

PRO BONO COMMITTEE
ESTATE AND FIDUCIARY LAW SECTION
NORTH CAROLINA BAR ASSOCIATION

**PRO BONO PROJECT TOOLBOX:
A Planning Aid for Attorneys Coordinating
Pro Bono Estate Planning Clinics**

The Pro Bono Committee has designed a model for pro bono estate planning clinics that attorneys can use to develop local clinics in conjunction with local agencies and organizations. Most attorneys and local agencies are not experienced in planning and running this type of legal service; therefore, members of the Committee thought that a “Toolbox” of practical suggestions would facilitate the adoption of the model throughout the state. Both the clinic model and the Toolbox are still being refined, and we welcome your comments and suggestions based on your hands-on experience.

Pro Bono Project Model

The Pro Bono Project Model (referred to as the “model”) provides estate planning documents to individuals who cannot afford to pay private attorneys. Attorneys who practice estate planning on a regular basis meet privately with individuals or couples at a local agency or organization as part of an event sponsored by the organization or agency. They explain the purpose of the documents and the nature of the decisions that clients will need to make to complete them, just as they do when seeing clients in their office. Following these interviews, attorneys complete the documents on their own time and arrange for clients to come to their office for signing.

There are two versions of the model. In the basic model, attorneys provide all advance directives (i.e., health care and durable powers of attorney, living wills, and HIPAA authorizations) and simple wills. In a scaled-down version of the model, attorneys provide advance directives only during the clinic and have the option of offering to do simple wills for clients at a later time. Attorneys may offer to provide wills pro bono or charge a fee which they set with their client(s).

The rationale for the scaled-down model is that clients who think they only need a simple will often have complicating factors that preclude a simple will. Even with pre-screening, attorneys will discover during interviews that they will not be able to provide some clients with wills through the clinic.

The advance directives-only model requires less time and effort from participating attorneys, but some attorneys feel uncomfortable not offering clients a will. If the agency serves only low income people, then offering wills should not be a problem. Attorneys who are

thinking about coordinating a clinic need to decide which model they are comfortable using and proceed.

Philosophy Behind the Model

The Pro Bono Committee wanted to develop a model for estate planning clinics that would help attorneys anywhere in the state offer high quality pro bono services to the communities where they live and practice. We would like to maximize the number of people who receive pro bono estate planning, and we believed the way to do so was through relatively small clinics that could and would be repeated in the same community, hopefully year after year.

The model uses a very simple technique for delivering estate planning services; it can be used to organize clinics in virtually any community. At the same time, the Committee wanted a model that would take advantage of the expertise that many local agencies have in reaching clients in their community. Agencies that have been serving a defined client base for years can help an organizing attorney adapt the model to address the needs of a specific client group. These agencies are also in the best position to advertise pro bono clinics to their client base.

Finally, the Committee wanted the model to be “doable.” We wanted the model to be simple enough that attorneys in practice, with many demands on their time, could envision themselves organizing a clinic in conjunction with a local agency. Similarly, we wanted attorneys who participated in a clinic to feel like the time commitment was reasonable. We also wanted the clinics to be enjoyable, both for the organizers and participating attorneys, so that they would all look forward to doing more of them in the future.

THE TOOLBOX

Selecting a Target Group to Serve

The Pro Bono Project Model is best suited to clients who understand the basic importance of estate planning documents before they come to the clinic and who will show up on time both at the clinic site and later at an attorney’s office.

This model may not be appropriate for people who have logistical or social issues that make it difficult for them to keep appointments. Note that the sponsoring agency may assist in getting the clients to the appointments with the attorneys.

Selecting a Collaborating Agency

We suggest picking a collaborating agency that has a strong history of offering educational opportunities to an established clientele that can benefit from the clinic model. The attorney coordinating the clinic ideally will be working with the staff member who handles educational programming for the agency. That staff member can tap into an established agency process for planning and publicizing events, including the agency’s own mailing list and website.

Scheduling the Clinic

Planning a clinic takes time, even when working with an experienced agency and agency coordinator. Starting six months in advance to plan your first clinic with an agency is probably the minimum lead time needed.

When scheduling a clinic, the attorney and agency coordinator must look at the date and time from the perspective of the clients they hope to attract in addition to determining when adequate rooms and parking will be available at the clinic site.

