



THE FLORIDA BAR

Vision 2016 Commission: Committee Reports

December 2014

The Florida Bar Vision 2016 Commission Access to Legal Services Committee Report December, 2014

The following is a brief synopsis of the Committee's recent meeting which primarily was used as a workshop to get input on the various rule changes and rule additions this Committee is going to propose in order to authorize unbundled legal services, also known as limited scope representation, under the Bar rules. While the rules presently allow limited scope representation in two areas, Family Law and Probate Court, the Committee believes that Florida should align itself with many other states which allow limited scope practices in other areas. The Committee firmly believes that such rules will facilitate greater access to attorneys by those who do not need or cannot afford an attorney for an entire proceeding.

The Committee has worked very diligently in producing what will be a final report to be delivered to the Board of Governors for its meeting either in January or March. However, as to the future work of the Committee, that will depend on where the newly formed Access to Justice Commission sees this Committee's role and the Committee members look forward to a greater understanding in this regard.

Chair Adele Stone discussed the new Access to Justice Commission created by Chief Justice Labarga and she asked Melissa Pershing of TFBF to discuss the new Commission and her role with same.

Terry Hill, who was present, also spoke about the new Commission and intends to share the April 2013 Action Plan of the Access to Legal Services Committee with the new Commission. Terry also discussed the staffing of the Commission at The Bar. The Florida Bar has hired Frank Digon-Greer who will serve as the Bar's staff to the Commission and to this Committee.

Adele recognized President Greg Coleman and let him know that she intends to bring this Committee's report on the Unbundled Rule to the Board of Governors during his year as Bar President. President Coleman spoke briefly on the new Access to Justice Commission, how this group will intersect with the Commission and also thanked this group for their continued work on this important topic.

Sub-Committee Reports:

Insurance – Alan Bookman reported that malpractice carriers have indicated that there is no discount or special rate for unbundled legal services. Maria Henderson contacted Lawyers Mutual of North Carolina and interestingly, they do have a primer on unbundled legal services including suggested engagement letters. Alan Bookman confirmed that the carriers use the same underwriting guidelines for an unbundled practice as are applicable to other practices.

Promotion of Unbundled Practice – Bob Bertisch first thanked John Greacen for his help on this topic. Bob reviewed his findings thus far on how other states have promoted the concept of an unbundled practice. Some of the methods used to promote an unbundled practice in other states have been bar sponsored training and the maintenance of a list of attorneys that engage in

unbundled legal services practice. Bob suggested that public service announcements might be a consideration for the future.

Rules – Kathy McLeroy gave a detailed report on her sub-committee’s work to propose rule changes in order to support the use of unbundled legal services. Among those rule changes drafted, the following were discussed:

- Ghostwriting – suggest that Florida Rules of Judicial Administration 2.515 be tweaked so it’s clear that it’s following the dictates of the Rule 4-1.2
- Fees – no proposed changes to any Rules
- Conflicts of Interest – noted that most states adopted ABA model rule 6.5. Florida is a state that has not adopted the rule; the suggestion is that we do adopt some form of this ABA model rule. Adele said this may be outside the scope of the sub-committee’s work at this time, however it merits further consideration.
- Communicating with the client – no changes needed. Approach in Florida 4-1.2(c) 4-4.2(b) are sufficient to cover as presently drafted.
- Service – what documents to serve when limited counsel? Proposing that in Florida, the civil rule should be similar to 12.040-Florida Family Rules; adopt substantial portions of 12.040 in the Rules of Judicial Administration, 2.515 and 2.516, to incorporate the service provisions. Marcy Cox suggested language be added to notify the client, not just the court and the opposing party.
- Limited Appearance – in Illinois, there is a 21 day period for the client to object if the client believes the lawyer is not done. On withdraw and appearance, change the civil procedure rule to also apply to non-parties; a written agreement with respect to scope of work; a new notice required if scope expanded; lawyer be allowed to withdraw with certificate of good faith conference, all applies to civil procedures, not family.
- Notice of Limited Appearance Form Draft – edit to remove 21-day notice language and include certificate of good faith conference in paragraph five. Jay Kim to send suggested form to Kathy McLeroy.
- Negotiation of engagement – only written documentation of the engagement, no changes recommended
- Training – may discourage limited scope representation – no recommendations to require training.

