Standing Committee on the Delivery of Legal Services

2016 YEAR IN REVIEW
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Message from the Chair

The mission of the ABA Standing Committee on the Delivery of Legal Services is to expand access to legal services to those of moderate incomes – those who have too many assets to qualify for legal aid or pro bono services, yet lack the resources to pay for full, traditional legal services.

The Committee provides resources to the organized bar, non-profit organizations, the judiciary, practitioners and law schools to advance this mission. This Year in Review is among those resources. It is designed to help stakeholders broaden their understanding of the issues, identify others who are working in parallel paths and facilitate the conversations about increased avenues of access to legal services for those just beyond the poor.

The Report annotates articles from the legal press, bar publications and reports. It provides information about court rules, orders, guidelines and ethics opinions that were adopted in 2016. The Report also details information about initiatives supported by the Standing Committee and models promoted through the ABA Louis M. Brown Award for Legal Access. While the work of the Committee is presented, the Report highlights the work of many entities at all levels that share a dedication to improving access to justice through a wider conversation, policy decisions and programmatic advances. For further reference, the resources provided by the Committee are at www.americanbar.org/delivery.

The Committee anticipates and hopes the material in this Report will encourage and better enable those from every corner of the justice system to further justice for all.

William T. Hogan, III
Chair
News Articles

Reasonable Doubt: Why better access to justice is every Canadian’s issue
The National Self-Represented Litigants Project launched a National Database of Professionals Assisting Self-Represented Litigants to connect self-represented litigants with lawyers offering services suited for individuals who will be primarily self-represented, such as unbundled legal services, online courses, coaching and strategizing. *Now Magazine, February 8, 2016.*

City Bar Makes Permanent Eastern District Pro Se Assistance Program
The New York City Bar Association’s Federal Pro Se Legal Assistance Project, originally launched in 2015 as a pilot, is now a permanent program. The Project is a partnership between the U.S. District Court for the E.D.N.Y. and the New York City Bar Justice Center and provides free advice, limited-scope legal assistance and referrals for non-incarcerated, pro se litigants. *New York Law Journal, March 18, 2016.*

Call for Justice event on legal information set for March 29
2015 Brown Award winner, Call for Justice LLC, held a Legal Liaison Program on March 29, 2016. C4J collaborates with United Way 211, the state’s largest information and referral resource, to provide training on how to make better, more targeted legal referrals to available programs. At the event, leaders from community groups and organizations were trained on where to find legal resources so that they could then pass the information along. *Daily Globe, March 20, 2016.*

Lawyers for Affordable Justice: Reasonably Priced Legal Help
Lawyers for Affordable Justice (LAJ) is a joint project of the Boston University School of Law, Boston College Law School, and the Northeastern University School of Law. There, recent graduates from the partnering schools provide discounted legal services to low- and moderate-income clients who in exchange receive financial assistance, training and support to start their own practices. *BU Today, April 7, 2016.*

Pakistan’s New Legal Incubator Expands ATJ and Promotes Legal Entrepreneurship
With the help of Fred Rooney, the creator of the law school incubator model in the States, there is now an incubator in Pakistan. Rooney also launched an incubator in the Dominican Republic. The incubator, hosted by the Insaf Network Pakistan’s Center for Legal Excellence (INPCLE), will provide affordable legal services and raise legal awareness generally, with an emphasis on increasing Pakistani women’s access to legal support. The INPCLE program aims to help over a thousand litigants during the first 18-month cycle. *Self-Represented Litigation Network, 2016.*

Legal Aid of East Tennessee exploring Health-Law Partnership in Knoxville/Maryville area
Legal Aid of East Tennessee received a grant from the Trinity Health Foundation of East Tennessee to fund planning for “Doctors as Advocates, Lawyers as Healers,” a project to study the feasibility of establishing a Health-Law Partnership (HLP) in the Knoxville area. *The Daily Times, June 10, 2016.*

Program aims to ease legal service gap for low-income clients
Taneeza Islam, a Sioux Falls immigration lawyer, has created the Collaborative Legal Incubator Program (CLIP) designed to train young lawyers to run successful firms. While in the program, participants will provide affordable legal services to low and moderate-income clients. Success seen in other states with similar programs prompted Islam to create CLIP, who says, “What it does is provide access to vulnerable community members by training new lawyers on how to build a sustainable practice.” *Argus Leader, June 21, 2016.*
Texas A&M University School of Law to Launch Innovative Justice Gap Program
A first of its kind in the state, Texas A&M University School of Law is launching an incubator to ease the transition from law student to solo and small-firm practitioner. Professor Susan Fortney says that she hopes the program, “…prepares and inspires the new attorneys to learn how to practice law ethically and provide both pro bono and affordable legal services to clients who cannot afford market rates.” PR Newswire, June 23, 2016.

TU Law announces legal incubator to expand access to justice for noncitizens
The University of Tulsa College of Law has launched a legal incubator program called the TU Law Co-op (TLC) to support socially entrepreneurial law graduates looking to build their own solo or small-firm practices, and increase access to justice for underrepresented communities. TLC will operate as part of TU Law’s Tulsa Immigrant Resource Network (TIRN). University of Tulsa College of Law, June 2016.

Succession Planning Considerations for Virtual Practices
The changing legal market has led to more lawyers using technology – to lessen overhead, focus on practicing rather than administrative tasks and be more responsive to clients. While this shift in delivery is generally positive, lawyers running virtual firms – characterized by subscription cloud services and paperless offices – may find it more complicated to prepare for an emergency. When the time comes, other lawyers may not be able to readily access client files. The key to succession planning in these instances is to create an inventory of hosted services and how to access them. NW Lawyer, June 2016.

New rules give lawyers more flexibility to take on cases
In response to the state's shortage of lawyers and affordable civil legal services, the North Dakota Supreme Court approved new rules on June 29, 2016 allowing lawyers to more easily represent a client in court for just part of a case. Among other changes, the new rules allow a lawyer to

**ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY**

Rebecca L. Sandefur
American Bar Foundation
University of Illinois at Urbana-Champaign

Often people know they have a problem but do not recognize that it is legal in nature, and therefore do not seek the assistance of a lawyer or attempt a legal solution. One example of an effort to pipeline people with problems to lawyers is Call for Justice Inc., a Minnesota non-profit that trains United Way 211 operators to diagnose legal problems and route callers to the most appropriate legal resource. A national expansion of this type of service would reach millions. Another example of an effective pipeline to lawyers is the medical-legal collaboration. While this model should be expanded, the legal community can benefit even more by seeking out other strategic partners to expand on the idea of collaborative engagement.

For a more in-depth look at what is often called “the engagement deficit,” see Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study, by Rebecca L. Sandefur at the American Bar Foundation, University of Illinois at Urbana-Champaign.
file a certificate of completion for a limited appearance instead of having to get court approval to withdraw. *The Bismarck Tribune, July 7, 2016.* More on this development in the Policy section.

