



The State Bar of California

Task Force on Access Through Innovation of Legal Services

Monday, April 8, 2019

10:00 a.m. – 12:30 p.m.

Resumes at: 2:30 p.m. – 4:30 p.m.

The State Bar of California
845 South Figueroa Street
Board Room, 2nd Floor
Los Angeles, CA 90017-2515
(213) 765-1000

Members Present: Justice Lee Edmon (Chair), Tara Burd, Hon. Wendy Chang, Abhijeet Chavan, Jean Clauson, Johann Drolshagen, Lori Gonzalez, Bridget Gramme, Andrew Kucera, Joanna Mendoza, Kevin Mohr, Heather Morse, Joyce Raby, Allen Rodriguez, Toby Rothschild, Daniel Rubins. and Joshua Walker

Not Present: Andrew Arruda, Simon Boehme, Margie Estrada, Daniel Rice, Mark Tuft, and Angelina Valverde.

Others Present: Brady Dewar, Randall Difuntorum, Mia Ellis, Greg Fortescue, Donna Hershkowitz, Mimi Lee, Alison Paul (by video conference), Teresa Ruano, Andrew Tuft, Angie Wagenhals (by video conference) and Leah Wilson.

ACTION SUMMARY

A. Chair's Report

1. **Roll Call**

The Chair called the meeting to order and asked staff to take a roll call of the task force members.

2. **Call for Public Comment**

The Chair inquired but there was no one present in-person who wished to provide public comment. The Chair reported that a public comment letter from Court Buddy has been received and included in the agenda materials.

3. **Chair's Report**

No report.

4. **Staff Report**

The Chair recognized Mr. Difuntorum who reported that: (1) the dates of August 9th and 10th should be reserved for an additional ATILS meeting and a public hearing, both in San Francisco; (2) the plan for the ATILS tentative recommendations is to present a "menu of options" under consideration by the task force as this approach would permit a multiplicity of different ideas, including potentially inconsistent approaches to regulatory reform that could be assessed in light of public comment;

and (3) following further discussion with State Bar management, it was determined that a survey would not be pursued at this time, in part because it did not appear that the survey results would influence the “menu of options” approach that will be used for the ATILS tentative recommendations for public comment. It was noted that this decision would not preclude using a survey later in the process when the recommendations have become more refined.

5. Approval of Action Summary from the April 8, 2019 Meeting

The Action Summary of the April 8, 2019 meeting was approved (11 yes, 0 no, 1 abstain).

B. Guest Speakers

1. Alison Paul, Montana Legal Services Association

Ms. Paul and Ms. Wagenhals gave a presentation via video conference on a project by the Montana Legal Services Association called Ask Karla which allows users to ask basic legal questions and receive legal advice from volunteer pro bono attorneys online.

C. Reports of Subcommittees

1. Unauthorized Practice of Law/Artificial Intelligence

- a. Recommendation: Retain California’s case law definition of the practice of law and do not seek to “codify” it in a rule or statute.

Motion: Approve recommendation as amended by the Task Force.

The Task Force does not recommend defining the practice of law.

Ms. Chang moved, and Mr. Rubins seconded. The Motion was approved by a roll call vote (14 yes, 0 no, 1 abstain)

- b. Recommendation: Add an exception to the prohibitions against the unauthorized practice of law providing “safe harbor” that permits a (certified/registered/approved) entity to engage in practice of law activities using technology as the primary delivery system.

Motion: Approve recommendation as amended by the Task Force.

Add an exception to the prohibition against the unauthorized practice of law permitting State Bar-certified/registered/approved entities to use technology-driven delivery systems to engage in authorized practice of law activities.

Ms. Chang moved, and Mr. Rubins seconded. The Motion was approved by a roll call vote (14 yes, 0 no, 1 abstain)

- c. Recommendation: Regulation of an entity permitted to practice law using technology must include the establishment of adequate standards that regulate both the provider and the technology itself.
This item was carried over.
- d. Recommendation: If an entity is permitted to practice law using technology, then the nature of the technology used should not be limited or restrained by any concept or definition of “artificial intelligence.”
This item was carried over.
- e. Recommendation: If an entity is permitted to practice law using technology, then that entity should be required to provide adequate privacy protections similar to the protection afforded by the attorney-client privilege and a lawyer’s ethical duty of confidentiality.
This item was carried over.
- f. Recommendation: If an entity is permitted to practice law using technology, then that entity should be required to provide adequate data security.
This item was carried over.
- g. Consideration of report and rationale for recommendations
This item was not discussed.

2. Rules and Ethics Opinions

- a. Recommendation: Proposed changes to Rules of Professional Conduct, specifically rules 5.4 and 5.5
This item was carried over.
- b. Recommendation: Proposed regulatory reforms, including changes to the Rules of Professional Conduct, regarding a new system of paraprofessionals authorized to provide legal services
This item was carried over.
- c. Recommendation: Proposed changes to Rules of Professional Conduct pertaining to multi-disciplinary practice delivery models
This item was carried over.
- d. Consideration of report and rationale for recommendations
This item was not discussed.

3. Discussion and potential action on Alternative Business Structures/Multi-Disciplinary Practice Subcommittee Recommendations

- a. Recommendation: Lawyers in traditional practice and firms stay under the current regulatory framework with a mind towards expanding access to justice through innovation.
Motion: Approve recommendation as drafted by the subcommittee. Ms. Mendoza moved, and Ms. Chang seconded. The Motion was approved by a roll call vote (15 yes, 0 no, 1 abstain)
- b. Recommendation: Widen the scope of our charter to include entities which may or may not have lawyer ownership or operational management and/or control
Motion: Approve recommendation as amended by the Task Force.
Confirm that the scope of the Task Force's charter includes entities which may or may not have lawyer ownership or operational management and/or control.
Ms. Clauson moved, and Ms. Mendoza seconded. The Motion was approved by an unanimous roll call vote (16 yes, 0 no, 0 abstain)
- c. Recommendation: Entities can be composed of lawyers, non-lawyers or a combination of the two however, regulation would be required and may differ depending on the structure of the entity.
Motion: Approve recommendation as amended by the Task Force.
Entities can be composed solely of lawyers, solely of non-lawyers or a combination of the two, however, regulation of the entity, including regulation of its ownership and operation, would be required and may differ depending on the structure of the entity.
Ms. Gramme moved, and Ms. Gonzalez seconded. The Motion was approved by a roll call vote (14 yes, 0 no, 2 abstain)
- d. Recommendation: Non-lawyers will be authorized to offer limited legal services as an exemption to UPL with appropriate regulation.
Motion: Approve recommendation as amended 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.
Ms. Mendoza moved, and Ms. Clauson seconded. The Motion was approved by a roll call vote (13 yes, 0 no, 2 abstain)

- e. Recommendation: New models being proposed would include individuals and entities working for-profit and would not be limited to not for profits.
Motion: Approve recommendation as drafted by the subcommittee. Ms. Mendoza moved, and Ms. Chang seconded. The Motion was approved by an unanimous roll call vote (16 yes, 0 no, 0 abstain)

D. Considerations of Staff Recommendations

- 1. Discussion of ATILS Survey by NORC**
This item was covered in the Staff Report.

ADJOURN

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The notice and agenda is available at: <http://board.calbar.ca.gov/Committees.aspx>.

