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Improving the Quality of Mandated Representation Throughout the State of New York

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Via email: kbaxter@nysba.org

Ms. Kathleen Baxter, General Counsel
New York State Bar Association
1 Elk Street
Albany, NY 12207

Re: Amendments to Mandated Representation Standards

Dear Ms. Baxter:

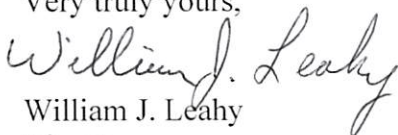
The New York State Office of Indigent Legal Services supports the amendments to the NYSBA 2018 Revised Standards for Providing Mandated Representation, as proposed by the NYSBA Committee on Mandated Representation, and to be reviewed by the NYSBA Executive Committee on January 29 and presented to the House of Delegates on January 30. The NYSBA Standards are an invaluable set of performance guidelines which have inspired some of our own agency's standards for attorneys providing mandated representation.

The substantive proposed amendments would provide important expansions and/or clarifications regarding: (A) the duty of a criminal defendant's trial counsel to protect the rights of the client post-disposition (Standard I-7 [k]); and (B) the duty of appellate counsel to investigate when new evidence suggests a credible CPL Article 440 claim (Standard I-10 [j]). A proposed change to Standard I-7 (l) would replace "successor" with "appellate" in subsection (iii). We note that subdivision (l) contains only subsections (i) and (iii), no subsection (ii).

Further, a proposed section I-11 would be added to Part I, Performance Standards, and would provide clear and comprehensive guidance for attorneys providing representation in parole matters, including rescission and revocation hearings and administrative appeals. This proposed new section would fill a gap in existing performance standards, since currently there are no statewide standards in New York for public defenders and assigned counsel providing parole representation.

Thank you for considering these comments.

Very truly yours,



William J. Leahy
Director