**Award-Winning Access Legal Care Expands into Illinois**
Access Legal Care, the 2013 recipient of the Delivery Committee's *Louis M. Brown Award for Legal Access*, has expanded into Illinois. Originally from Michigan, Access Legal Care provides affordable help for common legal needs by using a model that includes fixed fees and other methods of reducing costs, resulting in services that cost 40-60% less than the industry average. *PR Newswire, July 21, 2016.*

**Will the Billable Hour Go the Way of the Law Library?**
Physical and technological innovations have transformed law offices, from bound books to digitized, paperless offices. As the legal profession works to keep up with consumer demands and expectations, is the billable hour the next to go? *Bloomberg Law, July 28, 2016.*

"**Low Bono** Law: Incubator aims to help**
Mitchell Hamline School of Law grads launch firms that charge affordable rates
In the Collaborative Community Law Initiative (CCLI), services will be provided “low bono” – geared towards clients who can’t afford big firm fees but make too much to receive legal aid or pro bono. According to John Degnan, a Briggs & Morgan trial lawyer who is raising money for CCLI, “In our vast middle class, there are a lot of people struggling.” *Twin Cities Business, August 31, 2016.*

**New Lawyers Target Lower Income Clients to Build Practices**
According to the ABA Commission on the Future of Legal Services report, eighty percent of moderate and low-income people do not receive the legal help they need. Not a new statistic, but unlike a decade ago, today's law school graduates face a stagnant job market. In Georgia, the Lawyers for Equal Justice incubator, the Manely Firm’s Justice Cafè and programs that...
connect new lawyers with those approaching retirement are addressing both problems. *Daily Report, August 31, 2016.*

**Akron Bar incubator: Support for law practice start-ups**
Since 2015, the Akron Bar Association Barberton Incubator Program has been providing office space, mentors and other tools to new solos as they work to build a practice and a client base. According to Executive Director C. Allen Nichols, “Our goal is to ease that burden that sole practitioners encounter by assisting them in as many ways as possible.” *Akron Legal News, September 16, 2016.*

**Veteran assistance ABA commission goal**
The ABA Veterans Legal Services Initiative Commission is looking at ways to more effectively help veterans. Among its initiatives will be the expansion of legal service incubator programs. According to Commission Co-Chair Dwight L. Smith, “New attorneys who want to work with veterans can do that. It also could be a way they could get vital training so they could get a good start on their legal career.” *Tulsa Business and Legal News, September 21, 2016.*

**Baylor Law School launches program to make legal aid more affordable**
Baylor Law School’s Legal Mapmaker™ provides a practice development template for young lawyers so that they can start a law firm efficiently, economically and ethically. The goal is to help young lawyers start their own successful law practices, and at the same time address the access to justice gap. The first Legal Mapmaker™ workshop was conducted at Baylor August 18 and 19, 2016. *Baylor Lariat, September 27, 2016.*

**Weekend Project: Unbundling, a Thought Experiment**
Author Sam Glover tasks lawyers with thinking about the services they offer and identifying at least one legal service they could offer on a limited scope basis. He then provides a checklist of considerations for that service such as, what would you charge? How would you clearly define the scope? *Lawyerist, October 14, 2016.*

**Calling for Supreme Court Panel on Alternative Business Models**
A handful of jurisdictions have begun to address the ethical implications involved with alternative business models such as services that generate legal forms, non-lawyer ownership of law firms and fee splitting. The Editorial Board of the New Jersey Law Journal asks that the New Jersey Supreme Court create a task force to address these issues and make appropriate recommendations because, “Without such informed dialogue, attorneys and clients in this state will suffer.” *New Jersey Law Journal, October 14, 2016.*

**The Nonprofit Law Firm: Providing Access to Justice for the Poor and Early Student Loan Forgiveness for Indebted Lawyers**
Lawyers, many with extreme student loan debt, are struggling to find employment. Despite that reality, significant unmet legal need still exists. 501(c)3 nonprofit law firms can be a way for attorneys to make a living, work towards federal loan forgiveness and serve an underserved market of clients. *Above the Law, October 26, 2016.*

**The Delivery Committee has a directory of nonprofit law firms on its website here.**

**Nebraska Law tackles state's rural legal needs**
Nebraska College of Law, Wayne State College, Chadron State College and the University of Nebraska at Kearney have launched the Rural Law Opportunities Program, a partnership to recruit incoming college freshmen from rural Nebraska to ultimately pursue legal careers there. Recruits will received free tuition from the undergraduate institutions, and upon maintenance of a 3.5 grade point average and reaching a predetermined score on LSAT, will automatically be admitted to the College of Law. *Nebraska Today, October 26, 2016.*
This Week in Legal Tech: Real-World Examples of Using Tech to Narrow the Justice Gap

The Legal Services Corporation’s 2013 Report of The Summit on the Use of Technology to Expand Access to Justice and the ABA Commission on the Future of Legal Services’ Report on the Future of Legal Services in the United States are two sources that make the case for using technology to enhance access to justice and to deliver legal services. For examples of how technology can expand services to the poor and underserved, see the Technology Initiative Grants (TIG)-funded projects. Above the Law, November 28, 2016.

If Every Client Shops On Fees, How Can I Compete On Value?

To lawyers: your fee is seldom the only client consideration. If you don’t want to compete by decreasing your fees, you must increase your value proposition so that it outweighs the cost. Your value proposition is determined by the appeal and exclusivity of your services. Think niche practices and effective marketing (to turn that actual value into perceived value by the clients). Above the Law, December 6, 2016.

Check out, “The Client-Centered Practice: Innovative Outreach and Niche Markets,” by Will Hornsby, in Reinventing the Practice of Law.

The Law Store (A Missouri Company) Grows to Five Locations with Texas Expansion

To make their services more convenient, The Law Store operates within Walmart stores, offering free advice, menu-style pricing and extended business hours seven days a week. The sites offer a variety of services in the areas of wills, estate planning, traffic tickets, DWI, family law, small businesses, personal injuries, elder law, real estate, immigration and bankruptcy. 2016 Black Friday deals included ‘buy one, get one free’ wills, and reduced business service bundles. In December 2016, the Law Store introduced The MyLawPro™
Legal Access Card, which provides cardholders special promotions and benefits, including $10 off all legal services for life. *PR Newswire, December 2016.*

Value of 'Limited-Scope' Representation to Civil Litigants Formally Noted by NY Courts

Bridgeport’s Center for Family Justice to debut state’s first legal incubator
Connecticut’s first legal incubator is set to open early 2017 at the Center for Family Justice, a nonprofit that provides services to trauma survivors affected by domestic violence, sexual assault or child abuse. According to Jennifer Ferrante, coordinator for the incubator, “I think it will give the low- and moderate-income community a real chance in getting their legal needs met and ending their cycles in abuse and poverty.” *Westfair Communications, December 22, 2016.*
Can Technology Bridge the Justice Gap?
Technology has and will continue to change the practice of law. But can it help bridge the justice gap for those who cannot afford attorneys? Past efforts to expand access through technology by legal aid, courts, bars and others are beginning to show measurable results. For instance, in Illinois the Coordinated Advice and Referral Program for Legal Services (CARPLS) went from handling 12,000 cases to almost 50,000 cases in a year due to its new knowledge management system. *The Florida Bar Journal, January 2016.*

“While it is apparent technology alone cannot bridge the justice gap, it is also apparent the justice gap cannot be bridged without embracing technology.” – Melissa A. Moss, Deputy Director of The Florida Bar Foundation.

Ethical Considerations in Flat Fee Arrangements
For clients, flat or fixed fees offer predictability and control. For lawyers, they are handy for routine, one-time tasks such as the preparation of a will. But for more complex situations, lawyers need to be mindful of certain ethical duties. Rule 1.5(a) of the Wyoming Rules of Professional Conduct requires that lawyers charge reasonable fees. But what is a reasonable flat fee? Is a flat fee ever nonrefundable? While case law on flat fees in Wyoming is sparse, cases from other states and a list of general do’s and don’ts can help a lawyer decide when and how to offer flat fees. *Wyoming Lawyer Magazine, February 2016.*

The Big Impact of Practicing Law in a Small Town
Rural practice offers unique opportunities for professional satisfaction, such as gaining hands-on, practical experience in a wide array of issues, as well as social fulfillment as you form a special bond with the community. However, because retirement in rural areas can sometimes leave an entire community without a lawyer, it is important to have prepared for a successor. The Georgia State Bar’s Young Lawyers Division has teamed up with the state’s law schools to launch a Succession Planning Pilot Program that matches attorneys who are beginning their careers with experienced lawyers whose practices would benefit from a succession plan. *Georgia Bar Journal, February 2016.*

Linking Health & Law: Attorneys Volunteer Time, Expertise as State Launches First Medical-Legal Partnership
Americans living in poverty often have a related civil legal problem affecting their health – think children living in substandard housing experiencing asthma attacks due to mold. In order to respond to interconnected legal and medical needs, Oregon initiated its first medical-legal partnership which involved collaboration between attorneys and law students, Oregon Health & Science University and the coordinated care organization Health Share of Oregon. *Oregon State Bar Bulletin, February/March 2016.*