Adele advised the Committee that the next step is to finalize the proposed rule changes and to incorporate same in a full report of all the sub-committees to be submitted to the Board of Governors for their consideration and circulation among other Bar committees, as the Board deems appropriate.

The Florida Bar Vision 2016 Commission Bar Admissions Committee Report December, 2014

The October meeting of the Bar Admissions Sub-group began with a report from Mike Garcia, Director of Research, Planning, and Evaluation, on the preliminary results of the Legal Education/Bar Admissions Survey. After hearing from Mr. Garcia, the five committees of the Sub-group went into breakout sessions to continue their work. After the breakout sessions, the full Sub-group convened to hear the reports from each committee.

MJP - International Focus Committee

Foreign Authorized House Counsel Rule – The committee reviewed the proposed Foreign Authorized House Counsel Rule. The committee approved the proposed rule with minor changes. The rule will be submitted to the full Bar Admission Sub-group shortly for consideration. The proposed rule would allow attorneys from a foreign country to act as authorized house counsel for a corporation in Florida much like out-of-state lawyers currently do under the present Authorized House Counsel Rule.

Foreign Pro Hac Vice - Proposed rule amendments to Rule 1-3.10 of the Rules Regulating The Florida Bar and Rule 2.510 of the Rules of Judicial Administration were considered and approved by the committee and will be submitted to the full Bar Admission Sub-group for review. The rule amendments would allow lawyers from other countries to appear *pro hac vice* in Florida courts upon motion to, and approval by, the court and notice and a fee to The Florida Bar. This would mirror current “domestic” *pro hac vice* rules.

Foreign Legal Consultants Rule – The committee continued its review of the existing Foreign Legal Consultants Rule to determine if any changes should be made to the rule or the process. The committee directed staff to compare the ABA Model Rule and New York’s Foreign Legal Consultants Rule to see if Florida’s rule should be simplified.

Standing Committee on International Trade In Legal Services – The committee recommended the creation of a Standing Committee on International Trade along the lines of Georgia's similar committee to monitor the impact of international developments on the legal profession. It is anticipated that recommendation will go to the full Sub-group at its next meeting.

MJP - State Focus Committee

Admission on Motion – The committee concluded that Florida should consider a rule on admission on motion in Florida. (Approximately 40 other states have already adopted some form of admission on motion). The committee considered the details of a proposed rule and decided on the restrictions and requirements that should accompany the proposed rule. It is anticipated the draft rule will be considered by the full Sub-group at its next meeting. The committee is

mindful that this is a Florida Board of Bar Examiners rule and would require comment, communication, and coordination with the FBBE at the appropriate time and eventual approval by the Supreme Court of Florida.

Disaster Rule (Katrina Rule) – The committee approved a proposed rule on the provision of legal services following the determination of a major disaster. It is anticipated the proposed rule will go to the full Sub-group at its next meeting. The rule would allow lawyers from a state experiencing a major disaster to service their clients on a temporary basis from an office in Florida. The rule would also permit out-of-state lawyers (through a non-profit legal services organization or on a *pro bono* basis) to serve residents in Florida who have unmet legal needs as a result of a disaster in Florida that has disrupted the practices of Florida lawyers.

Alternative Business Structures Committee – After review of alternative business structure (ABS) scenarios across the globe, the committee decided to draft two proposed rules for consideration by the full Sub-group. The first would model the District of Columbia approach, which allows alternative business structures in very limited circumstances and only for the delivery of legal services. The second rule would model Georgia's approach, which does not permit alternative business structures but does provide a safe harbor for Florida bar members who do business with law firms in other jurisdictions that do permit ABS's. The committee will draft the proposed rules and submit them to the full Bar Admission Sub-group for consideration.

