wilson, III; William K. Witherspoon; Patrick Coleman Wooten; and Clinton Joseph Yarborough.

Guests present were: Kathyryn C. DeAngelo; Hon. J. Mark Hayes, II; J. René Josey; Douglas B. O'Neal; Michael J. Virzi and Harvey M. Watson, III.

Representing the Bar staff were: Warren Holland; Leah G. Johnson; Charmy Medlin; Jill C. Rothstein; Jason Stokes; Leigh G. Thomas; and Robert S. Wells.

The Chair called the meeting to order. A quorum was declared present. Mr. McDougall moved to allow privileges of the floor to nonmembers. The motion was seconded, and it was approved. A motion was made to adopt the agenda. The motion was seconded, and it was approved.

A motion was made to approve the Consent Agenda - approval of the minutes of the May, 19, 2016, meeting; receipt of November Financial Statements; request from the Fee Disputes Board for rule changes and notification of the Bar's position on alimony reform. Mr. Cal Watson moved to approve the Consent Agenda. The motion was seconded, and it was approved.

Judge Hayes recognized the 2016 Law Day Essay Contest winner, Broughton Royce Hatcher of Central High School.

Under report of the President, Mr. Witherspoon stated that the Bar was in the second year of its three year strategic plan and noted the launching of a new Bar website and new Bar logo. He provided updates on the Guardian ad Litem and Vulnerable Adult Task Forces, the Pro Bono Program, CLE offerings, the Board's meeting with local bars and member benefits. In closing he recognized Bar members who had recently received awards.

Mr. Josey provided an update on the activities of the Bar Foundation.

Mr. Harvey Watson presented a request from the Professional Responsibility Committee to amend Rule 5.1, SCRPC, providing a cross reference to Rule 34 of the SC Rules of Lawyer Disciplinary Enforcement. Discussion ensued on supervisory responsibility. Ms. Clifford moved approval of the request. The motion was seconded, and it was approved.

Mr. Virzi presented a request from the Professional Responsibility Committee to amend Rule 13 of the SC Rules for Lawyer Disciplinary Enforcement to add clarification that immunity applies only to civil suit and not to disciplinary action. Mr. Bogan moved approval of the request. The motion was seconded, and it was approved.

Mr. Bogan presented a request from the Professional Responsibility Committee to oppose ABA-proposed Rule 8.4(g), SCRCP, as written. Mr. Bogan moved to adopt the Committee's recommendation and to advise the Court of the Bar's position by forwarding the memorandum. The motion was seconded. Mr. Elliott moved to table consideration of the matter. The motion was seconded. Mr. Wildman and Mr. Tedder queried whether a motion to table required a definite rescheduling. The Chair ruled that it did not. The motion to table failed.

Ms. Willis requested a roll call vote on the main motion. Ms. Clifford stated that she was not in favor of sending the memorandum as drafted and moved to amend the main motion to request that the Court not approve 8.4(g) as written and have a public hearing and comment period. The motion was seconded. Mr. Cox queried whether the ABA proposal would provide clarity and definition in an otherwise vague Civility Oath. Mr. Bogan responded that the Supreme Court had addressed the Civility Oath and that the Committee had discussed the issue. Mr. Barroll opined that it was important to send the Committee's memorandum to the Court because it provided the rationale for opposing the ABA's proposal. Mr. Virzi stated that the

Committee overwhelmingly opposed the ABA-proposed 8.4(g) as written but that their reasons for opposing were very different. He opined that the memo should not be sent to the Court because doing so would imply that the Bar supported all of the rationale provided in the memo and that was not the case. Mr. Hawkins spoke in favor of Ms. Clifford's motion. The motion to amend was approved. Ms. Willis withdrew her request for a roll call vote. Mr. Savitz opined that the Committee's memorandum should be included and moved to amend Ms. Clifford's motion by adding "and send the Committee's memorandum to the Supreme Court." The Chair ruled Mr. Savitz's motion out of order, noting that the proposed amendment would return the motion to its original form. The main motion as amended was approved.

Ms. DeAngelo and Mr. O'Neal presented a request from the Elder Law Committee and the Probate, Estate and Planning and Trust Section to propose legislation in response to the holding in *Fabian v. Lindsay*. Ms. DeAngelo reviewed two legislative proposals; one aggressive and one moderate. Mr. Mullins moved approval of the aggressive draft. The motion was seconded. Mr. Hawkins spoke against the motion. The motion failed. Ms. Ward moved approval of the moderate draft. The motion was seconded, and it was approved.

Ms. Moose presented a request to amend Rule 410(h)(1)(F), SCACR, to make Federal Administrative Law Judges outside of South Carolina eligible for Administrative Law Judge status and moved approval. The motion was seconded, and it was approved.

Ms. Carroll presented amendments to the Bar Constitution and Bylaws clarifying that electronic balloting may be used, recognizing the Court's addition of Workers' Compensation Commission (lawyer) members, and reflecting the addition of Military Spouse Attorney members and their privileges. She moved approval of the amendments. The motion was seconded, and it was approved by more than two thirds of the members voting.

Debbie Whittle Durbin and J. René Josey were nominated for reappointment and Lucas J. Asper and Ellen S. Cheek were nominated for appointment to the Commission on CLE and Specialization. The nominees were to be presented to the Court.

There being no further business, the meeting was adjourned.

Minutes
South Carolina Bar Assembly
January 19, 2017

President Witherspoon convened a meeting of the Assembly and declared a quorum was present. He invited agenda items.

Mr. Witherspoon moved to approve the proposed Constitutional amendment. The motion was seconded and approved by more than two thirds of the members voting.

The Assembly was adjourned.

TO: House of Delegates

FM: Dawes Cooke, Treasurer

DT: April, 2017

RE: Financial Reports

The financial reports through March follow. Page 1 is the balance sheet for general, section, grant and other funds. Page 9 has the balance sheet for the Lawyers' Fund for Client Protection. Page 10 is the CLE Division balance sheet.

As reflected on the page 1, since July 1 the general, section, grant and other funds have increased by \$1,946,311. Monies held in sections decreased \$18,842; see page 6. Monies held in grants and other funds increased \$911,357; see page 8. The figure includes a net \$910,663 which will be forwarded to Court Administration to supplement funding for the discipline system.

Through March the net effect on Bar operating funds was an increase of \$1,053,795, a figure found at the end of the third numerical column on page 2. (The increase in 2016 at the end of March was \$1,053,242.) That same page indicates the expected gain was \$911,100. (A net gain is needed as of this time every year in order to fund expenses throughout the calendar year.) Thus, the Bar operating funds are \$142,695 ahead of budget.

The deviations of \$5,000 or more in year-to-date revenues are:

LRS Percentage Fee: Settlements from various cases including medical malpractice and civil rights cases.

Marketing Fees: Higher royalties and payments from member benefit programs.

SC Lawyer: Increased volume of advertising.

Miscellaneous: Includes receipt of ABA Gambrell Professionalism Award.

The deviations of \$5,000 or more in expenses are:

Salaries: One full time position and one part time position not filled early in the Bar year.

FICA & Employee Benefits: General savings over expected costs and from the unfilled positions.

Delegate Expense: Fewer delegates attended, and fewer days of attendance by some.

Membership Services Committees: Higher expenses at January Convention; printing of materials not in budget.

Practice Management Assistance: Funding not needed for Solo Conference; training not attended.

Lawyers Helping Lawyers: Fewer billings for external contract services.

Young Lawyers: Chiefly from planning meeting expenses being over budget.

Government Relations: External contract of limited duration.

Lawyer Referral Service Marketing: Reduced print advertising.

South Carolina Lawyer: Expected increased production costs did not appear.

CLE operating funds have increased \$538,429, a figure found at the end of the third numerical column on page 11. (The increase in 2016 at the end of March was \$438,747.) That same page indicates the expected gain was \$247,200. Thus, the CLE operating funds are \$291,229 ahead of budget.

The deviations of \$5,000 or more in year-to-date revenues are:

Seminars: Higher than planned registrations for 22 seminars; lower for 33 seminars; 9 seminars added to calendar; 3 seminars cancelled.

E-CLE Access: Much higher revenues in January and February than planned.

Publications: Strong sales on existing titles; better than expected sales of two new titles and four new editions.

SCJ Royalty: Higher than expected sales on SC Jurisprudence.

Convention: Higher attendance; higher volume of sponsorships; more exhibit space to rent.

The deviations of \$5,000 or more in expenses are:

Supplies: Misprinted letterhead and related material.

Publication Direct: Higher cost of goods sold related to increased revenue; in line with proportional expense expectations.

Publication Royalties: Expected to pay high royalty on product which was not delivered.

Convention: Hotel costs, speaker expenses and reception costs were less than expected.

Media Services Direct: No significant project expenses.

SOUTH CAROLINA BAR
BALANCE SHEET
For the Nine Months Ending March 31, 2017

	YTD
CURRENT ASSETS	
CHECKING ACCOUNT	\$303,330.71
MONEY MARKET	3,611,925.64
DISCIPLINE ASSESSMENT	5,556.52
INVESTMENTS	1,015,766.67
ACCOUNT RECEIVABLES	(4,385.71)
PREPAID EXPENSES	81,771.99
CONTRA ACCOUNTS DUE	8,913.72
TOTAL CURRENT ASSETS	\$5,022,879.54
PLANT	
OFFICE EQUIPMENT	269,336.57
BUILDING & LAND	1,239,486.95
BUILDING # 2	6,115,290.69
DUE FROM CLE FIXED ASSETS	0.00
TOTAL PLANT FUND	\$7,624,114.21
TOTAL ASSETS	\$12,646,993.75
CURRENT LIABILITIES	
ACCOUNTS PAYABLE	72,454.94
PREPAID RENT	875.00
PERSONNEL PAYABLES	249,507.34
DUE:BF & COUNTY BAR	457.00
DEFERRED REVENUE	101,795.26
DEFERRED CONTRIBUTION TO USC	0.00
NOTES PAYABLE-CURRENT	1,319,370.75
RETAINAGE FOR NEW BUILDING	0.00
LEASE PAYABLE - CURRENT	0.00
SC SALES TAX REVENUE	0.00
TOTAL CURRENT LIABILITIES	\$1,744,460.29
LONG TERM LIABILITIES	
NOTES PAYABLE-LONG TERM	0.00
LEASE PAYABLE - LONG TERM	0.00
TOTAL LONG TERM LIABILITIES	\$0.00
TOTAL LIABILITIES	\$1,744,460.29
BEGINNING OF YEAR GENERAL FUND BALANCE	8,157,481.03
BEGINNING OF YEAR LAWYER REFERRAL FUND	323,158.43
BEGINNING OF YEAR GRANT FUND BALANCE	186,944.04
BEGINNING OF YEAR SECTION FUND BALANCE	288,639.33
TOTAL BEGINNING OF YEAR FUND BALANCE	8,956,222.83
YTD REVENUE	5,720,899.98
YTD EXPENSES	3,774,589.35
NET CHANGE	1,946,310.63
FUND BALANCE	\$10,902,533.46
TOTAL LIABILITIES AND FUND BALANCE	\$12,646,993.75

