



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: Andrew Arruda
Date: May 13, 2019
Re: D.4. Recommendation: The models being proposed would include individuals and entities working for-profit and would not be limited to not for profits.

Recommendation approved by the Task Force: The 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).)

How the Recommendation Relates to the Charter: Paragraph 3 of the charter specifically states that the Task Force should prepare a recommendation addressing the extent to which, if any, the State Bar should consider increasing access to legal services by individual consumers by implementing some form of entity regulation or other options for permitting non-lawyer ownership or investment in businesses engaged in the practice of law.

Pros: As found in Professor Henderson's [Legal Market Landscape 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. Furthermore, to the extent for profit entities may already engaging in these types of practices, providing regulatory parameters will improve public protection and the administration of justice.

Cons: This recommendation would mark a fundamental change in the ability of corporations to practice law in contrast to certain non profits that are currently authorized to practice law in California. 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). Absent a thoughtful or directed regulatory framework, it is not clear that legal tech innovations developed in the for-profit sector would have a significant trickledown benefit to those impacted most by the justice gap.