ABA opinion gives guidelines for communicating with people receiving limited-scope representation
The ABA Standing Committee on Ethics and Professional Responsibility issued Formal Ethics Opinion 472 on November 30, 2015 addressing the obligations of a lawyer when communicating with a person who is receiving limited-scope representation. The Committee recommends that if the lawyer has reason to believe that an unrepresented person on the opposing side has received limited-scope legal services, the lawyer should begin the communication with that person by asking whether that person is or was represented by counsel for any portion of the matter so that the lawyer knows whether to proceed under ABA Model Rule 4.2 or 4.3 (to avoid violating the “no-contact” rule). *ABA Journal, March 2016.*
Unbundling: The bridge between going it alone and full representation
While navigating their cases, pro se litigants often turn to online resources, law libraries or courthouse self-help centers. But why not turn to a lawyer to get just the information and advice they need? Unbundling allows people to do it themselves, but also have the option to turn to a lawyer as necessary. In 2013, the ABA House of Delegates unanimously passed a resolution supporting limited-scope representation and encouraging stakeholders, including bar associations, to help the public become better aware of this option. State and local bars play an important role in the advancement of unbundling to expand access to the otherwise self-represented who may need just some assistance. American Bar Association Bar Leader, January/February 2016.

The Implications of Ghostwriting in State and Federal Courts
In response to the increase of self-represented litigants brought on by rising costs of representation and more publicly available resources, the practice of ghostwriting is becoming more prevalent. Ghostwriting involves a licensed attorney drafting documents for an otherwise pro se litigant without disclosing said assistance to the court or filing an appearance in the case. Concerns about ethical and professional duties from critics are specific to the practice of ghostwriting, as opposed to limited scope representation as a whole, and primarily deal with questions of candor, honesty and fairness. However, there are a number of best practices one can follow. Los Angeles Lawyer, March 2016.

ABA formal opinion 07-446 (2007) provides that “a lawyer may provide legal assistance to litigants appearing before tribunals ‘pro se’ and help them prepare written submissions without disclosing or ensuring the disclosure of the nature or extent of such assistance.” However, one should look to local or state rules as states and courts vary on this issue.

WHAT CAN BARS DO TO ADVANCE UNBUNDLING?

- Petition the courts to amend the rules of professional conduct and the rules of procedure so that lawyers are clear about their responsibilities and the processes of unbundling. This is no small task, but the ABA publishes a white paper that gathers the existing state rules so that states do not need to reinvent this wheel.

- Provide CLE programming to help lawyers understand not only their obligations, but also the potential of unbundling for both pro bono and practice representation. The Colorado Bar Association Modest Means Task Force has barnstormed the state to discuss unbundling among the full range of modest means delivery tools. The New York State Bar Association recently joined with the courts to provide CLE programming featuring national speakers and covering ethics, access and opportunities. The program was attended by judges, court personnel, law school faculty and practitioners.

- Create an association section on unbundling, regularly bringing together practitioners who can share their experiences with one another.

- Maintain a directory of unbundling lawyers and promote it throughout the courts, the libraries, other community outlets and faith-based institutions—anywhere that those of modest means may be seeking help.

- Do outreach to the law schools, arranging to bring in unbundling lawyers to share their experience with future practitioners.

- Make certain that unbundling is a topic examined within legal incubators. Newly admitted practitioners who are creating innovative practices will never have a better opportunity to experiment with unbundling and share their experiences with colleagues.

- Will Hornsby, ABA Bar Leader
Incubators and tech services can help make a profitable, socially conscious law firm
At the ABA’s TeshShow conference, panelists Fred Rooney, creator of the first legal incubator, and Michael Robak, assistant law librarian and chief technology officer at the University of Missouri at Kansas City, spoke about the evolution and importance of legal incubators to provide practice management skills to new lawyers and offer more affordable services to the masses of unrepresented litigants. Robak noted the potential of technology to help new lawyers cut costs, allowing them to offer services to moderate-income people. *ABA Journal, March 18, 2016.*

Our Profession is Being Challenged to Reinvent Itself
To help shape the future of the profession and positively impact the community, the Utah Bar is harnessing the power of innovation, embracing technology, examining the structure of the Bar, nurturing relationships with law schools and bringing lawyers closer to one another. *Utah Bar Journal, March/April 2016.*

**“We must do more than reinforce outdated business models; rather, we must listen to and embrace new ideas.”** – Past-President of the Utah State Bar, Angelina Tsu

MBA Teams with Innovative Legal Incubator on Workshop
The Massachusetts Bar Association’s Law Practice Management (LPM) Section has teamed up with Lawyers for Affordable Justice (LAJ) – a legal incubator designed to foster the professional skills of new lawyers and expand legal services to underserved populations – to offer a free practical workshop on business planning. LAJ is a collaboration between Northeastern University, Boston College and Boston University schools of law. *Massachusetts Lawyers Journal, March/April 2016.*

100 Innovations in Law
A list of 100 technological, intellectual, and practical innovations over the last century that have changed the way law is practiced, broken down by subject matter. Just two of the 100 entries are alternative billing methods, such as flat fees and sliding scales, and limited scope representation. *Wisconsin Lawyer, April 2016.*

Limited Scope Representation in Family Law
Family law practitioner Charles L. Pierce remembers a time when special appearances were not allowed in Iowa. As a result, he sometimes had to make the decision whether or not to take on a case before there was sufficient information to do so. Fast forward to today and limited scope representation has become a regular part of his family law practice. According to Pierce, “Limited scope representation allows our office to leverage our resources to help many more family law clients than we would otherwise be able to help. In these cases, we use limited scope retainer agreements that spell out the scope of our legal services.” *The Iowa Lawyer, April 2016.*

Lawyers as peacemakers
Hard fought family law cases don’t just leave the clients wounded, but also the lawyers who face non-stop calls, emails and even office visits by those suffering through some of the worst times of their lives. In response, family law lawyers are shifting their practices with a focus on peacemaking. So what makes a lawyer a peacemaker? (1) They practice law with connection and authenticity; (2) they use proactive early intervention; (3) they use an interdisciplinary approach to conflict; (4) they take the long view and encourage clients to do the same; and (5) they are creative in their approach to conflict. *The Iowa Lawyer, April 2016.*

Check out, “The Lawyer as Collaborative and Preventive Peacemaker, by Forrest S. Mosten, in *Reinventing the Practice of Law.*
A new trend in family law: Collaborative divorce
More and more lawyers throughout Iowa are recognizing the benefits of collaborative law. The following are reasons why a collaborative divorce is distinguishable from your typical divorce. First, there is a voluntary, free and open exchange of information between the parties. Second, both parties must sign a pledge not to litigate, and in the event it does proceed to court, the collaborative agreement requires the attorneys to withdraw. Third, all professionals involved (e.g., attorneys, financial professionals, child specialists, etc.) commit to assisting the parties in reaching an agreement without judicial decision making. Fourth, there is a balanced commitment to respect both parties’ shared goals. *The Iowa Lawyer, April 2016.*

**LACBA Lawyer Referral Service Expands Limited Scope Representation Services**
The Los Angeles County Bar Association (LACBA) Lawyer Referral Service has launched a limited scope representation initiative to connect interested panel members with clients of limited means who may benefit from limited scope services. Lawyers on the LRS panel agree to offer flat fee rates for certain services that are set out in advance, and public gains access to more affordable routine legal services. *Los Angeles County Bar Association News, April 2016.*

“The incubator alternative: New post-grad options in the legal field”
The world’s first [business] incubator was launched in Batavia, N.Y. following the shutdown of the region’s largest employer in 1956. In 2008, the legal incubator model took off in part due to the economic crisis then occurring. According to Sofia Lingos, business law adviser for the legal incubator, Lawyers for Affordable Justice, “The future of the legal profession may be uncertain, but the expansion of the incubator option is inspiring.” *ABA For Law Students, April 22, 2016.*