SOUTH CAROLINA BAR
INCOME STATEMENT
For the Nine Months Ending March 31, 2017

	MONTHLY ACTUAL	MONTHLY BUDGET	YTD ACTUAL	YTD BUDGET	ANNUAL BUDGET
REVENUE					
LICENSE FEES	\$5,165.00	\$5,500.00	\$3,247,712.50	\$3,243,700.00	\$3,253,700.00
FEES TOWARDS BUILDING	1,020.00	2,000.00	451,755.00	452,500.00	455,300.00
INTEREST	1,166.00	500.00	8,367.54	4,800.00	6,300.00
LRS PERCENTAGE FEE	24,432.79	25,000.00	240,953.63	173,000.00	260,000.00
LRS SUBSCRIPTION FEE	850.00	0.00	68,250.00	65,000.00	65,000.00
MARKETING FEES	1,666.86	600.00	38,483.69	26,400.00	33,100.00
SC LAWYER	16,375.25	12,400.00	78,703.25	62,400.00	75,000.00
STAFF SUPPORT	50,896.00	50,800.00	50,896.00	50,800.00	50,800.00
RENTS RECEIVED	3,669.00	3,600.00	33,146.00	33,200.00	44,000.00
ADR CERTIFICATION	1,850.00	3,000.00	87,350.00	85,400.00	102,000.00
DUES COLLECTION FEES	2.20	0.00	14,977.90	14,100.00	14,100.00
MISCELLANEOUS	165.00	100.00	6,069.04	500.00	600.00
LAW STUDENT AFFILIATES	100.00	0.00	1,140.00	1,300.00	1,500.00
SALES TAX	0.00	0.00	32.65	0.00	200.00
TOTAL REVENUES	<u>\$107,358.10</u>	<u>\$103,500.00</u>	<u>\$4,327,837.20</u>	<u>\$4,213,100.00</u>	<u>\$4,361,600.00</u>
EXPENSES					
SALARIES	140,216.94	140,500.00	1,251,612.29	1,267,000.00	1,695,300.00
FICA & EMPLOYEE BENEFITS	72,703.67	72,400.00	362,957.07	375,500.00	519,700.00
BUILDINGS	15,057.00	15,000.00	141,061.77	140,600.00	191,200.00
EQUIPMENT & SOFTWARE	13,465.48	8,300.00	29,445.50	24,900.00	26,400.00
EQUIP. MAINTENANCE & LICENSES	13,475.37	10,400.00	136,566.60	137,000.00	167,200.00
OFFICE SUPPLIES	586.69	600.00	29,885.70	30,300.00	35,100.00
POSTAGE	4,138.26	3,100.00	10,306.21	15,200.00	15,500.00
TELEPHONE	1,292.40	1,400.00	10,111.71	12,600.00	18,100.00
PROFESSIONAL FEES	0.00	0.00	6,625.00	6,700.00	9,200.00
BOND/INSURANCE	708.00	800.00	7,148.10	7,200.00	11,500.00
STAFF EXPENSE	1,586.05	1,100.00	22,829.37	24,400.00	32,500.00
DUES/SUBSCRIPTIONS/BOOKS	150.00	0.00	3,934.94	3,900.00	3,900.00
CASUAL LABOR/HIRING	0.00	0.00	1,388.70	1,500.00	2,400.00
DELEGATE EXPENSE	4,356.91	3,700.00	55,977.00	67,800.00	76,600.00
OFFICERS' EXPENSE	0.00	0.00	3,389.48	1,900.00	4,200.00
MEMBERSHIP SERV. COMMITTEES	1,033.21	900.00	72,433.00	57,100.00	110,600.00
PRACTICE MANAGEMENT ASST.	3,163.95	2,500.00	5,947.33	13,200.00	16,000.00
RISK MANAGEMENT	1,629.91	300.00	8,761.63	6,300.00	6,300.00
LAWYERS HELPING LAWYERS	1,249.71	3,200.00	25,030.45	33,100.00	48,400.00
MEMBERSHIP BENEFITS	6,500.00	6,500.00	59,323.00	58,500.00	90,000.00
YOUNG LAWYERS	55,941.66	35,900.00	154,653.96	146,800.00	194,300.00
SENIOR LAWYERS	10,420.57	10,900.00	30,608.97	35,100.00	38,800.00
GOVERNMENT RELATIONS	6,379.05	2,000.00	52,387.52	29,000.00	33,000.00
JUDICIAL EVALUATION	0.00	0.00	1,337.61	1,400.00	5,000.00
PUBLIC SERVICE COMMITTEE	595.78	1,200.00	7,370.14	11,400.00	28,000.00
PRO BONO	106.56	200.00	12,928.34	13,600.00	46,700.00
ASK-A-LAWYER	726.31	800.00	8,284.18	11,300.00	22,900.00
CLIENT ASSISTANCE PROGRAM	72.16	100.00	539.93	500.00	1,000.00
ADR CERTIFICATION	66.79	0.00	1,575.92	1,000.00	5,200.00
REFERRAL SERV. MARKETING	12,627.84	12,600.00	69,675.97	77,900.00	129,000.00
LAW RELATED EDUCATION	8,194.05	9,000.00	66,767.78	66,200.00	125,500.00
PUBLIC RELATIONS	2,486.40	1,700.00	14,457.59	14,300.00	22,200.00
SOUTH CAROLINA LAWYER	34,427.29	38,000.00	176,918.41	189,800.00	227,000.00
LAWYERS DESK BOOK	0.00	0.00	4,007.59	4,000.00	4,000.00
CONTRIBUTIONS	0.00	0.00	2,500.00	0.00	21,200.00
CREDIT CARD FEES	5,231.10	5,200.00	57,083.55	55,000.00	55,400.00
MISCELLANEOUS	96.65	200.00	5,222.15	1,800.00	2,800.00
SHORT TERM PROJECTS	502.89	0.00	7,679.35	5,000.00	5,000.00
LAW STUDENT AFFILIATES	885.99	900.00	7,340.80	7,200.00	8,500.00
SALES TAX	0.00	0.00	23.37	0.00	200.00
NEW BUILDING DEBT	26,400.00	26,400.00	237,600.00	237,600.00	316,800.00
WEB SITE REDESIGN	2,000.00	800.00	110,344.30	108,400.00	108,400.00
TOTAL EXPENSES	<u>\$448,474.64</u>	<u>\$416,600.00</u>	<u>\$3,274,042.28</u>	<u>\$3,302,000.00</u>	<u>\$4,481,000.00</u>
NET CHANGE	<u>(\$341,116.54)</u>	<u>(\$313,100.00)</u>	<u>\$1,053,794.92</u>	<u>\$911,100.00</u>	<u>(\$119,400.00)</u>

SOUTH CAROLINA BAR
Government Relations
Statement of Revenue and Expenses
For the Nine Months Ending March 31, 2017

	<u>MONTHLY ACTUAL</u>	<u>MONTHLY BUDGET</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>ANNUAL BUDGET</u>
REVENUE					
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
EXPENSES					
SALARIES	0.00	0.00	0.00	0.00	0.00
FICA & EMPLOYEE BENEFITS	0.00	0.00	0.00	0.00	0.00
EQUIPMENT & FURNITURE	0.00	0.00	0.00	0.00	0.00
EQUIPMENT & MAINTENANCE	0.00	0.00	0.00	0.00	0.00
OFFICE SUPPLIES	0.00	0.00	0.00	0.00	0.00
POSTAGE	0.00	0.00	0.00	0.00	0.00
TELEPHONE	0.00	0.00	0.00	0.00	0.00
PROFESSIONAL FEES	0.00	0.00	0.00	0.00	0.00
STAFF EXPENSE	0.00	0.00	0.00	0.00	0.00
GOVERNMENT RELATIONS	6,379.05	2,000.00	52,387.52	29,000.00	33,000.00
TOTAL EXPENSES	<u>\$6,379.05</u>	<u>\$2,000.00</u>	<u>\$52,387.52</u>	<u>\$29,000.00</u>	<u>\$33,000.00</u>
NET BALANCE	<u>(\$6,379.05)</u>	<u>(\$2,000.00)</u>	<u>(\$52,387.52)</u>	<u>(\$29,000.00)</u>	<u>(\$33,000.00)</u>

Lawyer Referral Service
Statement of Revenue and Expenses

REVENUE					
LRS PARTICIPATION FEES	\$24,432.79	\$25,000.00	\$240,953.63	\$173,000.00	\$260,000.00
LRS SUBSCRIPTION FEES	850.00	0.00	68,250.00	65,000.00	65,000.00
TOTAL REVENUES	<u>\$25,282.79</u>	<u>\$25,000.00</u>	<u>\$309,203.63</u>	<u>\$238,000.00</u>	<u>\$325,000.00</u>
EXPENSES					
SALARIES	7,080.25	7,100.00	63,722.25	63,900.00	85,000.00
FICA & EMPLOYEE BENEFITS	4,302.14	4,300.00	24,865.16	25,400.00	34,400.00
BUILDING	700.00	700.00	5,700.00	6,500.00	8,700.00
EQUIPMENT & FURNITURE	0.00	0.00	0.00	0.00	1,500.00
EQUIPMENT & MAINTENANCE	71.13	800.00	8,171.13	10,600.00	12,800.00
OFFICE SUPPLIES	3.15	0.00	59.90	0.00	1,500.00
POSTAGE	29.25	0.00	603.84	700.00	1,000.00
TELEPHONE	57.51	0.00	531.84	0.00	1,200.00
PROFESSIONAL FEES	0.00	0.00	300.00	300.00	300.00
STAFF EXPENSE	0.00	0.00	400.00	400.00	400.00
BOND / INSURANCE	0.00	0.00	0.00	0.00	600.00
DUES /SUBSCRIPTIONS	0.00	0.00	0.00	0.00	0.00
CASUAL LABOR	0.00	0.00	0.00	0.00	0.00
ADVERTISING	12,448.20	12,500.00	67,483.44	75,700.00	125,900.00
GENERAL EXPENSES	179.64	100.00	2,192.53	2,200.00	3,100.00
TOTAL EXPENSES	<u>\$24,871.27</u>	<u>\$25,500.00</u>	<u>\$174,030.09</u>	<u>\$185,700.00</u>	<u>\$276,400.00</u>
NET BALANCE	<u>\$411.52</u>	<u>(\$500.00)</u>	<u>\$135,173.54</u>	<u>\$52,300.00</u>	<u>\$48,600.00</u>

SOUTH CAROLINA BAR
Statement of Revenue and Expense
Young Lawyers Division
For the Nine Months Ending March 31, 2017

	<u>MONTHLY ACTUAL</u>	<u>MONTHLY BUDGET</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>ANNUAL BUDGET</u>
REVENUE	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
EXPENSES					
ANNUAL CONVENTION	0.00	0.00	26,543.57	34,000.00	34,000.00
SERVICE TO THE PUBLIC	5,630.24	4,700.00	30,323.94	32,600.00	52,300.00
SERVICE TO THE BAR	13,155.80	10,100.00	29,391.89	27,100.00	37,000.00
STRATEGIC PLANNING	31,849.04	18,000.00	31,921.94	18,000.00	18,000.00
DELEGATE EXPENSE	1,549.03	0.00	22,547.13	22,800.00	33,000.00
ADMINISTRATIVE	977.96	300.00	4,920.01	2,800.00	3,500.00
PUBLICATIONS/SCYL	2,555.01	2,500.00	8,358.37	9,000.00	14,300.00
PROJECT COMPLETION	224.58	300.00	647.11	500.00	2,200.00
TOTAL EXPENSES	<u>\$55,941.66</u>	<u>\$35,900.00</u>	<u>\$154,653.96</u>	<u>\$146,800.00</u>	<u>\$194,300.00</u>
NET BALANCE	<u>(\$55,941.66)</u>	<u>(\$35,900.00)</u>	<u>(\$154,653.96)</u>	<u>(\$146,800.00)</u>	<u>(\$194,300.00)</u>

SOUTH CAROLINA BAR
 SECTIONS FUND BALANCES
 For the Nine Months Ending March 31, 2017

	YTD
CONSTRUCTION LAW SECTION	
BEGINNING FY FUND BALANCE	\$15,583.96
YTD REVENUE	4,778.66
YTD EXPENSES	1,059.29
FUND BALANCE	\$19,303.33
CONSUMER LAW SECTION	
BEGINNING FY FUND BALANCE	5,330.72
YTD REVENUE	1,620.00
YTD EXPENSES	2,684.56
FUND BALANCE	\$4,266.16
CORPORATE, BANKING & SECURITIES SECTION	
BEGINNING FY FUND BALANCE	21,959.55
YTD REVENUE	3,678.00
YTD EXPENSES	1,812.23
FUND BALANCE	\$23,825.32
CRIMINAL LAW SECTION	
BEGINNING FY FUND BALANCE	21,032.55
YTD REVENUE	3,354.00
YTD EXPENSES	2,455.07
FUND BALANCE	\$21,931.48
DISPUTE RESOLUTION SECTION	
BEGINNING FY FUND BALANCE	11,251.14
YTD REVENUE	2,763.00
YTD EXPENSES	6,972.05
FUND BALANCE	\$7,042.09
EMPLOYMENT AND LABOR LAW SECTION	
BEGINNING FY FUND BALANCE	4,046.19
YTD REVENUE	4,488.77
YTD EXPENSES	2,191.14
FUND BALANCE	\$6,343.82
ENVIRONMENTAL & NATURAL RESOURCES SECTION	
BEGINNING FY FUND BALANCE	8,859.26
YTD REVENUE	2,445.00
YTD EXPENSES	1,255.25
FUND BALANCE	\$10,049.01
FAMILY LAW SECTION	
BEGINNING FY FUND BALANCE	20,077.59
YTD REVENUE	8,147.69
YTD EXPENSES	11,928.15
FUND BALANCE	\$16,297.13
GOVERNMENT LAW SECTION	
BEGINNING FY FUND BALANCE	6,012.94
YTD REVENUE	2,673.00
YTD EXPENSES	6,150.90
FUND BALANCE	\$2,535.04
HEALTH CARE LAW SECTION	
BEGINNING FY FUND BALANCE	7,071.35
YTD REVENUE	5,742.75
YTD EXPENSES	8,171.04
FUND BALANCE	\$4,643.06

SOUTH CAROLINA BAR
 SECTIONS FUND BALANCES
 For the Nine Months Ending March 31, 2017

	YTD
MILITARY LAW SECTION	
BEGINNING FY FUND BALANCE	3,792.80
YTD REVENUE	999.00
YTD EXPENSES	1,737.88
FUND BALANCE	\$3,053.92
PROBATE, ESTATE PLANNING AND TRUST	
BEGINNING FY FUND BALANCE	5,255.18
YTD REVENUE	5,733.00
YTD EXPENSES	2,477.54
FUND BALANCE	\$8,510.64
REAL ESTATE PRACTICE SECTION	
BEGINNING FY FUND BALANCE	48,925.71
YTD REVENUE	8,208.00
YTD EXPENSES	21,009.17
FUND BALANCE	\$36,124.54
SOLO AND SMALL FIRM PRACTITIONERS	
BEGINNING FY FUND BALANCE	20,666.44
YTD REVENUE	10,052.00
YTD EXPENSES	12,456.82
FUND BALANCE	\$18,261.62
TAX LAW SECTION	
BEGINNING FY FUND BALANCE	9,176.07
YTD REVENUE	3,114.00
YTD EXPENSES	4,420.59
FUND BALANCE	\$7,869.48
TORTS AND INSURANCE PRACTICE SECTION	
BEGINNING FY FUND BALANCE	47,997.25
YTD REVENUE	5,826.00
YTD EXPENSES	4,219.37
FUND BALANCE	\$49,603.88
TRIAL AND APPELLATE ADVOCACY SECTION	
BEGINNING FY FUND BALANCE	26,605.78
YTD REVENUE	2,712.00
YTD EXPENSES	4,896.39
FUND BALANCE	\$24,421.39
WORKERS' COMPENSATION SECTION	
BEGINNING FY FUND BALANCE	4,994.85
YTD REVENUE	4,221.00
YTD EXPENSES	3,500.02
FUND BALANCE	\$5,715.83
BEGINNING OF YEAR FUND BALANCE	288,639.33
YTD REVENUE	80,555.87
YTD EXPENSES	99,397.46
ENDING FUND BALANCE	\$269,797.74

