



STATE BAR OF MICHIGAN
**21st CENTURY
PRACTICE
TASK FORCE**

**Presentation to the
Representative Assembly**

by
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SBM 21st Century Practice Task Force

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Lansing Community College/MTEC Center

TASK FORCE COMPOSITION AND STRUCTURE

THE TASK FORCE

- 34 members and two co-chairs
- As diverse as possible, in every way possible
- Representatives of all major stakeholders
 - Supreme Court and SCAO
 - Legislative and Executive branches
 - All five law school Deans
 - Large, mid-size, small and solo law firms
 - Legal Aid suppliers and supporters
 - Justices, judges, lawyers and non-lawyers
 - Law students

THE COMMITTEES

1. Access and Affordability of Legal Services
(Linda Rexer and Judge Elizabeth Hines)
2. Building a 21st Century Practice
(Ed Pappas and Barry Howard)
3. Modernizing the Regulatory Machinery
(Justice Mary Beth Kelly and Renee Knake)

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Guiding Principles



The expectations and needs of clients, potential clients and others who use the legal system should be at the center of the delivery of legal services and its regulation.



To meet client needs and facilitate access to justice, innovation should be encouraged in how legal services are ethically delivered and by whom.



The legal services delivery system should help clients find the kind of legal help and information they need when they need it.



Optimal access to justice for all requires that those who provide legal services reflect the diversity of the population they serve.



Mechanisms should be developed to assure ongoing identification of and effective responses to changes.



The rules upon which regulation of legal services rest should continue to be based on enduring principles of professional ethics and protection of the public but should provide practical guidance responsive to the changing environment and the emergence of nontraditional delivery methods and providers.



Legal education for lawyers and others authorized to provide legal assistance should include future-oriented skills, knowledge and experiential learning, and continue during the full career.

TIMELINE



	Work of the Task Force
March 5, 2015	Appointment
April 27, 2015	First Meeting
November 12, 2015	Second Meeting
March 1, 2016	Final Meeting
	Work of Committees
	Access and Affordability
May 18, 2015	First Meeting
June 15, 2015	Second Meeting
September 15, 2015	Third Meeting
October 13, 2015	Final Meeting
	Practice
June 25, 2015	First Meeting
July 22, 2015	Second Meeting
August 20, 2015	Third Meeting
September 21, 2015	Fourth Meeting
October 21, 2015	Final Meeting
	Regulatory
July 13, 2015	First Meeting
August 25, 2015	Second Meeting
September 22, 2015	Third Meeting
October 6, 2015	Final Meeting
January 29, 2016	Town Hall



THE PROBLEM

A Dysfunctional Legal marketplace

Although lawyers are ethically committed to access to justice for all and support legal aid programs for the poor, quality legal services have never been available to all those who need them. Today, legal services delivered in traditional ways are becoming more unaffordable for large segments of the population. Even people who can afford legal services are often afraid of the cost and confused about whether they need legal help, what kind of legal help they might need, and how to find it. Despite a significant percentage of lawyers who are unemployed or underemployed, we are falling further behind in our goal of access to justice for all.

THE VISION

Transparent, accessible, and user-friendly Internet access to reliable legal information that encourages confidence in the value of legal services and provides connection to high quality, affordable legal services, plus on-the-ground resources that help those in need, extending a continuum of legal help to all who need it.

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KEY INNOVATIONS

- Unified online legal platform with triage module
- Legal Self Help Centers in all judicial circuits
- Lay navigator standards and training

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THE PROBLEM

Significant Issues for New Lawyers, New Challenges for Experienced Lawyers

Too many new lawyers are saddled with substantial debt, face employment challenges, and may lack the crucial “practice-ready” skills they need to serve clients competently in the absence of effective mentoring. Many veteran lawyers lack familiarity with the technology needed to take advantage of case management tools and systems for delivering legal services more affordably. Current Michigan lawyer regulation does not stress the need for practice skills at the beginning of a legal career, nor effectively incentivize updating skills and knowledge throughout a legal career.

THE VISION

More affordable and practice-oriented legal training that gives graduates the skills they need to begin to earn a living and serve the public upon admission to the bar. More opportunities for new lawyers to initiate their practices through service to low-income and “modest means” clients. More training and resources for all lawyers on the ethical, appropriate application of technology to the delivery and marketing of legal services. A post-admission continuing education system that encourages professional development throughout each lawyer’s career through innovative delivery and incentives.

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KEY INNOVATIONS

- Modernized admissions testing
- Pro bono culture within the law student community through the use of SBM social media and member directory platforms
- Individualized professional development and specialty certification in lieu of mandatory continuing legal education (MCLE)

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THE PROBLEM

Inefficient and Overly Complex Legal Processes

The legal profession has been reticent to modify litigation processes, court rules, and business practices in ways that may deliver more efficient and inexpensive solutions to legal problems. The organized bar and regulators have not taken up the challenge of creating, evaluating, testing, or implementing significant changes that utilize existing business process tools and technologies to create a more efficacious system.

