2019

Resources and URLS related to ABA Model Rule of Professional Conduct 5.4 (originally prepared for the May 2019 ABA CPR Conference in Vancouver)

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Available at: https://works.bepress.com/laurel_terry/97/
Considering the Future of Rule 5.4
45th ABA National Conference on Professional Responsibility
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Laurel S. Terry, Resources Relevant to the CPR Rule 5.4 Panel (May 2019)
(Please send additional suggestions to LTerry@psu.edu, Updated 6-4-19)

1. **Rule 5.4** of the ABA Model Rules of Professional Conduct, [https://perma.cc/GB2C-3C65](https://perma.cc/GB2C-3C65)


3. **Rationale for Rule 5.4**
   - Laurel S. Terry, *Examples of Regulatory Objectives for the Legal Profession* (Updated March 2, 2019), [https://works.bepress.com/laurel_terry/89/](https://works.bepress.com/laurel_terry/89/) (short document that lists the regulatory objectives adopted by the Supreme Courts of Colorado, Illinois, and Washington, as well as the ABA’s Model Regulatory Objectives and those from non-U.S. jurisdiction; it also includes links to a long article and short article about regulatory objectives)

4. **State Versions of Rule 5.4 that Differ From/Supplement ABA Model Rule 5.4**:
   - **D.C.**: RPC 5.4 (allows partnerships and fee sharing among lawyers and nonlawyers in the delivery of legal services), [https://perma.cc/GBJ4-5EWM](https://perma.cc/GBJ4-5EWM)
   - **Georgia**: RPC 5.4(e) (allows fee sharing with ABS firms that are legal in their jurisdiction), [https://perma.cc/ZCQ2-296G](https://perma.cc/ZCQ2-296G)
   - **Utah**: Rule 5.4 of the Rules of Professional Conduct for Utah Licensed Paralegal Practitioners (LPP) allow fee sharing with lawyers, but Utah RPC 5.4 has not yet been changed. See generally Utah Court Rules Ch. 12, Art. 15 and [https://perma.cc/KUD3-Y2JZ](https://perma.cc/KUD3-Y2JZ) (court LPP webpage) and [https://perma.cc/7CCK-7BVZ](https://perma.cc/7CCK-7BVZ) (Utah State Bar LPP webpage).
   - **Washington**: RPC 5.9 Business Structures Involving LLLT and Lawyer Ownership, (allows partnerships and fee sharing among Washington’s lawyers and Limited License Legal Technicians or LLTs)

5. **Jurisdictions that Currently Are Considering Rule 5.4 Issues**:
   - **Arizona**
11. AZ Task Force, *Draft Minutes of March 14, 2019 and April 29, 2019 Workgroup Proposals and Discussion* (showing discussion of a “proposal for how Arizona might test a change in ethical rules to allow for alternative business structures where lawyers could partner with non-lawyers” and various models), [https://perma.cc/J3ZQ-MLLU](https://perma.cc/J3ZQ-MLLU) and [https://perma.cc/39CZ-XFR3](https://perma.cc/39CZ-XFR3)

**California**


15. Selected CA Task Force Documents (out of the many on their webpage):

   - ABS Comparative Models Table (March 26, 2019), [https://perma.cc/3QLX-YRHL](https://perma.cc/3QLX-YRHL)
   - April 8, 2019 Agenda Item D1: Development of a Survey (March 26, 2019), [https://perma.cc/G6ZE-Q5AD](https://perma.cc/G6ZE-Q5AD)

**Utah**


17. Agenda, Supreme Court’s Advisory Committee on the Rules of Professional Conduct (April 15, 2019), [https://perma.cc/ZUS6-7PUA](https://perma.cc/ZUS6-7PUA) (select “view live page”- pp.7-9 summarize some of the ongoing regulatory reform work, including “OWNERSHIP OF LAW FIRMS” issues)


**U.S. Groups That Currently (or in the past) Have Worked on Rule 5.4 Issues:**

19. **APRL** [Association of Professional Responsibility Lawyers], *The Future of Legal Services Committee (and its Alternative Business Structures/Multidisciplinary Practice/RPC 5.4 Subcommittee* co-chaired by Art Lachman and Jayne Reardon)

20. **IAALS** [Institute for the Advancement of the American Legal System], *Making History: Unlocking Legal Regulation* (45th National Conference materials include a description of the April 16-17, 2019 IAALS Workshop, its Agenda, and Attendees bios)
21. New York State Bar Association’s Committee on Standards of Attorney Conduct (“COSAC”), Public Comment Draft of Proposed Changes to Various RPCs, including Rule 5.4 (would add a new Rule 5.4(a)(4) to address a division of fees between New York lawyers and out-of-state co-counsel or referring lawyers who work in law firms with nonlawyer owners or supervisors)

22. New York State Bar, Proposed ABA Resolution 10A re ABA Best Practice Guidelines for Online Legal Document Providers (submitted for consideration at the Aug. 2019 ABA Meeting; forthcoming at the live site of this link: https://perma.cc/DP44-NUQA)