GRANTS & OTHER
FUND BALANCES
For the Nine Months Ending March 31, 2017

	YTD
ASK-A-LAWYER 16/17	
YTD REVENUE	\$30,898.00
YTD EXPENSES	30,197.86
FUND BALANCE	\$700.14
 LRE GRANT FUND 16/17	
YTD REVENUE	173,098.00
YTD EXPENSES	182,588.22
FUND BALANCE	(\$9,490.22)
 LRE SALES	
BEGINNING OF YEAR FUND BALANCE	4,868.40
YTD REVENUE	20.00
YTD EXPENSES	0.00
FUND BALANCE	\$4,888.40
 JMLP (LRE) GRANT	
BEGINNING OF YEAR FUND BALANCE	26,272.70
YTD REVENUE	3,300.00
YTD EXPENSES	22,474.84
FUND BALANCE	\$7,097.86
 PRO BONO OTHER	
BEGINNING OF YEAR FUND	0.00
YTD REVENUE	0.00
YTD EXPENSES	0.00
FUND BALANCE	\$0.00
 SC ACCESS TO JUSTICE COMMISSION (IOLTA) 16/17	
YTD REVENUE	63,656.00
YTD EXPENSES	64,520.33
FUND BALANCE	(\$864.33)
 PB INDIGENT SERVICE FEE	
BEGINNING OF YEAR FUND	119,693.33
YTD REVENUE	121,699.00
YTD EXPENSES	91,692.24
FUND BALANCE	\$149,700.09
 DISCIPLINARY FUND 16/17	
BEGINNING OF YEAR FUND	713.99
YTD REVENUE	910,682.58
YTD EXPENSES	20.00
FUND BALANCE	\$911,376.57
 DISPUTED FEES	
BEGINNING OF YEAR FUND	21,346.11
YTD REVENUE	8,053.33
YTD EXPENSES	7,275.00
FUND BALANCE	\$22,124.44
 LAWYER REFERRAL SERVICE	
BEGINNING OF YEAR FUND	323,158.43
YTD REVENUE	0.00
YTD EXPENSES	0.00
FUND BALANCE	\$323,158.43

GRANTS & OTHER
 FUND BALANCES
 For the Nine Months Ending March 31, 2017

	YTD
SC ACCESS TO JUSTICE - OTHER FUNDS	
BEGINNING YEAR FUND BALANCE	0.00
YTD REVENUE	0.00
YTD EXPENSES	0.00
FUND BALANCE	\$0.00
LGOA GRANT - PRO BONO	
BEGINNING OF YEAR FUND BALANCE	12,901.24
YTD REVENUE	0.00
YTD EXPENSES	2,144.22
FUND BALANCE	\$10,757.02
PARALEGAL CERTIFICATION	
BEGINNING OF YEAR FUND BALANCE	1,148.27
YTD REVENUE	1,100.00
YTD EXPENSES	236.90
FUND BALANCE	\$2,011.37
BEGINNING OF YEAR FUND BALANCE	510,102.47
YTD REVENUE	1,312,506.91
YTD EXPENSES	401,149.61
ENDING FUND BALANCE	\$1,421,459.77

LAWYERS' FUND
STATEMENT OF REVENUE AND EXPENSES
WITH BALANCE SHEET
For the Nine Months Ending March 31, 2017

	March	YTD
REVENUES		
ANNUAL ASSESSMENTS	\$0.00	\$2,985.00
CONTRIBUTIONS	18,471.26	498,967.19
INTEREST	1,067.93	6,341.96
TOTAL REVENUES	\$19,539.19	\$508,294.15
EXPENSES		
AWARDS	11,690.00	169,171.10
GENERAL EXPENSES	0.00	75.00
RULE 413/33	0.00	10,013.15
TOTAL EXPENSES	\$11,690.00	\$179,259.25
NET CHANGE	\$7,849.19	\$329,034.90

BALANCE SHEET

ASSETS	
LFCP CHECKING	12,101.16
LFCP MONEY MARKET	942,193.16
INVESTMENTS	949,555.64
TOTAL ASSETS	\$1,903,849.96
LIABILITIES	
DEFERRED REVENUE - BECK FUND	159,376.68
TOTAL LIABILITIES	\$159,376.68
FUND BALANCE	
BEGINNING OF YEAR FUND BALANCE	1,415,438.38
YTD REVENUE	508,294.15
YTD EXPENSES	179,259.25
NET CHANGE	329,034.90
FUND BALANCE	\$1,744,473.28
TOTAL LIABILITIES AND FUND BALANCE	\$1,903,849.96

SOUTH CAROLINA BAR CLE - DIVISION
BALANCE SHEET
For the Nine Months Ending Friday, March 31, 2017

CURRENT ASSETS

SCBT CHECKING	\$610,740.03
MONEY MARKET/INVESTMENTS	510,730.90
PETTY CASH	150.00
ACCOUNT RECEIVABLES	80,449.13
PRE-PAID EXPENSE	39,460.95
GENERAL INVENTORY	102,484.72
TOTAL CURRENT ASSETS	<u>\$1,344,015.73</u>

CAPITAL ASSETS	20,750.00
TOTAL ASSETS	<u><u>\$1,364,765.73</u></u>

CURRENT LIABILITIES

ACCOUNTS PAYABLE	6,006.27
DUE:COMPANY 1	555.95
REFUNDS PAYABLE	0.00
CLE VACATION PAYABLE	94,582.25
FACILITIES PAYABLE	0.00
SEMINAR DEFERRED REVENUE	50,514.00
CASH HOLDING ACCOUNT	0.00
CONVENTION CASH HOLDING	2,050.00
SALES TAX RECEIVED	0.00
TOTAL CURRENT LIABILITIES	<u>\$153,708.47</u>

BEGINNING OF YEAR FUND BALANCE	672,628.40
YTD REVENUE	2,497,019.00
YTD EXPENSE	1,958,590.14
NET CHANGE	<u>538,428.86</u>

FUND BALANCE	<u>\$1,211,057.26</u>
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TOTAL LIABILITIES AND FUND BALANCE	<u><u>\$1,364,765.73</u></u>
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SOUTH CAROLINA BAR CLE - DIVISION
INCOME STATEMENT
For the Nine Months Ending Friday, March 31, 2017

	MONTHLY ACTUAL	MONTHLY BUDGET	YTD ACTUAL	YTD BUDGET	ANNUAL BUDGET
REVENUE					
SEMINAR INCOME	\$62,776.00	\$36,100.00	\$1,269,461.71	\$1,234,700.00	\$1,330,000.00
E-CLE ACCESS	17,865.00	20,800.00	413,295.24	302,900.00	330,500.00
PUBLICATION INCOME	32,096.41	25,500.00	297,464.25	269,600.00	387,000.00
SCJ ROYALTY INCOME	0.00	0.00	96,556.69	85,000.00	85,000.00
CONVENTION	0.00	0.00	394,075.04	350,000.00	350,000.00
SPECIAL SEMINARS	0.00	0.00	0.00	0.00	0.00
MEDIA SERVICES/AV/HOM	0.00	0.00	25.00	0.00	3,000.00
INTEREST INCOME	57.66	0.00	509.25	0.00	500.00
BUILDING RENTAL	1,400.00	800.00	8,400.00	6,600.00	9,000.00
SHIPPING REVENUE	2,664.42	2,100.00	17,231.82	19,000.00	25,300.00
TOTAL REVENUE	\$116,859.49	\$85,300.00	\$2,497,019.00	\$2,267,800.00	\$2,520,300.00
EXPENSE					
CLE SALARIES	70,970.03	70,400.00	642,725.21	637,800.00	852,600.00
BENEFITS	40,203.69	39,600.00	215,804.99	215,800.00	285,800.00
BUILDING ACCOUNT	5,300.00	5,400.00	47,700.00	47,800.00	64,000.00
EQUIPMENT & FURNITURE	0.00	0.00	16,138.75	16,600.00	16,600.00
EQUIPMENT MAINTENANCE	3,533.41	4,600.00	55,609.89	56,100.00	75,400.00
OFFICE SUPPLY EXPENSE	535.55	400.00	12,067.30	3,300.00	5,500.00
INTERNET DEVELOPMENT	198.41	800.00	2,829.90	6,600.00	9,300.00
POSTAGE EXPENSE	114.45	100.00	2,240.48	2,700.00	3,400.00
TELEPHONE EXPENSE	813.94	1,100.00	7,227.79	10,500.00	14,100.00
STAFF EXPENSE	858.38	600.00	6,774.96	6,900.00	9,100.00
STAFF EDUCATION	0.00	0.00	2,098.52	1,000.00	1,000.00
CLE COMMITTEE EXPENSE	0.00	0.00	326.34	0.00	500.00
BOND & INSURANCE	953.40	900.00	7,844.94	7,500.00	10,200.00
MEMBERSHIP/SUBSCRIPTIONS	0.00	0.00	0.00	0.00	0.00
PROFESSIONAL FEES	0.00	0.00	6,625.00	6,200.00	6,200.00
CASUAL LABOR	0.00	0.00	0.00	0.00	500.00
SEMINAR DIRECT	31,263.98	19,000.00	330,258.55	330,400.00	336,000.00
E-CLE ACCESS	8,121.00	8,600.00	72,928.41	76,700.00	102,500.00
PUBLICATION DIRECT	15,451.75	9,900.00	113,969.99	104,700.00	143,100.00
PUBLICATION ROYALTIES	0.00	0.00	44,515.69	60,000.00	120,000.00
CONVENTION	(392.15)	0.00	255,088.29	303,900.00	303,900.00
SPECIAL SEMINARS	0.00	0.00	0.00	0.00	0.00
MEDIA SERVICES DIRECT	58.19	1,400.00	4,779.63	13,000.00	17,500.00
BANKCARD CHARGES	10,713.72	9,600.00	47,451.98	49,000.00	56,000.00
MARKETING	4,156.65	4,300.00	63,583.53	64,100.00	120,000.00
TOTAL EXPENSE	\$192,854.40	\$176,700.00	\$1,958,590.14	\$2,020,600.00	\$2,553,200.00
NET CHANGE	<u>(\$75,994.91)</u>	<u>(\$91,400.00)</u>	<u>\$538,428.86</u>	<u>\$247,200.00</u>	<u>(\$32,900.00)</u>

MEMORANDUM

TO: SC House of Delegates
FROM: Courtney Kennaday, PMAP Director
DATE: April 28, 2017
RE: Changes to Solo & Small Firm Section Bylaws

In order to better facilitate Section business, such as planning and presenting the LPM-TECH Conference, the Council of the Solo & Small Firm Section requests that the Bylaws of the Solo & Small Firm Section of The South Carolina Bar, Amended April 24, 2015, be further amended to change the following (new provisions are underlined):

Article III COUNCIL

Section 1. and 2. NO CHANGES

Section 3. - Terms. Except for an appointment necessary to fill an unexpired term, the terms of all Section Council members shall begin and end with the ~~Bar's fiscal~~ new calendar year. *NO CHANGES TO REMAINDER OF SECTION 3*

Section 4. – NO CHANGE

Section 5. – NO CHANGE

Section 6. – ~~Nomination of Council Members~~ Succession and Election.

- a. **Nominations of Council Members.** Nominations for elected members of Section Council shall be made by any Section member ~~no later than February 1~~ between October 1 and October 15 each year through notice to any Council officer or the Bar staff liaison. Notice of all nominations shall be given in writing to all Section Council members no later than ~~February 15~~ October 31.
- b. **~~Section 7.— Election of Council Members.~~** Election of new members of Council shall be held no later than ~~March 1~~ December 1 by a simple majority of Council members present and voting at a Section Council meeting held for that purpose.
- c. If any of the dates in Article III shall fall on a Saturday or Sunday or a Bar holiday, the following Monday or next Bar business day shall be applicable.

Section 8-7.

ARTICLE IV OFFICERS

Section 1. and 2. NO CHANGES

Section 3. - Terms. Except for an appointment necessary to fill an unexpired term, the terms of all officers shall begin and end on the same date(s) as applicable to the ~~Bar's fiscal~~ new calendar year. *NO CHANGE TO REMAINDER OF SECTION 3*

Section 5. - Succession and Election.

a. *NO CHANGES*

b. **Nomination(s).** Nominations for Section Chairperson-Elect may be made by any Section Council member to the Section liaison no later than ~~February 1~~ October 31.

d. **Notice.** Notice of nominations shall be given in writing to all Section Council members no later than ~~February 15~~ October 15.

e. **Elections.** Election of the Section Chairperson-Elect shall be by a plurality of Section Council members present and voting at a Section Council meeting held for that purpose no later than ~~March 1~~ December 1.

f. If any of the dates in Article IV shall fall on a Saturday or Sunday or a Bar holiday, the following Monday or next Bar business day shall be applicable.

MEMORANDUM

TO: House of Delegates

FR: Jill HaLevi, DR Section Chair

RE: By-laws amendments

DT: March 23, 2017

The by-laws of the DR Section require the approval of the House of Delegates in order for any proposed amendments to become effective. The Section Council, at its March 1, 2017 meeting, voted to amend the by-laws to remove the position of Vice-Chair. The position mirrored the Chair-Elect and was redundant.

