BUSINESS AND PROFESSIONS CODE

SECTION 6155 et seq.

Amended effective Jan. 1, 1995

Section 6155 of the Business and Professions Code is amended to read:
6155.

1. An individual, partnership, corporation, association, or any other entity shall not operate for the direct or indirect purpose, in whole or in part, of referring potential clients to attorneys, and no attorney shall accept a referral of such potential clients, unless all of the following requirements are met:
    1. The service is registered with the State Bar of California and (a) on July 1, 1988, is operated in conformity with minimum standards for a lawyer referral service established by the State Bar, or (b) upon approval by the Supreme Court of minimum standards for a lawyer referral service, is operated in conformity with those standards.
    2. The combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed the total cost that the client would normally pay if no referral service were involved.
2. A referral service shall not be owned or operated, in whole or in part, directly or indirectly, by those lawyers to whom, individually or

collectively, more than 20 percent of referrals are made. For purposes of this subdivision, a referral service that is owned or operated by a bar association, as defined in the minimum standards, shall be deemed to be owned or operated by its governing committee so long as the governing committee is constituted and functions in the manner prescribed by the minimum standards.

3. None of the following is a lawyer referral service:
    1. A plan of legal insurance as defined in Section 119.6 of the Insurance Code.
    2. A group or prepaid legal plan, whether operated by a union, trust, mutual benefit or aid association, public or private corporation, or other entity or person, which meets both of the following conditions:
        1. It recommends, furnishes, or pays for legal services to its members or beneficiaries.
        2. It provides telephone advice or personal consultation.
    3. A program having as its purpose the referral of clients to attorneys for representation on a pro bono basis.
4. The following are in the public interest and do not constitute an unlawful restraint of trade or commerce:
    1. An agreement between a referral service and a participating attorney to eliminate or restrict the attorney's fee for an initial office consultation for each potential client or to provide free or reduced fee services.
    2. Requirements by a referral service that attorneys meet reasonable participation requirements, including experience, education, and training requirements.
    3. Provisions of the minimum standards as approved by the Supreme Court.

    4. Requirements that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provided that the application and renewal fees do not exceed ten thousand dollars ($10,000) or 1 percent of the gross annual revenues, whichever is less.
    5. Requirements that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.
5. A violation or threatened violation of this section may be enjoined by any person.
6. With the approval of the Supreme Court, the State Bar shall formulate and enforce rules and regulations for carrying out this section, including rules and regulations which do the following:
    1. Establish minimum standards for lawyer referral services. The minimum standards shall include provisions ensuring that panel membership shall be open to all attorneys practicing in the geographical area served who are qualified by virtue of suitable experience, and limiting attorney registration and membership fees to reasonable sums which do not discourage widespread attorney membership.
    2. Require that an entity seeking to qualify as a lawyer referral service register with the State Bar and obtain from the State Bar a certificate of compliance with the minimum standards for lawyer referral services.

3. Require that the certificate may be obtained, maintained, suspended, or revoked pursuant to procedures set forth in the rules and regulations.
4. Require the lawyer referral service to pay an application and renewal fee for the certificate in such reasonable amounts as may be determined by the State Bar. The State Bar shall adopt rules authorizing the waiver or reduction of the fees upon a demonstration of financial necessity. The State Bar may require that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provioed that the application and renewal fees do not exceed ten thousand dollars ($10,000) or 1 percent of the gross annual revenues, whichever is less.
5. Require that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.
6. Require each lawyer who is a member of a certified lawyer referral service to comply with all applicable professional standards, rules, and regulations, and to possess a policy of errors and omissions insurance in an amount not less than one hundred thousand dollars ($100,000) for each occurrence and three hundred thousand dollars ($300,000) aggregate, per year. By rule, the State Bar may provide for alternative proof of financial responsibility to meet this requirement.

7. Provide that cause for denial of certification or recertification or revocation of certification of a lawyer referral service shall include, but not be limited to:
    1. Noncompliance with the statutes or minimum standards governing lawyer referral services as adopted and from time to time amended.
    2. Sharing common or cross ownership, interests, or operations with any entity which engages in referrals to licensed or unlicensed health care providers.
    3. Direct or indirect consideration regarding referrals between an owner, operator, or member of a lawyer referral service and any licensed or unlicensed health care provider,
    4. Advertising on behalf of attorneys in violation of the Rules of Professional Conduct or the Business and Professions Code.
8. This section shall not be construed to prohibit attorneys from jointly advertising their services.
    1. Permissible joint advertising, among other things, identifies by name the advertising attorneys or law firms whom the consumer of legal services may select and iriitiate contact with.
    2. Certifiable referral activity involves, among other things, some person or entity other than the consumer and advertising attorney or law firms which, in person, electronically, or otherwise, refers the consumer to an attorney or law firm not identified in the advertising.
9. A lawyer referral service certified under this section and operating in full compliance with this section, and in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services, shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code.

