

**Common Questions on Proposed Pro Bono
and Financial Contributions Reporting Rule**
Updated – 2/20/20

1. What will the rule require?

The proposed rule requires all attorneys who are authorized to practice law in Minnesota to report as part of their annual attorney registration the number of hours of pro bono legal services they provided and whether or not they contributed financially to free legal services to persons of limited means.

- This is mandatory reporting, *not* mandatory pro bono service. The Committee proposing this rule does not believe mandatory pro bono service is a good idea.

2. How should attorneys report this information?

Under this proposed rule, attorneys must complete two additional questions during their annual renewal by entering: (1) the approximate number of pro bono hours provided during the previous calendar year, and (2) checking a box to indicate whether they made a financial contribution to any legal aid organization in the previous calendar year. Attorneys may answer **0** and **No** to the questions. There is no adverse consequences or penalties based on what attorneys report. The information provided will not be available to the public or for use in any disciplinary proceeding.

3. Why is this rule needed?

A widespread lack of access by low-income people to our justice system is a crisis, not just for our Minnesota communities, but for the legal profession and our system of justice. Legal aid attorneys are struggling to meet the legal needs of low-income Minnesotans. Many lawyers already provide a laudable amount of pro bono service, but much more work remains to be done. The proposed rule will heighten awareness of the urgent unmet legal needs of low-income Minnesotans and encourage more attorneys to participate in pro bono services throughout the state. In addition, it will allow us to collect, for the first time, comprehensive data to assist us in providing legal services to low-income Minnesota residents.

The proposed rule reflects that as lawyers we need to take the lead in that effort. Adoption of the rule would also underscore the Court's commitment to ensuring equal access to our justice system and the unique ability of lawyers to turn that ideal into reality through pro bono service.

4. What if I didn't track my pro bono hours or know the exact amount?

The proposed rule asks attorneys to report the *approximate* number of pro bono hours provided in the previous calendar year.

5. Why does the proposed pro bono definition only include direct legal services and not services to the profession or other charitable activities?

The purpose of collecting data under this proposed rule is to document pro bono service to low-income Minnesotans and nonprofit organizations that cannot afford legal assistance. Therefore, the proposed rule only asks for information about direct legal services to persons of limited means and related

nonprofit organizations. Service to the legal profession, as well as broader charitable activities, are important and should be recognized; but the purpose of this rule is to collect information about and increase service to low-income people and related nonprofit organizations.

6. Why are financial contributions part of the proposed rule?

More financial support is needed for both full time legal aid attorneys and their organizations, as well as for the “infrastructure” to support pro bono (i.e., pro bono programs with solid screening, referral, training and support functions for volunteers). Asking about financial contributions as part of the rule underscores that these contributions are a critical part of the pro bono delivery system. In addition, Rule 6.1 encourages attorneys to financially support programs that serve low-income clients.

7. What about law firm contributions?

The proposed rule asks only for information about individual financial contributions and not institutional or law firm contributions.

8. Will reported pro bono hours be made available to the public?

Reported information will not be subject to public disclosure or use in any disciplinary context. The information about an individual attorney’s pro bono hours and financial contributions will only be reported, retained and disclosed in the aggregate and as directed by the Court.

9. Does an attorney need to formally screen clients for income in order to consider it Pro-Bono services?

No, lawyers do not need to formerly investigate clients to determine income eligibility. A good faith determination by the lawyer of client eligibility is sufficient.

10. Can attorneys decline to answer the question?

No. Under the proposed rule, attorneys would be required to answer the two new questions as part of attorney registration. Failure to answer would result in the same consequences as the failure to answer any other question on the attorney registration form. As discussed above, attorneys can mark “0” and “No” in response to each question without consequence. The Committee anticipates that, for some short period of time after adoption, the Lawyer Registration Office would have discretion to accept incomplete responses to allow for a period of education about the new rule and to minimize any possibility of inadvertent noncompliant status.

11. Why can’t attorneys opt out of answering?

One goal of the proposed rule is capture complete information about pro bono service in our state; gathering accurate data requires all attorneys to answer, even if the answer is zero. Moreover, Rule 6.1 applies universally to all licensed attorneys. Even if some attorneys choose not to do pro bono service or are prohibited for reasons connected with their employment, their answers of “0” will help provide a complete picture of the amount of pro bono service in the state

12. Would the rule apply to judges and government attorneys?

Yes, and they will answer zero if appropriate. Some members of the legal profession are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions. Lawyers who fall into these categories are encouraged to make financial contributions to legal aid organizations or participate in training programs for volunteer attorneys.

13. Can government or legal aid attorneys report any of their hours as pro bono hours under the rule?

The pro bono rule applies only to legal services that are provided without compensation or expectation of compensation or at a reduced fee under certain circumstances. While we recognize the financial sacrifices that legal aid and government attorneys make in public service careers, any legal services provided as part of an attorney's paid employment as a legal aid or government attorney should not be counted as pro bono hours under the rule.