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Jack of All Trades: Integrated Multidisciplinary Practice, or Formal Referral System - Emerging Global Trends in the Legal and Accounting Professions and the Need for Accommodation of the MDP

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Jack of All Trades: Integrated Multidisciplinary Practice, or Formal Referral System? Emerging Global Trends in the Legal and Accounting Professions and the Need for Accommodation of the MDP

Erica Blaschke Zolner*

I. INTRODUCTION: HAS THE MDP CREATED A “JACK OF ALL TRADES?”

With the globalization of world markets, a large number of accounting firms are looking to provide an increased number of services abroad.¹ Accounting firms are not only seeking to widen their geographical practice: firms are also looking to expand the scope of the services each firm is allowed to provide.² Multidisciplinary practice, or the MDP, is the next revolutionary step of modern business both for accounting firms and for other professions worldwide.³

MDP is a term often used to describe a multidisciplinary practice between legal and non-legal professionals. A multidisciplinary practice occurs when a lawyer or lawyers partner with non-lawyers in a firm or other

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¹ See John Gibeaut, Squeeze Play, ABA J. 42, 43 (Feb. 1998).
² Id.
A professional entity that provides legal as well as non-legal services. In the past decade, the MDP has become a hot topic among international legal professionals because multidisciplinary practice has become a global phenomenon. The “Big Five” accounting firms continue to merge with law firms worldwide, and thousands of attorneys have recently become employed by the growing MDPs.

In the United States, interdisciplinary dialogue among lawyers, financial planners, and accountants has been a somewhat controversial endeavor. The evolution of the MDP has placed great stress on the American bar, with some members preferring to “bury their heads in the sand and return to the imagined golden years, when the practice of law was viewed as a profession, rather than a business, even if this vision of the legal profession probably never reflected economic reality.”

In 1999, however, a commission of the American Bar Association (“ABA”) was formed to study the issue of multidisciplinary practice. Because the ABA promulgated the Model Rules of Professional Conduct, the ABA was primarily concerned with how multidisciplinary practice would affect the current governing rules of professional responsibility for lawyers. The ABA found that if the MDP was allowed, such a change would effect Model Rules 1.6 (Confidentiality of Information), 1.7 (Conflicts of Interest: General Rule), 1.9 (Conflict of Interest: Former Client), 5.4 (Professional Independence of a Lawyer), and 5.5 (Unauthorized Practice of Law). After extensive research, the committee created recommended changes for some of these rules. This commission recommended that the

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5 Id.
6 American Bar Association, Background Paper on Multidisciplinary Practice: Issues and Developments, 10 NO. PROF. LAW 1, 5 (1998) [hereinafter ABA]. The American Lawyer reported in November 1998 that Pricewaterhouse Coopers employed 1,663 nontax lawyers in 39 countries; Arthur Anderson, 1,500 in 27 countries; KPMG, 988 in an unidentified number of countries; and Deloitte Touche Tohmatsu, 586 in 14 countries. When compared to the largest law firms, these figures placed Pricewaterhouse Coopers and Arthur Anderson third and fourth, respectively, in total number of lawyers employed worldwide, behind only Baker and McKenzie and Clifford Chance.
8 International Association of Defense Counsel, Multidisciplinary Practice: Is it the Wave of the Future, or only a Ripple?, 66 DEF. COUNS. J. 460, 460 (1999).
10 Id. at 369-70.
11 See id. at 372.
ABA Model Rules of Professional Conduct be changed to permit multidisciplinary practice with safeguards for protection of the legal professions' core values. In July 2000, however, the ABA House of Delegates voted to reject all efforts to accommodate the MDP, discharging the committee.

The ABA's position towards multidisciplinary practice has made it more difficult for the United States to embrace the MDP. One scholar has noted, "While the ABA, as merely a professional association, has no authority over the regulation of the law practice in any U.S. jurisdiction, many state bar associations look to the ABA Model Rules for guidance when writing their own codes of professional conduct." Additionally, the ABA House of Delegates' decision illustrates that even with the possibility of creating more flexible ethical amendments and with pressure from an international trend toward global multidisciplinary practice, the American bar still fears the possible effects of multidisciplinary partnerships.