Business hours versus evenings and weekends: Attorneys prefer clinics that fall during their normal work day so that they don’t have to sacrifice family time to do pro bono work. However, clients prefer clinics on nights or weekends so they don’t have to miss work. Some agencies cannot free enough space for private consultations except on nights and weekends.

There is no one right answer here, although Saturday may be the best day of the week for all concerned. A half-day on a Saturday is workable for most attorneys who are interested in providing the service.

We recommend that you budget 60 to 90 minutes for each client interview. One option is to schedule client meetings in the morning at 9, 10, and 11 AM and then schedule meetings in the afternoon at 1, 2, and 3 PM. Alternatively, you could schedule only two interview sessions in the morning or afternoon. Attorneys can work either a morning or an afternoon shift of two or three hours. The lunch hour allows time for transition and any catch up.

Site Requirements

The size of the clinic – the number of clients you can potentially serve – is limited by the number of rooms an agency can provide for private interviews. It is also limited by the number of attorneys you can recruit. The site selected must give attorneys access to a copier during the clinic. Finally, the site must have adequate parking for both attorneys and clients and/or be accessible to public transportation.

Interview rooms don’t have to be large, but they do need to provide seating for the attorney and two clients. A desk for the attorney is nice, but not necessary; a conference room table is not necessary. Attorneys will bring their own laptops if they want computer access, so the agency will not need to provide computers. Be sure to let the volunteer attorneys know in advance whether the site has Wi-Fi.

Recruiting Attorneys

The Pro Bono Project Model uses only attorneys who spend a major part of their time doing estate planning. The attorney coordinating the clinic should plan to call prospective attorneys personally; alternatively, the attorney can email details about the clinic to prospective attorneys and follow up with a phone call. Emails alone are not a successful way to recruit attorneys. (Sample recruiting email attached.)

Be sure to limit the attorneys you recruit to those with offices within easy driving distance of your target audience. Clients in Chapel Hill, for example, were willing to drive to Durham to sign documents, but would have balked at driving 25 miles to Raleigh.

Begin recruiting attorneys four to eight weeks before the clinic. It may take quite a number of calls to find the requisite number of attorneys, so be sure to leave time in your schedule for calls and call backs. If you have trouble getting attorneys to sign on, consider calling larger firms and asking whether new attorneys in estate planning or elder law could be invited. New attorneys, or at least new to the area, may welcome contact with other attorneys as well as some community exposure.

Attorneys have different ideas about the type of clients they want to serve through pro bono work, so when you recruit attorneys tell them upfront who the prospective clients will be. If you are not screening prospective clients for income level, for example, be sure to explain that to

the attorneys you talk to or spell it out in a fact sheet that you send them as part of your recruitment effort.

Attorneys will use their own estate planning forms, so there is no need to supply them with standardized forms of the documents they will be completing for clients.

The clinic model assumes that participating attorneys are functioning as private attorneys when seeing clients, so any liability insurance they or their firms carry should extend to their work through the clinic. Other liability issues are covered in the disclaimer (see attached samples).

Clinic Advertising

The brochure or flyer for the clinic does not have to be elaborate or even very detailed. Most people don't know what documents they need, so it's better to focus on what the documents will do for them (e.g., name someone who can make health care decisions when you cannot). We encourage you to underline the credibility of your clinic by stating that it uses the Pro Bono Project Model developed by the NCBA Estate Planning and Fiduciary Law Section. A sample flyer is attached.

Key points for your flyer/brochure include:

- This is a FREE, legal clinic
- Individuals and couples, married or unmarried, are welcome
- Participants must register for a specific interview time in advance

Flyers should be distributed by mail, email, website, and community posting about six weeks before the clinic. The agency coordinator who handles educational programming, however, should coordinate the manner and timing of publicity as he or she handles this type of thing routinely.

Clinic Pre-Registration

Because most people do not know what documents they need or they get confused about what documents they may have, we recommend that the agency coordinator or a knowledgeable staff member call all registrants to explain in detail what will happen at the clinic and what documents may be completed. A sample script to support those calls is attached. (Even with this careful preparation, we had a few clients who came to an advance directives only clinic wanting wills.)

If you are going to offer simple wills, then it is useful to arrange for clients to complete a simple questionnaire (attached) to bring with them to the interview meeting. The questionnaire includes very basic biographical and financial information. This information will make the

initial meeting more efficient. The agency coordinator should send the questionnaire and the disclaimer to the clients prior to the event.

