

Final Report: Governance in the Public Interest Task Force

July 22, 2016

- I. Executive Summary
 - A. Background of the Report
 - B. Task Force Creation and Charge
 - C. Task Force Membership [See Appendix A]
 - D. Process of Developing the Task Force Report
 - E. Key Findings

[See Appendix B - List of Hearings and Witnesses Testifying at Governance Task Force Meetings]

- II. Context for this Task Force Review
 - A. Past Concerns about the Functioning of The State Bar
 - i. Lax Discipline System
 - ii. Focus on Professional Association Activities
 - iii. Lack of Adequate Control of Resources

[See Appendices C & D - White Paper on the History and Function of the State Bar of California; and Prior Reports on State Bar Performance and Governance]

- B. Questions Identified for Consideration
 - i. Expanded scope of Task Force arising after development of original question list

[Appendix E - Questions from December 5, 2015 memorandum - The questions identified for the December 5, 2015 memorandum were expanded / modified over the course of the task force due to concurrent political and other events.]

[Appendix F- Discussion of issues presented in the two May 25 charts]

- C. Defining our Mission and “Public Protection”
 - i. Statutory Definition - Bus. & Prof. Code § 6001.1
 - ii. *In re Attorney Discipline System*, 19 Cal.4th 582, 592 (1998)
 - iii. Business & Professions Code Section 6031 - State Bar is authorized to “aid in all matters pertaining to the advancement of the science of jurisprudence.”

D. What the Task Force Has Learned

- i. Comparisons with other State Bar Organizations
[Insert relevant text from the June 14 memo]
- ii. Comparison with Governance Models of Other Professional Regulatory Bodies
- iii. United Kingdom - Legal Services Act of 2007
- iv. *North Carolina State Bd. of Dental Examiners v. FTC*, 574 U.S. ____ (2015)- Antitrust issues
- v. Testimony and Written Submissions

[See Appendices G – L]

E. Analytic framework for assessing solutions raised

- i. What problem are we trying to solve?
- ii. How does any given proposed intervention solve the problem?
- iii. What are the cost and operational implications of the proposed intervention?
- iv. How will we define and measure success?

F. Proposed Solutions Vetted by Task Force

- i. What work is already in progress to address the problems discussed above?
- ii. What “low hanging fruit” solutions might we agree on?
- iii. What are other areas of possible solutions or reforms (including deunification) that have been suggested?
 - a. What are pros/cons of each?
 - b. What do we mean by “deunification”
- iv. What guiding principles/objectives should be foremost in our consideration of the viability of possible solutions?

G. Suggested Structural Changes and Recommendations for Further Study

- i. Changes

[Discussion of agreed changes discussed in the June 14 meeting]

- ii. Issues Needing Further Study

H. Conclusions and Next Steps

Appendices

- A. List of Task Force Members and Bios
- B. List of Hearings and Witnesses Testifying at Governance Task Force Meetings
- C. White Paper on the History and Function of the State Bar of California
- D. Prior Reports on State Bar Performance and Governance
 - 1. *Final Report of the Monterey Committee on the Structure of the State Bar of California (1980)*
 - 2. *Report of the Discipline Evaluation Committee to the Board of Governors (1994)*
 - 3. *The Future of the California Bar (Final report of the Commission on the Future of the Legal Profession and the State Bar of California) (1995)*
 - 4. *Report of the Special Master pursuant to In re Attorney Discipline System: Requests of the Governor and the State Bar of California (1999)*
 - 5. *Report and Recommendation of the State Bar of California Governance in the Public Interest Task Force (2011)*
- E. Updated Memorandum to Governance in the Public Interest Task Force re: Questions for 2016 Governance in the Public Interest Task Force Work Plan
- F. Summary of Major Points in Prior Reports on State Bar Performance and Governance
May 25, 2015 Memo
- G. Compendium of Charts Comparing State Bar Organization Nationally
- H. Summary of Governance Models in Other Professional Regulatory Bodies
- I. Summary of Written submissions
- J. Summary of Issues Identified for Consideration
- K. Summary of testimony
- L. Electronic media of testimony
- M. Proposal to Restructure the State Bar of California