10. The payment by an attorney or law firm member of a certified referral service of the normal fees of that service shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code, provided that the attorney or law firm member is in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services.
11. Certifications of lawyer referral services issued by the State Bar shall not be transferable.

SEC. 3. Section 6156 is added to the Business and Professions Code, to read:
6156.

1. Any individual, partnership, association, corporation, or other entity, including, but not limited to, any person or entity having an ownership interest in a lawyer referral service, which engages, has engaged, or proposes to engage in violations of Section 6155, shall be liable for a civil penalty as defined in Sections 17206, 17206.1, and 17536, respectively, which shall be assessed and recovered in a civil action brought:
    1. In the manner specified in subdivision (a) of Section 17206 or Section 17536.
    2. By the State Bar of California.
2. If the action is brought pursuant to subdivision (a), the court shall determine the reasonable expenses, if any, incurred by the State Bar in its investigation and prosecution of the action. In these cases, before any penalty collected is paid out pursuant to subdivision (b) of Section 17206 or 17536, the amount of the reasonable expenses incurred by the State Bar shall be paid to the State Bar and shall be deposited and used as provided in subdivision (c).

3. If the action is brought pursuant to paragraph, (2) of subdivision (a), the civil penalty shall be paid to the State Bar and shall be deposited into a special fund to be used first for the investigation and prosecution of other such cases by the State Bar, with any excess to be used for the investigation and prosecution of attorney discipline cases.

SEC. 4. Section 6157 of the Business and Professions Code is amended to read: 6157. As used in this article, the following definitions apply:

1. “Member” means a member in good standing of the State Bar and includes any agent of the member and any law firm or law corporation doing business in the State of California.
2. “Lawyer” means a member of the State Bar or a person who is admitted in good standing and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or insular possession of the United States, or is licensed to practice law in, or is admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision thereof, and includes any agent of the lawyer or law firm or law corporation doing business in the this state.
3. “Advertise” or “advertisement” means any communication, disseminated by television or radio, by any print medium including, but not limited to, newspapers and billboards, or by means of a mailing directed generally to members of the public and not to a specific person, that solicits employment of legal services provided by a member, and is directed to the general public and is paid for by, or on the behalf of, an attorney.
4. “Electronic medium” means television, radio, or computer networks.

SEC. 5. Section 6157.2 of the Business and Professions Code is amended to read: 6157.2. No advertisement shall contain or refer to any of the following:

1. Any guarantee or warranty regarding the outcome of a legal matter as a result of representation by the member.
2. Statements or symbols stating that the member featured in the advertisement can generally obtain immediate cash or quick settlements.
3. (1) An impersonation of the name, voice, photograph, or electronic image of any person other than the lawyer, directly or implicitly purporting to be that of a lawyer. (2) An impersonation ‘ of the name, voice, photograph, or electronic image of any person, directly or implicitly purporting to be a client of the member featured in the advertisement, or a dramatization of events, unless disclosure of the impersonation or dramatization is made in the advertisement. (3) A spokesperson, including a celebrity spokesperson, unless there is disclosure of the spokesperson’s title.
4. A statement that a member offers representation on a contingent basis unless the statement also advises whether a client will be held responsible for any costs advanced by the member when no recovery is obtained on behalf of the client. If the client will not be held responsible for costs, no disclosure is required.

SEC. 6. Section 6158 is added to the Business and Professions Code, to read: 6158. In advertising by electronic media, to comply with Sections 61571.1 and 6157.2, the message as a whole may not be false, misleading, or deceptive, and the message as a whole must be factually substantiated. The message means the effect in combination of the spoken word,, sound, background, action, symbols, visual image, or any other technique employed to create the message. Factually substantiated means capable of verification by a credible source.

SEC. 7. Section 6158.1 is added to the Business and Professions Code, to read: 6158.1. There shall be a rebuttable presumption affecting the burden of producing evidence that the following messages are false, misleading, or deceptive within the, meaning of Section 6158:

1. A message as to the ultimate result of a specific case or cases presented out of context without adequately providing information as to the facts or law giving rise to the result.
2. The depiction of an event through methods such as the use of displays of injuries, accident scenes, or portrayals of other injurious events which may or may not be accompanied by sound effects and which may give rise to a claim, for compensation.
3. A message referring to or implying money received by or for a client in a particular case or cases, or to potential monetary recovery for a prospective client. A reference to money or monetary recovery includes, but is not limited to, a specific dollar amount, characterization of a sum of money, monetary symbols, or the implication of wealth.