Proponents of the MDP find it troubling that the United States refuses to recognize the need for the MDP. One advocate has noted:

In a growing number of cases, multinational corporations are sending international legal business abroad because they find that the European MDP delivers higher quality services. That trend will continue. If the American legal profession refuses to accommodate this client demand, it is likely that one or more European cities will emerge as centers of international legal commerce for international transactions.

MDPs were originally created because both lawyers and businesspersons recognized the necessity of providing clients with comprehensive, multi-professional advice on a variety of different subjects. Proponents noted that the market was rapidly changing because of expeditious technological advances, the globalization of the financial and capital markets, and more rigid regulation of commercial activity. Because these economic, financial, technological, and legal problems were seen as multi-disciplined,

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12 Id.
13 Dzienkowski & Peroni, supra note 7, at 86-87.
14 Connatser, supra note 9, at 374.
15 Id.
17 Id.
18 Dzienkowski & Peroni, supra note 7, at 124.
19 See Stein, supra note 4, at 1530-31.
20 Id. at 1531.
they required a multidisciplinary approach that came to be known as "one-stop shopping." 21

Although some professionals considered the trend toward multidisciplinary practice necessary and inevitable, critics as nothing sometimes characterize the recent birth of the MDP but an overt attempt by business persons to intrude on law by expanding business services to include legal services. 22

Opponents of the MDP claim multidisciplinary practice will threaten the independence of the legal profession, reduce consumers’ choice of independent providers of legal advice, create increased risks of conflicts of interest and duties and disturb confidentiality interests. 23 Many critics also fear that the MDP will create problems with professional indemnity and will complicate protection of client funds. 24

Unfortunately, these criticisms assume that an MDP must always be structured as a fully-integrated practice. Much of the criticism comes from considering a worst-case hypothetical model of a fully integrated MDP instead of considering how lawyers and nonlawyers have actually been working together in practices where merger has already occurred. Criticisms also come most frequently from parties with a vested interest in protecting law from any form of competition. 25 Because relationships inside the practice of an MDP are integral to understanding the ethical implications, the efficiency issues and the general logistics of multidisciplinary practice, this comment will examine the structure of multidisciplinary practice both in the United States and abroad.

Because the structure of most successful new international MDPs reveals that the new “firm” is more of a business referral system than a multidisciplinary partnership, I will argue that MDPs could be better characterized as transnational law firms with highly formalized business referral systems. If the United States mirrors other international models and develops a similar structural definition of the MDP, the MDP really poses no danger to the legal practice and the backlash against the MDP is unreasonable. In taking this position, I will argue that the trend toward MDPs creates no unique crisis but is actually predictable considering the legal profession’s tendency toward change.

Part II of this case comment will first consider the background and origins of international multidisciplinary practice. This comment does not

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21 Id.
22 Id. at 1530.
23 See Intl’ Ass’n of Def. Counsel, supra note 8, at 466-67.
24 See id. at 467.
25 Lawyers are the most vocal opponents of MDPs, fearing law will lose its elite space among the professions with the rise of MDPs. See generally Dzienkowski & Peroni, supra note 7 (arguing that the American bar fears the MDP because the United States’ bar cannot set aside the financial bottom-line interests of the profession).
seek to explore every international model, but instead focuses on a comparative analysis of many "multidisciplinary trends." Additionally, my discussion will include a more detailed example of MDPs in the United Kingdom. Because legal and accounting professions in particular have undergone a tremendous amount of change in the last half of this century, my comment will focus primarily on these two professions. By understanding the framework of the largest international MDP models, it is easier to understand why the framework of the MDP does not need to be fully integrated and only operates in these countries as a referral system. Such referral systems, I will argue, should not be characterized as creating a "legal crisis." Instead, this new development should illustrate law's tendency to resist change when pressured by another discipline.

In Part III of the comment, I argue that the structure of MDPs reveal that multidisciplinary practice is better characterized as a highly formalized business referral system rather than an actual integrated practice between lawyers and nonlawyers. Part III will consider the model emerging within the United States and some brief ethical criticisms of the MDP. I will argue that a formalized business referral practice based on loyalty between businesses and law firms fails to create major ethical complications, and I will consider some proposed amendments and changes to the ethical codes of conduct for lawyers.

