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## LEGAL SERVICES PROGRAMS

Adopted January 23, 1982.

Addendum issued 1995.

### *Topic*

Ethical responsibilities of legal services program management and staff attorneys in facing totally eliminated or substantially reduced funding. Responsibility of the Bar in these circumstances.

### *Digest*

When facing the likelihood of no or substantially reduced funding, legal services program management and staff attorneys must make reasonable efforts to prepare for the possible interruption of services.

When the impact of reduced or no funding becomes reasonably evident, legal services attorneys may be required to decline new representation to avoid prejudice to existing clients.

If, as a result of disrupted services due to lost funding, a substantial number of legal services program clients will be prejudiced, every reasonable effort should be made to find substitute counsel in order to handle pending matters.

If efforts to secure alternative funding or substitute counsel fail, legal services attorneys may withdraw from representation in accordance with all rules and procedures governing withdrawal in civil matters. Such withdrawal is permitted both for remaining legal services attorneys who are overburdened by the additional caseloads of departing lawyers and for legal services attorneys who are departing because they are no longer being compensated. In these instances, it is the responsibility of the legal profession in Colorado, collectively, and of members of the profession, individually, to act to meet the needs of indigent clients.

### *Background*

Organized legal assistance to the poor in the United States began in the last quarter of the nineteenth century. Through the early 1960s, legal aid societies developed in communities throughout the country, supported both by legal services contributed by lawyers and by funds through various charitable contributions. New growth surged in the mid-1960s when, at the urging of the American Bar Association, the federal Office of Economic Opportunity supported legal assistance to the poor in civil matters through grants to statewide and local legal services programs. In 1974, the Legal Services Corporation Act established, under the direction of the Legal Services Corporation ("LSC"), a national system of funding for civil legal services to the indigent (42 U.S.C. § 2996a-k). Today, the LSC's annual funding is \$321 million, which is an estimated 85 percent of the funding which supports civil legal services to the poor throughout the nation.

In Colorado, the LSC currently provides approximately \$3 million for four major legal services programs: the Legal Aid Society of Metropolitan Denver, serving Denver, Adams, Arapahoe, Jefferson, Boulder, Gilpin, and Douglas Counties; Colorado Rural Legal Services, serving much of rural Colorado; Pueblo County Legal Services; and Pikes Peak Legal Services, serving El Paso County and the surrounding areas. Fifteen to 20 percent of each program's total funding is made up of additional funding from other sources, such as the United Way and the Older Americans Act. Additionally, there are significant amounts of legal services to the poor also provided by volunteer lawyers through such programs as the Denver Bar Association's "Thursday Night Bar."

The questions presented in this Opinion arise because the extent of future funding of the LSC is in doubt. The President of the United States last spring formally announced his intention to abolish the LSC and to eliminate any funding for legal services for FY '82. Under this plan, state governments would apparently have the discretion to provide funding for legal services from federal block grants designed for

*other* services. Throughout the summer and fall of 1981, congressional consideration of the LSC and its funding has been intense; the future of the program has teetered, day to day, on the brink of elimination. However, most recently, there is increasing evidence that the LSC will continue for FY '82 at perhaps 70 to 75 percent of its FY '81 funding level.

The potential impact of the total or substantial withdrawal of federal funds for legal services to the poor in Colorado is illustrated by a close look at the Legal Aid Society of Metropolitan Denver. Its FY '81 funding was \$1.4 million; 80 percent or \$1.1 million was provided by the LSC, 13 percent or \$181,000 through United Way, and 5 percent or \$70,000 through the Older Americans Act. The society, with a full-time legal and paralegal staff of 30, plus support staff of 15, fully handles approximately 4,000 cases annually, and provides legal advice and related assistance in approximately 9,000 additional matters. It presently maintains about 1,200 open cases.

The total or substantial loss of federal funds for legal services to the poor is not a mere specter posing theoretical issues. Rather, the net effect of events over the past nine months is that detailed contingency plans must be developed and, to the extent necessary, implemented to provide for reduced and, possibly, eliminated federal funding for legal services to the poor. The ethical issues inherent in this defunding situation must be resolved in order for proper planning to proceed and for effective daily operations presently to continue. In view of the pressing nature of the situation, the Denver Bar Association has requested that the Ethics Committee issue an opinion offering ethical guidance to Colorado lawyers.

