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Summary of the comments and suggestions of the Steering Committee for the Family Law Section of the District of Columbia regarding the proposed Practice Standards:

1. The certification and continuing CCAN training requirements should apply only to attorneys appointed in CCAN cases, rather than those serving in a *pro bono* or private counsel capacity. Also, the required training and continuing education should be offered free of charge.
2. The eligibility questionnaire should seek information only as far back as seven (7) years, or to the time of bar admission, whichever time period is shorter.
3. The Practice Standards should make clear that all information disclosed by attorneys in the course of seeking a CCAN appointment or on the questionnaire will be confidential and not disclosed on Court orders.
4. There should be some clarification regarding the limit on the number of appointments an attorney can maintain and an explanation as to why there is a limit on the number of Guardian *ad litem* appointments.
5. All necessary travel time should be reimbursed at the regular compensation rate.
6. The requirement that the guardian *ad litem* know and monitor the child's interests in all litigation may be onerous.
7. Appointed counsel should be compensated for time spent on appeals at the regular compensation rate.
8. The revised compensation scheme may reduce the overall compensation available to a CCAN attorney, which may dissuade competent and dedicated attorneys from working in this area.
9. There should be some qualifiers on the requirements that CCAN attorneys visit clients in their homes and make themselves available for emergencies at all times.

The views expressed herein represent only those of the Family Law Section of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.

December 1, 2000

The Honorable Zinora Mitchell-Rankin,
Presiding Judge, Family Division
Superior Court of the District of Columbia
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Judge Mitchell-Rankin:

The Steering Committee for the Family Law Section of the District of Columbia Bar supports the effort of the Family Division Advisory Rules Committee to improve the standard of practice in the District of Columbia Superior Court. The Steering Committee shares the goal of the Advisory Rules Committee and hopes that the Practice Standards in their final format will meet that goal. The Steering Committee, however, has several concerns about the proposed Practice Standards. The Steering Committee hereby makes the following comments on the proposed Child Abuse and Neglect Attorney Practice Standards:

1. Of primary concern is the potential chilling effect on attorneys' willingness to take CCAN cases if the stringent qualification requirements are implemented and applied not only to appointed counsel but to all counsel appearing in CCAN cases. The requirements could be particularly cumbersome for attorneys serving in a *pro bono* capacity. Further, it is often the case that a *pro bono* attorney working with a client in a custody or divorce matter is drawn into a child abuse or neglect proceeding. Would the proposed rule A-1 then apply to that attorney? Would the rule A-1 certification apply to counsel hired privately by a litigant? The Steering Committee suggests that any certification and continuing CCAN training requirements should apply only to attorneys *appointed* in CCAN cases, rather than those serving in a *pro bono* or private counsel capacity. In light of the reduction in compensation and the increase in training and other requirements, the Steering Committee suggests that the required training and continuing education be offered free of charge.

2. With respect to appointed counsel, the proposed eligibility questionnaire seems rather intrusive in that it applies back to bar admission. A more reasonable standard might be seven (7) years, or bar admission, whichever time period is shorter. It would also seem fair to set forth in the practice standards the purposes for which the eligibility questionnaire will be used and any specific criteria the CCAN director will use in determining eligibility for appointment.

3. The Practice Standards should make clear that all information disclosed by attorneys in the course of seeking a CCAN appointment or on the eligibility questionnaire, including social security and tax identification numbers, will be kept confidential by the Court and CCAN and should not be included in Court orders.

4. It might be helpful to clarify the provision with respect to the limit on the number of appointments an attorney can maintain. For instance, does the limit apply only to active cases or does it include post-judgment cases that are up for review only periodically? It might also be helpful to clarify why there is a limit on the number of Guardian *ad litem* appointments.

5. It is unclear whether CCAN attorneys will be reimbursed for time they spend traveling to meet with clients, to perform home visits, to interview witnesses and to perform other duties required by the proposed Practice Standards. The Steering Committee suggests that travel time necessary to the performance of a CCAN attorney's obligations should be reimbursed at the regular compensation rate.

6. The requirement in A-5 that the guardian *ad litem* know and monitor the child's interest in all litigation, including civil matters, may be onerous, particularly in light of the compensation limitations.

7. It is not clear whether appointed counsel will be compensated for time spent on appeals. Since counsel is required to pursue appeals, he or she should be compensated for that time under the regular compensation rules.

8. The Steering Committee is concerned that the revised compensation scheme, including the limits on the number of cases a CCAN attorney may participate in, will reduce the overall compensation available to CCAN attorneys. If CCAN compensation is diminished, the most dedicated and competent attorneys may not be willing or able to continue working in this practice area.

9. Given the sometimes extreme circumstances in which CCAN attorneys find themselves, there should be some qualifiers on the requirements that attorneys visit clients in their homes and be available for emergencies at all times.

The Steering Committee offers these comments in the hope that they will facilitate the implementation of Practice Standards that elevate the level of practice in CCAN proceedings without making it impossible for competent and much needed attorneys to continue practicing in the field. The Steering Committee would welcome the opportunity to participate in any discussion or review of the proposed Practice Standards.

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Thank you for your time and attention to these comments and for your dedication to improving the practice of law in the District of Columbia.

Sincerely,

Robert C. Liotta

Margaret J. McKinney

cc: The Honorable Rufus G. King III, Chief Judge
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