KEY INNOVATIONS

- Culture of routine business process analysis for ongoing improvement in legal services delivery and court processes
- Civil process innovations, focusing on pretrial reform and removing appropriate types of cases from the judicial process
- Online dispute resolution pilot programs
- Statewide venue specialty courts
- Tech-assisted remote legal services delivery

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THE PROBLEM

Regulatory Hurdles

In part due to the global marketplace and developing technologies, many legal problems are intertwined with issues beyond a lawyer's or law firm's expertise. In such circumstances, legal problems are best addressed in collaboration with non-law professionals. Non-lawyers are currently providing services addressing legal problems, most notably via the online marketplace, without any regulation. The traditional law firm business model and current regulatory systems and rules are ineffective in fostering collaboration while protecting the public.

KEY INNOVATIONS

- Comprehensive LSR system with LSR standards, coordinated with referral network
- Better technology-based support for members by reallocating SBM resources
- Proactive, preventive focused disciplinary system

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THE PROBLEM

Cultural Resistance to Innovation

The legal system does not have an innovative orientation. In a time when technological innovations are transforming the marketplace, the absence of an innovative culture puts the legal profession and the ability to deliver quality legal services at risk. The 21st Century Practice Task Force was created to address that problem by developing a comprehensive set of changes, from the practical and immediately achievable to cutting edge initiatives. Staying ahead of externally driven changes to create the best possible future requires an ongoing, permanent commitment. The changes on the horizon are profound, particularly with the advent of artificial intelligence applications to legal processes. The rules and processes of the legal system will need to adapt at a much faster pace to take advantage of the new efficiencies while preserving quality. Jurisdictions that embrace the need for change and are most adept at adapting their rules and processes will not only be leaders in enhancing access to justice for their citizens but will also provide advantages to their business community and the jurisdiction's economic competitiveness.

THE VISION

Take advantage of the momentum for innovation already underway in Michigan, expanding the ongoing transformation of the court system through increased use of technology, triage, mediation, alternative dispute resolution, and the initiation of online dispute resolution. Accelerate changes in court rules and the rules of professional conduct to ensure continuous public protection and system improvement, taking advantage of service-enhancing technological developments. Establish Michigan as a leader in the ethical modernization of the delivery of legal services.

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KEY INNOVATIONS

- Justice Innovations Guidelines
- Justice Innovations

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Overview of Recommendations

Development of Comprehensive Public Platform linked to Full Range of Legal Services and Information

- User-friendly, reliable, ethical consumer information
- Triage system to guide those in need of legal services, assisted by technology and other navigation assistance, including from trained lay navigators and links to find a lawyer, help centers, related resources
- Collaboration across Michigan's three leading platforms
- Legal Self Help Centers in all judicial circuits

Nurturing of New Service Delivery Options

- Unbundling system (limited scope representation) to expand access
- Billable hour alternatives
- Limited multidisciplinary practice (MDP)
- Support for innovative law firm models
- Online pro bono opportunities
- Limited pilot projects to test expanded availability to counsel in certain civil cases and reporting of pro bono hours
- Coordination with Michigan Indigent Defense Commission innovations

Court Innovation, Simplification, Standardization

- Emphasis on mediation (early, automatic, draft pleadings)
- Civil process innovations to tailor pre-trial practice on case-by-case basis
- Expanded video conferencing
- Streamlined probate and research to identify types of cases appropriate to remove from judicial process
- Statewide specialty court venue; access through e-filing portal
- Promote appropriate application of problem-solving court principles to all courts
- Use business process analysis
- Expanded online dispute resolution

Overview of Recommendations

Dynamic, Data-driven New Lawyer Support

- Ongoing SBM assistance to variety of practice-readiness assistance options (incubators, internships, clinics, New Lawyer Institute, mentorship programs) to test effectiveness; collect data and do analysis, provide tools to lawyers/firms

New Model for Continuing Legal Education and Professional Development

- Emphasis on tech competency and ethics training, baseline competency training, and support as part of SBM membership benefit
- Innovative, customizable delivery methods for specific legal training
- Specialty certification
- Convenient self-testing, self-assessment tools for continuing legal education

Modernized Regulation

- Malpractice insurance disclosure; easy consumer access to that information
- Voluntary, innovative CLE, plus continuing professional development support for every practicing lawyer
- More transparency and uniformity
- Development of consensus on regulatory objectives, incorporating inclusion, diversity, and cultural competency
- Regulate non-J.D. legal service providers (e.g., paralegals and lay navigators)

Innovative Changes to Bar Admissions

- Sequential bar admissions testing
- Practice criteria for lawyers without Michigan licensure

Strategies for Persistent, Value-Driven Change

- Judicial Innovation Center
- Justice Innovations Guidelines





Where Do We Go From Here?

What Comes Next?



- President Buiteweg has appointed a Steering Committee to direct recommendations
- State Bar leads the way
- Rep Assembly and BOC will need to address certain recommendations
- Supreme Court involvement
 - Model Rules of Professional Conduct
 - Michigan Court Rules
 - Board of Law Examiners
 - Attorney Grievance Commission and Attorney Discipline Board
- Michigan Legislature
- Justice Innovations Center

What NOW?

- Review the Task Force work product
- Take it back to your constituents
- Be prepared to discuss individual recommendations that require Assembly approval





“It is change, continuing change, inevitable change, that is the dominant factor in society today. No sensible decision can be made any longer without taking into account not only the world as it is, but the world as it will be.”

Isaac Asimov

BEST LEGAL FUTURE

www.michbar.org/FUTURE

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