### ***Questions Presented***

1. What are the ethical responsibilities of legal services staff lawyers and lawyer management when faced with the imminent threat of substantial defunding of the legal services programs?
2. In the event of defunding and the resulting inability of a legal services program to continue handling existing cases due to lack of staff, what is the obligation of a legal services lawyer to continue representing clients in pending cases in the following two circumstances: first, the legal services lawyer who, due to the additional caseloads of departing lawyers, is no longer able to competently represent all his or her clients; and second, the departing legal services lawyer who is no longer being compensated by the legal services program?
3. May legal services programs accept new cases during periods of substantial cutbacks in available legal services?
4. If funding is cut off or substantially reduced, what is the responsibility of other Colorado lawyers to aid legal services programs and handle matters unable to be concluded by the legal services programs?

Two bar associations recently addressed these and related questions. On December 1, 1981, the American Bar Association ("ABA") Committee on Ethics and Professional Responsibility issued Formal Opinion 347. In November 1981, the Committee on Professional Responsibility and Conduct of the State Bar of California issued its *draft* Formal Opinion No. 1981-64, which to date has not been approved by that Bar's board of directors. Similar questions are presently under consideration by several other state bar association ethics committees throughout the country. As indicated below, the Colorado Bar Association's Ethics Committee is in general agreement with the principles and analysis set forth in ABA Formal Opinion 347.

### ***Opinion***

The Code of Professional Responsibility does not deal with the particular issue of possible termination of all or a substantial part of a program delivering legal services to the poor. For guidance, the relevant underpinnings of the Code must be identified and applied to fit these unprecedented circumstances.

Every lawyer has the general duty to act competently, which includes the obligation of adequate preparation and the responsibility not to neglect client affairs (*see* Canon 6). Every lawyer also has the duty to represent a client zealously, including the objective to carry out a contract for legal services and to not prejudice or damage the client [*see* DR 7-101(A)]. Subsumed within these duties is the responsibility

to manage one's resources in order to effectively provide competent and zealous representation. In this regard, the primary responsibility of legal services attorneys is to existing clients (*see* ABA Formal Opinion 334 and ABA Informal Opinion 1359).

*1. Required Actions if Substantial Defunding Becomes Evident:*

So long as future funding is unclear, there is no requirement to decline representation to protect against the effects of reduced or eliminated staff due to the possibility of defunding. Such an approach, due to the constant ebb and flow of funding prospects, would be too disruptive. However, as the funding picture becomes reasonably clear, and based thereon, the extent of the reduction in legal services becomes reasonably evident, appropriate action is warranted. Depending on the actual facts, legal services attorneys would be required to decline new representation to avoid prejudice to existing clients (*see* ABA Formal Opinion 334 and ABA Informal Opinion 1359). Naturally, such determinations should be continually reassessed. Action should include the following:

- a. Existing clients and newly accepted clients must be notified promptly of the situation, together with an explanation of its potential effects and of the risk of delayed or terminated services.
- b. A system of priorities should be implemented for handling pending matters and for accepting new clients. Pending matters facing near deadlines should be identified and appropriately handled. Consistent with each lawyer's duties of competency and adequate preparation and the responsibility to avoid neglect of client affairs, ABA Informal Opinion 1359 (1976) previously concluded that legal services programs may adopt fair and reasonable policies to allocate their limited resources in accordance with a system of priorities, both for existing matters and for accepting new clients. However, in implementing such a system, priority must be given to existing clients [ABA Formal Opinion 334 (1974)].
- c. Lawyers in supervisory positions should fully inform the local courts of the situation and the planned approaches to be taken by the local legal services programs. To the extent permissible, arrangements should be made with the court for acceptable procedures to effectively deal with the pressures of limited resources and the need to assure continuity of representation during a period of high change in representation.
- d. Reasonable efforts should be made to obtain substitute lawyers to handle pending matters. Additionally, organized efforts, both through the Colorado Bar Association and through local bar associations in Colorado, should be pursued to enhance programs of voluntary legal services to the poor by members of the Bar.<sup>1</sup>

*2. Ethical Obligations of Legal Services Attorneys Regarding Continued Representation in the Event of Severe Loss of Funds:*

Ordinarily, it has been assumed, based on ABA Informal Opinion 1428 (1979), that a legal services program should be treated as a law firm retained by the client, and that, absent a particular agreement with a client, the program as a whole has the responsibility of providing continued representation in the cases of an attorney departing the program [see also, *Lefcourt v. Legal Aid Society*, 445 F.2d 1150, 1152 (2d Cir. 1971)]. However, it is evident on its face that Informal Opinion 1428 does not contemplate the closure or dramatic cutback of a legal services program. Depending on the actual extent of funding reductions, two interrelated questions regarding continued representation in existing cases will arise: (1) What are the obligations of continued representation of the fewer remaining legal services attorneys, if the pending caseload is so large as to prevent competent representation? (2) What are the obligations of continued representation for the departing attorneys?

