



The State Bar of California

Task Force on Access Through Innovation of Legal Services – Subcommittee on Alternative Business Structures / Multi-Disciplinary Practices

To: Subcommittee on Alternative Business Structures/Multi-Disciplinary Practices
From: Bridget Gramme
Date: February 13, 2019
Re: Discussion of Research Assignments – Principles for Consumer Protection

“Protection of the public, which includes support for greater access to, and inclusion in, the legal system, shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

Business and Professions Code § 6001.1 (effective January 1, 2019)

This statutory mandate for the State Bar of California presents two critical concepts to keep at the forefront of our discussions as we work to develop our policy recommendations relating to Alternative Business Structures and the delivery of legal services: 1) protection of the public and 2) access to the legal system. To that end, we should keep the following principles in mind:

- 1) **Competence/ Accuracy of Legal Services Delivered:** How do we ensure that new technological capabilities and products are providing consumers with competent and accurate information? There is no bar exam for computer software. How might we measure this competence before such products are released for public consumption? Might we consider some kind of certification process so consumers can be assured of state bar “approved” services? Would this be part of a larger regulatory scheme for entity regulation?
- 2) **Disclosure/ Informed Consent:** How will consumers be informed about the potential limitations of the services they are may be seeking from online legal services providers? If these services connect them attorneys, will these individuals be identified? Will their disciplinary history be disclosed?
- 3) **Liability:** How do we ensure that corporate entities that deliver legal services through technology are held accountable if the services provides are ineffective/ cause harm to consumers? A common fund? Payment into the client security fund as a condition of licensure/registration?
- 4) **Consumer input:** How can we gather appropriate data and insight from consumers themselves with respect to the types of services they would be most likely to use, the ways in which our existing system is preventing them from accessing the services they need, and the prices which they might be able to pay for these services. Moreover, what are the substantive and geographical areas of most need and how do we ensure that the recommendations we make will actually address these issues given our mission to consider these issues with an “access to justice lens.” How can we learn from other jurisdictions?

From: Bridget Gramme
Date: February 13, 2019
Re: Discussion of Research Assignments – Contacts from Other Jurisdictions

During our last subcommittee meeting I promised to provide contact information for various individuals from other jurisdictions who may be able to provide us with insight and lessons learned from the licensing/ regulation of Alternative Business Structures in the delivery of legal services.

UK:

Crispin Passmore,

Passmore Consulting - Business & Regulatory Consultancy <http://www.passmoreconsulting.co.uk/>
Former Executive Director, Solicitors Regulation Authority, UK

- One of the programs he developed – SRA Innovate: A model worth exploring for this task force as we consider recommendations for ABS. <https://www.sra.org.uk/solicitors/innovate/sra-innovate.page>

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Australia

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Europe

Alison Hook

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Provides consultancy services to the legal market, specializing in the areas of cross-border regulatory issues, market access and international law firm strategy and business development. She has worked across Europe and internationally, consulting for governments and law firms
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Canada

Laurel Terry

Professor of Law and H. Laddie Montague Chair in Law, Penn State's Dickinson Law School
three-time Fulbright recipient who writes and teaches about the impact of globalization on the legal profession, especially with respect to regulatory issues. Her scholarship has identified emerging issues for the legal profession and urged stakeholder engagement, new initiatives, and regulatory reform.

She has particular knowledge about Canadian systems—this is one article she wrote

https://works.bepress.com/laurel_terry/36/

http://www.personal.psu.edu/faculty/l/s/lst3/Terry_Proactive_lawyer_regulation.pdf

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