SEC. 8. Section 6158.2 is added to the Business and Professions Code, to read: 6158-2. The following information shall be presumed to be in compliance with this article for purposes of advertising by electronic media, provided the message as a whole is not false, misleading, or deceptive:

1. Name, including name of law firm, names of professional associates, addresses, telephone numbers, and the designation “lawyer,” “attorney,” “law firm,” or the like.

2. Fields of practice, limitation of practice, or specialization.
3. Fees for routine legal services, subject to the requirements of subdivision (d) of Section 6157.2 and the Rules of Professional Conduct.
4. Date and place of birth.
5. Date and place of admission to the bar of state and federal courts.
6. Schools attended, with dates of graduation, degrees, and other scholastic distinctions.
7. Public or quasi-public offices.
8. Military service.
9. Legal authorship.
10. Legal teaching positions.
11. Memberships, offices, and committee assignments in bar associations.
12. Memberships and offices in legal fraternities and legal societies.
13. Technical and professional licenses.
14. Memberships in scientific, technical, and professional associations and societies.
15. Foreign language ability of the advertising lawyer or a member of lawyer's firm.

SEC. 9. Section 6158.3 is added to the Business and Professions Code, to read: 6158.3. In addition to any disclosure required by Section 6157.2, Section 6157.3, and the Rules o, Professional Conduct, the following disclosure shall appear in advertising by electronic media. Use of the following disclosure alone may not rebut any presumption created in Section 6158.1. If an advertisement in the electronic media conveys a message portraying a result in a particular case or cases, the advertisement must state, in either an oral or printed communication, either of the following disclosures: The advertisement must adequately disclose the factual and legal circumstances that justify the result portrayed in the message, including the basis for liability and the nature of injury or damage sustained, or the advertisement must state that the result portrayed in the advertisement was dependent on the facts of that case, and that the results will differ if based on different facts.

SEC. 10. Section 6158.4 is added to the Business and Professions Code, to read: 6158.4.

1. Any person claiming a violation of Section 6158, 6158.1, or 6158.3 may file a complaint with the State Bar that states the name of the advertiser, a description of the advertisement claimed to violate these sections, and that specifically identifies the alleged violation. A copy of the complaint shall be served simultaneously upon the advertiser. The advertiser shall have nine days from the date of service of the complaint to voluntarily withdraw from broadcast the advertisement that is the subject of the complaint. If the advertiser elects to withdraw the advertisement, the advertiser shall notify the State Bar of that fact, and no further action may be taken by the complainant. The advertiser shall provide a copy of the complained of advertisement to the State Bar for review within seven days of service of the complaint. Within 21 days of the delivery of the complained of advertisement, the State Bar shall determine whether substantial evidence of a violation of these sections exists. The review shall be conducted by a State Bar attorney who has expertise in the area of lawyer advertising.
    1. Upon a State Bar determination that substantial evidence of a violation exists, if the member or certified lawyer referral service

withdraws that advertisement from broadcast within 72 hours, no further action may be taken by the complainant.

2. Upon a State Bar determination that substantial evidence of a violation exists, if the member or certified lawyer referral service fails to withdraw the advertisement within 72 hours, a civil enforcement action brought pursuant to subdivision (e) may be commenced within one year of the State Bar decision. If the member or certified lawyer referral service withdraws an advertisement upon a State Bar determination that substantial evidence of a violation exists and subsequently rebroadcasts the same advertisement without a finding by the trier of fact in an action brought pursuant to subdivision (c) or (e) that the advertisement does not violate Section 6158, 6158@l, or 6158.3, a civil enforcement action may be commenced within one year of the rebroadcast.
3. Upon a determination that substantial evidence of a violation does not exist, the complainant is barred from bringing a civil enforcement action pursuant to subdivision (e), but may bring an action for declaratory relief pursuant to subdivision (c).

2. Any member or certified lawyer referral service who was the subject of a complaint and any complainant affected by the decision of the State Bar may bring an action for declaratory relief in the superior court to obtain a judicial declaration of whether Section 6158, 6158.1, or 6158.3 has been violated, and, if applicable, may also request injunctive relief. Any defense otherwise available at law may be raised for the first time in the declaratory relief action, including any constitutioral challenge, Any civil enforcement action filed pursuant to subdivision (e) shall be stayed pending the resolution of the declaratory relief action. The action shall be defended by the real party in interest. The State Bar shall not be

considered a party to the action unless it elects to intervene in the action.