“Is [limited scope representation] a panacea for the complaints from judges, attorneys, and the public? We will never know unless we take measures to normalize LSR as a mainstream option for dispute resolution. I remember when we made arbitration and case evaluations mainstream, then facilitative mediation, and now collaborative law, peacekeeping, and specialty courts. We need to think of LSR as another tool in the legal-service-delivery toolbox. And we need to do it as soon as feasibly possible” – Past President of the State Bar of Michigan, Lori A. Buiteweg
Big News: The 21st Century Practice Task Force Report is Out!
The State Bar of Michigan’s 21st Century Practice Task Force spent the past year examining and identifying problems facing the legal profession, and coming up with recommendations to fix them. Among the problems identified are: a “dysfunctional” legal marketplace; shortcomings in attorney education; inefficiencies in the legal process; and regulations slow to adapt in the face of evolution. Moving forward, the findings and recommendations will play a role in proposed policy changes, committee agendas and the Board of Commissioners’ strategic plan. *Michigan Bar Journal, May 2016.*

**Legal Incubators Benefit Community**
Columbus Bar Inc. was one of the first legal incubators, launching five years ago into a growing trend – today there are over 60 such programs nationwide. Since then, over 30 lawyers have participated in the program. One of those participants, Jacob Levine, says about his mentor, “Rick Colby, a mentor at the incubator program, has been pivotal to my success by developing the soft skills that are overlooked in law school.” *Columbus Bar Association, July 21, 2016*

**Bar Association Flattens Fees to Lure Consumers**
The Los Angeles County Bar Association began offering flat fees in April through its existing lawyer referral service SmartLaw.org. The association’s aim is to compete with online legal service providers that offer flat fees for simple document filing. Flat fees will be available for three types of legal services: $800 for an uncontested divorce; $800 to file forms for a limited liability company; and $500 to register a trademark. *California Bar Journal, July 2016.*

**Go Rural, New Lawyer**
Wisconsin’s rural communities are experiencing the effects of an aging lawyer population. Often lawyers want to retire but don’t for fear that no one will replace them. At the same time, there are newly minted lawyers in Milwaukee and Madison looking for work and finding few

**UNBUNDLING RESOURCES**

The Delivery Committee created an infographic to raise awareness about the benefits of unbundling – for clients, lawyers and courts. [Click here to download](#), and feel free to use it on your website or at your events.

For a comprehensive list of unbundling resources, including state-specific rules, ethics opinions and articles, visit the Committee’s [Unbundling Resource Center](#).

For a detailed overview of enabling rules, access the White Paper, “An Analysis of Rules that Enable Lawyer to Serve Self-Represented Litigants.”
opportunities. In response, the Wisconsin State Bar’s New Lawyer Challenges Committee created the Greater Wisconsin Initiative Bus Tour. The Tour will give new lawyers and law students the opportunity to meet with local judges, lawyers and community and business leaders in rural areas throughout the state so that they can realize the opportunities of practicing in rural areas. *Wisconsin Lawyer, July/August 2016.*

Want to Promote ATJ? Think Unbundled

The National Center for State Courts reported that in 2011, self-represented litigants were involved in 66 percent of all cases, and 81 percent of family law cases, heard in Minnesota courts. “How does a private attorney stay relevant in a legal marketplace where consumers are increasingly going it alone? A good place to start is by providing unbundled or “limited scope” legal services…” Twenty years ago, the Minnesota State Bar Association hosted a Task Force on Pro Se Litigants, which in part examined the ability of unbundling to better prepare pro se litigants in court. As technology increases the number of DIY options available, unbundling is receiving renewed attention. *Bench & Bar of Minnesota, August 2016.*

Bankruptcy and Unbundling: Oil and Water?

Alabama Rule of Professional Conduct 1.2 allows for limited scope representation in the state, and more specific forms and procedures became available in 2012. However, in the context of bankruptcy, attorneys must also comply with the local rules of the bankruptcy court, the Federal Rules of Bankruptcy Procedure and the US Bankruptcy Code. While limited scope representation generally has its merits, compliance in the context of bankruptcy brings about new challenges. *The Alabama Lawyer, September 2016.*

Choosing a Rural Practice

For young lawyers, an alternative to starting your own practice is to join an existing rural practice with the expectation of taking it over once when the owner, often an older solo practitioner, decides to retire. Being part of a community, the opportunity to work with a seasoned lawyer, the ability to practice in a variety of legal areas and the ability to build a client base quickly are just some of the benefits of living and working in a small town. *The Iowa Lawyer, September 2016.*

The Benefits of Using Collaborative Law with a Family Law Case

Divorce can be a highly destructive and negative experience, leaving both parties less able to deal with the stressors of life. One legal alternative to the traditional divorce is Collaborative Practice, a form of Alternative Dispute Resolution (ADR). Through Collaborative Law, the parties can negotiate a settlement without using the court system. “The Collaborative process includes lawyers, mental health professionals (coaches) and financial and child specialists, as appropriate, working together to resolve the parties’ issues without the polarizing, adversarial legal process.” *Maryland State Bar Association Bar Bulletin, September 15, 2016.*

Limited scope representation: A new way of thinking about accessible legal services

For many lower- and moderate-income Americans, limited scope representation may be the only path to affordable legal services. This articles asks and answers: Is it ethical in Ohio? Yes, allowed by Ohio Rules of Professional Conduct since 2007. Does it increase malpractice risk? Not if you do it right. What kinds of legal services and legal tasks are best suited for this model? Lots! From advising, to drafting to appearing. What’s in it for the lawyer? The ability to say "yes" more often to more consumers, and in turn, more clients, more cases and more profits. *Ohio Lawyer, September/October 2016.*

Not So Impractical: Ethics Considerations in Limited Scope Representations

Providing limited-scope services through a legal aid hotline or drop-in clinic is an easy way to provide pro bono service without having to commit to an entire case. To address the concern that conflict-of-interest rules would deter lawyers from serving as volunteers, the ABA promulgated (and Oregon adopted) Model Rule 6.5, which removes a lawyer’s obligation to check for conflicts when participating in nonprofit or court programs offering limited
legal services where there is no expectation of continuing representation and no actual knowledge of a conflict. *Oregon State Bar Bulletin, October 2016.*

**The Next Step in “Unbundling”: The Case for Limited Scope Representation**
The concept of “unbundling” can be broken down into three primary components: (1) providing advice; (2) assisting a client in preparing pleadings, discovery responses, and other documents; and (3) making limited appearances without the need for the court’s leave to withdraw. The first is commonplace in Virginia. The second is similarly permitted in state courts. As for the third component, the Virginia Access to Justice Commission is working with the Virginia State Bar’s Access to Legal Services Committee to develop a proposed rule change explicitly allowing such representation. “It is an idea whose time has come.” *Virginia Lawyer Magazine, October 2016.*

**How community law firms can increase access to civil legal services**
Launched in 2014, Community Lawyers of Iowa, PLC has a mission to increase access to affordable civil legal services. Toward its mission, CLI uses of several strategies, including sliding-scale fees adjusted to household income, limited scope retainers, unbundled services, flat fees, pro-se assistance, installment agreements and cooperation and coordination with non-profit service providers. In order to further increase access, CLI is also working towards establishing a law office incubator in central Iowa. *The Iowa Lawyer, October 2016.*

**President's Opinion: Bridges**
Law school graduates have crossed a number of bridges to get where they are. But to transition from “observers to participants,” from “the study of law to its practice,” they need another one. The Texas State Bar is building that extra bridge with the Texas Opportunity & Justice Incubator (TOJI). TOJI will provide office space, practical training and mentoring to new lawyers so that they can...
ABA Commission Paper on Legal Check-Ups Could Offer Opportunity to Integrate Private Providers into ATJ Triage Movement

Recommending the Weekly SRLN Twitter Trends List — Showing Just How Much Innovation is Spreading