*a. The ethical obligations of remaining legal services attorneys regarding continuing representation of existing cases.* For purposes of this segment of this Opinion, we assume the following situation. Despite funding cutbacks, sufficient funds exist to operate the legal services programs at some minimal level. The departing attorneys have properly prepared for their departure, minimized potential prejudice to

their clients due to the onset of more limited available services and have properly transferred their cases to the fewer remaining legal services personnel. The legal services program also has properly prepared for defunding, as outlined above. Nevertheless, it becomes apparent that the remaining legal services attorneys are not able to competently handle the legal matters pending in this office because the total caseload is excessive.

DR 2-110 of the Code of Professional Responsibility sets forth the rules pertaining to mandatory or permissive withdrawal. It provides, in relevant part, as follows:

DR 2-110 Withdrawal from Employment

(A) In general.

- (1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.
- (2) In any event, a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

...

(B) Mandatory withdrawal.

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

...

- (2) He knows or it is obvious that his continued employment will result in violation of a disciplinary rule.

...

(C) Permissive withdrawal.

If DR 2-110(B) is not applicable, a lawyer may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

- (1) His client:

...

- (f) Deliberately disregards an agreement or obligation to the lawyer as to expenses or fees.

- (2) His continued employment is likely to result in a violation of a disciplinary rule.

...

- (6) He believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

DR 6-101(A)(2) prohibits a lawyer from handling a legal matter without adequate preparation. DR 6-101(A)(3) proscribes neglect of legal matters entrusted to the lawyer.

Under the assumptions outlined above, the legal services lawyer who becomes responsible on a continuing basis for substantially more matters than a lawyer can competently handle faces violation of DR 6-101(A)(2) and (3). If continued representation would result in violation of these disciplinary rules, the lawyer could seek mandatory withdrawal under DR 2-110(B)(2) or permissive withdrawal under DR 2-110(C)(2). In any event, the required actions of DR 2-110(A) to minimize foreseeable prejudice and to obtain permission of the tribunal, where local court rules so require, must be followed.<sup>2</sup>

Under DR 2-110, permission of a tribunal is required to effect withdrawal only in matters before a tribunal. We emphasize, however, that DR 2-110(A)(2), regarding required actions to minimize foreseeable prejudice to the client, fully applies to withdrawal from all representation, not just matters in litigation.<sup>3</sup>

In any instance of withdrawal from representation under these circumstances, reasonable efforts to avoid foreseeable harm will include timely and fully informing the client of key facts and advising the client regarding alternatives. For example, the client should be advised fully about the effect of any applicable statutes, jurisdictional periods of limitations or court deadlines; or the client should be advised of the possible alternatives of resolving the particular problems through other available services, such as mediation services, voluntary legal services, small claims court, or proceeding *pro se*. The possibility of reduced fee arrangements with private attorneys also should be considered. Arrangements should be made to deliver all papers and property to which the client is entitled (see EC 2-32).

How to decide in which matters to continue representation and from which to withdraw is difficult and complex. The Committee agrees with the following recommendation contained in ABA Formal Opinion 347:

The methods of choosing the matters will vary from office to office, depending upon the urgency of pending matters, the needs of different types of clients, the availability of other lawyers to represent certain clients, and other factors. When drastically reduced funding forces a local office to address this question, priorities similar to those that regularly govern acceptance of new matters in a legal services office should be developed to determine the matters from which the office should withdraw [see ABA Informal Opinion 1359 (1976)].

The Committee is aware of at least one proposal being considered in Texas<sup>4</sup> to properly dispose of accepted cases. This model establishes the governing board of the legal services program with the hub responsibility for insuring that all pending cases will be competently handled to completion. The board would contract with attorneys for client representation, arrange with local bar associations for *pro bono* services, or take other appropriate action to that end. The Committee encourages similar approaches to focus responsibility for coordinating continued representation in existing cases.