The removal of the Vice-Chair would require a change to the by-laws as follows:

1. amend Article IV Section 2 removing the reference to Vice-Chair;
2. delete Article VI, Section 3 which set out the duties of the Vice-Chair; and
3. renumber Article VI Section 4 to Section 3.

A copy of the proposed changes is attached.

The DR Section respectfully requests the House of Delegates approve these proposed changes.

ARTICLE IV

Governing Body

Section 1. The general business of the Section is conducted by a council composed of the Section Officers, the Immediate Past Chair, a Section Delegate and six (6) "general members".

Section 2. The Section Officers are a Chair, Chair Elect, ~~Vice-Chair~~ and Secretary. Their terms of office are for one (1) year beginning at the conclusion of the Annual Meeting of the South Carolina Bar, at which they are elected and ending at the conclusion of the Annual Meeting of the Section, at which their successors are elected.

ARTICLE VI

Officers

Section 1. Chair. The Chief Executive Officer of the Section who makes appointments to committees, presides at all Section and Council meetings and presents a report on the state of the Section at its annual meeting.

Section 2. Chair Elect. Assumes the duties of the Chair during the temporary or permanent absence, or that individual's inability to act.

~~**Section 3. Vice-Chair** Assumes duties of the Chair Elect during the temporary or permanent absence, or that individual's inability to act.~~

Section 43. Secretary. Custodian of all records and property of the Section except money. Maintains a record of all Section and Council meetings. Prepares a digest of Section proceedings for the Chair's annual report on the State of the Section. Maintains a record of all appropriations and expenditures.

SOUTH CAROLINA BAR PRO BONO LAWYER OF THE YEAR

The South Carolina Pro Bono Awards program seeks to identify and honor individual lawyers, small and large law firms, government attorney offices, corporate law departments and other organizations and institutions in the legal profession that have enhanced the human dignity of others by improving or delivering volunteer legal services to our state's low income community. Award recipients may have provided direct representation to individual clients, contributed to the development of innovative programs, impacted legislative efforts or otherwise aided in promoting access to the legal system for those unable to afford those services.

Past Pro Bono Awards

1987	W. Clarkson McDow Jr.	2005	The Benjamin Law Firm, LLC Jeffery P. Bloom
1988	Gary W. Poliakoff	2006	Jonathan S. Altman Stephanie E. Lewis
1989	Marcia R. Powell		D. Peters Wilborn Jr.
1990	Jon Rene Josey	2007	Ellis, Lawhorne & Sims, PA
1991	Harriet Daniels Hancock	2008	Philip A. Middleton
1992	Edward T. Kelaher	2009	Kristen E. Horne Keri A. Olivetti
1993	George B. Cauthen Nexsen Pruet Jacobs & Pollard	2010	Christopher Genovese Alex Paterra
1994	Herbert E. Buhl III Ellis Lawhorne Davidson & Sims, PA Harvey & Battey, PA	2011	Bradford T. Cunningham Louis T. "Tom" Runge Sowell Gray Stepp & Laffitte, LLC
1995	Freeman and Skinner Robinson, McFadden & Moore, PC Trefor Thomas	2012	Jason Scott Luck
1996	Bernard J. Warshauer Lowery, Thompson & King Suggs & Kelly, PA	2013	Sharon Young Ward
1997	James G. Long III Fairbanks & Lindsay, PA	2014	John E. Robinson
1998	Julio E. "Rick" Mendoza Nelson Mullins Riley & Scarborough, LLP Wukela Law Firm	2015	Tina Marie Cundari Laura Johnson Evans
1999	Anderson and Jordan Finkel and Altman, LLC Eric K. Graben		
2000	John R. Lester Kathleen Palinski		
2001	Daniel J. Fritze Nelson Mullins Riley & Scarborough, LLP Smalls Law Firm, PC		
2002	Anthony C. Hayes		
2003	Jan M. Baker Moss & Reed, PA		
2004	Stuart M. Andrews Jr. Robert K. Whitney		

Ellen Hines Smith Legal Services Lawyer of the Year Award

The Ellen Hines Smith Legal Services Lawyer of the Year Award is named in memory of Ellen Hines Smith of Spartanburg. Ellen was the founding director of Piedmont Legal Services. She served as a member of Spartanburg City Council and a municipal court judge. Her entire legal career was devoted to the creation and provision of legal services to the citizens of South Carolina. Her commitment and leadership were recognized both in South Carolina and across the nation. The award is presented to recognize a lawyer who has demonstrated commitment to the development and delivery of quality legal services to the poor in South Carolina through the legal services program.

The Ellen Hines Smith Award was established in 1989, and is given to a South Carolina Bar member who is employed as an LSC grantee program lawyer who has demonstrated long-term commitment to legal services and who has personally done significant work in extending legal services to the poor.

Previous Award Recipients

1989 – Martha B. Dicus	2003 – Frank Cannon
1990 – Thomas L. Bruce	2004 – Willie B. Heyward
1991 – Johnny Simpson	2005 – Lynn Snowber-Marini
1992 – Harold F. Daniels	2007 - Marcia Powell-Shew
1993 – Andrea E. Loney	2009 – Maureen White
1994 – Mozella Nicholson	2010 – Susan J. Firimonte
1995 – Thomas A. Trent	2011 – Jack E. Cohoon
1996 – Susan A. Cross	2012 – Kirby Mitchell
1997 – Angela M. Myers	2013 – Kimberly Shelton
1998 – Ethel E. Weinberg	2014 – Kimaka Nichols-Graham
1999 – Nancy M. Butler	2015 – Susan P. Ingles
2000 – Byron A. Reid	
2001 – Lynn P. Wagner	
2002 – Eddie McDonnell	

YOUNG LAWYER OF THE YEAR AWARD

Each year, the Young Lawyers Division awards "The Young Lawyer of the Year" Award to recognize a young lawyer for his or her contribution(s) to the community and/or the legal profession. The nominee for the Award must be a member of the Young Lawyers Division, but he or she may neither be a current member of the Division's Executive Council or a Division Committee Chairperson nor have been a member or chairperson within the previous calendar year.

The Award will be based upon the nominees' demonstrated:

- (1) Services to the legal profession and/or
- (2) Services to his or her community.

Past award winners are listed below:

1984	Merl F. Code	2001	Stephen K. Benjamin
1985	Linda A. Grice		Marie-Louise Ramsdale
1986	William C. Hubbard	2002	Kimaka Nichols
1987	Kenneth E. Young	2003	Eric M. Johnsen
1988	Deborah K. Neese	2004	Tally Parham
	D. Michael Kelly	2005	J. Todd Rutherford
1989	Charles B. Simmons Jr.	2006	Jennifer W. Rubin
1990	Martha McElveen Horne	2007	Tina N. Herbert
1991	David E. Belton	2008	Genevieve N. Waller
	Jacqueline D. Belton	2009	Michelle Dhunjishah
1992	Charles Bradley Hutto	2010	William Reamer Johnson
1993	Issac McDuffie Stone III	2011	Amy Landers May
1994	Susan E. Ziel	2012	Jennifer Ashburn
1995	Susan E. Berkowitz	2013	I. Ryan Neville
1996	Kim S. Aydlette	2014	Allison P. Sullivan
1997	David G. Guyton	2015	Elizabeth "Beth" J. Palmer & Rebecca A. Roser
1998	(Not awarded)	2016	D. Nichole Davis
1999	James E. Smith Jr.		
2000	Hervy B.O. Young		

LRE Lawyer of the Year

Award Criteria:

The award criteria for such a prestigious honor is for a member of the SC Bar who has

- fostered public understanding of the values of our legal and judicial system;
- stimulated a deeper sense of individual responsibility by helping students recognize their legal duties and rights;
- encouraged and supported effective LRE programs; and
- increased communication among students, educators, and those working in the legal system.

Past Recipients:

- 2000 Stephen Cox
- 2001 R. Markley Dennis Jr.
- 2002 Harold C. Staley Jr.
- 2003 The Hon. Jack A. Landis
- 2004 Donna M. McQueen
- 2005 John DeLoache
- 2006 Barbara Seymour
- 2007 Elizabeth "Babs" Warner
- 2008 Holly Huggins Wall
- 2009 Daniel Hunt
- 2010 Walter Dusky
- 2011 The Hon. John M. Rucker
- 2012 Gene P. Vaught, III
- 2013 Blair Ballard Massey
- 2014 George W. Branstiter, II
- 2015 Thomas McRoy "Roy" Shelley III
- 2016 Garrett B. Johnson

There are no written materials for this item.

The G. Dewey Oxner Jr. Mentor of the Year Award

In November 2013, the Supreme Court of South Carolina's Chief Justice's Commission on the Profession established the G. Dewey Oxner Jr. Mentor of the Year Award. This award is presented annually to an individual who has performed exemplary service and demonstrated professional excellence as a mentor to a new lawyer participating in the Supreme Court's Lawyer Mentoring Program, which is administered by the Bar. The program connects new lawyers, who have recently been admitted to the practice of law, with experienced lawyers for a year-long mentorship.

Past award winners are listed below:

2014:

The Honorable Casey L. Manning
Elizabeth Scott Moise
Richard B. Ness
John S. Nichols
Alice F. Paylor

2015:

Rebecca Poston Creel
Tony Dessausure
Jamie B. Hood
Candy M. Kern-Fuller
Joe W. Underwood

Materials for this item will be emailed separately.

Memorandum

To: SC Bar House of Delegates
From: Kirsten Small, Chairperson
Professional Responsibility Committee
Re: Court-Regulated Forms

Attached please find a proposal from the Professional Responsibility Committee. This proposal was initially presented by House member Leeds Barroll. Pursuant to vote of the House, the item was sent to the Committee for additional study and review.

Attachment

RESOLUTION ON COURT-CENTERED REGULATION OF LEGAL SERVICES

WHEREAS, regulation of the practice of law in South Carolina has historically been within the province of the Supreme Court of South Carolina,

WHEREAS, S.C. Code 40-5-10 recognizes the inherent power of the Supreme Court to regulate the practice of law,

WHEREAS, S.C. Code 40-5-20 recognizes that the Supreme Court is empowered to promulgate rules and regulations concerning the practice of law,

WHEREAS, in January 2015 the South Carolina Bar Board of Governors adopted a resolution drafted by the American Bar Association which called upon state supreme courts to regulate the delivery of legal services,

WHEREAS, the Conference of Chief Justices has adopted a similar position calling on state supreme courts to regulate the delivery of legal services,

NOW THEREFORE BE IT RESOLVED, that the South Carolina Bar adopts the principle that the delivery of legal services to persons and entities must be conducted under the auspices of lawyers (“licensed” or “authorized” or “regulated”) by the Supreme Court,

AND BE IT RESOLVED, that the Bar asks the Supreme Court to adopt a rule which will regulate the delivery of legal services by persons and entities providing forms by paper or electronic means, the proposed form of which is attached.

Rule 4XX, SCACR
Delivery of Legal Services by Paper or Electronic Forms

- A. Any legal form available to the public for self-completion or completion with assistance of a scrivener must be prepared or approved by a lawyer authorized to practice law by the Supreme Court of South Carolina.
- B. The identity of the lawyer who prepared or approved the form and the date of the last review must be made available within seven days to any person who requests the information or must be published with the form.
- C. Any legal form available to the public for self-completion or completion with the assistance of a scrivener must be accompanied by language that the form is not a substitute for legal advice by a licensed lawyer.
- D. No person or entity that provides a legal form may disclaim any warranty or disclaim or limit its liability as to the consequences of use of the form, to the same extent that a lawyer may not prospectively limit liability to a client for malpractice.
- E. No person or entity that provides a legal form may restrict a resident of South Carolina from seeking restitution for damages in South Carolina.
- F. Any person or entity that fails to comply with the provisions of this rule shall be subject to an order forbidding the further publication and distribution of any legal form.
- G. Nothing in the Rule shall affect the applicability of Rule 5.5 of Rule 407 of the South Carolina Rules of Professional Conduct.
- H. The requirements of this Rule shall not apply to any form created by a state statute, a state agency, or a court.

TO: South Carolina Bar House of Delegates
FROM: Practice and Procedure Committee
DATE: March 20, 2017
RE: Request to Amend Rule 13(a), SCRCrimP

The Practice and Procedure Committee recommends that Rule 13(a), SCRCrimP, be amended to allow attorneys to sign subpoenas in criminal cases. Rule 45(a)(3), SCRCP, provides for attorneys to sign subpoenas in civil cases but under the current criminal rule, an attorney must get a blank, signed subpoena from the clerk of court. The proposed change would streamline the process.

13(a) Issuance of Subpoenas. Upon the request of any party, the clerk of court shall issue subpoenas or subpoenas duces tecum for any person or persons to attend as witnesses in any cause or matter in the General Sessions Court. The subpoena shall state the name of the court, the title of the action, and shall command each person to whom it is directed to attend and give testimony, or otherwise produce documentary evidence at time and place therein specified. The subpoena shall also set forth the name of the party requesting the appearance of such witness and the name of counsel for the party, if any. An attorney as officer of the court may also issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice.

MEMORANDUM

To: House of Delegates
FROM: Elder Law Committee
RE: House Bill 4013: Health care decisions for adults unable to consent

Sponsor: G. Murrell Smith, Jr.

Summary: To amend Section 44-66-30, as amended, code of laws of South Carolina, 1976, relating to persons who may make health care decisions for adults unable to consent, so as to add a person given the authority to make those health care decisions pursuant to another statutory provision; and to amend Sections 44-26-40, 44-26-50, and 44-26-60, all as amended, all relating to rights of clients of the South Carolina Department of Disabilities and Special Needs, so as to make conforming changes.

