



# The State Bar of California

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## Task Force on Access Through Innovation of Legal Services

Monday, October 7, 2019

10:00 a.m. – 4:00 p.m.

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

**Members Present:** Justice Lee Edmon (Chair), Andrew Arruda, Simon Boehme, Tara Burd, Hon. Wendy Chang, Johann Drolshagen, Margie Estrada; Lori Gonzalez, Bridget Gramme, Andrew Kucera, Joanna Mendoza, Kevin Mohr, Heather Morse, Joyce Raby, Allen Rodriguez, Toby Rothschild, Daniel Rubins, and Mark Tuft.

**Not Present:** Abhijeet Chavan, Jean Clauson, Angelina Valverde, and Joshua Walker.

**Others Present:** Brady Dewar, Randall Difuntorum, Mia Ellis, Sunil Gupta, Mimi Lee, Andrew Tuft, Leah Wilson, Rosby Barrios, Darian Bojeaux, Michael Cohen, Alexis Djivre, Donald Garcia, Eli Grinvald, Tamila Jensen, Brian Kabateck, Peter Kunstler, Stephen Losh, Bobby Saadian, JJ Seo, Carolin Shining, Mina Sirkin, and Olivier Taillieu.

### To Join by Conference Call

Toll-Free Dial-In Number: 1-855-520-7605

Conference Code: 253-541-0212#

## 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 called for public comment. Mr. Kabateck, Ms. Shining. Mr. Bojeaux, Ms. Jensen, Ms. Sirkin, Mr. Losh, Mr. Seo, Mr. Cohen, Mr. Taillieu, Ms. Djivre, Mr. Grinwald, Mr. Saadian, Mr. Kunstler, and Ms. Joyce gave oral testimony.

3. **Chair's Report**

The Chair announced that the State Bar's 2019 Justice Gap Report has been published. Ms. Wilson reported on the survey's methodology in gathering information for the report and highlighted some of the key results of the survey.

4. **Staff Report**

The Chair recognized Mr. Difuntorum who reported that five town hall meetings were held with local bar associations prior to the end of the public comment period. Mr. Difuntorum thanked the following Task Force members for serving as speakers for these meetings: Andrew Arruda, Abhijeet Chavan, Tara Burd, Judge Wendy Chang, Bridget Gramme, Andrew Kucera, Joyce Raby, Toby Rothschild, Dan Rubins, Joanna Mendoza, Kevin Mohr, Mark Tuft, and Joshua Walker. Ms. Lee reported that the preliminary breakdown of the composition of the commenters was completed.

5. **Approval of Action Summary from the August 9, 2019 Meeting**

The Action Summary of the August 9, 2019 meeting was approved (13 yes, 0 no, 3 abstain).

**B. Consideration of Public Comment Received on Recommendations Developed by the Unauthorized Practice of Law/Artificial Intelligence Subcommittee**

1. Recommendation 1.0: The Task Force does not recommend defining the practice of law.

*This item was carried over.*

2. Recommendation 2.2: Add an exception to the prohibition against the unauthorized practice of law permitting State-certified/registered/approved entities to use technology-driven legal services delivery systems to engage in authorized practice of law activities.

*Mr. Rubins gave an oral report on the comments received.*

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.

*Mr. Rubins gave an oral report on the comments received.*

4. Recommendation 2.5: Client communications with technology-driven legal services delivery systems that engage in authorized practice of law activities should receive equivalent protections afforded by the attorney-client privilege and a lawyer's ethical duty of confidentiality.

*This item was carried over.*

5. Recommendation 2.6: The regulatory process contemplated by Recommendation 2.2 should be funded by application and renewal fees. The fee structure may be scaled based on multiple factors.

*This item was carried over.*

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.  
*This item was carried over.*

**C. Consideration of Public Comments Received on Recommendations Developed by the Rules and Ethics Opinions Subcommittee**

1. Recommendation 3.0: Adoption of a new Comment [1] to rule 1.1 “Competence” stating that the duty of competence includes a duty to keep abreast of the changes in the law and its practice, including the benefits and risks associated with relevant technology  
*This item was carried over.*
2. Recommendation 3.1: Adoption of Proposed Rule 5.4 [Alternative 1]  
*Prof. Mohr gave an overview of the recommendation and Mr. Rodriguez gave an oral report on the comments received.*
3. Recommendation 3.2: Adoption of Proposed Rule 5.4 [Alternative 2]  
*Ms. Gonzalez gave an oral report on the comments received.*
4. Recommendation 3.3: Adoption of a version of ABA Model Rule 5.7 that fosters investment in, and development of, technology-driven delivery systems including associations with nonlawyers and nonlawyer entities  
*Mr. Drolshagen gave an oral report on the comments received.*
5. Recommendation 3.4: Adoption of revised California Rules of Professional Conduct 7.1–7.5 to improve communication regarding availability of legal services using technology in consideration of: (1) the versions of Model Rules 7.1–7.3 adopted by the ABA in 2018; (2) the 2015 and 2016 Association of Professional Responsibility Lawyers reports on advertising rules; and (3) advertising rules adopted in other jurisdictions.  
*This item was carried over.*

**D. Consideration of Public Comments Received on Recommendations Developed by the Alternative Business Structures/Multi-Disciplinary Practice Subcommittee**

1. Recommendation 2.1: Entities that provide legal or law-related services can be composed of lawyers, nonlawyers or a combination of the two, however, regulation would be required and may differ depending on the structure of the entity.  
*Ms. Mendoza and Mr. Arruda gave an oral report on the comments received.*

2. Recommendation 2.0: Nonlawyers will be authorized to provide specified legal advice and services as an exemption to UPL with appropriate regulation.  
*Ms. Gramme, and Mr. Tuft gave an oral report on the comments received.*
3. Recommendation 1.1: The models being proposed would include individuals and entities working for profit and would not be limited to not for profits.  
*Mr. Arruda gave an oral report on the comments received.*
4. Recommendation 1.2: Lawyers in traditional practice and law firms may perform legal and law-related services under the current regulatory framework but should strive to expand access to justice through innovation with the use of technology and modifications in relationships with nonlawyers.  
*This item was carried over.*

**E. Consideration of Public Comments Received on General Recommendations**

1. Recommendation 1.3: The implementation body shall: (1) identify, develop, and/or commission objective and diverse methods, metrics, and empirical data sources to assess the impact of the ATILS reforms on the delivery of legal services, including access to justice; and (2) establish reporting requirements for ongoing monitoring and analysis.  
*This item was carried over.*
2. Comments received on concepts not considered by the Task Force.  
*This item was carried over.*

**F. Consideration of Public Comment Testimony Received at August 10, 2019 Public Hearing**

*This item was carried over.*

**ADJOURN**

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