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COMMENT: MULTI-DISCIPLINARY PRACTICE—A VIEW FROM ACCA

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I am the President and Chief Operating Officer of the American Corporate Counsel Association ("ACCA"), a bar association for in-house lawyers. We currently have 13,000 members throughout the world who represent more than 6,000 organizations. ACCA occupies a unique position in the debate over multi-disciplinary practice in that we bridge both sides of the issue—the members we represent are lawyers with legal concerns, but they are also employed by the clients and thus articulate the client's perspective. Simply put, ACCA supports the concept of multi-disciplinary practice. While it is not a simple question, our approach has been to approve of the concept and assume that there are viable solutions to the difficulties.

I believe there are three guiding principles for this debate. First, we should maintain the client's perspective and needs at the forefront. The second is that competition for the provision of services is a beneficial thing, and to the extent possible, ought to be encouraged. Third, the legal profession has always evolved to accommodate changing markets, needs, and conditions, and the current multi-disciplinary practice ("MDP") trend is no different. There has been much discussion of the changes in the legal profession, and at each significant point, predictions that the legal world will be destroyed, but it has never happened. And we don't think that MDP will destroy the profession, either. Many of ACCA's members are already in multi-disciplinary practice situations. In-house lawyers are, by necessity, comfortable with multi-disciplinary arrangements.

Clients seldom encounter purely legal problems. Generally, business problems are multi-disciplinary in nature, and become more, not less, complex. ACCA believes that multi-disciplinary problems require multi-disciplinary solutions. Unfortunately, the entire MDP debate thus far has been driven by the specter of the Big Five accounting firms or consulting firms taking over the legal world. I don't believe that the "Walmart" or "one-stop shopping" model—a horizontal

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integration of legal, accounting, and business services—will be the dominant model. It's questionable whether there is sufficient market demand for this type of model and what the quality of services would be. I do believe that a more realistic model would be a vertical model—where there will be specialization. The vertical model would work effectively in specific practice areas, such as real estate, where a client requires advice on a wide range of issues including environmental, land use, planning, zoning, architectural, and engineering expertise. A vertical model could also be implemented in estate/financial planning, elder care, divorce, or domestic relations settings. Successful examples of this vertical model already exist in legal services and in some of the public services that are offered.

I also emphasize that many lawyers already operate in multi-disciplinary settings, including those in-house counsel of ACCA's membership. But government lawyers and lawyers in the non-profit arena also operate in multi-disciplinary settings, and I would argue they are neither less ethical nor less competent than lawyers in private practice. In their article, *Getting at the Root of Core Values*,[1] Jim Jones and Bayless Manning argue that multi-disciplinary practice does not threaten lawyer independence or client loyalty more than do certain elements of traditional practice. The authors propose modifications to the American Bar Association's Model Rules of Professional Responsibility that would permit these multi-disciplinary approaches while adhering to the essential ethical values of the legal profession.[2] I recommend their approach as one example of how the legal profession can accommodate multi-disciplinary practice. Consistent with the Jones and Bayless approach, I recommend that, when considering multi-disciplinary practice broadly to design new systems and regulations, one should focus on the individual lawyer, not the practice setting.

One key point to remember is that multi-disciplinary practice will not eliminate traditional law firms. In fact, one way the traditional law firm can distinguish itself from multi-disciplinary practices is to promote the benefits of the attorney-client privilege and client confidentiality, which only a traditional firm can provide. This could be a significant marketing tool for a firm. At least for certain situations and settings, the features of a traditional law firm give it a distinct competitive advantage over the multi-disciplinary practice.

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[1] James W. Jones & Bayless Manning, *Getting at the Root of Core Values: A "Radical" Proposal to Extend the Model Rules to Changing Forms of Legal Practice*, 84 MINN. L. REV. 1159 (2000).

[2] *Id.* at 1206-07.

Finally, I urge practitioners and academics to think about MDPs from the client's perspective and to approach MDPs with the assumption that competition in professional services is reasonable and beneficial. If MDPs are ever authorized, they will not dominate the legal landscape, but different types of practice settings and markets for services will definitely emerge. The tremendous increase in access to information today allows consumers to reach documents and legal knowledge that previously were controlled by lawyers. All of this has happened and will continue to happen, but we in the legal profession will continue to adjust and respond effectively.