Bill Progress: 3/21/17 Introduced and referred to Committee on Judiciary

MATERIALS: H.4013 (pages 3-4)

Greenville Online article: *Advocates concerned over DDSN bill* (pages 5-7)

Directive 535-07-DD, Department of Disabilities and Special Needs (pages 8-18)

The Elder Law Committee requests that the House of Delegates take an official position of opposition to H.4013.

In 2016, the Adult Health Care Consent Act (AHCCA) was amended. The AHCCA governs how health care decisions are to be made when an adult patient is unable to consent. Prior to the 2016 amendment, the AHCCA contained a provision that authorized “[a] person given authority to make health care decisions ... by another statutory provision” (priority 8) to consent or withhold consent for health care under the Act. The Department of Disabilities and Special Needs (DDSN) took the position that priority 8 gave the Director, or her designee, the authority to make health care decisions for individuals in DDSN’s care, if no one with higher priority was available to make those decisions. *See* Directive 535-07-DD. The 2016 amendment removed priority 8. The statutory provision that authorized DDSN to make health care decisions was not amended in 2016; H. 4013 does not include a provision to fix the inconsistency either. S.C. Code § 44-26-50.

H. 4013, if enacted, would not only restore DDSN’s previous authority to make health care decisions for patients in the care of DDSN, but it would increase DDSN’s priority under the AHCCA. The bill would give DDSN priority ahead of parents, spouses, and other family

members to make health care decisions for a patient unable to consent, a major change from the previous law.

This change could potentially cause a significant increase on the demand on the guardianship system. For example, a family member of a patient in a DDSN facility who is currently making health care decisions pursuant to the AHCCA would no longer have priority to make decisions, and would most likely need to obtain a guardianship in order to stop DDSN from having the authority to make health care decisions for their family member.

We appreciate your consideration and continued support of the Elder Law Committee.

A BILL

TO AMEND SECTION 44-66-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY MAKE HEALTH CARE DECISIONS FOR ADULTS UNABLE TO CONSENT, SO AS TO ADD A PERSON GIVEN THE AUTHORITY TO MAKE THOSE HEALTH CARE DECISIONS PURSUANT TO ANOTHER STATUTORY PROVISION; AND TO AMEND SECTIONS 44-26-40, 44-26-50, AND 44-26-60, ALL AS AMENDED, ALL RELATING TO RIGHTS OF CLIENTS OF THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44-66-30(A) of the 1976 Code, as last amended by Act 226 of 2016, is further amended to read:

"(A) Where a patient is unable to consent, decisions concerning his health care may be made by the following persons in the following order of priority:

(1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship;

(2) an attorney-in-fact appointed by the patient in a durable power of attorney executed pursuant to Section 62-5-501, if the decision is within the scope of his authority;

(3) a person given authority to make health care decisions for the patient by another statutory provision;

~~(4)~~ a person given priority to make health care decisions for the patient by another statutory provision;

~~(4)~~~~(5)~~ a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following:

(a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement; or

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;

~~(5)~~~~(6)~~ an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

~~(6)~~~~(7)~~ a parent of the patient;

~~(7)~~(8) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation;

~~(8)~~(9) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation;

~~(9)~~(10) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation."

SECTION 2. Section 44-26-40 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

"Section 44-26-40. If a client resides in a facility operated by or contracted to by the department, the determination of that client's competency to consent to or refuse major medical treatment must be made pursuant to ~~Section 44-66-20(6)~~ of the Adult Health Care Consent Act. The department shall abide by the decision of a client found competent to consent."

SECTION 3. Section 44-26-50 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

"Section 44-26-50. If the client is found incompetent to consent to or refuse major medical treatment, the decisions concerning his health care must be made pursuant to ~~Section 44-66-30~~ of the Adult Health Care Consent Act. An authorized designee of the department may make a health care decision pursuant to Section 44-66-30~~(8)~~(3) of the Adult Health Care Consent Act. The person making the decision must be informed of the need for major medical treatment, alternative treatments, and the nature and implications of the proposed health care and shall consult the attending physician before making decisions. When feasible, the person making the decision shall observe or consult with the client found to be incompetent."

SECTION 4. Section 44-26-60(C) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

"(C) Priority under this section must not be given to a person if a health care provider, responsible for the care of a client who is unable to consent, determines that the person is not reasonably available, is not willing to make health care decisions for the client, or is unable to consent as defined in Section 44-66-20~~(6)~~(8) of the Adult Health Care Consent Act."

SECTION 5. This act takes effect upon approval by the Governor.

Advocates concerned over DDSN bill



[Tim Smith](#), tcsmith@greenvillenews.com 11:11 a.m. ET
April 7, 2017

Buy Photo

(Photo: Tim Smith / Staff)

COLUMBIA – Advocates for the disabled are expressing concerns about a bill that they say would grant the state’s disabilities agency priority over family members in making health care decisions if the disabled patient is unable to consent.

But the state Department of Disabilities and Special Needs says the bill is only correcting a provision that was accidentally deleted last year and the bill is not seeking new authority.

At issue is an amendment to the Adult Health Care Consent Act that adds a single line in a list of who can make health care decisions in the event a patient is unable to consent.

[The bill](#) would grant a “person given authority to make health care decisions for the patient by another statutory provision” priority behind a legal guardian or attorney-in-fact appointed by the patient but ahead of spouses and other family members to make health care decisions for a patient unable to consent.

Sowing confusion about the issue is the fact that DDSN’s [current directive](#) on consent lists the agency as last in line in priority in cases where the patient is unable to consent.

"The only time a DDSN designee would make a health care decision would be in the capacity of priority # 8," reads the directive, which a note states was last reviewed by the agency in 2014.

However, the Adult Health Care Consent Act, when it was passed in 1990, contained the language at issue now.

DDSN oversees the care of thousands of people with intellectual disabilities, autism, brain and spinal cord injuries in a network of regional centers, county disabilities agencies, and private providers.

Lois Park Mole, a spokeswoman for DDSN, said the line at issue was dropped by mistake last year.

"Last year it (the Adult Health Care Consent Act) was amended and in that process a portion of the Act was inadvertently deleted," she said. "H. 4013 corrects that. DDSN is not requesting any new change."

Rep. Murrell Smith, a Sumter Republican who heads the budget subcommittee with oversight of DDSN, who said he filed the bill at the request of DDSN, said he thinks the line was deleted last year when the law was amended for hospitals because the line looks almost identical to another line in the priority list.

The deletion and subsequent attempt to fix it has caused advocates to re-examine the law and the priority list for who can make health care decisions.

Smith said the agency in practice attempts to contact family members for health care decisions but needs an option when no family members can be found.

Advocates, however, say they do not believe lawmakers should grant the agency priority over family members and that if no family members can be found, the agency should be asking the probate court to appoint guardians.

Nancy McCormick, senior attorney with the group Protection and Advocacy For People With Disabilities, Inc., said her group has concerns with the bill, which she said goes much further than the agency's current directive which lists the agency at the bottom of a priority list.

"I think you should tell families to be aware this legislation is pending," she said. "P&A supports increasing the role of processes like supported decision-making to enable individuals with disabilities to participate as much as possible in making their own health care decisions. Families should learn and ask to be taught about supported decision-making and other ways to support individuals."

McCormick said the issue also raises questions of a potential conflict of interest.

"Having the authority (to make patient decisions) and the service provision in the same entity has always raised some questions," she said.

Deborah McPherson, a former DDSN commissioner and advocate, has asked House Judiciary Committee members and the DDSN Commission to look at the bill.

"I believe DDSN would have a conflict of interest in making health care decisions for persons living in their facilities," she wrote to one lawmaker. "That is the purpose of the Adult Health Care Consent Act, to authorize a parent or other close relative to make these decisions. When the person having authority to make these decisions is not available or chooses not to act, then the Probate Court should be contacted so that a Guardian Ad Litem can be appointed."

Too often, she alleged, "DDSN has simply skipped over the next of kin and either made decisions without authorization of the person authorized by statute to act. Capacity must be determined by a psychologist or physician, and staff at a group home or other facility are not qualified to determine capacity. When there is any question about capacity, the opinion of the Probate Court should be sought."

Smith said the agency has a policy to designate individuals, including family members, to make health care decisions.

"So they consult that individual prior to making those medical decisions. This Adult Health Care Consent Act is when no one is available to make those decisions," he said. "While I understand why people would say you've got the agency making decisions above spouses or above adult children or adult relatives, generally when a person is placed in a regional center, it has someone who is designated. This is for the time when you can't find somebody."

He said the real issue for DDSN is in the cases of judicial commitments, when family members are not known.

"Then they don't have anyone with authority to make health care decisions," he said.

Asked about a potential conflict of interest in the agency making health care decisions, he said somebody has to make a decision.

"I understand on the face of it the concern," he said. "But in reality, the Adult Health Care Consent Act only comes into play if there is no one to provide consent. In emergency decisions, doctors make the clinical decision. So this isn't the case of an emergency. This is the case of you need to change medication or someone needs some elective surgery and we can't find any individuals. I think this is more of a last resort option."

He said the agency could seek the appointment of a guardian in cases where family members are not known or cannot be found "but that obviously is going to come with a cost."

McPherson said the vast number of people served by DDSN do not have legal guardians.

"The only way a parent would be protected is to go and get guardianship, if this bill goes through," she said.

The bill has been assigned to the House Judiciary Committee but has not yet been taken up, making its passage by the Legislature unlikely this year, the first year of a two-year legislative session

Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
Thomas P. Waring
Associate State Director
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COMMISSION
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Reference Number: 535-07-DD

Title Document: Obtaining Consent for Minors and Adults

Date of Issue: January 20, 1989
Effective Date: January 20, 1989
Last Review Date: May 16, 2014
Date of Last Revision: May 16, 2014 (REVISED)

Applicability: DDSN Regional Centers, DSN Boards and Contract Service Providers

PURPOSE

The purpose of this directive is to implement the Adult Health Care Consent Act. This directive establishes procedure for offering the opportunity for people to authorize to whom health care information can be disclosed and establishes procedures to identify persons required to give legally valid consent for health care for people, including minors, receiving services from the South Carolina Department of Disabilities and Special Needs (DDSN) when it is determined that a person may be unable to give consent for a specific decision concerning his or her healthcare or participation in restrictive programs or more restrictive placements. This directive is applicable to persons voluntarily or judicially admitted to DDSN and residing in a Regional Center, community residence, or other setting operated by or under contract with DDSN.

PHILOSOPHY

People who have intellectual disabilities or related disabilities, autism, head and spinal cord injuries, or other similar disabilities are fully entitled to all the human and legal rights available to other citizens. They may elect to accept or refuse to participate in any requested activity. Blanket, "all or none" approaches to informed consent may result in denial of dignity and rights of individual persons and shall not occur. All persons are to be presumed competent. The

DISTRICT I

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Whitten Center - Phone: 864/833-2733

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Summerville, SC 29485
Phone: 843/832-5576

DISTRICT II

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

presence of a disability is not in and of itself, a reason to seek a surrogate. Because, however, a person's disability may adversely impact his/her decision process, close scrutiny must be given when consent from a person with a disability is required for a proposed activity or procedure that will:

1. create significant risks or harm,
2. have a potentially irreversible impact, or
3. intrude physically, psychologically or socially on the person

The level of scrutiny required to determine the need to obtain a surrogate must be balanced by the risk of the proposed health care against the person's ability to understand it, e.g. a person may understand the need to take insulin, but may not understand the need to have a particular type of surgery. In all cases where consent is required, the person with a disability must provide the consent, unless there is a legally recognizable exception or substitution, which, under the circumstances, is authorized or otherwise permissible.

DEFINITIONS

Adult Health Care Consent Act: This statute provides a legally recognized method of obtaining valid consent from an authorized person or other consent giver when the person is unable to consent on his/her own behalf. The Act is found at S.C. Code Ann. § 44-66-10 (Supp. 2010).

Authorization to Disclose: A health care provider or the provider's agents must provide to the patient, the opportunity to designate a family member or other individual they choose as a person with whom the provider may discuss the patient's medical condition and treatment plan.

Authorized Person: An "authorized person" is a person listed in the priority of consent givers for minor and adult consents pursuant to S.C. Code Ann. § 44-26-60 and § 44-66-30 (Supp. 2010).

Behavior Support and Restrictive Program: These are defined in DDSN Directive 600-05-DD: Behavior Support Plans.

Consent: As used in this directive, "consent" means the voluntary agreement to proposed health care by a person or authorized person with sufficient mental ability to make an intelligent choice. Consent is an active acquiescence as distinguished from "assent" which is a silent acquiescence. It is a process, not a form. Consent is the dialogue between the person or authorized person and the health care provider, both exchanging information, culminating in their agreeing to the proposed health care. It has three essential characteristics: capacity, information and voluntariness.

Department: "Department" means the S.C. Department of Disabilities and Special Needs, also referred to as "DDSN."

Emergency: In context of the Adult Health Care Consent Act, an “emergency” is a situation where a person is in immediate need of specific health care to prevent death, permanent disfigurement, loss or impairment of the functioning of a bodily member/organ, or other serious threat to the health of the person. The immediate need for such care would override any delay caused by attempting to locate an authorized person to give consent for the proposed health care and/or in locating two licensed physicians to certify the person as unable to consent.

