



June 16, 2022

Senator Thomas Umberg  
Chair, Judiciary Committee  
California State Senate  
1021 O Street, Room 3240  
Sacramento, CA 95814  
VIA EMAIL: [senator.umberg@senate.ca.gov](mailto:senator.umberg@senate.ca.gov)

RE: Assembly Bill No. 2958

Senator Umberg:

I write on behalf of Responsive Law, a national nonprofit organization working to make the civil legal system more affordable, accessible, and accountable to its consumers. We advocate for policies that expand the range of legal services available to meet people's legal needs, so that people of all income levels can get the reliable legal help they need.

As the members of this committee are aware, the State Bar of California has been working, through the auspices of its Closing the Justice Gap Working Group and its Paraprofessional Program Working Group (collectively, the "Working Groups"), to address the structural impediments to consumers getting reliable and affordable legal help. Responsive Law has been there from the beginning, providing input to the State Bar as it conducted its initial task force work in this area. Responsive Law has continued to provide input to the Working Groups as they have moved through their processes and will keep doing so until they make their formal recommendations to the State Bar.

Now, however, the State Bar's important work in this area is being threatened by a legislative end-run—an end-run that goes directly through this committee.

### **The Working Groups are Focused on the Access to Justice Problem**

We will not belabor the many obstacles that consumers face when seeking access to legal assistance—obstacles that, perversely, have served to dampen demand for legal services that

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California lawyers could otherwise provide to citizens of the state. The two primary pathways that the Working Groups are approaching to address these obstacles are:

- Assessing the feasibility of a “regulatory sandbox” (a concept deployed successfully by the State of Utah in 2020) to allow the State Bar to test regulatory reforms and gather data about the impact of such reforms on access to legal help and consumer protection.
- Potential licensure of paraprofessionals to provide certain limited-scope legal services.

### **The Public Nature of the Working Groups**

For several years now, the Working Groups have been holding hearings and gathering data so that they can make informed decisions and recommendations about these matters. These hearings have benefited from the participation of a wide range of member perspectives, including consumer-facing attorneys, legal consumers, trial courts, and legal services organizations. This process has been—and continues to be—public-facing, transparent, and empirical.

### **The Proposed Amendments Hamstring the Bar’s Work**

Unlike the open and informed process followed by the Working Groups, the amendments in Section 3—tacked onto the State Bar’s general funding bill—represent a backdoor attempt to gut the very work the Bar is seeking to do. Made public just today, with next to no time for public review and input, these amendments are nakedly protectionist. They attempt to short-circuit the Working Group process by preventing the Bar from *even considering* tweaks to broad categories of regulation. Effectively, the amendments foreclose any consideration of changes to the current prohibition on fee-sharing or the scope of the “practice of law” monopoly enjoyed by lawyers. It does not matter whether any such changes—no matter how minor—would be in the public interest. The amendments lock the current rules in, any evidence to the contrary be damned. How is that serving the public?

And this is not the first time we have encountered these issues. The proposed amendments strongly echo complaints from practicing attorneys that we have heard repeatedly. But while Responsive Law does not believe these complaints have merit, they should be considered via an open, public, and evidence-based process—not a back-door thumbing of the scale in favor of private practice attorneys. (This is a particularly bad look when eight out of eleven members of this committee are lawyers).

The Working Groups are deep into a process that will be completed in a matter of months. And even when it is done, any Working Group recommendations for regulatory change would still need to be approved by the State Bar, the California Supreme Court, and (if there is a need for

legislative changes or appropriations) the California Legislature. The Judiciary Committee should let the State Bar complete its work, open and in public, rather than permitting this legislative end-run to occur. **We strongly urge this committee to reject the proposed amendments in Section 3 of the bill.**

Sincerely,

A handwritten signature in purple ink, appearing to read "Tom Gordon", with a long horizontal flourish extending to the right.

Tom Gordon  
Executive Director