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To: ABA Entities, Courts, Bar Associations (state, local, specialty, and international), Law Schools, Disciplinary Agencies, Individual Clients and Client Entities

From: ABA Commission on the Future of Legal Services

Date: November 3, 2014

Re: Issues Paper on the Future of Legal Services

I. Introduction

The American Bar Association Commission on the Future of Legal Services is conducting a comprehensive examination of issues related to the delivery of, and the public's access to, legal services in the United States. This issues paper is intended to identify and elicit comments on topics that the Commission is currently exploring.

The Commission takes no position on the matters addressed in this paper at this time. Rather, the Commission expects to use any comments and supporting documents that it receives to supplement its research, decide which issues to address, and guide the development of various reports, proposals, and recommendations. Comments received by the Commission may be posted to the Commission's website and should be submitted by **Wednesday, December 10, 2014.**

II. Background

Access to affordable legal services for the public is critical in a society based on the rule of law. The resolution of legal matters is growing more expensive, time-consuming, and complex. Many who need legal advice cannot afford to hire a lawyer and are forced to represent themselves. Even those who can afford legal services often do not use them or turn to less expensive law-related alternatives. For those whose legal problems require entry into the court system, various challenges arise due to serious underfunding of the courts.

At the same time, technology, globalization, economic, and other forces continue to transform how, why, and by whom legal services are accessed and delivered. Familiar and traditional practice structures are giving way in a marketplace that continues to evolve. New providers emerging online and offline offer a range of services in dramatically different ways.

The Commission has created six working groups to study these developments and draft recommendations and related work product for the Commission's consideration and possible approval:

- **Data on Legal Services Delivery.** This working group will assess the availability of current, reliable data on the delivery of legal services, such as data on the public's legal needs, the extent to which those needs are being addressed, and the ways in which legal and law-related services are being delivered; identify areas where additional data would be useful; and make existing data more readily accessible to practitioners, regulators, and the public.
- **Dispute Resolution.** This working group will assess developments, and recommend innovations, in: (a) court processes, such as streamlined procedures for more efficient dispute resolution, the creation of family, drug and other specialized courts, the availability of online filing and video appearances, and the effective and efficient use of interpreters; (b) delivery mechanisms, including kiosks and court information centers; (c) criminal justice, such as veterans' courts and cross-innovations in dispute resolution between civil and criminal courts; (d) alternative dispute resolution, including online dispute resolution services; and (e) administrative and related tribunals.
- **Preventive Law, Transactions, and Other Law-Related Counseling.** This working group will assess developments, and recommend innovations, in delivering legal and law-related services that do not involve courts or other forms of dispute resolution, such as contract drafting, wills, trademarks, and incorporation of businesses.
- **Access Solutions for the Underserved.** This working group will assess developments, and recommend innovations, in facilitating access to legal services for underserved communities.
- **Regulatory Opportunities.** This working group will study existing regulatory innovations, such as [Alternative Business Structures](#) in countries outside of the U.S. and Washington State's [Limited License Legal Technicians](#), as well as related developments, including the recently-released [Canadian Bar Association's Legal Futures Initiative](#) report. The working group will then recommend regulatory innovations that improve the delivery of, and the public's access to, competent and affordable legal services.
- **Blue Sky.** This working group will propose innovations that do not necessarily fit within the other working groups, but could improve how legal services are delivered and accessed, such as innovations developed in other professions to improve effectiveness and efficiency, collaborations with other professions, and leveraging technology to improve the public's access to law-related information.

III. Issues for Public Input

To guide its work over the coming months, the Commission seeks comments on the following questions:

1. **Better service.**
 - a. **Clients.** How can the legal profession better serve clients of all types, including individuals, governments, corporations, and institutions?
 - b. **Potential clients.** How can the legal profession better serve people who currently cannot afford a lawyer, or who decide to use alternative service providers or go it alone?
2. **Most important problems in delivering legal and law-related services.**
 - a. **Dispute resolution/litigation.**
 - i. What are the most important problems in delivering legal and law-related services in dispute resolution/litigation?
 - ii. How do you think those problems should be addressed?
 - iii. What existing innovations should the Commission study?
 - iv. What ideas for new innovations do you have?
 - b. **Outside of dispute resolution/litigation.**
 - i. What are the most important problems in delivering legal and law-related services outside of dispute resolution/litigation (e.g., wills, contract drafting, trademarks, incorporation of businesses, etc.)?
 - ii. How do you think those problems should be addressed?
 - iii. What existing innovations should the Commission study?
 - iv. What ideas for new innovations do you have?
3. **Alternative providers and regulatory innovations.**
 - a. **No J.D./law license requirement.** Can access to legal services be improved if the pool of available providers is expanded to include people without a J.D. and full law license?
 - i. Will legal services become more affordable if people without a full law school education and law license are authorized to deliver legal services?
 - ii. How can the delivery of legal services be effectively regulated to prevent harm to consumers if the system of providers is expanded in these ways?
 - b. **Ownership interest in law firms.** To what extent should those who are not licensed to practice law be permitted to have an ownership interest in law firms?
 - c. **Other regulatory innovations.** What other kinds of regulatory innovations in the United States or other countries could help to improve the delivery of legal services (e.g., entity regulation and proactive risk-based management/compliance programs, such as those in Australia that have helped foster ethical infrastructures and reduced complaints against regulated firms)?

4. **Underserved communities.**
 - a. **Facilitating access.** How can we better facilitate access to civil and criminal legal services for underserved communities?
 - i. What services are most needed by those who are underserved?
 - ii. What barriers prevent them from accessing such services?
 - iii. What existing models or innovations have had the greatest impact on expanding access to legal services?
 - iv. What further innovations might help to expand access to legal services?
 - v. How can the profession help to educate the underserved about their legal needs and ways to address those needs?
 - b. **Facilitating delivery by small law practices.** How can small law practices (e.g., solo practitioners, lawyers in rural communities, small firm lawyers, etc.) sustainably represent those who do not have access to legal services?
 - i. What specific tools or innovations can lawyers leverage to reach this goal?
 - ii. What kind of new training might lawyers need to meet this goal?
5. **Policy changes.** To what extent should the Commission explore policy changes to improve access to legal services (e.g., recommending that the ABA lobby for changes to government policies that would improve the quality of, or access to, legal services)?
6. **Insights from other fields.** What insights might the legal profession gain from innovations in other professions, industries, or disciplines (e.g., WebMD, IBM Watson, technology advancements, design-thinking, project management, gamification, checklists, organizational psychology, etc.)?
7. **Data.** Significant amounts of data are available on lawyers, the delivery of legal services, and the legal needs of the public. What additional data is needed?
8. **Legal education and training.** In what ways should the profession address the findings of the [ABA Task Force on the Future of Legal Education Report](#)? What competencies and specialized training does the public expect and need from lawyers (problem-solving, familiarity with related disciplines, etc.)?
9. **Diversity and Inclusion.** How can the legal profession address diversity and inclusion in the recruitment and retention of practicing lawyers? What impact do diversity and inclusion have on the public's need for legal services? Would greater diversity and inclusion enhance access?
10. **Other considerations.**
 - a. **Specific issue or challenge.** Is there a specific issue or challenge regarding access to, or delivery of, legal services that has not been addressed by the above questions and that you think needs the Commission's attention? If so, what is the issue and why do you see it as important?

- b. **Other questions.** What other questions should the Commission consider that are not addressed above?

The Commission would particularly appreciate submitted comments with links to relevant resources and citations to specific examples, illustrations, and solutions. Any comments should be submitted by **Wednesday, December 10, 2014** to:

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