

The Future of Legal Services: Changes and Challenges in the Delivery of Legal Services

November 10, 2014
State Bar of Michigan

Summary Report

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Introduction

Over 70 leaders of Michigan's legal community, including the president of the State Bar of Michigan, the president of the American Bar Association, and the chief justice of the Michigan Supreme Court, convened to discuss the future of legal services in Michigan. Also attending were law school deans and past presidents of the ABA and the State Bar, the directors of Michigan's attorney discipline agencies, the Michigan State Bar Foundation, and the Institute for Continuing Legal Education.

Michigan is poised to be a leader because the major institutions responsible for the quality of legal services in Michigan—the Michigan Supreme Court, the State Bar of Michigan, the Michigan State Bar Foundation, the legal services providers, the Attorney Grievance Commission, the Attorney Discipline Board, and the Institute for Continuing Legal Education—have all been or are emerging as national leaders on many of the critical issues affecting the delivery of legal services in the 21st century. In addition, Michigan's law schools collectively present a composite picture of the challenges and opportunities facing legal education today. The goal of the day put together leading thinkers from all of these institutions to begin to formulate a blueprint for the future.

Presentations

In our plenary session, as introduced by the president of the State Bar of Michigan, Thomas C. Rombach, we heard the president of the American Bar Association, William Hubbard, describe the ABA Commission on the Future of Legal Services and connect the State Bar of Michigan's work at the forum to the charge of the Commission. Hubbard described why the legal profession is at an "inflection point." Despite attorneys' very generous pro bono efforts and financial contributions to access to justice for the poor, Hubbard said 80 percent of people who are poor, and many others of moderate means, do not get the civil legal assistance they need, and the United States ranks just 27th in the civil justice category among 99 countries in the World Justice Project's 2014 Rule of Law index.

Janet Welch addressed the need to face change despite the many skeptics who question whether changes in the profession are underway. Technology and economic pressures are changing the game. We need young people to turn the inflection point into change. Do we keep the delivery the same and hope for different results, or how do we train lawyers to be most cost effective? What skills should be tested? What is the practice of law? What is the value of the organized bar? The State Bar of Michigan has been addressing these questions for some time and is eager to have today's conversations.

Justice Bridget McCormack followed with an optimistic note, underscoring the progress Michigan has made using technology to promote greater accountability within Michigan's court system, including using pioneering mobile apps to make interactions with the court more convenient.

Seven experts then offered a lightning round describing major issues in four categories:

- **The Future for Today's and Tomorrow's Lawyers**, led by Paula Littlewood, Washington State Bar Association, and Candace Crowley, State Bar of Michigan
- **Public Access to the Courts/Access to Justice**, led by Linda Rexer, Michigan State Bar Foundation, and Prof. Daniel Linna, Jr., MSU College of Law
- **Economic Viability of Today's Law Firm Model**, led by Prof. Renee Newman Knake, MSU College of Law
- **The Changing Demographics and Economics of the Profession**, led by Dennis W. Archer, Dickinson Wright PLLC, and Anne Vrooman, State Bar of Michigan

Breakout Sessions:

Participants then separated into four concurrent breakout sessions facilitated by the experts described above. Their charge was to choose the top five issues within the assigned four categories, to describe each issue in terms of the key challenge it presents, and to provide a brief rationale why this challenge was important enough to make it into the top five.¹ The 20 total challenges identified by the breakout participants were:

The Future of Legal Services: Changes and Challenges

*1. Please choose the top four challenges:

- | | |
|--|--|
| <input type="checkbox"/> Future for Today and Tomorrow: Bridging the gap between law school and practice | <input type="checkbox"/> Public Access/ ATJ: Creating a tech assisted continuum of care and triage |
| <input type="checkbox"/> Future for Today and Tomorrow: Regulating and supporting the legal services delivery system | <input type="checkbox"/> Public Access/ ATJ: Create an ethical, quality system for unbundled services |
| <input type="checkbox"/> Future for Today and Tomorrow: Rebranding the profession to focus on client value | <input type="checkbox"/> Public Access/ ATJ: Create an ethical, quality system for using non-lawyers |
| <input type="checkbox"/> Future for Today and Tomorrow: Lead in the development of new platforms for client-focused legal services | <input type="checkbox"/> Public Access/ ATJ: Increase use of lean thinking and simplification to address access including affordability |
| <input type="checkbox"/> Future for Today and Tomorrow: Using technology and innovation to increase efficiency and value | <input type="checkbox"/> Public Access/ ATJ: Increase user-friendly online content and online tools while ensuring confidentiality and avoiding conflict of interest |
| <input type="checkbox"/> Economic Viability of Law Firm Model: What do we mean by viability, including economic viability? | <input type="checkbox"/> Changing Demographics & Economics: The cost of education needs to be reduced |
| <input type="checkbox"/> Economic Viability of Law Firm Model: Globalization and technology | <input type="checkbox"/> Changing Demographics & Economics: Impact of student debt needs to be addressed |
| <input type="checkbox"/> Economic Viability of Law Firm Model: How do we make using a lawyer worth the cost? | <input type="checkbox"/> Changing Demographics & Economics: The lack of appropriate distribution of legal services |
| <input type="checkbox"/> Economic Viability of Law Firm Model: Educating the public and clients | <input type="checkbox"/> Changing Demographics & Economics: Licensing reform |
| <input type="checkbox"/> Economic Viability of Law Firm Model: Law firm culture and regulation | <input type="checkbox"/> Changing Demographics & Economics: Advocacy for the profession |

Results were posted on flip charts for review by the entire group. Participants were then asked to use a Survey Monkey tool to identify the top eight challenges. Voting occurred during the lunch session.