New Legal Site is Part Pro Se Portal and Part Unbundled Services Store

Five Transformative Bar Reform Ideas to Get to 100% to Justice — Paper Abstract

The Need for Economic and Regulatory Incentives for Access to Justice


The Incubator Movement: Hatching Happy Attorneys and Addressing Access to Justice Issues

Law school curriculum and legal incubators can serve as effective entryways for introducing access to justice ideals. Further, incubators are prime environments for experimenting with innovative means to deliver legal services. However, “Incubators are but one response to the legal crisis” and to effect real change will require “movement at every level of our profession.” *ABA Law Practice Today, December 2016.*

Mandatory tech CLE: An idea whose time has come. The idea that the use of technology is fundamental to the delivery of legal services is now so self-evident that even the world’s foremost issue-spotters did not bat an eyelash.” Technology introduces new ways to keep client data confidential, and to meet clients where they live – online. With the amendment to its own Rule 4-1.1, Florida joins 27 other states that have adopted an ethical duty of technology competence. *ABA Journal, December 1, 2016.*

2016 year in review: Best legal conferences

The Access to Justice Through Incubator Programs and Non-Profit Law Firms conference, held at the University of Missouri Kansas City (UMKC) in April, made the list of “Best Legal Conference” according to Dan Lear from Avvo. Lear describes it as, “…a scrappy, no-nonsense group committed to working to build law firms and legal services entities that serve consumers and employ lawyers. There’s little pretense, little formality, and a lot of problem-solving and learning.” *Lawyernomics by Avvo, December 8, 2016.*

Tech knowledge makes lawyers more productive, and could be key to increasing access to justice

Technologically-enabled lawyers can better serve their clients by improving quality, speed, and cost-effectiveness, and themselves by reducing the time spent working while increasing profits. According to a report from Clio, most lawyers’ utilization rates fall below 50 percent and their realization rates around 80 percent, prompting lawyers to charge more for their services. Technology has the potential to increase usage and lower costs, and is therefore one aspect of addressing the access-to-justice crisis. Making tech competence an explicit ethical duty will help fulfill the mandate to serve the public interest. *ABA Journal, Dec. 8, 2016.*

Ghostwriting: An Ethical Issue in the Evolution of the Legal Field

The rise in the number of pro se litigants and online legal services have contributed to a shift in how attorneys provide services. One way attorneys are adapting is through unbundling. Among the ethical considerations involved with
unbundling are those surrounding the practice of ghostwriting, or “…the anonymous writing of pleadings…” This article looks at the principal ethical concerns surrounding ghostwriting, how authorities conflict across jurisdictions, and how to best proceed when ghostwriting in Oklahoma. Oklahoma Bar Journal, December 2016.

Medical-Legal Partnerships: Six Situations in which Elder Law Attorneys and Physicians Caring for Older Patients Need Each Other
“There are many situations in which an older person needs the services of both an attorney and a physician, and communications and collaboration between those two professions would be highly advantageous to the older patient/client’s well-being.” Those are: decisional capacity issues, elder mistreatment, self-neglect, medical payment issues, family issues and confidentiality. Wyoming Lawyer Magazine, December 2016.

The Middle Class, An Untapped Legal Marketplace
Lawyers today face the challenge of a DIY and self-representation trend. Pro bono and legal aid attempt to address the needs of those with low incomes, and those who can afford it pay for traditional representation, but the middle class is critically without accessible options. One viable solution – and a win-win for all involved – is unbundling. Because legal consumers pay for only parts of a case, reducing overall costs, lawyers who unbundle their services are able to tap into the segment of the population that would not have hired a full-service lawyer. ABA Law Practice Today, December 2016.
Everyday Legal Problems and the Cost of Justice in Canada

Very little is known about the specific costs of justice, and even less is known about the connection between affordable services and wellbeing. To better understand these issues, the Canadian Forum on Civil Justice conducted the “Everyday Legal Problems and the Cost of Justice in Canada” survey which measured the frequency and ways in which members of the Canadian public experience everyday legal problems. It asks the public what these problems cost – not just about direct monetary costs associated with paying for legal services, but also related non-monetary costs such as those associated with social assistance, employment insurance, health care and housing.

Cases Without Counsel

Cases Without Counsel, a project of the Institute for the Advancement of the American Legal System (IAALS), was a qualitative study conducted through one-on-one interviews designed to explore the issue of self-representation from the litigants’ perspective. Ultimately, the goal is to contribute to the conversation on how family court processes can adequately and appropriately meet the needs of all litigants. Findings are available in the Research Report and specific recommendations in the Recommendations Report. Additional materials and resources are also available in the Toolkit for those interested in learning more or implementing the recommendations in their jurisdictions.

Report from Michigan Bar 21st Century Practice Task Force

The 21st Century Practice Task Force at the State Bar of Michigan released a report in which it proposes "Five Key Problems and Our Keys to Solving Them." Among the recommendations are an unbundling system to expand access, billable hour alternatives, support for innovative law firm models and dynamic data-driven new lawyer support via incubators. In addition to the full report, the home page for the Task Force includes reports from the following Committees: Affordability of Legal Services: New Tools for Breaking Through the Access Barrier; Building a 21st Century Practice—Developing & Maintaining Professional Excellence in a Dynamic Marketplace; and Modernizing the Regulatory Machinery: Building Economic Resilience & Capacity in the Delivery of Legal Services.

Arkansas 2015 Annual Justice Partners Report

In 2016, the Arkansas Access to Justice Foundation, Center for Arkansas Legal Services and Legal Aid of Arkansas released their 2015 Annual Justice Partners Report. The Report discusses the unmet legal need in Arkansas, and highlights the work of the Center for Arkansas Legal Services and Legal Aid of Arkansas with figures such as those on the equivalent costs of services provided, the number of cases accepted, the number of people impacted and the dollar amount of financial recoveries or losses avoided for clients. There are also client stories, and a list of pro bono attorneys of the year.
Comprehensive Survey of Lawyer Incubators
In February of 2016, the Delivery Committee, in collaboration with the Incubator Consortium, conducted a survey of lawyer incubators to collect and share data about programs and their participants. The findings were released in the 2016 Comprehensive Survey of Lawyer Incubators report. The report contains detailed information on incubator program characteristics, resources and training, client and community services and the future outlook. The goal was to give existing incubators insights about where they fit in the national picture and ideas about how they can further develop their programs, as well as provide potential stakeholders the information they need to develop future programs.

Mediate BC's Family Unbundled Legal Services Project
Mediate BC's Family Unbundled Legal Services Project aims to encourage more family lawyers to offer unbundled legal services to support families using mediation. As part of Phase 1, the project sought input from BC family lawyers, family mediators and the public through online surveys. Findings show that lawyers want a more structured approach to integrating unbundled services into their practice. In response, Mediate BC created the Unbundling Toolkit for Lawyers and Paralegals. Further, Mediate BC and Access to Justice BC are working with the Courthouse Libraries BC to create a roster of family lawyers and paralegals willing to provide unbundled family law services. Lawyers who join will have the additional option of adding their names and contact information the Canadian national database of lawyers providing unbundled legal services of all types, run by the National Self-Represented Litigants Project.

Public Perceptions of Access to Justice - Survey Results from Ontario
In August 2016, The Action Group on Access to Justice (TAG) conducted a survey of 1,500 Ontarians on their views of justice and justice accessibility. The findings reveal that 4 in 10 Ontarians do not believe that they have equal and fair access to the justice system, that 3 in 10 have little confidence in their ability to access a legal professional or being treated fairly by the legal system and that Ontarians are more likely to seek legal advice from friends or family than online resources. Further, among a list of possible TAG initiatives, respondents preferred unbundled legal services the most as a means to increase access to justice.