In Part IV of this comment, I will argue that partnerships between the separate professions are not in any way a new legal trend, but rather a predictable development that signals neither crisis nor the end of ethical legal practice. I will also argue that referral systems do not suggest that accountants or other professionals are intruding on the law.

Finally, I argue that such mergers are important and necessary in order for the legal profession to continue to meet the needs of businesses and individual clients as well as to stay competitive with international firms that have already made a successful change toward multidisciplinary practice. Because the mergers are not intrusions on the independence of the legal practice, the United States must embrace multidisciplinary practice because competition to provide legal services will only continue to remain fierce in the 21st century.

II. BACKGROUND INFORMATION ON MULTIDISCIPLINARY PRACTICE IN THE UNITED STATES AND ABROAD

The century defined largely by the effects of the Industrial Revolution has ended and legal practice is now best characterized by the emphasis on

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"global connectedness." The practice of law has been affected by technological advances in knowledge sharing, the growth of the billion-dollar e-commerce industry, the availability of information, the more stringent regulation of private business activities and the need for faster communication due to the rapid pace of expected response. "Global connectedness" has made legal practice a more competitive profession, and demands for speed, efficiency and convenience are pressures all attorneys must manage. Multidisciplinary practice, or a practice where a single professional organization can help clients with financial planning, accounting, law, as well as with a litany of other professional services, has been one answer offered to help solve some of the legal communities' growing needs. Many critics, however, are skeptical of MDP mergers and fear the push toward multidisciplinary practice is an attempt by the accounting profession to steal attorneys' exclusive right to provide legal services.

To better understand why multidisciplinary practice does not threaten the American legal system, it is helpful to examine other countries' experiences with multidisciplinary practice. The International Bar Association created a standing committee to study the popularity of the MDP. The standing committee found that in 72% of responding jurisdictions, organizations other than law firms were providing legal services. The standing committee also noted that the organizations providing the legal services were banks, consulting firms, insurance companies, licensed conveyancers, trust companies, and trade unions.

As evidenced by the International Bar Association's survey, the MDP phenomenon is more advanced internationally than it is in the United States. The advanced international model is partly attributable to United States' legal conservatism, but also attributable to ethical rules and the historical development of the legal profession in other countries. Mary Daly notes,

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28 Id.
29 Id.
30 Id.
31 See id.
32 See generally, Dzienkowski & Peroni, supra note 7, at 126.
34 Id.
35 Id.
36 See generally Dzinkeowski & Peroni, supra note 7, at 126. The authors give a history of American legal practice as well as a history of ethical rules that govern the American bar and conclude that American law is economically protectionist, and hence, less likely to embrace change.
37 See Stein supra note 4, at 1536.
There is no single explanation for the MDP phenomenon outside the United States. The delivery of legal services by the Big Five is a product of the historical evolution of a divided legal profession, the denial to lawyers of an absolute monopoly on giving legal advice, regulatory restraints on the practice of law that until recently impeded the establishment and growth of national law firms, and a distinct "technocratic" conceptualization of the role of lawyers.37

In some foreign countries, accounting firms are allowed to give legal services directly to clients – conduct expressly prohibited in the United States.38 Countries and geographical regions expressly permitting some form of the MDP include Germany, the Netherlands, the law society of Upper Canada, and the territory of New South Wales, Australia.39

Bar associations all over the world are recognizing the importance of understanding the structure of the MDP. Ongoing studies in Canada, the United Kingdom and Australia are considering the various structures that can be used to incorporate and accommodate multidisciplinary practice, and new regulatory rules have been allowed in France and Germany.40 In addition, "Germany and the Netherlands permit full integration between lawyers and certain identified categories of nonlawyers. In Germany, the categories include patent lawyers, tax advisors, auditors, and notaries. The Netherlands also permits full integration between lawyers and certain categories of nonlawyers, including tax advisors and notaries, but not auditors."41

