

Perspectives

Are We Credible?

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The outcome of the current debate over multi-disciplinary practice might hinge on our collective level of credibility with the public.

"Multi-disciplinary practice" generally refers to rules that allow lawyers to share fees with non-lawyers, and even to practice law as an employee of a non-lawyer individual or entity.

It's already permitted in a number of countries around the world and, as such, enables accounting firms to compete head-to-head with traditional law firms. That competition initially was limited primarily to the area of taxation but now includes general legal services, including non-tax litigation.

Its supporters want multi-disciplinary practice allowed in the United States. If they prevail, new competitors of law firms here in Hawaii might include the likes of not only KPMG Peat Marwick and Pricewaterhouse Coopers, but also Bank of Hawaii, Merrill Lynch, Sears and even Liberty House (just imagine, a "Zooper Sale" on legal check-ups).

This supposedly would benefit the public by making possible "one-stop shopping."

Opponents contend that multi-disciplinary practice would jeopardize lawyers' professional judgement and clients' rights of confidentiality and loyalty. Non-lawyer employers, for example, might attempt to influence the way their lawyer-employees practice law. In such cases, a lawyer's advice to his or her client might tend to reflect a non-lawyer's business plan more than the lawyer's professional judgement.

Supporters respond that lawyers are no less profit-driven than are non-lawyers, and that bar associations resist such changes simply to protect lawyers' "market monopoly."

Since none of this has the public terribly excited, the outcome is likely to be based on credibility. Who will people believe when told that something like this is or isn't in their best interest?

Last year, the supporters of multi-disciplinary practice lobbied Congress for an accountant-client privilege. Then, too, they painted lawyers as single-mindedly interested in protecting turf. It was effective.

Multi-disciplinary practice, this year's "hot issue," is just one of many initiatives that have the potential to change dramatically the legal system as we know it. To weigh in effectively on such matters, bar associations must be considered credible by the public.

The HSBA's credibility could be enhanced greatly through reform efforts in areas perceived as important to the public. Possible candidates include adding a reasonable degree of transparency to the disciplinary process; requiring lawyers to resolve disputes with clients in a client-friendly forum;

encouraging judges to come down harder and sooner on lawyers who abuse the system; empowering judges to order remedial training when incompetence is indicated; doing more to ensure a high-quality judiciary; and taking meaningful steps to make justice more accessible.

HSBA committees and task forces currently are considering these and other possible ways to further the public's interests. The Judicial Administration Committee's proposal for a judicial evaluation program was one such effort.

Without doubt, multi-disciplinary practice, though important in its own right, is only the beginning. More ambitious initiatives by non-lawyers are certain to follow.

If we want our collective voice to be heard and trusted, we first must clearly demonstrate a commitment to putting the public's interests ahead of our own.