Guardian: A “guardian” is a person appointed by a court to act and make decisions on behalf of another (ward). Sometimes this type of guardianship is referred to as a “guardian of the person.” A guardian generally can make health care decisions on behalf of the ward. The court order appointing the guardian should be read carefully to determine if any limitations have been placed on the guardian. However, a “conservator” is a person appointed solely to conserve and protect the ward’s estate and property. A conservator does not have authority to make health care decisions for the ward.

Health Care: As described in the Adult Health Care Consent Act, “health care” means a procedure to diagnose or treat a disease, ailment, defect, abnormality or complaint, whether of physical or mental origin. It includes the provision of intermediate or skilled nursing care; services for the rehabilitation of injured, disabled, or sick persons; and may include if indicated by this directive the placement in or removal from a facility that provides these forms of care.

Health Care Provider: The Department is a “health care provider.” The definition includes a person, health care facility, organization, or corporation licensed, certified or otherwise authorized or permitted by the laws of this State to administer health care.

Health Care Professional: A physician or dentist employed by DDSN is a “health care professional.” This definition includes persons who are licensed, certified or otherwise permitted by the laws of this State to provide health care to members of the public. Nurses, nurse practitioners and other departmental personnel may be included as well. The key to the definition is that the person by virtue of a license, certification or permit be able to provide health care to the public, notwithstanding their employment with DDSN.

Minor: A person under the age of 18 is considered a “minor” in South Carolina, excluding a person who has been legally married or emancipated as decreed by the family court, S.C. Code Ann. § 63-1-40 (1) (Supp. 2010). A minor under the age of 16 is deemed unable to give consent for health care by virtue of the status of his/her age. A minor who has reached the age of 16 may consent to any health service except operations, unless the operation is essential to the health or life of the minor in the opinion of the attending physician and a consultant physician, if one is available, S.C. Code Ann. § 63-5-340 and § 63-5-350 (Supp. 2010).

Patient: An individual sixteen years of age or older who presents or is presented to a health care provider for treatment.

Power of Attorney (POA): A person (principal) may designate another (agent) to make health care decisions on their behalf. The agent is often called “attorney-in-fact.” Normally, when the principal becomes incapacitated to the extent that he/she cannot manage his estate, the Power of

Attorney would automatically become ineffective. However, if the principal executed a “durable power of attorney” [S.C. Code Ann. § 62-5-501 (Supp. 2010)] with the special provisions that the power becomes effective only upon physical or mental incapacity, then the Power of Attorney would allow the attorney-in-fact to make health care decisions even though the principal might be incapacitated. These Powers of Attorney are also known as “health care power of attorney” or “durable power of attorney.” These documents are complex and should be reviewed by the Department’s legal counsel prior to implementing the provisions of the Power of Attorney.

Surrogate: This term is used to denote a person authorized to consent on behalf of another. Another term used in this context is “consent giver.” Within the meaning of the Adult Health Care Consent Act, a surrogate is a person that fits into one of the listed priorities and can legally make health care decisions for someone unable to consent. Normally, a surrogate provides substitute judgment; that is, be guided by what the person would have wanted when competent. However, when those wishes are unknown, then the surrogate must decide based on the person’s best interest.

Treatment: The broad range of emergency, outpatient, intermediate, and inpatient services and care that may be extended to a patient to diagnose and treat a human disease, ailment, defect, abnormality or complaint, whether of physical or mental origin. Treatment includes, but is not limited to - psychiatric, psychological, substance abuse, and counseling services.

Unable to Consent: This concept is at the heart of the Adult Health Care Consent Act. It means that the person is unable to appreciate the nature of his/her condition and the proposed health care, or to make a reasoned decision concerning the proposed health care, or to communicate his/her health care decision in an unambiguous manner. This definition does not include minors since their inability is based on their age status, irrespective of the fact that the minor may also be cognitively unable to consent.

Behavior support and restrictive program: These are defined in DDSN Directive 600-05-DD: Behavior Support Plans.

I. AUTHORIZATION TO DISCLOSE

Title 42 of the Code of Federal Regulations, relating to public health, and the privacy rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) require that the health care provider or agent of the provider offer the patient the opportunity to designate a family member or other individual with whom the provider may discuss the patient’s medical condition and treatment plan.

This opportunity must be provided upon determination of eligibility for DDSN services, admission to any service and/or change in service provider, on a patient information form or by electronic means and must present the question in bold print and capitalized as follows: **“DO YOU WANT TO DESIGNATE A FAMILY MEMBER OR OTHER INDIVIDUAL WITH WHOM THE PROVIDER MAY DISCUSS YOUR MEDICAL CONDITION? IF YES, WHOM?”**

The authorization to disclose must be offered to all persons and the form will be signed by the patient, guardian or surrogate.

This authorization must specify that the patient may revoke or modify an authorization with regard to any family member or other individual designated by the patient and the revocation or modification must be in writing.

A health care provider may disclose information pursuant to an authorization unless the provider has actual knowledge that the authorization has been revoked or modified.

A health care provider who in good faith discloses information in accordance with an authorization signed by a patient is not subject to civil liability, criminal liability, or disciplinary sanctions because of this disclosure.

The requirement for authorization to disclose is **not** to be construed to:

1. Require a health care provider to disclose information that he otherwise may withhold or limit;
2. Limit or prevent a provider from disclosing information without written authorization from the patient if this disclosure is otherwise lawful or permissible;
3. Prohibit a provider from receiving and using information relevant to the safe and effective treatment of the patient from family members; and
4. Conflict with an individual's health care power of attorney as provided for in the South Carolina Probate Code.

II. HEALTH CARE CONSENT

Essential Characteristics of Consent

Consent is a legal concept defined by law. It is composed of three elements - capacity, information, and voluntariness. **Capacity** refers to the ability to do something. It is defined with respect to a person's age, a person's competence, and the particular situation. Generally, a person below the age of 18 is deemed legally incompetent. Instead, parents, a legal guardian or persons standing *in loco parentis* (as a parent) are empowered by law to give or withhold consent on the minor's behalf, S.C. Code Ann. § 44-26-60 (Supp. 2013). Even though a minor's consent may be given by a substitute or surrogate consentor, the standards governing consent – capacity, information and voluntariness – still apply.

For Adults, those 18 or older, capacity is usually determined by cognitive processes and references to whether the person has the ability to manage his/her affairs with ordinary or reasonable prudence, has demonstrated rational understanding or intellectual comprehension, or has substantial ability to understand and appreciate the nature and consequences of a specific act.

Capacity includes the ability to communicate one's choices. Without communication, cognitive processes cannot be determined and, thus, intellectual ability will be negated.

The particular situation where consent is required may dictate the degree of ability necessary to make a decision or consent to an act. A person's ability to consent, must take into account his/her adaptive behavior and measured intelligence. A person with an intellectual or related disability may not be wholly competent or wholly incompetent. These persons may have the capacity in some situations, but not in others. The "situational capacity" approach may frequently result in the same person being found competent, for example, to purchase a shirt, but not the sale of his/her real estate. The "all or nothing" concept should be rejected, thus, allowing the person to experience growth depending on his/her developmental level.

Consent is ineffective unless the person or surrogate consent giver has sufficient **information** upon which to make a rational and informed decision. Information as a prerequisite for consent consists of two elements: the substance of the information and the manner in which the information is communicated. Thus, the focus is on "what" information is given and "how" it is given.

Effective and informed consent requires disclosure of the nature of the proposed health care, its importance and its possible consequences. Facts concerning the care must be revealed, its risks and benefits, the duration of the care, possible discomforts or adverse side effects. Available alternate health care and its potential risks and benefits should also be made known.

This information must be received and understood. The explanation of the proposed health care should be at an appropriate comprehension level and in the language and terms that is likely to be understood. The person or surrogate consent giver must have an opportunity to digest the information or to consult with others.

Voluntariness is normally presumed unless it is shown that the person giving consent was unable to exercise freedom of choice. The person should have sufficient autonomy to make a choice without duress. There must be an absence of overbearing coercion, duress, threats, inducements or undue influence. For persons with an intellectual or related disability, the voluntariness of consent may be suspect because of his/her placement in a facility, his/her lack of experiences for independent action, his/her eagerness to please and be accepted and his/her susceptibility to authority figures. Voluntariness also incorporates the notion that the consent giver is aware that the requested consent may be withheld or if given, it may be withdrawn.

INITIAL PROCESS

Normally, the Service Coordinator, the interdisciplinary team or the attending physician will initially raise the question of a person's competence to give valid consent for health care. The issue would not arise in isolation, but in connection with a proposed or "triggering" health care treatment or program. For the purpose of this directive, healthcare is grouped into four categories:

1. medical/diagnostic care, studies and procedures,

2. psychotropic medication,
3. restrictive programming/behavior support plan, and
4. admission/placement/discharge.

When health care is proposed for a person, consent must be obtained prior to implementation of the care. This directive sets forth procedures to obtain consent for health care for children and adults. The law designates who may give consent on behalf of children. For adults who are unable to consent, again the law designates who may consent for them, and how a surrogate consent giver is selected. This process is described herein for both emergency and non-emergency situations where consent is needed for health care. Once it is decided who will be the consent giver, whether it is the person himself/herself or his/her surrogate, then this directive describes the process required to obtain valid consent, highlighting the three essential characteristics of consent.

The Service Coordinator and attending physician are the key players in this process. They must take the lead and ensure that the requirements of this directive are met. If the health care is based in traditional medical activities, treatment/diagnostic procedures, or psychotropic medications, then the attending physician must be responsible for the consent process. However, if the required consent involves restrictive programming/behavior support plans or admission/placement/discharge to or from any departmental entity/program, then the Service Coordinator should ensure compliance with this directive. This is a team effort monitored by the interdisciplinary team or key staff. This does not negate a person's rights to privacy under the Health Insurance Portability and Accountability Act (HIPAA).

SURROGATE SELECTION

I. Children

Children (below the age of 18) have only a limited capacity to consent to health care. Unless there are exceptional circumstances, parents should always be involved with their child's health care. There are some special situations where the age of the "minor" is different than 18 years. However, these situations are not encountered with any frequency with persons receiving treatment or habilitation from DDSN. If a person is a minor, decisions concerning his/her health care must be made by the following persons in the following order of priority:

1. legal guardian with court order,
2. parent,
3. grandparent or adult sibling,
4. other relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the child,

5. other person who reasonably is believed by the health care professional to have a close relationship with the child, or
6. authorized designee of DDSN (i.e., the Facility Administrator of a DDDSN Regional Center, Executive Director of a DSN Board, or Executive Director of one of the four DSN Board-like entities (i.e., Babcock Center, Charles Lea Center, Tri Development Center, and Berkeley Citizens))

The above list of priorities is found at S.C. Code Ann. § 44-26-60 (Supp. 2013). This law provides that if persons of equal priority disagree on whether certain health care should be provided, the health care provider or any person interested in the welfare of the person may petition the probate court for an order to determine what care should be provided or for the appointment of a temporary or permanent guardian.

Priority should not be given to a person who the health care provider determines is not reasonably available, unwilling or unable to make health care decisions for the person.

In an emergency, health care may be provided to a child without consent under the same emergency provision applicable to adults, even where the incapacity of the child is based solely on the child's minority.

II. Adults

The Adult Health Care Consent Act, S.C. Code Ann. § 44-66-10 (Supp. 2010), sets forth a process for obtaining consent when an adult is unable to consent. Usually, an adult is presumed competent to make decisions concerning his/her own health care. This presumption may fail, however, in light of the adult's intellectual or related disability in effect at the time consent is needed.

If there is a question concerning a person's competency or ability to make his/her own health care decisions, then the Adult Health Care Consent Act process must be followed to determine competency and to select a surrogate consent giver. A person is unable to consent to health care when he/she is unable to:

1. appreciate the nature and implication of his/her condition and proposed health care,
2. make a reasoned decision concerning the proposed health care, or
3. communicate a decision in an unambiguous manner.

When the question of inability to consent arises, two licensed physicians must examine the person and independently conclude that he/she is unable to give valid consent. The physicians must certify the inability and give an opinion regarding the cause and nature of the inability, its extent and its probable duration. The opinion becomes part of the person's medical chart. The Adult Health Care Consent Act does not restrict a treating physician from being one of the two certifying physicians. However, **in an emergency** the person's inability to consent may be certified by a health care professional responsible for the care of the person if the health care

professional states in writing in the person's medical record/chart that the delay occasioned by obtaining certification from two licensed physicians would be detrimental to the person's health. Once the person is certified as unable to give consent, a surrogate consent giver is selected and recognized. The Adult Health Care Consent Act sets forth a list of surrogates in the order of their priority of selection:

1. A guardian appointed by the court, if the decision is within the scope of guardianship;
2. An attorney-in-fact appointed by the person with power to make health decisions;
3. A person given priority to make health care decisions by another statutory provision, such as when the Department of Social Services (DSS) has taken custody of a vulnerable adult (see item #8);
4. The spouse of the person unless they are separated due to:
 - a) divorce proceeding,
 - b) a written separation agreement, or
 - c) an order of divorce or separate maintenance;
5. A parent or adult child of the person;
6. An adult sibling, grandparent or adult grandchild of the person;
7. Any other relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the person, or
8. A person given authority to make health care decisions for the person by another statutory provision.

The last priority designation (#8) is designed to address situations of persons unable to consent for needed health care and who have no relatives or none who are willing or able to provide health care decisions. This provision allows DDSN's State Director, or her designee (i.e., the Facility Administrator, Executive Director of a DSN Board, or Executive Director of one of the four DSN Board-like entities (i.e., Babcock, Charles Lea Center, Tri Development Center and Berkeley Citizens) to make health care decisions when no one else stands in a higher level of priority, S.C. Code Ann. § 44-26-50 (Supp. 2013). Priority #8 should not be confused with priority #3. The only time a DDSN designee would make a health care decision would be in the capacity of priority #8.

