



The State Bar of California

ATILS Agenda Item C.3.e.
ABS-MDP Agenda Item B.5.
05-13-19 Meeting
Task Force on Alternative Business Structures – Subcommittee on
Alternative Business Structures /
Multi-Disciplinary Practices

To: Subcommittee on Alternative Business Structures/Multi-Disciplinary Practices
From: Andrew Arruda
Date: May 13, 2019
Re: B.5. Recommendation: New models being proposed would include individuals and entities working for-profit and would not be limited to not for profits.

Recommendation: New models being proposed would include individuals and entities working for-profit and would not be limited to not for profits.

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

Pros: As found in Professor Henderson’s report, existing rules and regulations are a disincentive for nonlegal entrepreneurs to enter the legal market. (Legal Market Landscape Report at page 21.) One likely disincentive is the existing California statutory law and case law which is the basis for the prohibition against a corporation (that is not a registered law corporation) operating a business in California to profit from the practice law. Abrogating this restriction also would likely ameliorate the existing law disincentive. Notwithstanding this long standing UPL prohibition, for-profit regulation of the legal industry beyond the controls placed on individual attorney licensees has some limited modern precedence in the regulation of professional law corporations, limited liability partnerships and in the MJP context with regard to for profit corporations that include out-of-state in house counsels who are registered with the State Bar but are not full fledge State Bar licensees. In addition, the subcommittee believes that individuals in the middle class have access to justice concerns that could be addressed by the activities of a new form of for-profit provider. The success of online businesses, such as LegalZoom, provides anecdotal support for this proposition.

Cons: The ultimate strategic objective of the State Bar in conducting a study of regulatory reforms is to use technology to create access to justice for persons who presently cannot afford legal services under the current delivery systems (i.e., the traditional law firm model). Prioritizing legal tech development in the not for profit context would be the most direct route for accomplishing this objective. Moreover, it is not clear that legal tech innovations developed in the for-profit sector would have a significant trickledown benefit to legal services organizations and the persons served by those organizations.