



The State Bar of California

Task Force on Access Through Innovation of Legal Services

Background

Too many Californians needing legal services cannot afford an attorney or don't have meaningful access. Among the findings of a 2018 [Legal Market Landscape Report](#), commissioned by the State Bar, were these:

- Access to legal services is decreasing. A growing proportion of consumers are choosing to forgo legal services rather than pay the high price. The [California Justice Gap Study](#), which the State Bar completed in 2019, confirmed this, finding that 55 percent of Californians at all income levels experienced at least one civil legal problem in their household in the previous year, yet nearly 70 percent of them received no legal assistance.
- Law is moving rapidly from a model of one-to-one consultative legal services to one where technology could enable affordable, one-to-many legal solutions.
- The public interest may be better served by regulatory approaches that encourage innovation in one-to-many legal solutions created by professionals from multiple disciplines.
- Modifying ethics rules premised on one-to-one legal services to facilitate greater collaboration across law and other disciplines could have many benefits: driving down costs; improving access; increasing predictability and transparency of legal services; aiding the growth of new businesses; and elevating the reputation of the legal profession.

Purpose and Charter

The State Bar's [Task Force on Access Through Innovation of Legal Services](#), established by the Board of Trustees in 2018, was charged with identifying possible regulatory changes to enhance the delivery of, and access to, legal services. The task force's charter focused on the following three areas:

1. Definition of unauthorized practice of law
2. Marketing, advertising, partnerships, and fee-splitting
3. Nonlawyer ownership or investment

In keeping with the State Bar's Strategic Plan goals and objectives, the Board of Trustees directed that each ATILS recommendation balance the dual goals of public protection and increased access to justice. The task force was comprised of a nonlawyer majority to help ensure that its recommendations would be focused on consumers' interests.

Outcomes

The task force held its first meeting in late 2018 and delivered its [final report](#) to the Board of Trustees on March 31, 2020. The following actions were taken by the Board in response to the ATILS recommendations:

- Identified regulatory options for consideration by the [Paraprofessional Program Working Group](#), which is charged with making recommendations for a new category of legal paraprofessionals in

California, such as limited license legal technicians or limited legal advocates. This working group commenced in April 2020 and is expected to deliver its final recommendations to the Board of Trustees no later than July 31, 2021.

- Approved for public comment revisions to two rules of professional conduct:
 - An amended rule 5.4 to extend an existing exception for fee-sharing arrangements with a qualified nonprofit organization. This rule change is intended to enhance the ability of nonprofit legal services organizations to expand activities through sharing in legal fees achieved through a settlement.
 - An amended comment to rule 1.1 providing that a lawyer's duty of competence encompasses a duty to keep abreast of changes in the law and law practice, including the benefits and risks associated with relevant technology.
- Created the [Closing the Justice Gap Working Group](#), which is charged with:
 1. Exploring the development of a regulatory sandbox
 2. Considering amendments to rule 5.4 regarding fee-sharing
 3. Considering a new rule 5.7 addressing the delivery of nonlegal services provided by lawyers and businesses owned or affiliated with lawyers
 4. Considering recommendations for amendments to the Certified Lawyer Referral Service statutes and Rules of the State Bar
 5. Considering recommendations for amendments to the rules governing advertising and solicitation

This working group is expected to commence in fall 2020 and deliver its final recommendations to the Board of Trustees no later than September 2022.