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WLF OPPOSES MASS. PROPOSAL TO EXPAND ATTORNEYS' MONOPOLY

(*In re Definition of the Practice of Law*)

The Washington Legal Foundation (WLF) filed comments today with the Massachusetts Bar's Task Force to Define the Practice of Law in Massachusetts in opposition to the Task Force's proposed new definition of the "practice of law." If adopted, the proposal would expand the scope of the legal monopoly held by attorneys. WLF asked the Task Force to withdraw the proposal in view of its anti-competitive effects.

The proposal would create a sweeping presumption that anyone "giving advice or counsel to a person as to his legal rights or responsibilities" is practicing law and can legally do so only as a member of the Bar. The proposal would also create such a presumption whenever someone is "selecting, drafting, reviewing, recording, or completing legal documents or agreements." In its comments, WLF argued that the proposed rule would excessively limit the freedom of consumers and businesses to rely on non-attorneys for tasks that have long been performed by non-attorneys.

WLF noted that human resources professionals, architects and contractors, real estate agents, and accountants and tax preparers routinely interpret federal, state, and local legal requirements and counsel their employers or clients regarding those requirements. The proposed rule appears to require that consumers and businesses engage attorneys to carry out these legal tasks – a requirement that would not serve the public interest, but merely drive business to attorneys. In addition, WLF noted that the proposed rule would create uncertainty as to the legal status of software that gives legal advice or assembles legal documents – including widely-used software for preparing tax forms and for drawing up wills, leases, incorporation papers, and hundreds of other types of documents.

The Task Force's proposal has previously been criticized by the Justice Department and the Federal Trade Commission for its anti-competitive effects.

WLF is a public interest law and policy center with supporters nationwide. As part of its mission to promote a civil justice system that is balanced and conducive to free enterprise, WLF has frequently petitioned state bar authorities to adopt stronger ethical and professional standards for attorneys and has sought more active enforcement of those standards.

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For further information, contact WLF Senior Vice President for Legal Affairs David Price, (202) 588-0302. WLF's comments are posted on its web site, www.wlf.org.