



# The State Bar of California

CLOSING

II.B. Assumption/Questions  
12-01-21 CTJG Meeting  
Open Session

WORKING GROUP

**DATE:** November 23, 2021

**TO:** Closing the Justice Gap Working Group

**FROM:** Rebecca L. Sandefur, Co-Vice Chair

**SUBJECT:** II.B. Assumptions and Empirical Questions to Test in the Regulatory Sandbox

Based on deliberations in the Scope Subcommittee and the full working group, the Scope Subcommittee offers the following resolutions for consideration by the Working Group.

## RESOLVED:

1. A key function of any sandbox project is to collect evidence to inform decisions about legal services regulation policies.
2. Funding should be provided for a rigorous, independent, and impartial evaluation, to be conducted at appropriate intervals, of the sandbox and how well it achieves its goals.
3. The sandbox should consider how to balance the need for data from participating entities and clients with the regulatory burden placed on both by data requirements.<sup>1</sup>
4. The activities described in 1 and 2 should, taken together, address the following questions:

## CONSUMER PROTECTION

- How many consumer complaints against sandbox entities, about what kinds of practices?
- How many malpractice filings against sandbox entities, for what kinds of behavior?
- How many violations of ethical rules by sandbox entities, of what types?

<sup>1</sup> For example, commercial vendors of digital legal services such as wills may be unable to collect or unwilling to ask for identity markers, such as race, ethnicity or disability status, that are not relevant to providing the offered service. Consumers may wonder why they are required to provide such information in order to purchase sandbox legal services when it is not required for most other transactions, whether on-line or on-ground, or of legal services or other types of products or services.

- What services offered by sandbox entities are effective, competent? What are ineffective, not competent?

## **ACCESS TO JUSTICE**

- How much service to currently underserved populations is delivered by sandbox entities?
- How accessible and discoverable are the services offered by sandbox entities?
- What kinds of entities serve the underserved?
- How do sandbox activities affect equity in access to services along the lines of race, gender, disability, and language access?
- What are the substantive outcomes achieved for consumers?
- What kinds of rules are entities asking be waived, and with what impact on consumer protection and access to justice?
- Are sandbox entities reducing the knowledge gap (i.e., the degree to which people do not recognize that their justice problems have legal aspects and could benefit from legal help)?

## **IMPACT ON LAWYERS AND LEGAL SERVICES MARKETS**

- Is trust and confidence in lawyers affected? How?
- Is the size of the legal profession affected? How?
- Are the types of law/justice issues served by lawyers affected? How?
- Are lawyers' incomes affected? How?

## **EFFICACY OF A SANDBOX**

- Is the sandbox operating on a reasonable budget, and is it on a path toward financial self-sufficiency?
- Would other activities, such as more work on court form simplification and more investment in court-based self-help, be as or more effective than a sandbox in providing service to underserved Californians?