1. Upon a State Bar determination that substantial evidence of a violation exists, if the complainant or the member or certified lawyer referral service brings an action for declaratory -relief to obtain a judicial declaration of whether the advertisement violates Section 6158, 6158.1, or 6158.3, and the court declares that the advertisement violates one or more of the sections, a civil enforcement action pursuant to subdivision (e) may be filed or maintained if the member or certified lawyer referral service failed to withdraw the advertisement within 72 hours of the State Bar determination. The decision of the court that an advertisement violates Section 6158, 6158.1, or 6158.3 shall be binding on the issue of whether the advertisement is unlawful in any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that binding effect is supported by the doctrine of collateral estoppel or res judicata.If, in that declaratory relief action, the court declares that the advertisement does not violate Section 6158, 6158.1, or 6158.3, the member of lawyer referral service may broadcast the advertisement. The decision of the court that an advertisement does not violate Section 6158, 6158.1, or 6158.3 shall bar any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that prohibitive effect is supported by the doctrine of collateral estoppel or res judicata.
2. If, following a State Bar determination that does not find substantial evidence that an advertisement violates Section 6158, 6158.1, or 6158.3, the complainant or the member or certified lawyer referral service brings an action for declaratory relief to obtain a judicial declaration of whether the advertisement violates

Section 6158, 6158.1, or 6158.3, and the court declares that the advertisement violates one or more of the sections, a civil enforcement action pursuant to subdivision (e) may be filed or maintained if the member or certified lawyer referral service broadcasts the same advertisement following the decision in the declaratory relief action. The decision of the court that an advertisement violates Section 6158, 6158.1, or 6158.3 shall be binding on the issue of whether the advertisement is unlawful in any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that binding effect is supported by the doctrine of collateral estoppel or res judicata.If, in that declaratory relief action, the court declares that the advertisement does not violate Section 6158, 6158.1, or 6158.3, the member or lawyer referral service may continue broadcast of the advertisement. The decision of the court that an advertisement does not violate Section 6158, 6158.1, or 6158.3 shall bar any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that prohibitive effect is supported by the doctrine of collateral estoppel or res judicata.

3. The State Bar review procedure shall apply only to members and certified referral services. A direct civil enforcement action for a violation of Section 6158, 6158.1, or 6158.3 may be maintained against any other advertiser after first giving 14 days' notice to the advertiser of the alleged violation. If the advertiser does not withdraw from broadcast the advertisement that is the subject of the notice within 14 days of service of the notice, a civil enforcement action pursuant to subdivision (e) may be commenced. The civil enforcement action shall be commenced within one year of the date of the last publication or broadcast of the advertisement that is the subject of the action.

4. SubjecttoSection6l58.5,aviolationofSection6l58,6158.1,or 6158.3 shall be cause for a civil enforcement action brought by any person residing within the State of California for an amount up to five thousand dollars ($5,000) for each individual broadcast that violates Section 6158, 6158.1, or 6158.3. Venue shall be in a county wherethe advertisement was broadcast.
5. In any civil action brought pursuant to this section, the mattershall be determined according to the law and procedure relating to the trial of civil actions, including trial by jury, if demanded.
6. The decision of the State Bar pursuant to subdivision (a) shall be admissible in the civil enforcement action brought pursuant to subdivision (e). However, the State Bar shall not be a party or a witness in either a declaratory relief proceeding brought pursuant to subdivision (c) or the civil enforcement action brought pursuant to subdivision (e). Additionally, no direct action may be filed against the State Bar challenging the State Bar's decision pursuant to subdivision (a).
7. Amounts recovered pursuant to this section shall be paid into the Client Security Fund maintained by the State Bar.
8. In any civil action brought pursuant to this section, the court shall award attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure if the court finds that the action has resulted in theenforcement of an important public interest or that a significant benefit has been conferred on the public.
9. The State Bar shall maintain records of all complainants and complaints filed pursuant to subdivision (a) for a period of seven years, If a complainant files five or more unfounded complaints within seven years, the complainant shall be considered a vexatious litigant for purposes of this section. The State Bar shall require any person deemed a vexatious litigant to post security in the minimum amount, of twenty-five thousand dollars ($25,000) prior to considering any complaint filed by that person

and shall refrain from taking any action until the security is posted. In any civil action arising from this section brought by a person deemed a vexatious litigant, the defendant may advise the court and trier of fact that the plaintiff is deemed to be a vexatious litigant under the provisions of this section and disclose the basis for this determination.

10. Nothing in this section shall restrict any other right available under existing law or otherwise available to a citizen seeking redress for false, misleading, or deceptive advertisements.