One scholar has noted that Germany, the country where the MDP originated,42 has allowed the MDP because the country recognized it had very little choice.43 "With their long-term German clients becoming ever larger global players, top-tier law firms are expected to offer handling of cross-border transactions from beginning to end. 'Seamless service,' a 'one-stop-one-shop concept' is regarded as a prerequisite for long-term success in the market."44
European countries, in fact, offer a strong model of comparison illustrating how MDPs could be integrated within the United States because European lawyers have historically dealt with restricted roles when law and business merged.\textsuperscript{45} Changes in the legal profession occurred with the creation of the European Union; European borders were opened, economies were restructured, and new markets for legal services to businesses emerged.\textsuperscript{46} Because European law firms could not meet the new and growing demand for business and tax services, and because accounting firms occupied a special position as auditors, accounting firms were also quickly able to take advantage of the demand for legal services.\textsuperscript{47}

Even before the EU came into being, however, Switzerland had benefited from the MDP structure.\textsuperscript{48} Because the Swiss economy gains enormous support from the banking industry, it has long been recognized that having decisions made by professionals of different disciplines and perspectives is enormously valuable.\textsuperscript{49} Switzerland currently allows a fully integrated model of multidisciplinary practice.\textsuperscript{50}

France is another country that has long experimented with multidisciplinary practice.\textsuperscript{51} In France, accounting firms were able to market legal services because French law allows drafters of legal documents to offer services to their accounting clients.\textsuperscript{52} Additionally, the rules in France have allowed for a "captive" law firm arrangement, in which the law firm remains separate in structure from the business, but the accounting firm and the law firm share a client base and provide support to one another.\textsuperscript{53}

\textsuperscript{45} See David M. Trubeck et al., Global Restructuring and the Law: Studies of the Internationalization of Legal Fields and the Creation of Transnational Arenas, 44\textit{ Case W. Res. L. Rev.} \textbf{407}, 422 (1994). The author notes that, "[L]awyers operated as solo practitioners or in small law firms that specialized in specific areas of the law. Legal practice was oriented around litigation, and lawyers played relatively restricted roles in the general affairs of business firms. The idea of the lawyer as a general business advisor, or the law firm as a conglomerate of specialties, was slow to develop."

\textsuperscript{46} Dzienkowski & Peroni, supra note 7, at 114.

\textsuperscript{47} \textit{Id.}

\textsuperscript{48} \textit{Id.} at 114-15.

\textsuperscript{49} \textit{Id.} at 115.


\textsuperscript{51} \textit{Id.}

\textsuperscript{52} \textit{Id.} See also Ramon Mullerat, The Multidisciplinary Practice of Law in Europe, 50\textit{ J. Legal Educ.} \textbf{481}, 487 (2000). The article notes that these drafters were known as "conseil juridique" and were employees of accounting firms, drafting legal documents.

\textsuperscript{53} \textit{Id.} See also Trubeck supra note 45, at 415. Trubeck gives one example of how the model in France actually works in practice: the Pricewaterhouse Coopers model. The newly-formed law firm shared a client base with the accounting firm and worked very closely with the accounting firm. The law firm benefited from volume cost savings within the Pricewaterhouse Coopers network because the two firms were leasing space in the same building, were participating in bulk buying, and were using common telephone and computer systems.
France is able to allow such arrangements because of regulations promulgated by the legal profession within the country.\textsuperscript{54} As noted by one scholar, “Following the union of the legal profession by the Reform Act of 1992, by which the distinction between avocats and conseils juridiques vanished, there has been an increasing amount of work done by the accountants who number themselves among the former conseils juridiques.”\textsuperscript{55} Before the Reform Act of 1992, avocats were the only legal professionals licensed to appear in court; however, conseils juridiques could draft legal documents, handle transactions, and perform the broad range of services often thought of in other countries as “legal services.”\textsuperscript{56} Since the Reform Act of 1992, the National Bar Counsel of France met in 1999 and passed a resolution favoring “interprofessionalism.”\textsuperscript{57}

Regulations such as the one passed in France offer an example of how MDPs could be regulated by the legal profession and fit harmoniously within the legal system. The resolution allows lawyers and accountants to work together, but includes regulations and limitations such as “prohibiting MDPs made up of lawyers and nonliberal professions, declaring auditing to be incompatible with MDPs in which lawyers are members, and obliging MDPs to comply with conflict-of-interest rules and to respect the independence of lawyer members.”\textsuperscript{58}