ASSESSMENT OF ABILITY TO CONSENT

The process of obtaining consent involves a verbal dialogue that is usually reduced to a written consent form. With persons who have an intellectual or related disability, autism, head or spinal cord injuries, or other similar disabilities, this dialogue must be tailored to the person's intellectual level. Normally, the discussion will focus on the following topics:

1. the person's current condition or problem,
2. the intended or proposed health care,

3. the anticipated benefits of the health care,
4. the potential risks, adverse outcomes or side effects,
5. possible alternative approaches and their risks and benefits, and
6. risks/benefits of not having the proposed health care.

The physician or health care professional must make a judgment about the person's ability to understand the information needed for valid consent. The Adult Health Care Consent Act gives very little guidance other than that specified in the definition of "unable to consent." Assessing the person's ability or inability will necessitate the physician or health care professional asking a series of questions and weighing the answers. Thus, the assessment occurs and is a part of the dialogue required to inform the person of the proposed treatment as stated above. Care must be given to determine if the person is unable to either appreciate the nature of his/her condition and the proposed health care, to make a reasoned decision concerning the proposed health care, or to communicate his/her health care decision in an unambiguous manner.

In traditional medical consent situations, the physician would inform the patient about the proposed treatment, its benefits and risks, then discuss the matter answering all the questions posed by the patient. With intellectual or related disabled persons it may be necessary for the physician or health care professional to be more pro-active and present questions that will elicit a dialogue. By allowing the person an opportunity to express himself/herself, a fair and accurate assessment can be made of the person's ability to consent. There is no formula to assist the physician or health care professional in determining the level of mental capacity needed to consent to specific procedures. **Generally, a high threshold is not necessary to demonstrate a person's understanding of his/her condition, the proposed treatment and its risks and benefits. However, as the proposed health care becomes more risky, intrusive or irreversible, the more scrutiny and inquiry of the person's understanding is required.**

EMERGENCY CONSENT

Health care for the relief of pain and suffering may be provided without consent at any time that an authorized person in the priority list is unavailable.

In emergency situations, health care may be provided without consent if no person on the priority list is immediately available, and in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the person, the delay occasioned by attempting to locate an authorized person to make the health care decision would present a substantial risk of death, permanent disfigurement, impairment of a bodily member/organ, or other serious threat to the health of the person.

Also, health care decisions on behalf of a person who is unable to consent may be made by a consent giver on the priority list if no consent giver having a higher priority is available immediately, and in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the person, a delay occasioned by attempting to locate a consent giver having a higher priority presents a substantial risk or serious threat to the health of the person.

Health care may be provided without consent where there is no person on the list of priority who is reasonably available and willing to make the decision, and in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the person, the health care is necessary for the relief of suffering, restoration of bodily function or to preserve the life, health or bodily integrity of the person.

ADDITIONAL NOTES

The Adult Health Care Consent Act does not authorize the provision of health care where the attending physician or other responsible health care professional has actual knowledge that the health care is contrary to the religious beliefs of the person, unless the person while able to consent stated contrary intent to the physician or health care professional.

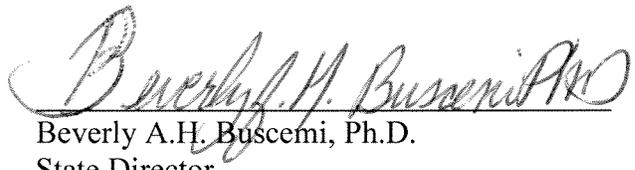
Nor does the Adult Health Care Consent Act authorize health care to a person unable to consent if the attending physician or responsible health care professional has actual knowledge that the proposed health care is contrary to the person's unambiguous and uncontradicted instructions expressed at the time when the person was able to consent.

A person who in good faith makes a health care decision as provided in the Adult Health Care Consent Act is not subject to civil or criminal liability on account of the substance of the decision. A person who consents on behalf of a person unable to consent does not by virtue of that consent become liable for the costs of the health care provided to the person.

The Adult Health Care Consent Act protects the health care provider, DDSN, DSN Boards and DSN Board-like entities (i.e., The Babcock Center, Charles Lea Center, Tri Development and Berkeley Citizens) who in good faith rely on a health care decision made by an authorized person from civil and criminal liability or disciplinary penalty on account of reliance on the decision. This protection also applies in emergency situations.



Susan Kreh Beck, Ed.S., NCSP
Associate State Director-Policy



Beverly A.H. Buscemi, Ph.D.
State Director

To access the following attachments, please see the agency website page "Attachments to Directives" under this directive number.

- | | |
|--------------|---|
| Attachment 1 | Health Care Consent Act Flow Chart |
| Attachment 2 | Instruction Sheet for Health Care Consent Form |
| Attachment 3 | Health Care Consent Form |
| Attachment 4 | Instructions for Authorization to Disclose Protected Health Information |
| Attachment 5 | Authorization to Disclose Protected Health Information Form |

Memorandum

To: House of Delegates
From: John Nichols, Chairperson
Limited Scope Task Force
Re: Limited Scope Representation

Pursuant to a vote of the House at the January, 2016 meeting, the Bar petitioned the South Carolina Supreme Court for rule changes regarding limited scope attorney/client relationships. The Court responded to the Bar with a letter that outlined several concerns regarding the proposal, including its “belt and suspenders” approach, the possible confusion over notice, and the complexity of the included proposed forms, which would likely be incompatible with the Court’s e-filing platforms.

Attached please find a re-crafted proposal, which offers a much simpler approach to the issue of limited scope. The new draft does not propose new rules; instead, the proposal adds a comment that a party remains obligated to work with the court and other parties if that party elects to only have limited representation. A parallel Family Court rule is not needed as Rule 5(e) and Rule 11, SCRCF already apply to Family Court proceedings. Further, no court action is needed; there are simply filings with the clerk to set forth who gets notice. Additionally, the proposed rule requires that the party must sign both the initiation and termination forms. A lawyer who participates in a limited scope arrangement could, under the new proposal, get the termination form signed prior to representation for the necessary filing at the conclusion of the representation, which would eliminate ongoing representation if a client disappeared.

A lawyer who a client engaged for “ghostwriting” of pleadings would be responsible for the integrity of the filing in the same manner as the lawyer would if filing as attorney of record. This could create some peril if the pro se party altered the document, but the attorney could alleviate the risk by retaining a copy of the original document.

The action requested is adoption of the amended version for resubmission to the Court.

Attachment

RULE 407, SCACR

RULE 4.2: COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

Comment

[1] This Rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client lawyer relationship and the uncounselled disclosure of information relating to the representation.

[2] This Rule applies to communications with any person who is represented by counsel concerning the matter to which the communication relates. A person to whom limited scope representation is being provided in accordance with Rule 1.2(c) is considered to be unrepresented unless the person, the person's counsel or a clerk of court has provided the lawyer with written notice of the limited scope representation.

...

RULE 4.3: DEALING WITH UNREPRESENTED PERSON

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Comment

...

[3] A person to whom limited scope representation is being provided in accordance with Rule 1.2(c) is considered to be unrepresented unless the person, the person's counsel

or a clerk of court has provided the lawyer with written notice of the limited scope representation.

SCRCP

RULE 5 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

...

(f) Limited Scope Representation. When an attorney is providing representation for a limited purpose in a matter, service shall be via the attorney only during the period from the filing with the clerk of court of the initiation of limited service through the filing of the completion of limited service.

RULE 11 SIGNING OF PLEADINGS; ATTORNEYS

...

(e) Limited Scope in Proceedings. When an attorney and client have agreed to limited scope representation in a proceeding, the attorney shall file a court-approved limited scope initiation form with the court and serve the same on all other parties of record. The attorney shall file a limited scope completion form upon termination of the limited scope representation.

(f) Limited Scope in Preparation of Documents. Pleadings, motions and other documents prepared in whole or in part with the assistance of an attorney shall include the notation "prepared with assistance of counsel" and shall state the attorney's name, address and telephone number. The inclusion of the attorney's name constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

PROPOSED COURT FORMS

STATE OF SOUTH CAROLINA)
)
COUNTY OF (County Name))
)
)
(Name of Plaintiff),)
)
)
Plaintiff,)
)
vs.)
)
(Name of Defendant),)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
(Number) JUDICIAL CIRCUIT
CASE NO: (Number)

**LIMITED SCOPE
REPRESENTATION
INITIATION SHEET**

(Attorney Name) hereby enters this Limited Scope Representation Initiation Sheet, pursuant to Rule 11(e), SCRCP, and gives notice of the following to the court and to the parties:

1. The undersigned attorney and (Party Name) have entered into a written agreement, whereby the undersigned attorney will provide limited scope representation as of the filing of this form.
2. The undersigned attorney's representation will cease once a Limited Scope Representation Completion Sheet has been filed unless judgment in this matter has been rendered before such a filing.
3. The party understands and acknowledges that the party must keep the court informed of any changes in the party's address for service of process and notices during such times as the party is unrepresented by an attorney and the party has an obligation to be prepared for any hearings or trials that are scheduled.

Dated: _____

Signature of Party

Print Name

Dated: _____

Signature of Attorney

Print Name

STATE OF SOUTH CAROLINA)
)
COUNTY OF (County Name))
)
)
(Name of Plaintiff),)
)
)
Plaintiff,)
)
vs.)
)
(Name of Defendant),)
)
)
Defendant.)
_____)

IN THE FAMILY COURT
(Number) JUDICIAL CIRCUIT
CASE NO: (Number)

**LIMITED SCOPE
REPRESENTATION
INITIATION SHEET**

(Attorney Name) hereby enters this Limited Scope Representation Initiation Sheet, pursuant to Rule 11(e), SCRCP, and gives notice of the following to the court and to the parties:

1. The undersigned attorney and (Party Name) have entered into a written agreement, whereby the undersigned attorney will provide limited scope representation as of the filing of this form.
2. The undersigned attorney's representation will cease once a Limited Scope Representation Completion Sheet has been filed unless judgment in this matter has been rendered before such a filing.
3. The party understands and acknowledges that the party must keep the court informed of any changes in the party's address for service of process and notices during such times as the party is unrepresented by an attorney and the party has an obligation to be prepared for any hearings or trials that are scheduled.

Dated: _____

Signature of Party

Print Name

Dated: _____

Signature of Attorney

Print Name

STATE OF SOUTH CAROLINA)
)
 COUNTY OF (County Name))
)
)
 (Name of Plaintiff),)
)
 Plaintiff,)
)
 vs.)
)
 (Name of Defendant),)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 (Number) JUDICIAL CIRCUIT
 CASE NO: (Number)

**LIMITED SCOPE
 REPRESENTATION
 COMPLETION SHEET**

(Attorney Name) hereby files this Limited Scope Representation Completion Sheet, pursuant to Rule 11(e), SCRCP, and gives notice of the following to the court and to the parties:

1. The undersigned attorney has concluded the representation of (Party Name) under the terms of a written agreement.
2. The undersigned attorney is no longer to receive notice. Notice is to be given to (Party Name).
3. The undersigned attorney will forward a date stamped copy of this form to (Party Name).

Dated: _____

 Signature of Party

 Print Name

Dated: _____

 Signature of Attorney

 Print Name

STATE OF SOUTH CAROLINA)
)
 COUNTY OF (County Name))
)
)
 (Name of Plaintiff),)
)
 Plaintiff,)
)
 vs.)
)
 (Name of Defendant),)
)
 Defendant.)
 _____)

IN THE FAMILY COURT
 (Number) JUDICIAL CIRCUIT
 CASE NO: (Number)

**LIMITED SCOPE
 REPRESENTATION
 COMPLETION SHEET**

(Attorney Name) hereby files this Limited Scope Representation Completion Sheet, pursuant to Rule 11(e), SCRPC, and gives notice of the following to the court and to the parties:

1. The undersigned attorney has concluded the representation of (Party Name) under the terms of a written agreement.
2. The undersigned attorney is no longer to receive notice. Notice is to be given to (Party Name).
3. The undersigned attorney will forward a date stamped copy of this form to (Party Name).

Dated: _____

 Signature of Party

 Print Name

Dated: _____

 Signature of Attorney

 Print Name

TO: House of Delegates
 FR: Bev Carroll, Secretary
 DT: April 2017
 RE: Election of Members of Nominating Committee

The South Carolina Bar Nominating Committee consists of eight members from the House of Delegates, who are elected by judicial region. The Immediate Past President of the Bar serves as chair of the Nominating Committee. The House needs to elect one delegate each from Judicial Regions II, III and IV. Section 9.2 of the Bar constitution provides that the Nominating Delegates shall be elected members of the House of Delegates who reside in the same judicial region as the Delegates whom they succeed.

The members of the House of Delegates who will continue on the Nominating Committee are set forth below by judicial region. Also below is the list of the current delegates by judicial region. The names in caps at the beginning of that list are current members of the Committee who may not succeed themselves.

When the Board of Governors fills vacancies in the House, it considers how to make the House more representative of the Bar. A similar consideration is encouraged in electing members of the Nominating Committee.