SEC. 11. Section 6158.5 is added to the Business and Professions Code, to read: 6158.5. This article applies to all lawyers, members, law partnerships, law corporations, entities subject to regulation under Section 6155, advertising collectives, cooperatives, or other individuals, including nonlawyers, or groups advertising the availability of legal services. Subdivisions (a) to (k), inclusive, of Section 6158.4 do not apply to qualified legal services projects as defined in Article 14 (commencing with Section 6210) and nonprofit lawyer referral services certified under Section 6155. Sections 6157 to 6158.5, inclusive, do not apply to the media in which the advertising is displayed or to an advertising agency that prepares the contents of an advertisement and is not directly involved in the formation or operation of lawyer advertising collectives or cooperatives, referral services, or other groups existing primarily for the purpose of advertising the availability of legal services or making referrals to attorneys.

SEC. 12. Section 6158.7 is added to the Business and Professions Code, to read: 6158.7. A violation of Section 6l58,6158.1,or 6l58.3 by a member shall be cause for discipline by the State Bar. In addition to the existing grounds for initiating a disciplinary proceeding set forth in a statute or in the Rules of Professional Conduct, the State Bar may commence an investigation based upon a complaint filed by a person pursuant to Section 6158.4. The State Bar's decision pursuant to subdivision (a) of Section 6158.4 shall be admissible, but shall not be determinative, in any disciplinary proceeding brought as a result of that complaint.

SEC. 13. Section 6157.5 of the Business and Professions Code is amended and renumbered to read: 6159. The court shall report the name, address, and professional license number of any person found in violation of this article to the appropriate professional licensing agency for review and possible disciplinary action.

SEC. 14. Section 6157.6 of the Business and Professions Code is amended and renumbered to read: 6159.1. A true and correct copy of any advertisement made by a person or member shall be retained for one year by the person or member who pays for an advertisement soliciting employment of legal services.

SEC. 15. Section 6157.7 of the Business and Professions Code is amended and renumbered to read: 6159.2.

(a) Nothing in this article shall be deemed to limit or preclude enforcement of any other provision of law, or of any court rule, or of the State Bar Rules of Professional Conduct.

(b) Nothing in this article shall limit the right of advertising protected under the Constitution of the State of California or of the United States. If any provision of this article is found to violate either Constitution, that provision is severable and the remaining provisions shall be enforceable without the severed provision.

EXHIBIT 1 – CRIMINAL LAW PANELS

Panel member must be a Certified Legal Specialist in Criminal Law or have the following experience:

I. **Misdemeanor Panel**

Applicant must have handled at least five (5) misdemeanor matters within the past three (3) years. These may include trials or representation through disposition. In addition, at least one of said matters must have included an adversary hearing, other than sentencing, involving a contested issue of fact or law.

II. **Felony Panel**[1]

1. Applicant must have handled at least three (3) criminal jury trials (one of which was a Superior Court or Federal Court trial) in the past five (5) years.
   AND
2. Within the past three (3) years satisfied at least one (1) of the following (1, 2, or 3) categories of performance:
   1. Five (5) preliminary examinations or five (5) Superior Court contested probation violation hearings, or five (5) contested jurisdictional hearings (felony) in juvenile court (or any combination of these three proceedings adding to five); or
   2. Five (5) contested motions in a felony case; or
   3. Five (5) sentencing proceedings in a felony case.

III. **Major Felony Panel**[2]

1. Applicant must have handled at least three (3) Superior Court or Federal Court criminal jury trials within the past five (5) years.
   AND
2. Within the past three (3) years satisfied at least one of the following (1, 2, or 3) categories of performance:
   1. Ten (10) preliminary examinations or ten (10) Superior Court contested probation hearings or ten (10) contested jurisdictional hearings (felonies) in juvenile court (or any combination of these proceedings adding to ten), or
   2. Ten (10) contested motions in a felony case, or
   3. Ten (10) sentencing proceedings in a felony case.
3. Within the past year, completed eight (8) hours of criminal law continuing education credits as approved by the State Bar Board of Specialization.

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01 Any felony offense not included in ß1192.7 PC (see Major Felony Panel, below).
2 “Major felony” is defined as any criminal offense listed in ß1192.7 PC, to≠wit:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) forcible sodomy; (4) rape; (5) forcible oral copulation; (6) child molesting; (7) any offense punishable by death or life imprisonment; (8) any felony in which defendant inflicts great bodily injury or uses a firearm; (9) attempted murder; (10) assault with intent to rob or rape; (11) arson; (12) exploding a destructive device; (13) residential burglary; (14) robbery; (15) kidnap; or (16) selling or furnishing dangerous drugs to a minor.