



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: June 4, 2019
Re: B.4. Recommendation: Non-lawyers will be authorized to provide the limited delivery of legal services as an exemption to UPL with appropriate regulation.

Recommendation approved by the Task Force: Non-lawyers will be authorized to provide the limited delivery of legal services as an exemption to UPL with appropriate regulation

How the Recommendation Relates to the Charter: The Charter specifically charges this Task Force 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. The question of who may deliver these legal services, and the extent to which such services must be delivered by licensed attorneys, are critical underlying regulatory questions that must be addressed in the context of the delivery model. Moreover, Paragraph 3 of the charter expressly contemplates models of entity regulation that may include employees – or even potentially owners – who are non-lawyers. This recommendation seeks to clarify that, to the extent non-lawyers will be permitted to deliver limited legal services, the subcommittee recommends that they be appropriately regulated to ensure public protection.

Pros: Expanding the number of individuals who may deliver certain legal services may increase access to those services by increasing supply, and also decreasing the price of those services. This recommendation would also balance that increased access with public protection by establishing a mechanism for regulating these non-lawyers that would ensure they are minimally competent to provide the services, and are accountable to consumers if they fall below established standards. Finally, having some clarity in the role non-lawyers may permissibly play will enable entities to more efficiently and certainly deliver legal services to consumers.

Cons: This type of regulation requires a very delicate balance. Defining the permissible scope of practice for limited legal services delivered by non-lawyers may be tedious and could also lead to “overregulation.” Entities may be discouraged from employing non-lawyers to perform these tasks, or individuals may be hesitant to seek permission to deliver the limited services, if it is perceived that the qualifications are too onerous. On the other hand, if regulations are too lax, critical aspects of public protection, including the maintenance of client confidentiality and the avoidance of conflicts may be compromised.