Report and Recommendations of the Illinois State Bar Association’s Task Force on the Future of Legal Services
The Task Force on the Future of Legal Services was conceived and implemented in response to the many changes occurring in the legal services marketplace. In October 2016, the Task Force released a report that explores issues facing the profession and provides recommendations to deal with them. Above all, it stresses the importance for lawyers to adapt to the changing marketplace. Included in the discussion are ways to, “Preserve and Champion Lawyer Value" and "Embrace and Capture the Latent Legal Market.” Learn more in the Illinois Bar Journal article, “Illinois Supreme Court: Seeing - and Shaping - the Future.”
Report of the Texas Commission to Expand Civil Legal Services
The Supreme Court of Texas created the Texas Commission to Expand Civil Legal Services to increase the availability of civil legal services to low- and middle-income Texans. In 2016, the Commission released a report with eight recommendations to the Court, including recommendations to create pipelines of services for modest-means clients, promote existing and new legal incubators and amend rules to address and clarify issues raised by limited-scope representation. Learn more in the Texas Lawyer article, “Help Urged for Texas Pro Se Litigants in Supreme Court Commission Report.”

Commission on the Future of Legal Services Final Report
The Commission on the Future of Legal Services began as a Presidential Initiative under past President William Hubbard. At the outset, the Commission set out to “…inspire innovation, leverage technology, encourage new models for regulating legal services and educating tomorrow’s legal professionals, and foster the development of financially viable models for delivering legal services that meet the public’s needs.” In 2016, the work of the Commission culminated in its “Report on the Future of Legal Services in the United States.” The Report details the Commission’s findings on the delivery of legal services in the US, specifically in regards to unmet legal need, advances in technology and public trust and confidence in the legal system, and offers twelve recommendations to improve delivery.

Subcommittee Final Report to the Commission, Florida Commission on Access to Civil Justice, Access to and the Delivery of Legal Services Subcommittee
The Access to and the Delivery of Legal Services Subcommittee of the Florida Commission on Access to Civil Justice sought to: (a) identify and examine barriers that impede access to civil justice for disadvantaged, low income and moderate income Floridians; (b) determine how to promote coordination of legal services delivery to low-income Floridians; and (c) identify and build partnerships among the courts, members of the bar, legal service providers and other stakeholders. The May 2016 Final Report details the Subcommittee’s initiatives and analysis, and makes recommendations responding to its original charge.

Chicago Bar Foundation/Justice Entrepreneurs Project Pricing Toolkit for attorneys seeking to serve low- and moderate-income clients
The Pricing Toolkit provides practical guidance for lawyers on pricing legal services and delivering value in a way that is more affordable for, and accessible to, regular people. Included in “Version 1.0” of the Toolkit is a step-by-step guide to the pricing process that includes a discussion of the various ways attorneys deliver value to their clients, along with a handy two page “Fee Arrangement Matrix” that summarizes various alternative pricing options.
Association of Professional Responsibility Lawyers (APRL) Regulation of Lawyer Advertising Committee, Supplemental Report April 26, 2016

In June 2015, the APRL Regulation of Lawyer Advertising Committee released a report in which it addressed concerns over restrictive and inconsistent state regulation of lawyer advertising. Then, the Committee recommended changes to achieve greater rationality and uniformity, but deferred consideration of issues concerning, among others, the regulation of direct solicitation of clients. Here, the Committee considers those solicitation rules and concludes that combining provisions of Model Rules 7.2 and 7.3 in a single rule would satisfy the legitimate regulatory objectives of preventing overreaching and coercion by lawyers who use in-person solicitation and targeted communications with the primary motivation of pecuniary gain.

Law Review Articles

Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes
Law school enrollments are declining. Both self-representation and competition from non-lawyers are increasing. The legal profession is increasingly under attack, with research even suggesting that legal representation does nothing to benefit clients. This law review article asks, “Are lawyers needed and do they matter?” After a review of existing empirical research on the effect of legal representation on civil dispute outcomes, the answer is “yes,” or more specifically that, “Although the pattern of results has complexities, across a wide range of substantive areas of law (housing, governmental benefits, family law, employment law, small claims, tax, bankruptcy, and torts), professional legal representation is associated with better outcomes for litigants.” Emily S. Taylor Poppe and Jeffrey J. Rachlinski, Pepperdine Law Review, Vol.43: 881, 2016.

Optimism, Skeptisim, and Access to Justice
In 1994, the ABA’s Legal Needs Study revealed that 70% of the legal needs of low-income people went unmet. Over twenty years later, it appears not much has changed. However now, the Legal Services Corporation budget is even smaller, and lawyers are struggling to stay afloat amidst drastic changes in the legal marketplace. Two new components have made the access to justice story even more complex: (1) the “discourse of skepticism,” the doubt that a lack of lawyers makes a lot of difference in the real world; and (2) the “discourse of technological optimism,” the view that new technologies are revolutionizing the delivery of legal services to such a degree that we might foresee a technical fix to many access-to-justice problems. David Luban, Texas A&M Law Review, Vol. 3, Issue 3.

Symposium Advancing Equal Access to Justice: Barriers, Dilemmas, and Prospects
Keynote Address: University of California Hastings College of the Law, November 12, 2015
In November of 2015, the University of California Hastings College of the Law and the Stanford Center on the Legal Profession co-hosted a symposium called, “Advancing Equal Access to Justice: Barriers, Dilemmas and Prospects.” Hon. Tani G. Cantil-Sakauye, Chief Justice of California, gave the keynote address during which she passionately makes the case for funding civil legal aid – from an economic point-of-view, but also for the sake of fairness and what’s right. Further, she discusses the many efforts of the California Judiciary to expand equal access to justice and civil legal aid for those most in need. Hon. Tani G. Cantil-Sakauye, Hastings Law Journal, Vol. 67:1181.
Events that Committee members and/or staff contributed to, or participated in, are as follows:

<table>
<thead>
<tr>
<th>Event or Program</th>
<th>Committee Involvement</th>
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<tr>
<td>Louisiana State Bar Association’s Solo and Small Firm Conference (Feb. 26, 2016)</td>
<td>Presenter, “Think differently: poise your solo practice to communicate effectively with clients who need your services,” &quot;Ethics and Social Media: A Fiery Blend for Lawyers”</td>
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<td>Illinois Legal Aid Online (ILAO) Day CLE (March 8, 2016)</td>
<td>Presenter, lawyers’ ethical obligations to be technologically competent</td>
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<td>ABA Techsow (March 17, 2016)</td>
<td>Presenter, &quot;General Practice to Boutique Firm: Developing a Niche Practice&quot;</td>
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<td>Access to Justice through Incubator Programs and Non-Profit Law Firms (April 1-2, 2016)</td>
<td>Co-sponsored; Presenter, &quot;ABA/Consortium Survey Results,&quot; &quot;Assessment of Outcomes and Analytics,&quot; &quot;Plan for Analysis of Data from ABA/Consortium Survey,&quot; &quot;The Imagination Obligation&quot;</td>
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<td>Access to Justice Commission Call</td>
<td>Web-conference presenter, Unbundled Legal Services</td>
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<td>ABA/NLADA Equal Justice Conference (May 9-14, 2016)</td>
<td>Attended by staff and two Committee members who contributed to workshops on incubators and technology</td>
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<td>2016 SRLN Equal Justice Conference Pre-Conference (May 11, 2016)</td>
<td>Attendance and input</td>
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<td>Annual Meeting of the Chairs of the Access to Justice Commissions (May 14, 2016)</td>
<td>Workshop presentation on innovative models and a roundtable discussion on incubators</td>
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<td>National Legal Aid and Defenders Association (NLADA), Litigation and Advocacy Leaders Conference (July 10, 2016)</td>
<td>Presenter, Social Networking</td>
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<td>ABA CLE Webinar, &quot;The Future of Law and How to Future-Proof Your Firm&quot;</td>
<td>Co-sponsorship</td>
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<td>American Association of Law Libraries Annual Meeting and Conference (July 18, 2016)</td>
<td>Presenter, “Disruption in the Legal Industry: What’s Arrived and What’s Coming”</td>
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<td>TBDLaw (August 14-16, 2016)</td>
<td>Attended by staff counsel. The program involved brainstorming by teams of practitioners and bar leaders on emerging methods of delivering legal services, including a focus on the role of interactive technology.</td>
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<td>Texas Commission to Expand Civil Legal Service (August 20, 2016)</td>
<td>Presentation &amp; Q&amp;A</td>
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<td>Chicago Legal Innovation and Technology Meetup (September 22, 2016)</td>
<td>Presenter, &quot;We’re not expensive – we’re just not worth it&quot;</td>
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<td>Maryland Access to Justice Commission and the Maryland State Bar Association Section on the Delivery of Legal Services, &quot;Building an Effective Limited Scope Practice in Maryland&quot; (October 14, 2016)</td>
<td>Keynote Presentation by Committee staff counsel</td>
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<td>New England Regional Bar Association (October)</td>
<td>Committee Chair Bill Hogan III served as a panelist and presented on improvements in the delivery of legal services, including the development of legal checkups and other emerging models.</td>
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<td>ABA Bar School, Division for Bar Services (October 25, 2016)</td>
<td>Presenter, &quot;Updates on the Delivery of Legal Services&quot;</td>
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<td>Chicago Bar Association, New Lawyers Basic Skills CLE (November 11, 2016)</td>
<td>Presenter, &quot;Ethics and Social Media: What New Lawyers Need to Know&quot;</td>
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<tr>
<td>ABA CLE Webinar, &quot;How to Start a Virtual Law Practice&quot;</td>
<td>Co-sponsored</td>
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<tr>
<td>Chicago Bar Foundation Justice Entrepreneurs Project</td>
<td>Orientation presentation on enhanced engagement, niche markets and shovel-ready technology</td>
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Policy Developments

