To: ABA Commission on the Future of Legal Services

From: ABA Standing Committee on Group & Prepaid Legal Services and Group Legal Services Association (GLSA)

Date: December 19, 2014

Re: Issues Paper on the Future of Legal Services

The ABA Standing Committee on Group & Prepaid Legal Services and the ABA-affiliated Group Legal Services Association (GLSA), are pleased to have the opportunity to open a dialogue with the Commission and respectfully ask that the Commission on the Future of Legal Services strongly consider the following comments in regards to examination of the delivery of legal services in the United States.

Specifically, GLSA is an organization that champions consumers’ access to legal services, through legal plans, whether as legal insurance plans, prepaid legal plans, or legal services plans. These plans provide services that answer many of the questions posed below as they provide access to lawyers, legal documents and other legal tools for a fraction of the usual and customarily charged prices. The plans also are administered by corporations with teams focused on finding innovative ways through technology, digital resources and other means to provide legal services to consumers in the way the new generations of consumers will want them. Further, the plans work hand in hand with lawyers to not only provide them referrals and an expansion of their business, but many plans also work with state bar associations and ABA committees to ensure we are providing lawyers, including younger lawyers, the tools, mentorship and assistance to grow their practice and understand the ever changing consumer market.

The American Bar Association has been looking at group legal services or legal expense insurance for over 60 years. One of the early studies was carried out by the American Bar Foundation in 1956. In the 1970’s the ABF, with a grant from the Ford Foundation researched creating a pilot plan and chose Shreveport, Louisiana. The report written by the Shreveport Bar Association discussing the project could have been written today.

It is generally conceded that fear of the cost of legal services has acted as a very real deterrent to a fuller use of legal services by a large segment of our public. In this day of full utilization of income produced with little, if any, financial reserve build-up, the average wage earner cannot handle unanticipated expenses. All too often a person is
driven into the office of a private practitioner by overwhelming outside forces too late for any relief or assistance. Most often this client avoided securing legal advice before he acted because of fear of cost or inability to pay. The result can often be catastrophic for the individual. Every active practicing attorney sees the adage, “A stitch in time saves nine” proven over and over and over again. Many times this is unfortunately accompanied by grave financial loss or exceeding sorrow at personal losses.

We do not suggest that persons fail to see attorneys because the cost is actually prohibitive. We do suggest that many persons believe the cost will be more than they can handle. This belief, albeit false, in most instances, serves as a sufficient deterrent to prevent or delay the securing of legal assistance. This reality is to be reckoned with.

We submit that the potential client who is armed with an “insurance policy” to cover all or a substantial portion of the legal costs and fees will far more readily seek legal services. And he will seek such services before the crisis stage is reached. More importantly, he will be far more likely to utilize legal services to his advantage, in advance of encountering difficulties. The law will prove to be more of his friend than his foe.

Shreveport Bar Association Plan for Prepaid Legal Services – A Compilation of Research Reports and Basic Documents (January 1, 1971)

These comments will address the ways in which the ABA Standing Committee on Group & Prepaid Legal Services and the GLSA are carrying on the work of those early visionaries and can assist the Association and the profession in moving into the future. The Standing Committee and GLSA did have a question on the reason for creating a distinction between legal and law-related services. We were unclear on the differences, and as lawyers and legal plan administrators, we will focus our comments primarily on legal issues.

Specifically, regarding the underserved communities/providing better service: Legal plans are very affordable to individual consumers, including those who may not be eligible for free legal assistance and those who do not see the need to pay a lawyer at their hourly rate, with many plans offering full coverage for things such as bankruptcy, estate planning, criminal matters, civil disputes, and family law for a small monthly payment (e.g. less than $24) or a flat fee.

Legal plans serve those underserved communities as they are continually researching and conducting market studies to determine what these communities need in terms of legal services and why they aren’t seeking out legal services. GLSA has found that a large market share of consumers do not meet the financial requirements of legal aid, but they do find value in
a legal plan which provides them access to legal services for a fraction of the cost of an attorney’s rate. Further, plans take the confusion and concern away from consumers who do not know how to find an attorney as they provide the consumer with an attorney in their area who can help them with their need.

The Legal Plans also provide legal tools and online resources, as well as immediate and easy access to consult with an attorney for those consumers who might not initially need to hire an attorney but desire to learn more about their issue. With respect to how attorneys can better serve their current clients: GLSA provides continuing legal education on providing excellent customer service, providing legal services in a virtual world and similar topics. We know that consumers will only purchase legal plans and seek out legal assistance if they feel they are receiving the best customer service and more importantly service in the manner in which they desire, whether through technology or face-to-face. We continually look for ways to educate and assist our attorneys with the growth of their practice through legal plans. Legal plans are a natural fit for providing better service to current clients and serving the underserved communities as the plans credential attorneys and ensure they are fit and able to provide services to their members. If there is an issue with service, the plans will either educate or remove the attorney from the plan, ensuring all of their members/consumers are happy and see the value in continuing to utilize their legal services plan benefits.