*b. The ethical obligations of departing legal services attorneys regarding continued representation of legal services clients when the attorneys are no longer compensated.* In dealing with this question, the Committee assumes the following facts. Funding withdrawals have forced the closure of the legal services programs or so reduced available services as to eliminate the ability of the remaining attorneys to handle the departing attorney's cases. The lawyer or the legal services programs have previously fulfilled the obligations outlined above of notifying the clients, diligently preparing to minimize the consequences of a massive withdrawal, and reasonably pursued possibilities of substitute counsel. The departing lawyer is no longer receiving a salary from the legal services program.

In legal services programs, representation is commenced under the express or implied assumption that services will be provided to the client and the lawyer will be compensated by salary from the legal services program. The client is the beneficiary of the employment contract between the attorney and the legal services program. EC 2-17 recognizes that a lawyer may expect to be adequately compensated for his services. DR 2-110(C), which was apparently drafted with the private practitioner in mind, provides in relevant part that a lawyer may withdraw if the client deliberately disregards an obligation to pay the lawyer's fees or expenses or, in a proceeding before a tribunal, the lawyer believes in good faith that the tribunal will find good cause for withdrawal.

Recently, in *Anderson, et al. v. District Court of Larimer County*, 629 P.2d 603 (1981), the Colorado Supreme Court restated the principle that: "Generally, an attorney who undertakes to conduct an action impliedly stipulates that he will prosecute it to its conclusion; the attorney is not at liberty to abandon the representation of his client *without reasonable cause*" [*id.* at 603-604 (*emphasis added*)]. In this criminal case, the defense attorneys sought withdrawal from representation eighteen weeks prior to the testimony hearing because the client had paid only \$500 of a \$4,000 retainer and was past due on his next installment. The trial court refused to permit withdrawal and, on appeal, asserted the position that withdrawal is permissible only when it will not inconvenience others and will not interfere with the client's rights. After noting the attorney's compliance with DR 2-110(A)(2), particularly regarding adequate notice

to the client and the taking of reasonable steps to avoid foreseeable prejudice to the client, the supreme court reversed the trial court and permitted withdrawal.

The Committee also observes that a departing legal services attorney is in the least likely position to assume the continued responsibility for handling large amounts of uncompensated legal work. A departing legal services attorney would not have an existing office and available resources to maintain a law practice. Nor would an attorney who comes with an existing nonremunerative caseload make an attractive candidate for employment with an existing private law firm. In short, to require a departing legal services attorney to keep his or her caseload would put the attorney in an almost impossible practical situation with extraordinarily harsh financial consequences.<sup>5</sup>

Under the foregoing circumstances, the Committee believes that a departing legal services attorney has, in the words of DR 2-110(C)(6), “other good cause for withdrawal.” As stated in ABA Formal Opinion 347:

(t)he legal services attorney who has diligently prepared for the loss of funding of the office, and who nonetheless faces the prospect of handling a substantial ongoing caseload of pending matters, for a significant time without salary, has good cause for withdrawal based upon the personal hardship imposed upon the lawyer as a consequence of terminated funding. (Footnotes omitted.)

The Committee is aware that the “good cause” provision of DR 2-110(C)(6) is expressly limited to “proceedings before a tribunal.” Nevertheless, we agree with the view expressed in ABA Formal Opinion 347 that under these circumstances there appears to be no legal or logical reason to limit the requirement to cases in litigation only.<sup>6</sup>

The Committee re-emphasizes that DR 2-110(A)(1) requires that, if permission for withdrawal from employment is required by a tribunal’s rules, a departing legal services attorney may not withdraw without the tribunal’s permission. In Colorado, most local court rules so require.<sup>7</sup>

Also, ABA Informal Opinion 1428 concluded that, when an attorney departs from a legal services program and the program cannot provide continued representation, both the program and the departing attorney share responsibility for withdrawal from employment. Accordingly, departing attorneys and the legal services program management must cooperate in meeting the withdrawal requirements.

In any situation of wide scale withdrawal from representation, there will be particular cases which present circumstances of such urgent need or risk of serious, irreparable injury to the client that a court will feel compelled to require continued representation. Presumably in such cases the departing legal services attorney also will feel obligated to continue representation.

