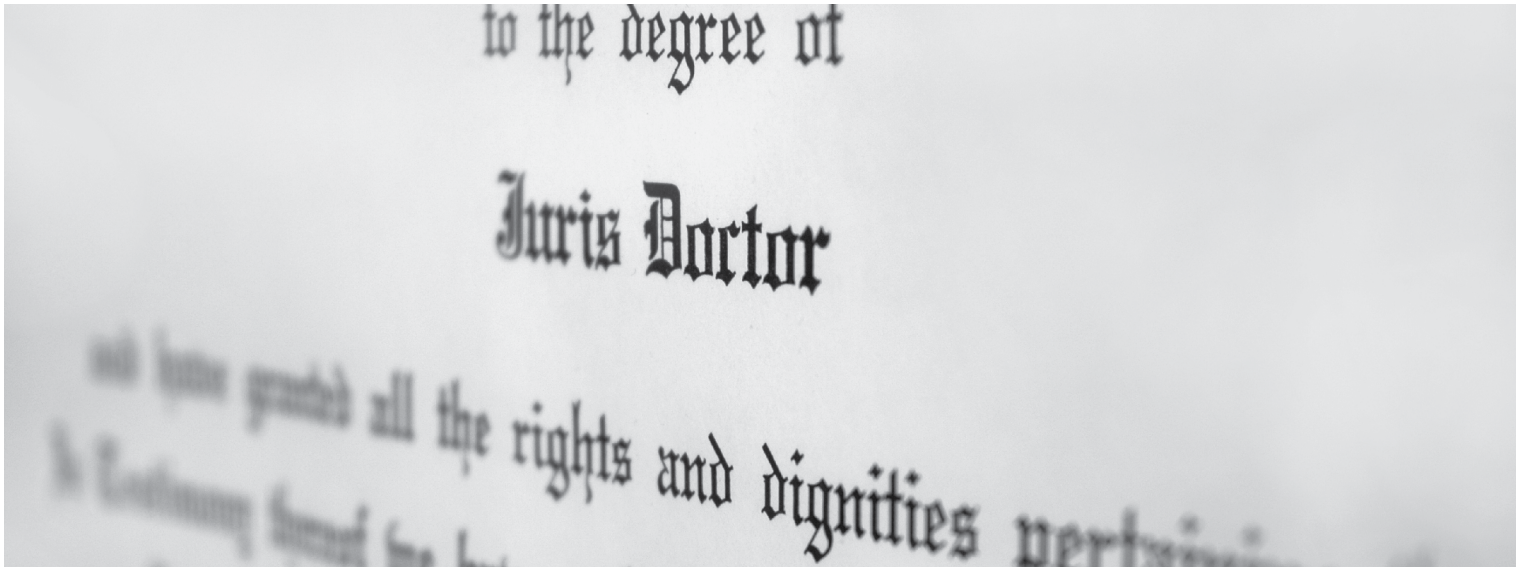


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AB 2958 - State Bar Matters

By Arash Homampour

Among the exciting new laws taking effect on January 1 is a real sleeper, unless you know that it contains a hidden gem. AB 2958 involves the workings of the State Bar and is - as you would expect - fairly mind-numbing. But don't be deceived. The bill addresses an issue that has been the target of considerable contention and acrimony within the profession - practice of law by non-attorneys - and it handles it with aplomb.

Apparently responding to concerns raised by California attorneys about the potential harm posed to the public by letting non-attorneys provide legal services, the legislature has now required that any State Bar entity interested in creating a regulatory sandbox or licensing non-attorneys as paraprofessionals make protecting the public its top priority.

New Section 6034.1 of the Business and Professions Code requires that any such entity take actions

to protect those in need of legal assistance from "unscrupulous actors." The law also requires entities to "[p]rioritize increasing access to justice for persons who qualify for legal assistance from qualified legal services organizations or from State Department of Social Services-funded immigration legal services."

Notably, the law does not limit consideration of the use of technology to increase access to justice for persons who qualify for legal assistance, so long as there is no abrogation of restrictions on the unauthorized practice of law. The State Bar may solicit feedback from legal services organizations, including those that provide legal services in family law and immigration law, community-based organizations, and consumers about options for increasing access to legal services.

Of equal significance is a new provision that expressly excludes "corporate ownership of law firms and splitting legal fees with non-lawyers, which has historically

been banned by common law and statute due to grave concerns that it could undermine consumer protection by creating conflicts of interests that are difficult to overcome and fundamentally infringe on the basic and paramount obligations of attorneys to their clients." The State Bar is expressly prohibited from proposing "any abrogation of... the restrictions on the unauthorized practice of law, including, but not limited to, Sections 13405 and 16951 of the Corporations Code."

These provisions should go a long way toward ensuring that consumers seeking legal help receive competent and professional advice. The bill also calls on the State Bar to provide a report to the Senate and Assembly Committees on the Judiciary by Jan. 15, 2023 detailing the funding spent since 2018 to study the creation of a regulatory sandbox or the licensing of non-attorneys as paraprofessionals. "The report shall be disaggregated by year, by source of funding, and by the use of funding, including,

but not limited to, salaries, travel, food and beverage, facility rental, and lobbying." On Jan. 1, 2025, this reporting requirement will be repealed and application of the other requirements will be limited to any entity of the State Bar exploring a regulatory sandbox.

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