1. The breakout groups brainstormed numerous challenges and then selected the top five from those; only those in the top five are reported here.

Lunchtime Presentations

Chief Justice Robert P. Young, Jr., the forum's lunchtime speaker, emphasized the Supreme Court's commitment to driving Michigan's court system to improve service to the public, and recognized the State Bar for helping to spur change through its 2011 Judicial Crossroads Task Force Report. "When it comes to Crossroads, our message is simple: promises made, promises kept," Chief Justice Young said. The chief justice challenged attendees to focus on the problem of newly licensed attorneys being insufficiently ready to serve clients, particularly as solo practitioners.

Janet Welch explained why Michigan is in the best position to be a national leader on the delivery of legal services. We are an international border state in a global economy. We must examine and re-envision how lawyers are licensed. We have been the world's automotive leader and are now in a slow process of reinvention; we know how to do hard things well, as well as the perils of not acting in the face of market transformation. The Supreme Court and the State Court Administrative Office are showing what it means to increase accountability. The State Bar has the willingness and capacity to lead the effort. We have five very different law schools and they are laboratories for testing legal education reform. Janet also recognized national leaders from Michigan.

Dennis W. Archer Jr. provided inspirational remarks to the audience that focused on the value of diversity and inclusion in this process. His remarks set the stage for the creative identification of innovations to consider in addressing the top eight challenges identified by the voting process.

Top Eight Challenges

At the end of the lunch presentation, survey results identifying the top eight challenges in Michigan were displayed. Among the top challenges identified by those at the forum were:

- using technology and innovation to increase efficiencies and value in the legal system;
- creating an ethical and quality system so self-represented people can get help from a lawyer where and when needed;
- bridging the gap between law school and practice; and
- regulating and supporting the legal services delivery system to allow more people and businesses to have access

The complete list is:

Top Eight Challenges in Michigan			
1	Future for Today and Tomorrow: Bridging the gap between law school and practice	32.7%	16
2	Public Access/ATJ: Creating a technology assisted continuum of care and triage	30.6%	15
3	Public Access/ATJ: Creating an ethical, quality system for unbundled services	30.6%	15
4	Changing Demographics & Economics: Reducing the cost of legal education	28.6%	14
5	Future for Today and Tomorrow: Using technology and innovation to increase efficiencies and value	26.5%	13
6	Changing Demographics & Economics: Licensing reform	24.5%	12
7	Future for Today and Tomorrow: Regulating and supporting the legal services delivery system	20.4%	10
8	Future for Today and Tomorrow: Leading in the development of new platforms for client-focused legal services	20.4%	10

Innovation Brainstorming²

Participants then returned to their breakout session to brainstorm ideas and strategies for tackling those issues. One example of the work created in these sessions is shown at the end of this report. Some of the many innovations reported by the work groups include:

- developing more online apps like a mobile app being used to resolve traffic tickets;
- adopting a broader limited scope “unbundled” representation rule;
- creating more certificate of specialty practice area programs; and
- considering the limited licensing of non-lawyers to provide legal services in certain practice areas

Other innovations reported in the plenary include:

1. Future for Today and Tomorrow: Bridging the gap between law school and practice
 - a. Test lawyers’ skills.
 - b. Offer certifications on specialties.
 - c. Mentor programs either pre- or post-bar exam.
 - d. Provide access to high-quality practice resources.
 - e. Consider articling system similar to Canada’s.
 - f. Make referrals to appropriate entities through a single intake point.
2. Public Access/ATJ: Create an ethical, quality system of unbundled services
 - a. Establish an unbundling/assisted self-help approach.
 - b. Address ethical issues including conflicts of interest.
3. Changing Demographics & Economics: The cost of education must be reduced
 - a. Law students should have the ability to work during school.
 - b. Externships and internships should be accompanied by both pay and class credit.
 - c. Co-op type law school education should be available.
 - d. Law school deans should be accountable for the cost of legal education.
 - e. The ABA’s ranking of law schools and unintended consequences should be considered.
 - f. State Bar dues could be increased based on salary, and distributed to law schools to students based on need.
 - g. Consider that the cost of law school might be reduced and there will be a market correction.
4. Changing Demographics & Economics: Licensing reform
 - a. Apprenticeships should be created.
 - b. A commission on licensing reform should be formed.
 - c. Dual licensing and cross-border licensing should be facilitated.
 - d. Limited licensed legal technicians (LLLTs) should be considered in Michigan.
 - e. Educational requirements should be reconsidered.
 - f. CLE for new practitioners should be implemented.
5. Future for Today and Tomorrow: Innovation and technology
 - a. Use new technologies like Dropbox.
 - b. Build new platforms to deliver legal services.
 - c. Develop better ways for data collection to improve metrics to advance legal decision-making.
 - d. Develop more small-case resolution apps.
 - e. Provide online client intake forms.