	<u>Delegate</u>			<u>Term ends</u>
Region I	Samuel Robert Bass, II	Stewart Law Offices	Spartanburg	2019
	J. Edwin McDonnell	SC Legal Services	Spartanburg	2019
Region II	Lisa Lee Smith	Smith & Sullivan	Chapin	2018 2020
Region III	Kenneth S. Generette	Horry County Schools	Conway	2018 2020
Region IV	Randall C. Stoney, III	Luziaraga Mims	Charleston	2019 2020

JUDICIAL REGION II (Judicial Circuits 5, 6, 8, 11)

(Abbeville, Chester, Edgefield, Fairfield, Greenwood, Kershaw, Lancaster, Laurens, Lexington, McCormick, Newberry, Richland, Saluda)

CYNTHIA H. OUZTS	Columbia		
A. Parker Barnes, III	Columbia	Riley Johnson Maxwell	Winnsboro
J. Leeds Barroll, IV	Columbia	Kathleen McColl McDaniel	Columbia
Susan B. Berkowitz	Columbia	Catherine E. Mubarack	Columbia
James Edward Bradley	West Columbia	Cynthia Hall Ouzts	Columbia
George P. Callison, Jr.	Greenwood	James G. Padgett, III	Greenwood
George B. Cauthen	Columbia	Jason P. Peavy	Columbia
Mark D. Chappell, Jr.	Columbia	Dayne C. Phillips	Lexington
Amie L. Clifford	Columbia	Pamela J. Roberts	Columbia
Leslie A. Cotter, Jr.	Columbia	Carmelo B. Sammataro	Columbia
Rosalyn Woodson Frierson	Columbia	Stephen T. Savitz	Columbia
Robert Fredrick Goings	Columbia	Jane O. Shuler	Columbia
Harry L. Goldberg	Columbia	Lana H. Sims, Jr.	Columbia
Thomas R. Gottshall	Columbia	Lisa Lee Smith	Chapin
Daryl G. Hawkins	Columbia	Christian G. Spradley	Saluda
Daniel Edward Johnson	Columbia	William R. Thomas	Columbia
Francis B.B. Knowlton	Columbia	Robert E. Tyson, Jr.	Columbia
LeRoy Free Laney	Columbia	Marguerite S. Willis	Columbia
John Grant Long, III	Columbia	Mitchell Willoughby	Columbia
John L. McCants	Columbia	Clinton J. Yarborough	Columbia

JUDICIAL REGION III (Judicial Circuits 3, 4, 12, 15)

(Chesterfield, Clarendon, Darlington, Dillon, Florence, Georgetown, Horry, Lee, Marion, Marlboro, Sumter, Williamsburg)

ELIZABETH B. YORK	Hartsville		
Melody J. Breeden	Myrtle Beach	William M. O'Bryan, Jr.	Kingstree
Martin S. Driggers, Jr.	Hartsville	John M. Prosser, Jr.	Johnsonville
Kevin R. Etheridge	Florence	John E. Roxon	Myrtle Beach
Kenneth S. Generette	Conway	Mary A.H. Shuler	Kingstree
David B. Miller	Myrtle Beach	Hal M. Strange	Georgetown
Julie Jeffords Moose	Florence	Regina B. Ward	Conway
Randall K. Mullins	N. Myrtle Beach		

JUDICIAL REGION IV (Judicial Circuits 1, 2, 9, 14)

(Aiken, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg)

DAVID S. TEDDER	Beaufort		
Samuel K. Allen	Charleston	Adam C. Ness	Bamberg
Mark S. Berglund	Bluffton	C. Tyson Nettles	Charleston
Brittany F. Boykin	Charleston	Benjamin R. Pogue, III	Mt. Pleasant
Christopher W. Burrows	Charleston	Edward K. Pritchard, III	Charleston
Mary T. Campbell	Aiken	Marie-Louise Ramsdale	Mt. Pleasant
Randall L. Charpia	Summerville	John Edward Robinson	Charleston
Nicholas J. Clekis	Charleston	John Edward Rosen	Charleston
Daniel W. Cooper	Charleston	Martha Kent Runey	Charleston
Lee Deer Cope	Hampton	Nancy D. Sadler	Beaufort
William Carey Crantford	Charleston	Cheryl D. Shoun	Charleston
Rhett C. Dunaway	Charleston	Megan F. Stevens	Mt. Pleasant
Debra J. Gammons	Charleston	Randall Croft Stoney, III	Charleston
C. Allen Gibson, Jr.	Charleston	Jason F. Taylor	Mt. Pleasant
Bernadette S. Gillians	Moncks Corner	David L. Tedder	Beaufort
William B. Harvey, III	Beaufort	R. Bruce Wallace	Charleston
Justin S. Kahn	Charleston	Charlie H. Williams, III	Orangeburg
Trent M. Kernodle	James Island	David Whitten Wolf	Charleston
Joseph S. Mendelsohn	Charleston		

TO: House of Delegates
FR: Dawes Cooke, Treasurer
DT: April 2017
RE: Proposed Budgets for FY17-18

Attached are the proposed budgets for the next fiscal year. They project a decrease in Bar funds of \$20,000 and a decrease in CLE Division funds of \$85,700. The budget contemplates receipt of IOLTA grants which will cover much but not all of the cost of the Ask A Lawyer and Law Related Education programs. The budget also contemplates use of the voluntary Indigent Service Fee to cover much of the cost of the Pro Bono Program. Finally, the Bar may be seeking grant monies from the Bar Foundation's Bank of America Settlement Fund.

A brief explanation of some of the line items follows.

Bar Revenues

License Fees: The Bar expects to see a smaller increase than in past years.

Bar Expenses

Equipment Maintenance & Licenses: There are increased costs for web site maintenance and revised eBlast software, offset by elimination of the license for the little used videoconferencing service.

Mentoring: The Bar is now administering the mentoring program for new lawyers.

Membership Benefits: Meetings will continue to be scheduled around the state to gain input from members on what can be improved in the Bar and which future Bar initiatives should be pursued. The budget that was in Membership Services Committees was moved to this line.

Senior Lawyers: A portion of the increase is to support efforts undertaken pursuant to Rule 428, Intervention to Protect Clients, SCACR.

Pro Bono: A portion of the increase is to support the local circuit committees and possibly create training videos.

ADR Commission: A regional conference is planned for Charleston.

Lawyer Referral Service Expenses: Advertising costs are decreasing.

Public Relations: A modest campaign is being considered.

Contributions: Fewer events are expected.

Web Site Redesign: The major revision has been completed.

CLE Revenues

Seminars: The projection reflects a shift from some live hours to online (E-CLE) hours in the wake of the expected increase from 6 to 8 MCLE hours for credit.

Publications: There will be fewer new titles.

Convention: The convention will be in The Sanctuary.

CLE Expenses

Salaries: A part time position is moving to full time, and a media Intern will be paid. There is also better recognition of expected overtime during the Convention and peak seminar times.

Equipment Maintenance and Licenses: The line better reflects current licenses.

Publications Royalties: The budget number is lower in anticipation of the product mix of the expected sales.

Convention: The line reflects the much higher costs of hosting the event on Kiawah Island.

SOUTH CAROLINA BAR FY 17-18 BUDGET PROPOSAL

APRIL 2017

	9 MOS. <u>ACTUAL</u>	2016-17 <u>BUDGET</u>	2017-18 <u>BUDGET</u>
<u>REVENUES</u>			
1. LICENSE FEES	3,247,713	3,253,700	3,278,900
2. FEES TOWARD BUILDING	451,755	455,300	452,800
3. INTEREST	8,368	6,300	12,300
4. LRS PERCENTAGE FEES	240,954	260,000	300,000
5. LRS SUBSCRIPTION FEES	68,250	65,000	65,000
6. MARKETING FEES	38,484	33,100	35,300
7. SOUTH CAROLINA LAWYER	78,703	75,000	90,000
8. STAFF SUPPORT	50,896	50,800	50,700
9. RENTS RECEIVED	33,146	44,000	44,000
10. ADR CERTIFICATION	87,350	102,000	98,000
11. DUES COLLECTION FEES	14,978	14,100	14,100
12. MISCELLANEOUS	6,069	600	1,200
13. LAW STUDENT AFFILIATES	1,140	1,500	1,500
14. SALES TAX COLLECTED	33	200	200
TOTAL REVENUES	4,327,839	4,361,600	4,444,000
<u>EXPENSES</u>			
1. SALARIES	1,251,612	1,695,300	1,738,800
2. FICA & BENEFITS	362,957	519,700	547,800
3. BUILDINGS	141,062	191,200	197,500
4. EQUIPMENT & SOFTWARE	29,446	26,400	28,500
5. EQUIP. MAINTENANCE & LICENSES	136,567	167,200	168,300
6. OFFICE SUPPLIES	29,886	35,100	40,600
7. POSTAGE	10,306	15,500	12,800
8. TELEPHONE	10,112	18,100	16,900
9. PROFESSIONAL FEES	6,625	9,200	9,500
10. BOND/INSURANCE	7,148	11,500	9,700
11. STAFF EXPENSE	22,829	32,500	37,500
12. DUES/SUBSCRIPTIONS/BOOKS	3,935	3,900	4,100
13. CASUAL LABOR/HIRING	1,389	2,400	2,400
14. DELEGATE EXPENSE	55,977	76,600	72,700
15. OFFICERS' EXPENSE	3,389	4,200	4,200
16. MEMBERSHIP SERV. COMM.	72,433	110,600	99,300
17. PRACTICE MANAGEMENT ASSIST.	5,947	16,000	17,900
18. RISK MANAGEMENT	2,823	6,300	7,000
19. MENTORING	5,938	-	13,000
20. LAWYERS HELPING LAWYERS	25,030	48,400	48,400
21. MEMBERSHIP BENEFITS	59,323	90,000	104,100
22. YOUNG LAWYERS	154,654	194,300	194,300

SOUTH CAROLINA BAR FY 17-18 BUDGET PROPOSAL
APRIL 2017

	9 MOS. <u>ACTUAL</u>	2016-17 <u>BUDGET</u>	2017-18 <u>BUDGET</u>
23. SENIOR LAWYERS	30,609	38,800	43,200
24. GOVT. RELATIONS DIRECT	52,388	33,000	33,000
25. JUDICIAL EVALUATION	1,338	5,000	5,000
26. PUBLIC SERV. COMMITTEE	7,370	28,000	24,500
27. PRO BONO	12,928	46,700	58,900
28. ASK-A-LAWYER	8,284	22,900	14,800
29. CLIENT ASSISTANCE PROGRAM	540	1,000	1,000
30. ADR COMMISSION	1,576	5,200	9,000
31. LAWYER REF'L SERV. EXPENSES	69,676	129,000	117,900
32. LAW RELATED EDUCATION	66,768	125,500	124,500
33. PUBLIC RELATIONS	14,458	22,200	29,700
34. SOUTH CAROLINA LAWYER	176,918	227,000	226,100
35. LAWYERS DESK BOOK	4,008	4,000	4,000
36. CONTRIBUTIONS	2,500	21,200	8,000
37. CREDIT CARD FEES	57,084	55,400	55,800
38. MISCELLANEOUS	5,222	2,800	2,800
39. SHORT TERM PROJECTS	7,679	5,000	5,000
40. LAW STUDENT AFFILIATES	7,341	8,500	8,500
41. SALES TAX PAID	23	200	200
42. NEW BUILDING DEBT	237,600	316,800	316,800
43. WEB SITE REDESIGN	110,344	108,400	-
TOTAL EXPENSES	3,274,042	4,481,000	4,464,000
NET GAIN (LOSS)	1,053,797	(119,400)	(20,000)

SC BAR - CLE DIVISION
FY 17-18 BUDGET

	<u>9 Mos.</u> <u>ACTUAL</u>	<u>2016-17</u> <u>BUDGET</u>	<u>2017-18</u> <u>BUDGET</u>
<u>REVENUE:</u>			
Seminars	\$ 1,269,462	\$ 1,330,000	\$ 1,250,000
E-CLE	413,295	330,500	500,000
Publications	297,464	387,000	340,000
SCJ Royalties	96,557	85,000	90,000
Convention	394,075	350,000	383,600
Media Services	25	3,000	3,000
Interest	509	500	500
Building Rental	8,400	9,000	9,000
Shipping & Handling	17,232	25,300	26,400
TOTAL REVENUE:	<u>\$ 2,497,019</u>	<u>\$ 2,520,300</u>	<u>\$ 2,602,500</u>
<u>EXPENSES:</u>			
Salaries	\$ 642,725	\$ 852,600	\$ 901,500
FICA & Benefits	215,805	285,800	327,500
Building	47,700	64,000	64,000
Equip. & Furn.	16,139	16,600	8,200
Equip. Maintenance & Licensing	58,440	84,700	107,300
Office Supplies	12,067	5,500	6,800
Postage	2,240	3,400	3,400
Telephone	7,228	14,100	9,500
Staff Expense	6,775	9,100	9,100
Staff Education	2,099	1,000	1,000
Committee Expense	326	500	500
Bond/Insurance	7,845	10,200	10,200
Professional Fees	6,625	6,200	6,200
Casual Labor	-	500	500
Seminar Direct	330,259	336,000	334,100
E-CLE	72,928	102,500	102,500
Publication Direct	113,970	143,100	145,500
Publication Royalties	44,516	120,000	89,000
Convention	255,088	303,900	389,400
Media Service Direct	4,780	17,500	8,700
Credit Card Fees	47,452	56,000	58,300
Marketing	63,584	120,000	105,000
TOTAL EXPENSES:	<u>\$ 1,958,590</u>	<u>\$ 2,553,200</u>	<u>\$ 2,688,200</u>
NET GAIN (LOSS):	<u>\$ 538,429</u>	<u>\$ (32,900)</u>	<u>\$ (85,700)</u>

There are no written materials for this item.