23. NOBC [The National Organization of Bar Counsel] had committees that created Global Resources and FAQ documents for its webpage. For the Alternative Business Structures Committee FAQ document, see https://perma.cc/6V29-JVMM

24. Past ABA Initiatives (many of which have useful resources online):
   - ABA Commission on Multidisciplinary Practice (1998-2001)[Note: you can find individual pages through Google, but the ABA MDP Commission’s master webpage was not available in April 2019; for a summary of the Commission’s work, you can see this book chapter by Laurel Terry]

Experiences outside the U.S. with Rule 5.4-Type Issues

25. IN GENERAL: See generally item #23, supra. The NOBC’s ABS FAQ document was prepared with the assistance of regulators from Australia, Canada, and the UK: https://perma.cc/6V29-JVMM


   CANADA

27. Nova Scotia Regulation Page (contains links to a wealth information about the regulator’s “from the ground up” initiative to remake lawyer regulation)
   - Infographic from the NSBS webpage (also in the Conference materials), https://perma.cc/MP45-KC3H
   - Nova Scotia Barristers’ Society Regulatory Objectives with Commentary (also in the conference materials), https://perma.cc/BV8S-NLW8
   - Darrel Pink article re Nova Scotia Regulation
   - Laurel Terry article about proactive regulation that discusses Nova Scotia’s developments and a 4-page JOTWELL blog post that reviews a Susan Fortney PMBR article


**England**


33. UK Solicitors’ Regulation Authority Webpage, and Legal Services Board webpage.

34. Legal Futures Webpage (useful news re UK ABS developments)


**Australia**


38. Australia: Steve Mark & Tahlia Gordon, *Creative Consequences Website* (where you can download “The Stories (the full version)” from Laura Snyder’s two books about ABS firms, [https://perma.cc/298X-T9GR](https://perma.cc/298X-T9GR).

**Ireland**

39. Report from [Ireland’s] Legal Services Regulatory Authority [and Alison Hook] re Multi-Disciplinary Practices (2017), [https://perma.cc/C7G7-N2WA](https://perma.cc/C7G7-N2WA)

**Singapore**

40. Singapore Ministry of Law, Legal Services Regulatory Authority webpage, [https://perma.cc/R79M-4MWC](https://perma.cc/R79M-4MWC) (regulates entities)
Miscellaneous


   Abstract: As I look back over the past decade, on the eve of our 2030 long-range planning meeting, I am astounded and proud of what the legal profession has accomplished. Ten years ago the doomsayers had the legal profession on the verge of extinction. Our professional associations at both the state and national levels resisted change. Lawyers flocked away from membership in bar associations that did not cater directly to their practice areas. Technology in general, and artificial intelligence in particular, were painted as more threatening than they had been in the earlier years of the century. We lived with an access-to-justice crisis that saw millions of citizens left with inadequate legal services or none at all.

Market-Related Issues

Access to Legal Services Issues

46. Legal Services Corp., The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans (June 2017), https://perma.cc/UZB7-3ZX8 and this summary


Technology and Market Developments Reports and Articles

50. Legal Startups list, https://perma.cc/DW9R-DFDA (click “view live page” which links to https://angel.co/legal)

51. Robert Ambrogi, Law Sites: Legal Tech Startups, https://perma.cc/9GUS-LSD7 (includes list and grid views of legal services startup companies)

52. ABA Center for Innovation, https://perma.cc/LVV8-JSN3

**Examples of Technology and Legal Services Market Developments**


55. Laurel Terry 4-page blog JOTWELL post summarizing, with links, an article about the applicability to legal services of Harvard prof. Clayton Christensen’s creative destruction theory, https://perma.cc/GKB4-5CGK and post summarizing Pearce/McGinnis article on 5 ways machine intelligence will affect legal services, https://perma.cc/M97B-QURF

**Big 4 Developments:**


57. Law.com, Big Law's Trojan Horse: Are the Big Four Preparing an Invasion? (Nov. 2018)


**Selected Law Review & Other Items Related to Rule 5.4**


61. MDP Symposia cited in n.5, p. 5 of *Mark Tuft’s 2018 AITS Memo* for the CA Task Force:


*See also* articles by Alberto Bernabe, Louise Hill, Renee Knake, Judy McMorrow, Andy Perlman, Mitt Regan, Nick Robinson, Jakob Weberstaedt, Laurel Terry (select MDP from drop down menu), and David Wilkins & Maria J. Esteban, (among others).

**Note:** In order to ensure that these links remain useful after the 2019 45th ABA National Conference on Professional Responsibility, many of the links in this document are “permalinks.” To get to the actual website (and activate internal links), click on the “View the Live Page” tab in the upper right-hand corner of the permalink website. This document was updated June 4, 2019 and is available at https://works.bepress.com/laurel_terry/97/.

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