ABA RESOLUTIONS

The Delivery Committee offered its support for the following resolutions that came before the ABA House of Delegates at the Midyear Meeting in February 2016:

- #100, encouraging alternative dispute resolution for health care disputes;
- #109, advancing state adoption of the Uniform Bar Exam;
- #115B, amending the Uniform Landlord/Tenant Act;
- #115D, amending the Uniform Foreclosure Act; and
- #115E, supporting recognition of Canadian Domestic Violence orders of protection.

Resolution 114 – Links to Lawyers

In 2016, the Delivery Committee submitted a resolution to the ABA House of Delegates calling upon entities that provide online legal forms to the public to include clear and conspicuous links to lawyers or lawyer referral services. The “links to lawyers” resolution was subsequently approved by the ABA House of Delegates at the 2016 Annual Meeting. The Committee continues to concentrate on implementation which involves outreach to entities that provide online legal documents – such as courts, governmental units, bar associations and self-helps centers – to encourage them to advocate for the implementation of the policy and make the necessary changes, and circulating replicable examples of clear and conspicuous links to lawyers and lawyer referral services.

COURT RULES & ORDERS

Arkansas Adopts Additional Unbundling Rules

In 2016, the Arkansas Supreme Court amended its Rules of Professional Conduct 1.2, 4.2 and 4.3 to further clarify the responsibilities of attorneys who offer, or whose opposing parties are receiving, limited scope representation. The revisions, originally proposed via petition by the Arkansas Bar Association, clarify when a client's informed consent has to be in writing and outlines an attorney’s responsibility when communicating with an opposing party who is being represented on a limited scope basis. The new rules also include a sample Notice of Limited Scope Representation and Notice of Completion.

Unbundling Rule Changes in North Dakota

In 2016 the state’s Supreme Court adopted amendments to North Dakota Rule of Civil Procedure 11, North Dakota Rule of Court 11.2 and North Dakota Rule of Professional Conduct 1.2, effective August 1, 2016. The amendments give lawyers in North Dakota greater flexibility when representing clients on a limited scope basis. Specifically, the changes allow lawyers in the state to prepare pleadings, briefs or other documents on behalf of a self-represented client without being assigned to the case and allow them to file a certificate of completion for a limited appearance instead of having to get court approval to withdraw. In addition, the new Rule 1.2 now requires client consent in writing for limited scope agreements – a deviation from the old rule which only stated a preference for written consent.
NY Courts Formally Endorse Unbundling through New Administrative Order
The New York Chief Administrative Judge of the Courts, with the Consent of the Administrative Board of the Courts, has issued an administrative order making it the policy of the Unified Court System to support and encourage limited scope representation and encourage judges and justices to permit limited scope appearances (under certain conditions - see full Order here). This comes not long after the New York State Bar Association's House of Delegates adopted a report endorsing limited-scope representation to Civil Litigants Formally Noted by NY Courts.

ETHICS OPINIONS

Colorado Bar Association Formal Opinion 101: Unbundled Legal Services (Revised)
In 1998, the Colorado Bar Association Ethics Committee adopted Formal Opinion 101, entitled “Unbundled Legal Services,” to encourage more pro bono by allowing attorneys to only take on part of a case. Since then, the use of unbundling has become more widespread, and private attorneys are using it as part of their fee-generating practices. The Ethics Committee previously made changes to Colo. RPC 1.2(c) to specifically allow limited representation and to C.R.C.P. 11(b) and 311(b) to allow “ghostwriting” of pleadings. In 2016, the Colorado Bar Association’s Ethics Committee revised Formal Opinion 101. The new, more comprehensive Opinion discusses the rule changes and their significance to lawyers in limited representations.

Supreme Court of Ohio Opinion 2016-1: Flat Fee Agreements Paid In Advance of Representation
The Supreme Court of Ohio issued Opinion 2016-1 on February 12, 2016. The question addressed was, “Is it proper for a lawyer to enter a flat fee agreement requiring a criminal defendant to pay a fixed amount in advance of representation in a criminal matter?” The Board of Professional Conduct concluded that it is proper, provided that the fee agreement comports with the Ohio Rules of Professional Conduct, specifically referring to those rules that require an attorney to deposit fees into an IOLTA account until they are “earned.” Read a critical view of Ohio’s rules pertaining to flat fees in the July/August 2016 Ohio Lawyer article, “Flat fees: Earned, unearned or both?”

Supreme Court of Ohio Opinion 2016-3: Lawyer Participation in Referral Services
The Supreme Court of Ohio issued Opinion 2016-3 on June 3, 2016, in which the Board of Professional Conduct evaluates whether an online referral service that matches a prospective client with a lawyer for a particular legal service constitutes impermissible fee splitting with a non-lawyer or otherwise violates the Rules of Professional Conduct. Specifically, the hypothetical model in question is one in which the client chooses the lawyer, the company defines the types of legal services offered, the scope of the representation, the fees charged and other parameters, and the lawyer pays a “marketing fee” for each completed client matter which is based on the fee generated. The Board concluded that fees tied specifically to the number of individual clients represented or the amount of a legal fee is not permissible, unless the lawyer referral service is registered with the Supreme Court of Ohio.

South Carolina Bar Ethics Advisory Opinion 16-06: Fixed-Fee Legal Referral Services
The South Carolina Bar Ethics Advisory Committee rendered Opinion 2016 16-06 upon the request of a member of the South Carolina Bar. In it, the Committee evaluates an attorney directory website with a new fixed-fee legal referral service (the “Referral Service”). An attorney signs up for the Referral Service by agreeing to offer certain flat fee legal services. The Referral Service sets the fees, makes the referral to the attorney, processes the payment and holds the funds until the attorney completes the service. If and when the attorney completes the service, the full amount of the fee is transferred to the attorney who is then charged a “per service marketing fee” based upon the service provided. The Committee concluded
that the arrangement described violates Rule 5.4 prohibiting fee-splitting with a non-lawyer because it is claiming a portion of the fee earned by the lawyer as its “per service marketing fee,” as well as Rule 7.2(c)(1) pertaining to the “reasonable costs of advertisements or communications” because it charges the lawyer a fee based on the type of service the lawyer has performed rather than a fixed fee for the advertisement.

