



To: ATILS Task Force
From: Dan Rubins
Date: October 7, 2019
Re: B.3. Recommendation 2.4: The Regulator of State-certified/registered/approved entities using technology-driven legal services delivery systems must establish adequate ethical standards that regulate both the provider and the technology itself.

Recommendation 2.4: The Regulator of State-certified/registered/approved entities using technology-driven legal services delivery systems must establish adequate ethical standards that regulate both the provider and the technology itself.

Recommendation 2.4 has received a total of approx. 89 comments, 56 in opposition, 32 in support, and 1 with no stated position.

Recommendation 2.4 (Regulator to Establish Standards for Provider and Tech Itself)[UPL/AI]	
Recurring Point	Possible Response
I support this because it is critical for regulated entities and the technology they develop abide the same standards as the legal profession to ensure integrity. Entities should not be allowed to provide legal services if they are not complying with adequate standards. [NOTE: this comment is in support.]	The Task Force agrees that potential UPL regulatory reforms should involve the imposition of ethical standards on technology and nonlawyer providers, including nonlawyers that use technology-driven delivery systems.
It's absolutely vital to have strong regulations both regarding ethics & regarding the special issues related to protection & security of information when using technology. Regulations should definitely clearly indicate that they apply to both the provider & the technology. [NOTE: this comment is in support.]	The Task Force agrees that potential UPL regulatory reforms should involve the imposition of ethical standards on technology and nonlawyer providers, including nonlawyers that use technology-driven delivery systems.

Recommendation 2.4 (Regulator to Establish Standards for Provider and Tech Itself)[UPL/AI]	
Recurring Point	Possible Response
It is a good initiative so that the legal aspect is better, implementing technology is positive and it is better that these reforms seek to improve the legal aspect. Legal services can currently be improved and these reforms confirm this and I hope that the goal for legal services can be achieved. [NOTE: this comment is in support.]	The Task Force believes that competent use of technology in the practice of law can create efficiencies and lower costs of legal services.
The practice of law is a profession. Legal advice should be delivered by people who have studied not only black letter law but have learned to evaluate various scenarios, weigh pros and cons and give an informed opinion. The practice of law is NOT a check the box profession.	<p>Proactive risk-based regulation of nonlawyer providers that relies on auditing and monitoring of the provider and the provider's technology, rather than complaint-driven enforcement, may be an effective public protection system for the State Bar or another regulator of the competence of services provided by nonlawyers.</p> <p>In addition, imposing robust eligibility requirements on individual nonlawyers can address issues of competence. In Washington State, for example, among the eligibility requirements to be a LLLT are: 45 hours of paralegal studies; 15 hours of family-law-specific course work from a law school, ABA approved paralegal program, or LLLT Board; and 3,000 hours of law-related work experienced supervised by an attorney.</p>
The problem with access to legal services and justice is not the number of practitioners, but the lack of capacity of the courts and the ability of the courts to develop self-help projects to serve a wider public. What's needed is adequate court funding, restoration of the deep cuts made in the last decade and increased funding in addition	The Task Force was given a specific charge to study AI, technology and online delivery systems with the dual goals of increased access to legal services and public protection. A list of other potential different initiatives (i.e., not technology-driven initiatives) will be compiled as an appendix to the Task Force's final report. Court reform and court funding will be included in this list.
UPL not currently being enforced by law enforcement. That will not change and this problem will exacerbated by allowing additional	If nonlawyer provider concepts are implemented, then consideration of appropriate eligibility standards, rigorous proactive risk-based regulation

Recommendation 2.4 (Regulator to Establish Standards for Provider and Tech Itself)[UPL/AI]	
Recurring Point	Possible Response
market participants who may confuse consumers into believing they are entitled to offer legal services	and a broad public education strategy may address public confusion and help avoid public harm.
I support this reform as it would help low income/underserved communities who may not be able to hire an attorney due to the high cost. [NOTE: this comment is in support.]	The Task Force agrees that competent use of technology in the practice of law can create efficiencies and lower costs of legal services.
As an attorney shouldering an insanely large student loan debt, you will instantaneously devalue the education so many of us have worked so hard to get, only to find our job prospects and income potential to be FAR below what was promised us, while simultaneously exposing the public to incredible danger.	The Henderson Study found that access to legal services in California may be greatly improved by entering the "gig economy." Innovation through collaboration with nonlawyer providers has the potential for creating opportunities for lawyers, including recent law school graduates, to practice law in new delivery systems, such as online matching services for limited scope representation. In addition, proactive risk-based regulation of the competence of technology and nonlawyer providers that relies on auditing and monitoring rather than complaint-driven enforcement may mitigate or prevent harm.
These ethical standards are already established. They are embodied in the Rules of Professional Conduct, the Business & Professions Code for attorneys, and the case law and ethics opinions construing these rules and statutes. Any departure from these established ethical standards in the name of innovation or disruption betrays the public that the State Bar is supposed to protect and indicates that a motive other than benefiting the people of California is behind these recommendations.	Proactive risk-based regulation of nonlawyer providers that relies on auditing and monitoring of the provider and the provider's technology, rather than complaint-driven enforcement, may be an effective public protection system for the State Bar or another regulator of the competence of services provided by nonlawyers. This methodology does not start with a premise that all existing regulation is applicable to new delivery systems. The regulation of Family Law Facilitators and Family Law Information Centers in the Appendix C to the Rules of Court is precedent for strategically aligning duties to a function that is distinct from traditional delivery systems. (See https://www.courts.ca.gov/documents/appendix_c.pdf .)