If you are offering wills, you may also want to pre-screen people who register to identify those who are not eligible for a simple will. If the agency serves only low-income clients, pre-screening may not be necessary. Query whether you invite those registrants who are not eligible for a simple will to attend the clinic to get advance directives only or disqualify them entirely.

To maximize attendance, reminder phone calls or emails should be scheduled one or two days before the clinic. The agency coordinator should provide registrants with information about parking as well as directions to the clinic site, and remind them to fill out the questionnaire and disclaimer before they arrive.

On-Site Coordination

Ideally the agency will provide one staff member to welcome clients and check them in. Again, ideally, the coordinating attorney should be free to greet attorneys and show them to interview rooms.

The agency will probably have required paperwork for participants to complete in addition to the disclaimer recommended by the Pro Bono Project Model, which serves as a letter of engagement. (Samples attached.) We recommend that clients sign two copies of the disclaimer, retaining one for their records. The attorney working with the client should retain the other disclaimer for his or her file.

We have included sample handouts to be included in packets for clients. Ideally handouts should be mailed to attorneys in advance so they are familiar with the contents of the packet and may answer any questions that arise.

Once attorneys and clients begin meeting, very little remains to be done. Attorneys will handle the interviews just like they would in their offices and will make their own arrangements with each client about subsequent communication and meetings.

Evaluating Your Clinic

We encourage you to set reasonable expectations for your clinic as you begin planning, and we encourage you to reassert those reasonable expectations as you assess your clinic’s outcomes. From our own experience, we know:

- You will have no-shows. No matter how much follow-up the agency does with clients after they pre-register, there will be people who registered but don’t attend the clinic. Some people may call ahead to cancel, but most will not.

- There will be clients who come to their appointment at the agency but don’t follow through with their attorney, even if the attorney reaches out to them by phone or email.

Please don’t take these inevitable “glitches” personally! They are frustrating, but they are inevitable when you are offering this type of clinic.

In evaluating the success of your clinic, we encourage you to think about everyone who came to the clinic, even if they don’t finish their documents, as someone who benefitted. They know more about estate planning than they did before they came.

We also encourage you to envision the impact of each clinic in terms of the ripple effect it has within the community. Each of the clients who completes their documents is now in a position to educate and motivate their family members and friends about the importance of estate planning.

Finally, we encourage you to take advantage of this ripple effect by scheduling another clinic, perhaps with the same agency, in the next six to twelve months. Every time you go back to the same client base, the response you get will be enhanced by your previous clinics as neighbors, friends, and family members encourage other people they know to attend.

Post-Clinic Wrap-Up

Client evaluation forms are optional for this model; however, the agency may have its own protocol in that regard. We have found that a thank-you email or hand-written note to participating attorneys requesting feedback works well. The coordinating attorney may want to contact participating attorneys in two or three months to find out whether they have completed work for their clients.

We strongly recommend that the coordinating attorney meet with the agency coordinator to talk about what went well, what could be improved, etc., before those memories fade, because we hope that attorneys and agencies will plan to do another clinic in the not-too-distant future.

Alternative Versions of the Clinic Model

Members of the Pro Bono Committee have suggested a number of ways to “tweak” the model. None of these alternatives have been tested yet, but we offer them to you as possibilities as you plan your clinic.

1. **Law Office Clinic:** Instead of holding the clinic at the offices of a non-profit agency, the clinic could be held at the offices of a law firm. The law firm would need to have enough space to accommodate several private meetings simultaneously. The main advantage is that the services could be offered to several non-profits at the same event, rather than limiting the clinic to the people served by one agency only. Because some non-profits

may not have enough clients to justify a solo event, this approach would allow organizers to draw from several smaller non-profits simultaneously to create one event. The non-profits would need to work closely to coordinate advertising for their shared event.

2. **Low-Fee Clinic:** Some attorneys have commented that providing estate planning documents for free does not give the client a stake in the process. Since the client has not invested anything in the endeavor, they are less likely to take it seriously, so they skip their clinic appointment or fail to follow through with their attorney. These attorneys have suggested that a small fee for the service, such as \$25 to \$50, might boost attendance and/or follow-through. The fees collected from clients could be donated to the collaborating agency.
3. **Law School Pro Bono Opportunity:** Law students could be invited to shadow experienced attorneys, sitting in on clinic interviews. If participating attorneys are willing, the students could also be invited to sit in when clients come to the firm to sign their documents.

We would appreciate any feedback you have for the Committee on the Model and this Toolbox. Send all correspondence to the chair of the Pro Bono Committee:

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