**COMMITTEE COMMENTS**

Comments on Issues Paper on Unregulated Legal LSP Entities
Between 2014 and 2016, the Standing Committee on the Delivery of Legal Services has shared its perspectives with the Commission on the Future of Legal Services through responses to the call for comments on the Commission’s Issues Papers. In 2016, the Committee submitted a comment to the Commission’s paper on Alternative Business Structures. The Committee expressed several concerns, including the misperception in the Issues Paper that non-traditional legal service providers are “unregulated,” the struggle with the Issues Paper in its effort to define non-traditional legal services providers, and the oversight of the Issues Paper to distinguish between legal services and legal products, which have received different treatment in the courts.
Initiatives and Projects

**Law Firm Incubators**

Law firm incubators provide resources, training and mentors to enable newly-admitted lawyers to acquire the range of skills necessary to launch their own successful solo or small-firm practices. The first project, the Incubator for Justice, was created at the City University of New York Law School in 2007. Since then, over 60 incubators have launched nationwide. In 2016 the trend continued, with 16 new incubators launching in thirteen states and in Pakistan. The following are incubator programs (and their operating entities) that launched in 2016:

- **Bay Area Legal Incubator (BALI):** Volunteer Legal Services Corporation; the Alameda County Bar Association; University of California Hastings College of the Law; University of California, Berkeley School of Law; Golden Gate University School of Law; University of San Francisco School of Law; Santa Clara University School of Law; the Alameda County Law Library; and legal services providers
- **Lawyers for Family Justice:** Family Justice Center
- **Law Entrepreneurs for Access Program (LEAP):** Civil Justice, Inc., the University of Baltimore School of Law, and the University of Maryland Francis King Carey School of Law
- **Lawyers for Affordable Justice:** Boston College Law School, Boston University School of Law, and Northeastern University School of Law
- **Pitt Legal Services Incubator:** The University of Pittsburgh School of Law
- **Court Square Law Project:** New York City Bar Association and the City University of New York School of Law
- **Insaf Centre for Legal Excellence:** Islamabad, Pakistan
- **Nova Southeastern University | Shepard Broad College of Law Legal Incubator**
- **Lawyers for Equal Justice, Inc.:** State Bar of Georgia, Supreme Court of Georgia, Atlanta Legal Aid Society, Georgia Legal Services Program, Atlanta Volunteer Lawyers Foundation, Georgia State University College of Law, Emory University School of Law, John Marshall Law School, University of Georgia School of Law, Mercer University Law School
- **ACTL/YLD/SCLS Incubator Pilot Program:** South Carolina Access to Justice Commission

In order to help spread the word about the value of incubators, the Committee created an infographic...

Visit the Delivery Committee’s website for more incubator resources, including:
- A directory of programs
- Program profiles
- Latest developments
ABA Free Legal Answers

In 2016, the ABA Standing Committee on Pro Bono and Public Service launched Free Legal Answers, a virtual legal advice clinic that gives income-eligible users the ability to pose civil legal questions to volunteer attorneys. In order to volunteer, attorneys who are authorized to provide pro bono assistance in their state simply log in to the website, select questions to answer, and provide legal information and advice. As of April 2017, ABA Free Legal Answers is operating in 31 states with roll-outs happening in several other states over the next few months. Over 2,200 attorneys have registered to respond to questions and over 4,500 client questions have been submitted since the website was launched in August 2016.

Legal Checkups

The Delivery Committee, in collaboration with ten other ABA entities, received support from the ABA Enterprise Fund to create and advance online Legal Checkups that will help people recognize when their problems have legal solutions and become aware of the resources available to resolve those problems. In 2016, a Steering Committee was established and development began on five checkups in the areas of domestic relations, consumer law, employment law and housing law. Completion of the checkup tools, distribution and preliminary evaluation will occur in 2017.
Models

Louis M. Brown Award for Legal Access
The Brown Award recognizes programs and projects that enable affordable access to legal services for those of moderate income in ways that are exemplary and replicable. The Brown Select component of the Award was introduced to elevate the awareness of the Award and advance insights into the work of the nominees. Each year, the Standing Committee on the Delivery of Legal Services decides the winner of the Brown Award, and online voting determines which nominee receives the public choice, Brown Select recognition. In 2016, over 3,800 people visited the Brown Award website to vote for their favorite nominee. Recipients were honored at a breakfast of the National Conference of Bar Presidents at the ABA Midyear Meeting in San Diego. View the 2016 Profiles of Moderate Income Delivery Programs booklet to see all 2016 nominees as well as past recipients.

2016 Brown Award Recipient

Suffolk University Law School Accelerator-to-Practice Program
The Accelerator-to-Practice Program is a comprehensive three-year course of study to prepare graduates to join or start sustainable law practices serving low- and average-income clients. The program offers courses in the use of technology for practice efficiency, the creation of automated document systems, law practice management, process improvement and project management and alternative models for the delivery of legal services. Students spend their final year representing clients in fee-shifting cases in an embedded law firm within the school in which they learn practice skills, the tenets of client retention and service, risk management, entity formation, fee structuring, case selection, marketing, use and creation of technology and efficient methods for the delivery of legal services. Training to provide efficient, cost-effective legal services permits Accelerator graduates to add value to existing small firms and, over time, start their own practices. These expanded and new firms increase the availability of affordable legal representation within local communities. This model is a replicable innovation in legal education that addresses the need for greater access to justice and the desire of new lawyers to serve their communities representing the huge untapped market of average-income clients while earning a living.
The Lawyer Entrepreneur Assistance Program (LEAP)
A partnership between the University of California, Irvine School of Law, Chapman University School of Law, Whittier School of Law, Western State College of Law and the Legal Aid Society of Orange County (LASOC)

As the incubator hub for Orange County law schools, the Lawyer Entrepreneur Assistance Program (LEAP) increases the quality and quantity of modest means representation. The hub approach enables a larger, more sustainable incubator that pools available resources and avoids duplication. LEAP integrates the resources of pro bono attorneys, retired judicial officers and LASOC’s lawyer referral and information service to create effective legal services, referrals and mentorship. The problems LEAP addresses are threefold. First, law school graduates can ‘think like lawyers’ but are rarely able to effectively practice law without additional resources. Second, LEAP increases LASOC’s capacity to provide free legal services by fully utilizing the potential of newly-admitted attorneys as a pro bono resource. Third, a huge segment of the population does not qualify for free legal services and are unable to pay the prevailing market rates for legal services. LEAP addresses these needs by training participants to run their own firms and does so in a way that helps both legal services organizations and modest means individuals. To ensure adoption and replication, LASOC freely shares its resources including its Incubator-in-a-Box toolkit and gives any other program access to its ‘practical application of law’ wiki
Military Mondays
A partnership between William & Mary Law School's Lewis B. Puller, Jr. Veterans Benefits Clinic and Starbucks’ Armed Forces Network

Through the Military Mondays program, professors and students from the Puller Clinic provide advice and counsel twice monthly at a local Starbucks to veterans seeking assistance with disability compensation claims, discharge upgrades and separation from service. During this “legal triage” they help decipher decisions, share resources, advise next steps, help with form completion for claims and appeals and answer questions. During a recent afternoon they met with a terminally ill Vietnam veteran who had been awarded a Bronze star for his service. Before being able to meet with him again, he ended up in the hospital. Frantic steps were taken to ensure that he signed the forms necessary to continue his claims in the event of his death, and when he passed away days later, his claims were preserved for his widow. Approximately 25% of the time, the professors and students undertake longer-term representation and often provide follow-up research. There is now a Military Mondays in California, and there are others being planned in Arizona, Missouri, D.C., New York, Ohio and Florida, with additional interest growing, and a variety of legal services to be offered.

HiiL Innovating Justice
The HiiL Justice Accelerator “finds and supports the world's best justice entrepreneurs in order to create access to justice for all.” Across the world, the Accelerator locates justice entrepreneurs, fosters the skills they need to manage and lead their innovations through a series of local training events and the yearly Justice Entrepreneurship School, offers seed funding as well as access to potential future funding, and offers acceleration and business services to scale their innovations. On the Innovating Justice website is a database of over 350 innovations, and each year entrepreneurs are given the opportunity to compete for the Innovating Justice Awards.
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