The United Kingdom also has begun regulating the MDP. In 1996, some of the same debates occurring now in the United States were occurring in England and Wales.\textsuperscript{59} When the Council of the Law Society of England and Wales decided that opposing the creation of multidisciplinary practices could be detrimental to the legal profession because of international market developments leaning toward acceptance of multidisciplinary practice, the Society decided to review their ban on MDPs.\textsuperscript{60}

The past prohibition on multidisciplinary practice in the United Kingdom existed for some of the same reasons MDPs have been restricted in the United States.\textsuperscript{61} The legal service providers in the United Kingdom feared “that the MDP arrangement would threaten the independence and separate identity of the legal profession and might reduce public access to justice.”\textsuperscript{62} The structure of the legal system in the United Kingdom must be consid-

\textsuperscript{54} Mullerat, supra note 52, at 487.
\textsuperscript{55} Id.
\textsuperscript{56} Id.
\textsuperscript{57} Id.
\textsuperscript{58} Id.
\textsuperscript{59} See Int’l Ass’n of Def. Counsel, supra note 8, at 464.
\textsuperscript{60} Id.
\textsuperscript{61} See id. at 465.
\textsuperscript{62} Id.
ered in order to understand why the scope of business activities was gradually allowed to widen.63

In the United Kingdom, there has never been a prohibition against laypersons practicing law.64 A layperson can offer legal advice as long as the person does not misrepresent his or her credentials.65 In the United Kingdom, the MDP debate focuses primarily on the issue of partnerships between lawyers and accountants.66

Currently, the United Kingdom does not allow fee-sharing between lawyers and nonlawyers.67 The availability of a "package price" for both accounting and legal services, however, is legal in order to facilitate alliances between lawyers and nonlawyers without explicitly permitting co-ownership or fee-sharing relationships.68

Currently, multidisciplinary practices in the United Kingdom also include solicitor's firms taking into partnership a senior member of staff who does not happen to be a lawyer. Such a partnership might be between a patent advisor and a solicitor, or an investment agent and a solicitor.69 Solicitors can also be partners in non-legal businesses.70 For example, a solicitor can be a partner in an actuary firm.71 Yet another example is a solicitor and a surveyor running a practice together with property and management services.72 Finally, accountants and solicitors can operate an accountancy as well as a law practice, or a law practice can operate in a corporate rather than a partnership structure that allows non-investors to take part in the business.73

The above-mentioned developments in the United Kingdom do not indicate that its legal community is embracing the wholly integrated MDP. Instead, these structures seem to indicate that the United Kingdom is attempting to accommodate regulated forms of multidisciplinary practice.74 For example, although the United Kingdom still has a ban on multidisciplinary practice, the British do allow solicitor firms and non-solicitor firms to do business with one another.75 The United Kingdom allows this practice by attaching regulations and rules: "solicitors either must not be practicing

63 See id. at 471.
64 See ABA, supra note 6, at 5.
65 Id.
66 See Int'l Ass'n of Def. Counsel, supra note 8, at 465.
67 Dzienkowski & Peroni, supra note 7, at 115-16.
68 Id. at 116.
69 Int'l Ass'n of Def. Council, supra note 8, at 465.
70 Id.
71 Id.
72 Id.
73 Id.
74 See Connatser, supra note 9, at 368.
75 Id.
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law or must not share fees with the non-solicitor,"\textsuperscript{76} Rather than rejecting outright the MDP as the U.S. has done, international legal communities are recognizing that the global economy is making incredible demands on legal practice that might be answered by a "teaming" approach.\textsuperscript{77}

Additionally, the United Kingdom is being faced with increasing pressure to entirely lift the ban on unrestricted MDPs.\textsuperscript{78} As Aubrey Connatser notes, "Two possible reasons for the additional pressure in the United Kingdom are simple geography and the United Kingdom’s more liberal rules and regulations governing lawyer associations with nonlawyers."\textsuperscript{79} If and when the United Kingdom lifts the ban on unrestricted MDPs, the United States will feel even more pressure to liberalize the Model Rules in order to compete. Even if a law firm has dozens of offices all across the United States, the law firm will have difficulty attracting clients who seek the advantages and superior services of a multidisciplinary practice.\textsuperscript{80} "If the United States decides to isolate the practice of law from multidisciplinary services, the world’s MDPs will surpass the quality of services delivered by professional service providers in the United States."\textsuperscript{81}