### *3. During Periods of Substantial Cutbacks in Available Legal Services, May Legal Services Attorneys Accept New Cases?*

Under the Code of Professional Responsibility, representation of existing clients is a priority before the acceptance of new cases in two major respects: the new matter should not cause neglect of or inadequate preparation regarding legal matters entrusted to the legal services program and its lawyers; and the exercise of professional independent judgment regarding pending matters should not be affected by the new representation [DR 6-101(A)(2) and (3), EC 6-3, and EC 6-4; DR 5-105(A), EC 5-14, EC 5-23, and EC 5-24; see ABA Formal Opinion 334 and ABA Informal Opinion 1359]. Accordingly, once it is apparent that staffing reductions caused by defunding make it impossible to serve existing clients of the legal services program, new matters should not be accepted unless extraordinary circumstances in the interests of justice compel representation. If no other lawyer can be found and immediate legal services are necessary to avoid irreparable injury, acceptance of the new representation would be proper. We agree with the cautious conclusion reached in ABA Formal Opinion 347 regarding the acceptance of new cases under these circumstances:

In considering the acceptance of new cases, utmost care must be exercised to avoid leaving indigent clients in a worse position than they would have been without legal counsel, by virtue of the fact that counsel must withdraw while a matter is pending. Nevertheless, extreme cases may arise, such as a petition for court ordered sterilization of an indigent woman, that would justify occasional acceptance of a new client even if existing clients with less urgent problems could possibly suffer as a consequence.

*4. The Responsibility of Colorado Lawyers to Aid Legal Services Programs and to Handle Matters Unable to be Concluded by the Legal Services Programs, if Funding is Cut Off or Substantially Reduced:*

The Code of Professional Responsibility clearly states that every lawyer in Colorado has a responsibility both to help provide legal assistance to the disadvantaged and to support programs which attempt to meet this need for legal services.

EC 2-25 states:

Historically, the need for legal services of those unable to pay reasonable fees has been met in part by lawyers who donated their services or accepted court appointments on behalf of such individuals. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged. The rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer, but the efforts of individual lawyers are often not enough to meet the need. Thus it has been necessary for the profession to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs have been developed, and others will be developed, by the profession. Every lawyer should support all proper efforts to meet this need for legal services.

As an ethical consideration, EC 2-25 is “aspirational in character and represent(s) (an) objective toward which every member of the profession should strive . . . (It is a principle) upon which the lawyer can rely for guidance in many specific situations”<sup>8</sup> (Preliminary Statement, Code of Professional Responsibility).

The specific situation at hand, as described in ABA Formal Opinion 347, is the possibility that many indigent clients with pending matters will be abandoned in our legal system. This prospect of widespread defenselessness not only proposes individual harm but undermines our society’s commitment to a system of fair administration of justice.

The principle stated in EC 2-25, applied to this problem of reduced funding in legal services programs, easily leads to a straightforward conclusion: “The legal profession has a clear responsibility to respond by helping to obtain funds for existing legal services programs and by providing free legal services to indigent clients who would be served by legal services offices were funding available”<sup>9</sup> (ABA Formal Opinion 347).

Noting that the courts have taken an active interest in this problem of decreased funding, Formal Opinion 347 also states: “Judges, who must contend with delays and dislocations that come about from appearances by unrepresented litigants, should help to assure the smoothest possible continuity of representation within each locality.” The Committee therefore encourages the governing bodies of the various legal services programs and the availability of legal services committees of the various bar associations to take all necessary actions to help obtain funds for existing legal services programs in Colorado and to arrange for the necessary mechanisms to furnish voluntary legal services to the former clients of legal services programs.<sup>10</sup>

### 1995 Addendum

The Colorado Rules of Professional Conduct became effective on January 1, 1993, replacing the Code of Professional Responsibility. While the language of the Rules is somewhat different from the Code, the Ethics Committee considers this Opinion to continue to provide guidance to attorneys in this area. Attorneys are cautioned to review Tables A & B: Related Sections in the Colorado Rules of Professional Conduct and The Colorado Code of Professional Responsibility (found in the *Colorado Ethics Handbook*), to update the research contained in this Opinion and to conduct any independent research necessary.

