



STAFF REPORT

To: Task Force on Access Through Innovation of Legal Services
From: Randall Difuntorum
Date: January 15, 2019
Re: Resources for Consideration

Please consider the following in preparing for the ATILS meeting.

1) Consistent with the task force's ongoing focus on access to justice, here is a link to an ABA report titled: "Supporting Justice: A Report on the Pro Bono Work of America's Lawyers" (April, 2018)." This report has helpful information, including data on the provision of limited scope representation services which is something that AI and technology is likely to expand and enhance.

https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf

2) Concerning the regulation of AI in industries other than the delivery of legal services, here is a link to an article on the FDA's regulation of AI in medical devices and similar regulations in other countries.

<https://hackernoon.com/demystifying-the-current-upward-trend-in-fda-approvals-of-medical-devices-using-artificial-cb9cc18d175>

3) Regarding an evidentiary privilege for communications other than communications between a lawyer and a client, here is a link to California Evidence Code section 965 – 968 which implements a privilege similar to the lawyer-client privilege for communications with a certified lawyer referral service.

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EVID&division=8.&title=&part=&chapter=4.&article=3.5

4) Regarding California law enforcement options for the unauthorized practice of law, here is a link to California Business and Professions Code section 6126.3 which provides that the courts of the state shall have jurisdiction to take control of a business when a person advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law without being an active licensee of the State Bar or otherwise authorized to practice law in this state.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=6126.3

5) Regarding non-lawyer ownership and ABS/MDP impact on access to justice in other jurisdictions, here is a link to one researcher's analysis.

<http://otlblog.com/wp-content/uploads/2015/01/Dr-Kalajdzic-Study-on-NLO.pdf>

6) Regarding the application of the Rules of Professional Conduct to a non-lawyer provider's sale of living trust documents to consumers, here is a link to a Cal. State Bar ethics opinion (CAL 1997-148) which describes the various roles that a lawyer might play in assisting a non-lawyer provider.

<http://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/1997-148.htm>