Regarding the most important problems in delivering legal and law-related services: The problems are several fold, all of which GLSA and legal plans are working towards finding solutions or have already resolved. As stated above many consumers are not seeing the need to hire an attorney. They feel with technology and the ability to “Google” anything, they can handle their legal needs by themselves. With a legal plan, consumers can just pick up the phone and ask a lawyer without making appointments or incurring costs.

Another delivery problem is that even if consumers see the need to hire an attorney, they may not want to schedule an appointment nor have the time to meet with an attorney in a face-to-face meeting. They want to be able to use video conferencing mechanisms, such as FaceTime or to be able to handle their legal issue through an app. Legal plans are in varying stages of offering these options, but they are on the leading edge of offering tech solutions to consumers.
Clients also want the ability to self-educate so they either can handle their legal issue by themselves or so they can better understand what their attorney is saying, to create better communication between them and the attorney. They want quick and easy solutions for their problems with as little money and time spent as possible as they do not want their life interrupted for this legal issue. They want more education via the web or an app regarding their court matter so they can see progress and understand their time and money has been well spent. They don’t want to have to pick up the phone or meet face to face to get an update, including a court update, on their legal matter. Legal plans often have on-line resources for their clients.

In addition, the Standing Committee is working with ABA Public Education Division to create information for lawyers to distribute to clients on general legal topics. Finally, the ABA is a tremendous resource for online and for-purchase legal information for the layman. The legal profession has been slow to change its traditional method of providing legal services. Again, that’s where the Standing Committee and GLSA come in as they advocate for and assist plans and attorneys with developing new ways to provide services in the manner in which consumers want them. We would like the opportunity to partner with this Commission to share our findings and help the legal profession understand how we can collectively work towards this change.

In terms of delivering legal services outside of dispute resolution and litigation, this is an area where legal plans can and do provide significant help and solutions. The items listed in the example are exactly what plans do routinely and well. With respect to innovation, the plans have been working to become more efficient and to help lawyers become more efficient. There is room for technological advancements here and in the legal plan industry. Online forms. Online chat with a lawyer. Video representation. All of these are new ways to provide legal services faster and more reliably. The plans are working on creating these platforms. The key difference between the established legal plans and online DIY organizations is that with a legal plan there is an attorney-client relationship and a licensed attorney is doing the legal analysis rather than an algorithm.

Regarding the issue of allowing individuals without a license to provide legal services in order to make services more affordable: GLSA respectfully asks that the Commission consider legal plans as a solution for providing efficient and affordable legal services. Legal plans are the answer because they find ways to provide services through technology or other means as
desired by consumers, all while championing the importance of a licensed and experienced lawyer and keeping the cost to the consumer to a minimum. Consumer protection is built into all phases of group legal plans. In order to sell a legal benefit to an employer, the plans have to be able to demonstrate that the lawyers are all credentialed and have sufficient experience. This extra level of protection is lost with non-licensed practitioners.

The public is not protected by lay people providing legal services. For example, there are private services that counsel people to post bonds on eviction cases. There are companies in Houston, Texas that solicit victims that are evicted from their homes or apartments. These ‘legal type’ companies charge a fee and prepare an appeal bond to be signed by an unqualified third party/ friend. The bonds are forwarded to the county court for process. In the meantime, the victim will stay in the home for another month. No lawyer is involved in this process. The net result; is the victim will still be evicted; the bond signer will be prosecuted for this fraud; and the ‘legal service’ company is compensated for perpetuating a scam.

We believe the legal profession can and must continue to show the importance of a licensed professional to the justice system. Lawyers and affordable legal services do not need to be mutually exclusive. GLSA asks for the opportunity to show the Commission how our industry has been growing over the last 70 years through providing affordable legal services.

In regards to the concern for small and solo practitioners, please understand that this is a major audience of many of the legal plans and for the most part, an attorney can be on more than one plan’s network. Attorney members of GLSA understand the importance of legal plans to their business and have been incredibly successful in partnering with the plans – many of whom, legal plan work is their sole source of income. One of GLSA’s main goals is to educate attorneys about legal plans as a no cost client development tool and have partnered with GP Solo and the Young Lawyers Division to help their membership grow business.

Regarding data: as stated above, GLSA is a wealth of information regarding providing affordable legal services. We request the ability to discuss with your our findings and goals and to explore how we can partner with the Commission on mutual goals.

Policy Changes are one of the limiting factors to innovation, attorney regulation has lagged behind technological advances. For example, some states are still amending their rules
to deal with email, while some law firms are on to sharing documents in the cloud. Regulation should be reviewed to address ways to make new technology/programs easier. New technology, even when done by a lawyer, may not be the “traditional” practice of law, so definitions related to UPL and other restrictions may need to be reviewed on a state by state basis. Professional rules of conduct should be reviewed and considered to make sure they allow for technological advances but still protect the attorney client privilege and the consumer.

Some of the challenges we see are rules and regulations that restrict the use of technology (mobile notary, privilege issues and online chat or email) and restrictions by old fashioned rules on advertising and solicitation as applied to modern legal services and technology.

Thank you for your consideration of our comments and we stand ready to discuss with you any of these issues facing the profession.

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