Uniform Bar Examination Committee – The committee heard from Greg West on the difference between holistic and analytic scoring. The committee discussed the subjects on the UBE and Florida Bar Examination; Florida's process for scoring the essay part of the exam; the cost of the UBE versus the Florida exam; and the advantages and disadvantages to each. The committee is still gathering and reviewing information and has not yet made a determination as to whether Florida should consider adoption of the UBE. The committee discussed the results of the Legal Education/Bar Admission survey and wants to add a question or two to a proposed survey to law students in order to become more fully informed. As with the changes regarding admission on motion, the committee is mindful that any recommendations regarding the UBE will require comment from, and coordination with the FBBE, and ultimately approval by the Florida Supreme Court.

Licensing Committee – The Licensing Committee reviewed the issues that still need to be developed to determine whether additional licensing of non-lawyers should be considered in Florida. The committee discussed what the actual needs are of unserved and unrepresented individuals in Florida. The committee also surveyed what other states are doing with regard to the licensing of non-lawyers and paralegals. The committee discussed its recent phone conference with Regulation Counsel from the Law Society of Upper Canada and wants to hear from Washington State and perhaps other states that have expanded their rules regarding practice by paralegals before it will be ready to narrow its focus and make a recommendation. The committee will be setting up a call with Washington State; surveying *pro bono* coordinators on what percentage of the cases they assist with are in the family law area; and surveying Florida Registered Paralegals regarding their practice areas.

The Florida Bar Vision 2016 Commission
Legal Education Committee Report
December, 2014

We are well on our way! From the onset our group set forth a three stage process for our deliberations and work.

First, we spent nearly a year studying the various competencies and skills suggested as being needed for beginning lawyers. We studied legal researchers, business analogies, surveys from public and profession and at the end developed the competencies listed as Attachment "A" (several attachments provided but included as part of the report summary). These skills and attributes are ones that would of course be developed throughout the whole career as well. At the end of that year long process we thus developed our goal for the next two years – to develop law school models to provide the competencies needed.

The second stage of our work is coming along very well. That stage is looking at all the possible ways legal education can help meet those goals of developing the appropriate competencies. Some of those methods are already in existence and some will require innovative new methodologies. It will require not just new curriculum but the development of a new law school culture and comprehensive approach to all the impacts of law school by which students will be influenced. This set of models deal with the three components of Carnegie in knowledge, skills and character formation.

Our group is well along the way in developing these models. It must be emphasized that the group has already concluded that it is best to provide a continuum of models and options, as a “one size fits all” approach would be neither be effective nor possible to implement.

It is the goal of the group to vote on many proposals (models) in January. Some will be eliminated. Though not voted on, it is very clear the concept of moving to two years and eliminating a year of law school was not supported by the group. That is not to say suggestions haven’t been discussed to increase the time in a calendar year the student attends law school and thus reduce the time to graduate, but a simple reduction of the law school experience did not meet our competency driven goal.

Once a set of proposals is approved, then the group will be further refining the models. In addition, two surveys are contemplated to help us finalize recommendations. Mike Garcia will help us develop a survey directly to recent graduates and we will also send out questionnaires to some of the nation’s most innovative experts to get their feedback on the models we are developing.

Once this second stage is completed, which should be before the end of year two, then we will spend the rest of our time in stage three developing suggestions on how we can build consensus and find the best ways to implement the recommendations.

Legal education reform is a complex endeavor. It can't be done from one location. The following constituencies among others have some impact on possible change: Law schools themselves and their deans and faculties, ABA Section of Legal Education and Admissions Accreditation, Florida Supreme Court, other state Supreme Courts, the American Bar Association, Florida Bar, Florida Board of Bar Examiners and others states and national bar examiners, licensing regulators nationally and even internationally and even the U.S. News and World Reports and other marketing influences.

Additionally, we need to reach out to the remainder of Vision 2016 to accomplish our goals. For instance, our group recognized that law schools must have as one of its most important goals to have its students pass the bar exam. However, if the trend continues to add more and more substantive courses to that exam, then this outside influence could dramatically restrict options for innovation. Therefore, much of the third stage will be to coordinate with the other three groups of Vision 2016 to make sure we are not swimming in different directions.

