

# Minutes

## Attorney Referral Fees Committee

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**Meeting Date:** April 24, 2018  
**Location:** OSB Center, Tigard  
**Chair:** Kurt Hansen  
**Members present:** Ankur Doshi, Michael O'Brien, Robert Kline, Steven Berman, Scott Howard, Angela Lee-Mandlin, Catherine Yao, Rep. Karin Power, Helen Hierschbiel, Vanessa Nordyke  
**Members via phone:** Tara Millan, Leigh Gill, Mika Blain, Thomas Christ, Sarah Litowich, Jermaine Brown, Erin Pettigrew, Robert Gratchner  
**Staff Members:** Susan Grabe, Kellie Baumann (OSB)  
Richa (Legislative Assistant, Rep. Karin Power)

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1. **Introductions and Overview.** The chair, Kurt Hansen, called the meeting to order and asked committee members to introduce themselves. He then provided an overview of the formation of the committee which was a result of an amended resolution at the November OSB House of Delegates meeting that called for further study of the attorney referral fee issue. The original OSB HOD resolution was a recommendation from the OSB Futures Task Force proposing that the attorney referral fee rule be amended.

2. **Review of Committee Charge.** The committee reviewed the charge and timeframe for the project. Although ambitious, the board would like to see recommendations from the committee sometime in September or October.

3. **Background Materials.** The committee discussed the background materials hosted on the bar's website by date and available for review. The committee reviewed the type of online legal service providers currently providing limited scope representation for a flat fee, considered marketing, versus paying for a lead which is problematic.

4. **Issues Discussed.** Issues the committee discussed included the following:

- This is an access to justice issue. Consumers go to the web in search of answers and/or attorneys. How do we protect the public and ensure competent representation?
- The OSB LRS (Lawyer Referral System) is available but is it enough to ensure the public has access to justice. How do ensure the LRS comes up earlier in a google search?
- Will the public be better served by fee sharing between these companies and attorneys instead of attorneys paying for a lead?
- The Futures Task Force Report identifies issues and the scope of the problem is enormous. Lawyers have limited expertise in using technology as a means of building a client base and are not tech-savvy.
- The access to justice gap continues to grow. How do we educate consumers on how to identify when and whether they have a problem that requires legal assistance?

5. **Rule Change.** The committee discussed what happens if there is a rule change. The following issues were expressed:

- Non attorneys could get % or share of attorney fees generated by case.
- Older, more established attorneys may object. Newer, more tech savvy, or rural attorneys view it more as a benefit.
- Current situation is an obstacle to ATJ because legal fees are often beyond what even middle income consumers can pay which results in inability to access legal services.
- Concern that the third party would set the price and interfere with the attorney client relationship exercising undue influence. There are, however, rules that still apply such that an outside third party relationship cannot impact the independent judgment of an attorney and the attorney client relationship.
- There is limited regulation of online legal service companies. The main interest of these companies is to make a profit, not to ensure access to justice for clients. On the other hand, if these companies are not providing good services to clients, then they won't stay in business.
- If the only objection is reducing fees and not about quality of services received, then it is no different than a fee minimum, like the old attorney fee schedule.
- Currently, attorneys that bring money back into the service are the ones at the top of the lists. Like a pay to play model – not a healthy market-drive environment.
- When does regulation become a violation of Antitrust laws? Protection for the consumer in Oregon is the UTPA.
- The Rules of Professional Conduct exist to protect the public.

6. **Additional Background information.** The committee determined that it needs additional background information on how these third-party companies operate.

7. **Data Driven Decision making.** The committee focused on the question of how to protect the public and promote the greatest access to justice. How does the current model protect clients? The discussion and recommendation should be based on data driven decision-making.

8. **Next Steps:** Staff will locate earlier presentations made to the Futures Task Force on this topic and make them available on the Attorney Referral Fee Committee website.

9. **Next meeting:** June 2018  
Doodle Poll will be sent to determine the best date and time.