



The State Bar of California

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

ATILS Agenda Item C.3.a.
ABS-MDP Agenda Item B.1.
05-13-19 Meeting

To: Subcommittee on Alternative Business Structures/Multi-Disciplinary Practices
From: Andrew Arruda
Date: April 29, 2019
Re: B.1. Recommendation: Lawyers in traditional practice and firms stay under the current regulatory framework with a mind towards expanding access to justice through innovation

Recommendation: Lawyers in traditional practice and firms stay under the current regulatory framework with a mind towards expanding access to justice through innovation

(Motion to submit recommendation for consideration by the full Task Force was approved by the subcommittee on May 13, 2019 (4-0-0).)

Pros: The primacy of the judicial branch's regulation over the practice of law militates in favor of retaining the current regulatory paradigm of a lawyer as an officer of the court with all of the attendant duties and regulatory constraints. Lawyers, both as individuals and as members of traditional law firms, can be encouraged to support access to justice through innovation and technology in the same manner that lawyers and law firms are encouraged to increase access through voluntary pro bono publico services (see Rule of Professional Conduct 1.0, Comment [5]). This would complement consideration of any potential reforms that might involve new regulatory models, such as an entity regulation model where a corporation or other organization, rather than an individual, is authorized to practice law under adequate public protection requirements.

Cons: Traditional lawyer regulation has not proven to foster innovation in the delivery of legal services, especially the types of innovative delivery models that might flow from enhanced competition. The slow evolution of the rules governing lawyer advertising and solicitation are an example of regulatory reforms failing to keep pace with changes in the legal services market, including changes in the market driven by evolving communication technology and related consumer behavior and preferences.