Between now and January subgroups are divided into assignments to research and refine materials for considerations in January when we meet again.

The Florida Bar Vision 2016 Commission Technology Committee Report December, 2014

Chair John Stewart moderated a discussion on revising the mission statement of the committee to more accurately reflect the overarching goal of the committee. Tom Hall took the information from the discussion and will form it into a mission statement to share back to the group.

The committee had a brief follow-up discussion of the Part 2 Best Idea/Worst Idea from Law Without Walls. Bar staff shared the new law practice/office management and law office technology site with the group.

The committee discussed a potential mandatory technology CLE requirement; target minimum technology competency requirements; and the creation of a Bar/Board level technology committee to expedite Bar technology decisions. Judge Hilliard and Tom Hall led a discussion on technology decision delays stemming from specific technology or technology-related language being included in court rules and the slow process involved with modifying those rules.

The letter Judge Munyon previously sent to the Chair of RJA was shared with the committee. Chair John Stewart led a discussion on expanding the existing 4 areas of study and the need to extract some of the larger tasks under the original 4 areas out and setting them up as their own areas.

The committee decided on expanding to eight areas of study: 1) technology that performs legal/lawyer work; 2) integration of technology into law offices; 3) integration of technology into the courts; 4) e-discovery; 5) areas of work/employment opportunities; 6) target minimum technology competency requirements for lawyers; 7) mandatory technology CLE component under Bar rules either as part of the, "five of the 30 hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental illness awareness", or as a separate specific CLE requirement; and 8) creation of a Florida Bar Technology Commission/Committee to more expeditiously react on-behalf of the Bar on important technology-related matters or issues.

The premise is that this committee would operate for the Bar similar to how the Florida Courts Technology Commission (FCTC) acts for the Court. The chair asked that everyone submit their potential survey questions for the Bar Economics & Law Office Management Survey to Bar staff so that he can get to the Mike Garcia.

Bar staff was asked to e-mail the expanded eight areas of study to the committee members with the instruction for everyone to respond to the e-mail with their three preferred areas of study in order of preference for use in assigning subcommittees by the chair.

The committee will meet via video conference later in the fall prior to the January in person meeting in Orlando.

Since the October Meeting

Since the meeting under your ever-notable Bar leadership, we have gone on to break the group up into the sub-groups with committee and chair assignments as outlined below.

Area of Study	Committee Member Preferences
1. Technology that performs legal/lawyer work	Kevin Johnson (Chair) , Judge Hilliard, Gonzalo Perez, Mac McCoy, Cleveland Ferguson, John Stewart
2. Integration of Technology into Law Offices	Renee Thompson (Chair) , Gonzalo Perez, Judge Hilliard, Sean Desmond, Gordon Glover, John Stewart
3. Integration of Technology into the Courts	Judge Hilliard (Chair) , Judge Munyon, Jake Schickel, Renee Thompson, Cleveland Ferguson, John Stewart
4. E-Discovery	Mac McCoy (Chair) , Gonzalo Perez, Kevin Johnson, Judge Munyon, John Stewart
5. Areas of Work/Employment Opportunities	Leaving vacant for now.
6. Target minimum technology competency requirements for lawyers	Joe Corsmeier (Chair) , Mac McCoy, Sean Desmond, John Stewart
7. Mandatory technology CLE component under Bar rules either as part of the, "five of the 30 hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental illness awareness", or as a separate specific CLE requirement.	Tom Hall (Chair) , Jake Schickel, Joe Corsmeier, Gordon Glover, John Stewart
8. Creation of a Florida Bar Technology Commission/Committee to more expeditiously react on-behalf of the Bar on important technology-related matters or issues. This premise is that this committee would operate for the Bar similar to how the Florida Courts Technology Commission (FCTC) acts for the Court.	Sean Desmond (Chair) , Jake Schickel, Renee Thompson, Judge Munyon, Gordon Glover, John Stewart, Tom Hall

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