



To: ATILS Task Force
From: Abhijeet Chavan and Heather Morse
Date: October 7, 2019
Re: B.6. Recommendation 2.3: State-certified/registered/approved entities using technology-driven legal services delivery systems should not be limited or restrained by any concept or definition of “artificial intelligence.” Instead, regulation should be limited to technologies that perform the analytical functions of an attorney.

Recommendation 2.3 has received a total of approx. 83 comments, 59 in opposition, 14 in support, and 10 with no stated position.

Public Comments for Discussion

- **Becerra, Alejandro G (964e)**
- **Bazikyan, Armin (606h)**

Recommendation 2.3 (Tech-Driven Entities Not Limited to AI)[UPL/AI]	
Recurring Point	Possible Response
AI is developing so fast that a definition of it may not be relevant in the future. A broader, less loaded term should be used. [NOTE: this comment is in support or does not state a position.]	The Task Force agrees that AI is developing fast and is difficult to be accurately described in a definition, which is why the Task Force has chosen to use the phrase “technology-driven delivery systems” instead of the ambiguous terms of “Artificial Intelligence” or “AI.”
It should be limited to regulating entities based on their function (i.e., whether they are providing legal services) not based on the manner in which they provide their services (e.g., via “artificial intelligence” or otherwise).	The Task Force is considering UPL reforms for both technology-driven delivery systems as well as other nonlawyer providers for defined legal services for which a licensed attorney is not necessarily needed. An analogy to this concept can be found with both the medical and accounting professions where specific activities can be performed by licensed and regulated individuals (e.g., nurses or physician assistants in lieu of a doctor, and accountant in lieu of a CPA).

Recommendation 2.3 (Tech-Driven Entities Not Limited to AI)[UPL/AI]	
Recurring Point	Possible Response
<p>This recommendation is too ambiguous and malformed to act upon. No technology performs the analytical functions of an attorney. The State Bar should not even consider the form of a technological solution until ethical rules are established, or it commits to holding any firm engaged in providing legal services to the full weight of the Rules of Professional Conduct and establishes that it is capable of disciplinary regulation of such firms.</p> <p>In the discussion of AI in the recommendations, the term “bias” comes up zero times. Many examples of where mixing algorithms and artificial intelligence and law can go wrong exist.</p>	<p>In the state of California, 70% of its residents are not receiving legal services. The Task Force is not looking to replace attorneys, or all legal services. However, when a technology-driven solution is available to meet the needs of the people, with the proper rules in place, a properly registered, certified, and licensed company should be able to operate without fear of a UPL violation.</p>
Comments for Discussion by the full Task Force	
<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. Justice is expensive because of delay – let’s get rid of the delay and let’s expand access to the courts from within the courts. Note also that authorizing a flood of non-attorney legal practitioners would simply further clog an already badly overstrained system.</p>	
<p>This proposal is offensive to the Rule of Law. I feel that this proposal is outsourcing the practice of law to corporations and nonlawyers. The very notion that the State Bar is proposing this is unbelievable. Lawyers spend a lot of time, money, personal sacrifice to obtain a license to practice</p>	

Recommendation 2.3 (Tech-Driven Entities Not Limited to AI)[UPL/AI]	
Recurring Point	Possible Response
<p>law. Who ever is behind this and related proposals should not be part of the state bar. We are living a crisis in this country right now in all three branches of government. If you dilute the base, the soldiers, the individuals that guard the Constitution every day in our court rooms, then this country is truly in peril. Please protect our nation. Protect the practice of law. If "officers of the Court" will now include corporations and Artificial Intelligence, we are lost. You, whoever supported, voted for and/or sponsored such stupid idea, are lost. You, should think about the intended and unintended consequences for your loved ones and others in the community seeking justice. How are consumers going to find justice when corporate interests have the right to provide legal services? Artificial Intelligence? Are you serious? How about you use Human intelligence to protect our Constitution, democracy and way of life.</p>	

ATILS - Public Comment Form

Name	Alejandro G Becerra
City	South Pasadena
State	California
Email address	alejandro@lawbecerra.com
Select the reform option you would like to comment on from the list below:	2.3 - Defining "Artificial Intelligence" is Not Recommended
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	<p>This proposal is offensive to the Rule of Law. I feel that this proposal is outsourcing the practice of law to corporations and non-lawyers. The very notion that the State Bar is proposing this is unbelievable. Lawyers spend a lot of time, money, personal sacrifice to obtain a license to practice law. Who ever is behind this and related proposals should not be part of the state bar. We are living a crisis in this country right now in all three branches of government. If you dilute the base, the soldiers, the individuals that guard the Constitution every day in our court rooms, then this country is truly in peril. Please protect our nation. Protect the practice of law. If "officers of the Court" will now include corporations and Artificial Intelligence, we are lost. You, whoever supported, voted for and/or sponsored such stupid idea, are lost. You, should think about the intended and unintended consequences for your loved ones and others in the community seeking justice. How are consumers going to find justice when corporate interests have the right to provide legal services? Artificial Intelligence? Are you serious? How about you use Human intelligence to protect our Constitution, democracy and way of life.</p>

ATILS - Public Comment Form

Name	ARMINE BAZIKYAN
City	Glendale
State	California
Email address	ARMINE@BAZIKYANLAW.COM
Select the reform option you would like to comment on from the list below:	2.3 - Defining "Artificial Intelligence" is Not Recommended
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose

ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.

I DO NOT AGREE WITH THIS REFORM PROPOSAL.

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. Justice is expensive because of delay – let's get rid of the delay and let's expand access to the courts from within the courts. Note also that authorizing a flood of non attorney legal practitioners would simply further clog an already badly overstrained system.

Also, enabling non attorneys to practice law wouldn't address the lack of access to justice problem, but would exacerbate the problem of faulty advice from non-attorneys. Why is competency not being considered? See for instance, in particular, all of the UPL going on in immigration law with devastating consequences to those tricked and defrauded – are those fellows suddenly going to be legal now? They're not being prosecuted now – obviously that's not going to change. So they'll get the appearance of legality and just go on harming people. The bar ought to be trying to raise the standard of practice, not abandon it - not to mention the question of ethics and duties owed to clients. What happens when a mega firm's revenue goals include steering clients into 'products' whether the clients need them or not?

The committee thinks that AI is the answer to wide spread cheap and effective service (though they decline to define it), but who will be programming the AI and determining what inputs are considered to be important? How are we to know whether the AI is being tinkered with, as it has been with Google and other firms, to the benefit of the firm doing so and to the detriment of the client? Will the

minimum wage legal services workers on the front end of the AI know what's happening or care? Or will they just be selling unneeded or harmful things like the banks are doing right now with annuities and their underperforming proprietary products?