2. The breakout groups brainstormed numerous innovations; only those reported out in the plenary session are described here.

6. Future for Today and Tomorrow: Regulating and supporting the legal services delivery system
 - a. Consider national practices and national and multijurisdictional licensure.
 - b. Consider licensing specialization on a national level.
 - c. Consider services by cost effectiveness as demonstrated by Washington's LLLTs.
 - d. Consider whether the bar association should play a role in lawyer rating services.
 - e. Explore facilitation of multidisciplinary practices.

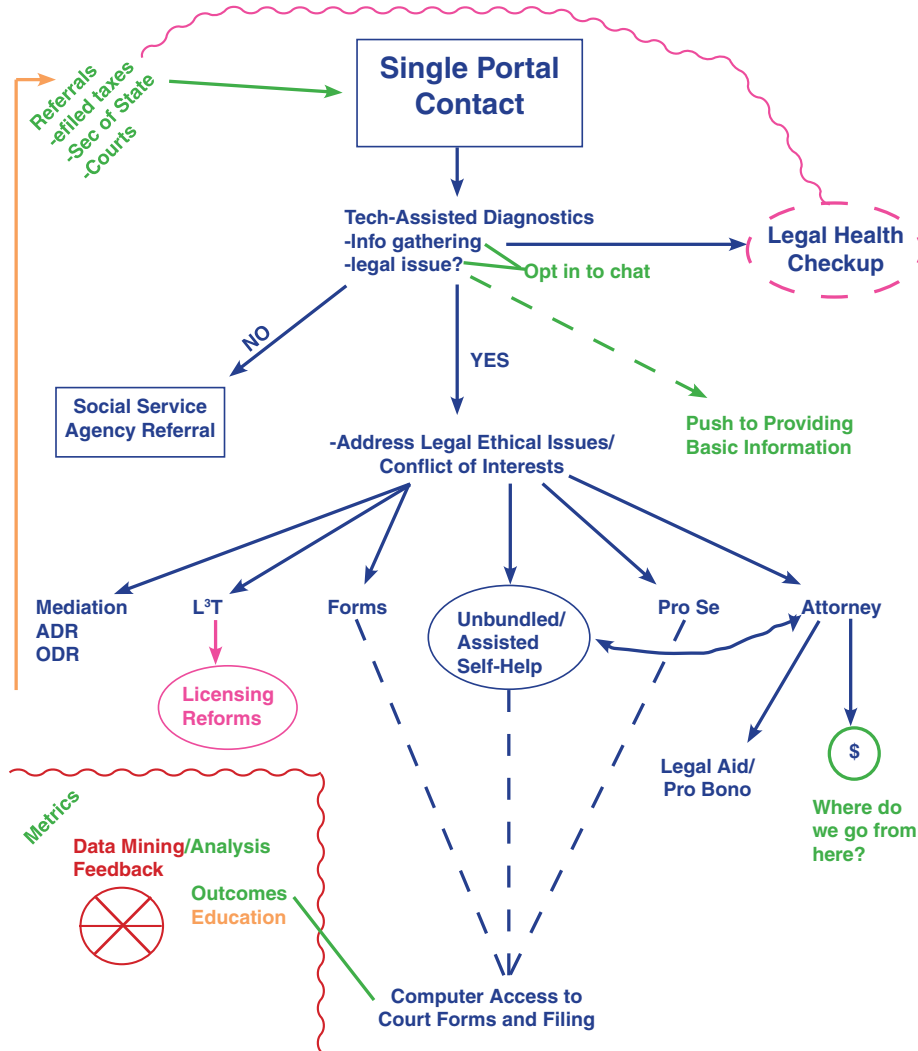
7. Future for Today and Tomorrow: Lead in the development of new platforms for client-focused legal services
 - a. Expand program like paying traffic tickets by an app.
 - b. Consider whether bar associations should collaborate with entities creating legal apps.
 - c. Promote the increase and effectiveness of alternative dispute and online dispute resolution.
 - d. Anticipate that more groups like AVVO will offer legal services.

Conclusion

The conversation will continue more intensely within the Board of Commissioners, the State Bar Representative Assembly, and the 21st Century Practice Committee. We hope that the forum's attendees will take the questions, ideas and enthusiasm generated within the forum back into the legal community so Michigan can continue to be at the forefront of shaping the future of the delivery of legal services.

Innovation Flip Chart Developed by Breakout Group #2

Public Access/ATJ: Creating a technology assisted continuum of care and triage.
Levels of care and opportunities for assistance



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