



CONSUMER PROTECTION | POLICY CENTER
at the
CENTERS FOR PUBLIC INTEREST LAW
5998 Alcalá Park
San Diego, CA 92110-2492
P: (619) 260-4806 | F: (619) 260-4753
www.sandiego.edu/cppc | info@cpil.org

State Bar of California, Board of Trustees

Public Comment by the Consumer Protection Policy Center Concerning the
September 23, 2021, California Paraprofessional Program Working Group Report
and Recommendations

By Karen Thomas Stefano, Administrative Director,
Consumer Protection Policy Center

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My name is Karen Thomas Stefano. I am the Administrative Director for the Consumer Protection Policy Center (CPPC), formerly known as the Center for Public Interest Law (CPIL) at the University of San Diego School of Law. On behalf of CPPC, I first want to thank the members of the California Paraprofessional Program Working Group (CPPWG) for their dedication, time, hard work, and demonstration of leadership. Their work confronts the vital importance of innovative expansion of legal services.

The CPPWG crafted these proposed solutions as a result of thousands of hours of research, discussion, and debate from every point of view—including consumers, legal services organizations, courts, law schools, and attorneys. They carefully weighed the risk of receiving limited services to receiving *no* services. As a result, the Report contains so much transparency and puts forward a thoughtful and balanced proposal.

CPPWG was charged with developing recommendations for the creation of a paraprofessional licensure program. CPPWG's task was to balance the dual goals of ensuring public protection and increasing access to legal services. This idea has been studied in California since the 1980s. It's time to stop studying and to take action for the benefit of Californians.

CPPWG's analogy of comparing this situation to the medical profession could not be more on point: an individual doesn't always need to see a doctor. In many instances, a Physician Assistant or Nurse Practitioner is more than qualified to serve a person's need. The same is true here with legal services.

Justice Petrou stated at the Board of Trustees' September meeting that the CPPWG did not recommend a general license, and eligibility to seek licensure is limited. A \$100,000 bond is required—something not required of attorneys. The CPPWG analyzed these issues exhaustively and set out intense requirements, including educational parameters, testing, and experiential requirements. There is informed consent to avoid confusion to consumers. There are strict licensing requirements for paraprofessionals. Start-up costs are minimal and will soon be sustained by paraprofessional fees. Judges support the Report and Recommendations because they have witnessed firsthand how individuals proceeding *pro per* bog down our courts. Paraprofessionals will help eliminate this problem and streamline our justice system.

The objections to the Report and Recommendations are nothing but protectionism—attorneys wanting to shield their own business. Objections have been filed within the Report, and several individuals spoke out against the Recommendations at the September

Board of Trustees meeting. These opponents are 100% self-interested and seek only to obstruct reform. The comments against the Recommendations are anti-competitive. These are lawyer interest group representatives who don't want competition, who don't want consumers to have alternatives. The State Bar's analysis reflects that the average hourly rate for an attorney is \$338. This is out of reach for low to mid-income workers. We need solutions. We have tried pro bono representation and legal aid, but they simply are not enough. Millions of Californians with moderate incomes make too much money to qualify for pro bono services or legal aid—and yet they make too little to afford the \$338 per hour in legal services that lawyers charge clients. Contrary to the assertion of opponents, these Recommendations are not revolutionary. LDAs, for example, have existed for years.

Many opponents have argued there is “no statistical data” to support that there is a problem with access to justice. This is false. The State Bar's 2019 study demonstrated there is indeed a problem. The truth is that there is no statistical data to demonstrate there *isn't* a problem with unmet legal needs.

Legal Aid stands in opposition because they see this Recommendation as a threat to their funding. CPPC is sympathetic to their concerns. They have scarce resources, but we need to develop other resources for Californians in need. The existence of paraprofessionals will ultimately help Legal Aid organizations to perform their services more efficiently. Others have argued that this Recommendation proposes to “scrap the entire legal aid system.” This constitutes more hyperbole and lies. Legal Aid does a terrific job for its clients but would require significant increases in funding simply to serve all of the poorest Californians, let alone the middle-income individuals who cannot afford a

lawyer. We must supplement the Legal Aid model. This is not an “either/or” situation. This is a step toward progress.

Others have argued they “would prefer the State Bar and Legislature focus on expanding funding for legal aid organizations.” That’s easy to say and has been the sole focus for years—and it hasn’t worked. But, again, this is not an either-or situation.

Other opponents argue that “contingency counsel are available in many cases for no “out-of-pocket cost.” This assumes these attorneys will take any case. They won’t. They will only take cases on a contingency basis when there is a certain payoff for *them*.

Others have complained that there are no fee caps. This is Economics 101: let the market make this determination. Paraprofessionals are not going to price themselves out of the market, out of a potential client.

Thank you for your consideration. In closing, the CPPC applauds the California Supreme Court’s efforts to increase the number of lawyers by lowering the score required to pass the California bar exam. This is a step in the right direction, but we need more. CPPC urges the Board of Trustees to examine these statements of opposition critically, with a jaundiced eye toward the self-serving interest behind every one of them. What’s striking is the hyperbole and lack of statistics or any evidence whatsoever to support these opponents’ position. It’s worth considering the number of times these opponents use the words “could” and “potentially” in their self-serving arguments. This language reveals the lack of substance behind their disagreement and speaks volumes.