



The State Bar of California

Task Force to Study Technology in the Delivery of Legal Services

General Background

Created by the Legislature in 1927, the State Bar of California is an arm of the California Supreme Court in regulating the practice of law in California. The State Bar's mission is to protect the public and includes the primary functions of licensing and disciplining attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. Governed by a Board of Trustees, the State Bar licenses more than 250,000 attorneys and investigates approximately 16,000 complaints of attorney misconduct annually.

Study of Technology in the Delivery of Legal Services

The State Bar's 2017-2022 Strategic Plan sets forth among its goals and objectives, the following:

Goal 4: Support access to justice for all California residents and improvements to the state's justice system.

Objective d: Commencing in 2018 and concluding no later than December 31, 2019, study online legal service delivery models and determine if any regulatory changes are needed to better support and/or regulate the expansion of access through the use of technology in a manner that balances the dual goals of public protection and increased access to justice.

At its July 20, 2018 meeting, the Board of Trustees ("Board") received a [consultant's report](#) analyzing the legal market landscape. This report observes that "ethics rules...and the unauthorized practice of law... are the primary determinants of how the current legal market is structured...¶ Under ethics rules, any business engaged in the practice of law must be owned and controlled by lawyers. This prohibition limits both the opportunity and incentive for nonlegal entrepreneurs to enter the legal market." (Legal Market Landscape Report, at p. 21.) The report's conclusion states: "By modifying the ethics rules to facilitate this close collaboration [of lawyers and nonlawyers], the legal profession will accelerate the development of one-to-many productized legal solutions that will drive down overall costs; improve access for the poor, working and middle class; improve the predictability and transparency of legal services; aid the growth of new businesses; and elevate the stature and reputation of the legal profession as one serving the broader needs of society." (Legal Market Landscape Report, at p. 27.) Following consideration of the report, the Board authorized the formation of a Task Force on Access Through Innovation in Legal Services.

Task Force Charter

The Task Force Charter describes the study as follows:

The Task Force on Access Through Innovation of Legal Services ("ATILS") is charged with identifying possible regulatory changes to enhance the delivery of, and access to, legal

services through the use of technology, including artificial intelligence and online legal service delivery models. A Task Force report setting forth recommendations will be submitted to the Board of Trustees no later than December 31, 2019. Each Task Force recommendation should include an explanatory rationale that reflects a balance of the dual goals of public protection and increased access to justice.

In carrying out this assignment, the Task Force should do the following:

- 1) Review the current consumer protection purposes of the prohibitions against unauthorized practice of law (UPL) as well as the impact of those prohibitions on access to legal services with the goal of identifying potential changes that might increase access while also protecting the public. In addition, assess the impact of the current definition of the practice of law on the use of artificial intelligence and other technology driven delivery systems, including online consumer self-help legal research and information services, matching services, document production and dispute resolution;
- 2) Evaluate existing rules, statutes and ethics opinions on lawyer advertising and solicitation, partnerships with non-lawyers, fee splitting (including compensation for client referrals) and other relevant rules in light of their longstanding public protection function with the goal of articulating a recommendation on whether and how changes in these laws might improve public protection while also fostering innovation in, and expansion of, the delivery of legal services and law related services especially in those areas of service where there is the greatest unmet need; and
- 3) With a focus on preserving the client protection afforded by the legal profession's core values of confidentiality, loyalty and independence of professional judgment, prepare a recommendation addressing the extent to which, if any, the State Bar should consider increasing access to legal services by individual consumers by implementing some form of entity regulation or other options for permitting non lawyer ownership or investment in businesses engaged in the practice of law, including consideration of multidisciplinary practice models and alternative business structures.

Task Force Composition

The Task Force will be appointed by the Board and will have fifteen members, including a chair and a vice-chair. The members may be judges, lawyers and non-lawyers. The Board will strive to appoint a non-lawyer majority, if possible. The non-lawyers may include, but are not limited to, the following: consumer protection advocates; artificial intelligence/technology experts; economists; entrepreneurs; public interest and legal services stakeholders; and law students. The Task Force appointments are anticipated to be made by the Board at its October 19, 2018 meeting. Persons interested in serving on the Task Force may complete an [online appointment application](#).

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