Relevant provisions of the Colorado Rules of Professional Conduct, which should be examined together with this Opinion, are Rule 1.1 (regarding competence); Rule 1.2 (regarding scope of representation); Rule 1.3 (regarding diligence); Rule 1.4 (regarding communication); Rule 1.5(a) (regarding compensation for services); Rule 1.7 (regarding conflicts of interest); Rule 1.16 (regarding declining or terminating representation); Rule 3.2 (regarding expediting litigation); Rule 5.4 (regarding professional independence of a lawyer); Rule 6.1 (regarding pro bono public service) and Rule 6.2 (regarding accepting appointments).

## NOTES

1. While not properly an ethical requirement, a practical approach in the event of loss of federal funds is to explore possible alternative funding through foundation and local government sources and through charitable contributions, both private and public.

2. See, for example, the following local rules requiring the court's permission to withdraw in matters pending before the district courts of the respective judicial districts: First – rule 16(b); second – rule 9(b); fourth – rule 8; fifth – rule 15-4 and -5; sixth – rule 14, § 4; seventh – rule 10-4; eighth – rule 11 § 3; ninth – rule 17-4; twelfth – rule 4-6; thirteenth – rule X, § 2; fourteenth – rule 10, § 3; fifteenth – rule 8, § 4; sixteenth – rule XXII, § 2; seventeenth – rule 9, § 3; eighteenth – rule XII, § 3; nineteenth – rule 14, § 2; twentieth – rule 8, § 2; and twenty-second – rule 8, §§ 3 and 4. See also, rule 1(c) of the Local Rules of Practice for the United States District Court for the District of Colorado.

The Committee also notes proposed rule 121 of the Colorado Rules of Civil Procedure entitled “Local Rules – Statewide Practice Standards,” particularly the section on “Entry and Withdrawal of Appearance.” If proposed rule 121 is adopted, it will preempt any local state court rules on the same subject. The proposed rule appears at 10 *The Colorado Lawyer* (October, 1981), p. 2509.

3. *Supra*, note 2.

4. See the September 9, 1981, letter of the Committee on Legal Services to the Indigent in Civil Matters of the State Bar of Texas to that bar's Professional Ethics Committee.

5. The Committee is aware that the ethical considerations under Canon 2 strongly urge every lawyer to provide free legal services to the poor and disadvantaged (EC 2-25). A lawyer should not seek to be excused from such representation except for compelling reasons (EC 2-29). The issue under consideration here is not an attorney's obligation to handle one or several cases on a *pro bono* basis. The question is whether any attorney is obligated to provide substantial legal services for no compensation at an unreasonable risk to earning a living. The Committee believes to do so would unfairly place a disproportionately higher burden on the former legal services attorney than on any other private lawyer.

6. See ABA Formal Opinion 347, footnote 3. This interpretation of the permissive withdrawal is reinforced by Rule 1.16(b)(4) of the Proposed Final Draft of the Model Rules of Professional Conduct (May 30, 1981), now being considered by the ABA to replace its Model Code of Professional Responsibility, the model upon which the Colorado Code of Professional Responsibility is based. Proposed Rule 1.16(b)(4) permits withdrawal in *any* representation of a client if “other good cause for withdrawal exists.” The same provision is found in proposed DR 2-110(D)(4) of the Alternative Draft of the ABA Proposed Model Rules, which follows the format of the current Code of Professional Responsibility.

7. See note 2, *supra*.

8. In the Committee's opinion, it is not necessary to get caught up in a debate over the fact that under the Code of Professional Responsibility the *pro bono publico* responsibility is not a mandatory minimal requirement codified in a disciplinary rule, but is only an aspirational principle embodied in an ethical consideration. The function of this Committee, as an ethics committee, is to offer guidance as to what in its opinion a lawyer *should* do in a given situation based on the entire Code of Professional Responsibility.

9. The same conclusion would be reached under Rule 6.1 and comment of the Proposed Final Draft of the Model Rules of Professional Conduct, *supra*, note 6.

10. The Committee agrees with many of the observations of the Standing Committee on Professional Responsibility and Conduct of the State Bar of California made in § VI. "The Future of Legal Services to the Poor," of the appendix to its draft Opinion No. 1981-64. "Reliance exclusively upon gratuitous services to be rendered by volunteer lawyers cannot by themselves meet the extensive needs which exist." That Committee noted various reasons for this conclusion and urged the development of alternative plans for the effective delivery of legal services to those who cannot afford it. Depending on the likelihood of future funding for legal services programs, this Committee urges a similar effort by the legal profession in Colorado.