



LOS ANGELES COUNTY BAR ASSOCIATION

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September 9, 2021

VIA EMAIL ONLY

Hon. Ioana Petrou
c/o State Bar of California
Paraprofessional Working Group
845 South Figueroa Street
Los Angeles, California 90012

Dear Justice Petrou:

We are submitting this public comment on behalf of the Los Angeles County Bar Association (LACBA). As you may recall, LACBA submitted a preliminary public comment in advance of the April 19, 2021 meeting of the Paraprofessional Working Group. At that time, we were concerned about proposals in the subcommittee meetings that seemed to be headed in the wrong direction. Now, having reviewed the draft final report, we want to ensure our objections to the program being proposed by the Working Group are registered and considered.

LACBA has always faced the justice gap head on, and has worked to provide quality legal services for underserved communities. LACBA's affiliated 501(c)(3) corporation, Counsel for Justice, operates several legal services projects that provide competent, free legal services to litigants who otherwise cannot afford legal help. These are the Domestic Violence Legal Services Project, the Immigration Legal Assistance Project, the HIV/AIDS Legal Services Project, and the Veterans Legal Services Project. LACBA also operates two alternate public defender programs for indigent criminal defendants under contracts with the County of Los Angeles. LACBA is standing with other low income legal service providers to help close the justice gap.

Allowing non-attorneys to practice law and to own law firms is not the answer to the justice gap. We note that Paraprofessional Working Group does not propose providing additional resources to underserved communities, which is the best way to address that gap.

Instead, the Working Group's proposals appear to be an effort to disrupt the middle class legal market, and to tear down needed barriers to the practice of law by non-lawyers, in the name of "access to justice."

California is one of the only states with multiple pathways to licensure, for the stated purpose of increasing access to justice. We have ABA accredited law schools, California accredited law schools, correspondence law schools, and we even allow applicants to study law with supervising attorneys or judges. There is no shortage of legal help in California from properly trained professionals, ready to counsel clients on their fundamental rights. What needs to happen is to make those quality legal services available to those who cannot afford them.

We oppose the licensing of non-attorney paraprofessional "specialists" to provide in-court representation up to (and for everything short of) a jury trial. It is important that litigants be represented by professionals who have the legal training and education necessary to provide competent legal advice. Decisions over complicated legal strategy or waiving important rights must be made with proper legal representation. The proposed non-attorney specialists will lack the necessary legal training to properly advise clients.

The most dangerous and problematic part of the Working Group's proposals are the proposed changes to Rule of Professional Conduct 5.4. If adopted, those changes would allow non-attorney ownership of law firms, threatening the interests of clients in several ways. Allowing non-attorneys to share fees with attorneys will undermine the duty of loyalty attorneys owe their clients. Specifically, the short term financial incentives of non-attorneys largely unschooled in professional responsibility are likely to take precedence over clients' interests. Moreover, allowing attorneys to partner with non-attorney paraprofessionals in law firms would create confusion in the marketplace. The public will likely believe the Smith & Jones law firm is operated by attorneys, who are competent to provide legal advice. But that may not be true if either Smith or Jones is merely a paraprofessional.

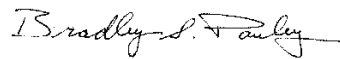
The changes to the Rules of Professional Conduct and new proposed Rules of Paraprofessional Conduct are inconsistent with public protection. There are bound to be major conflicts of interest in allowing paraprofessionals to practice law without the requisite training. For example, such paraprofessionals will be incentivized to waive clients' valuable rights to a jury trial, since they themselves are not authorized to provide those legal services. And to suggest that a paraprofessional "specialist," trained in a community college certificate program requiring less than an Associate's degree, can provide competent legal advice on matters of fundamental importance to litigants is to wholly discount the value of a legal education.

We believe a better approach to directly address the justice gap would be to fund the promising Navigator program in each self-help clinic across the state. This would allow the development of software to help self-represented clients to move their matters efficiently through the legal system. Moreover, tracking pro bono donations and volunteer hours with the already existing low income legal service providers will significantly increase access to justice.

The idea of authorizing fee caps (or to allow non-attorneys to enter contingency fee agreements at all) is antithetical to both public protection and closing the justice gap. Contingency fees are allowed to ensure that those with valuable legal rights can seek redress without having to pay up-front legal fees. There is no shortage of attorneys willing to work on a contingency fee basis in this State. The fact the Paraprofessional Working Group is considering caps for contingency fees makes it clear these proposals are not about serving those communities in need of legal help.

We urge the Paraprofessional Working Group to reject these proposals which, if adopted, would jeopardize the interests of consumers of legal services throughout the State.

Thank you,



Bradley S. Pauley
President