III. MDPs ARE NOT UNETHICAL PRACTICES: IN MOST CASES, THE MDP ONLY ACTS AS A FORMALIZED BUSINESS REFERRAL SYSTEM

About two years ago, the ABA commission on multidisciplinary practice unanimously recommended that lawyers, under certain restrictions, be allowed to deliver legal services through multidisciplinary practices.\textsuperscript{82} To allow this, Rule 5.4 of the ABA Model Rules for Professional Conduct would have needed modification because the rule clearly prohibited lawyers and law firms from having a nonlawyer partner and also prohibited all fee-sharing relationships between lawyers and nonlawyers.\textsuperscript{83}

The ABA House of Delegates struck down the amendment.\textsuperscript{84} Currently, Washington D.C. is the only place in the United States where law-

\textsuperscript{76} Id.
\textsuperscript{77} Dzienkowski & Peroni, supra note 7, at 123. See also Mullerat, supra note 52, at 485-490. Mullerat notes that Belgium, Denmark, France, Germany, Portugal, Spain, the Netherlands, and the United Kingdom are all allowing some accommodating form of regulated multidisciplinary practice.
\textsuperscript{78} Connatser, supra note 9, at 380.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id. at 123.
\textsuperscript{82} Elizabeth Ellis, Allerton House Conference 2000: MDPs and the Legal Profession, 88 Ill. B.J. 628, 628 (2000).
\textsuperscript{83} Id.
\textsuperscript{84} See Dzienkowski & Peroni, supra note 7, at 86-87.
yers can have partnerships and share fees with nonlawyers. Multidisciplinary partnerships, however, seem to be springing up all over the country despite the law.

Multidisciplinary partnerships are prevalent because of the confusing, easily circumvented laws regulating the extent to which non-lawyers can practice tax law, and to what extent lawyers can be hired as consultants to offer legal advice to business clients without actually breaking Model Rule 5.4 by "practicing law." Additionally, lawyers can enter into partnerships with non-lawyers in business ventures not involving law. In many circumstances, the line between the practice of law and nonlaw business ventures seems more about the way in which professionals engage in semantic framing rather than true business differences or delineation.

One academic has noted that if lawyers join the "Big Five" accounting firms and practice through an MDP, this will be a blatant violation of attorney fee sharing and conflict of interest rules as well as rules of confidentiality, professional prohibitions on limitations of lawyer liability, and restrictive covenants governing the direct solicitation of clients. These sorts of objections toward multidisciplinary practice do not take into consideration actual working models of international multidisciplinary practice and how these models actually operate outside of worst-case hypotheticals.

Additionally, most critics of multidisciplinary practice fiercely doubt accounting firms' motives for seeking out multidisciplinary practice. In order to better understand what the MDP represents and what motivates accounting firms to look for mergers with law firms, it is helpful to examine some of the strategic reasons accounting firms are attracted to the MDP arrangement.

A. Accounting Firms Are Not Seeking to "Swallow" the Legal Profession

One writer has noted, "[a]t about the same time the Berlin Wall came crumbling down and facilitated the globalization of world markets, the U.S. Congress changed the Internal Revenue Code to simplify preparation of income tax returns in the United States. This caused the "Big Six" accounting firms of the time to look for additional work elsewhere." Because of a
need to expand the number of services being offered, accounting firms were soon looking to merge with legal practices around the globe.\(^{93}\)

To offer a short summary, one of the first reasons accounting firms now seek to merge with law firms is to gain the right to claim evidentiary privilege for communications between the client and the accountant in tax court.\(^{94}\) Accounting firms also seek to gain international ownership of large law firms as subsidiaries of major accounting firms outside of the United States.\(^{95}\) In seeking to gain large law firms as subsidiaries, the accounting firms aim to expand the size and scope of their respective international practice, and make their accounting practice more attractive to clients who seek sophisticated "one-stop shopping."\(^{96}\) Finally, one of the most popular reasons for accounting firms to merge with law firms is that accounting firms hope to expand business-planning services into areas that have traditionally been viewed as legal services.\(^{97}\)

Although accounting firms would like to expand into legal services, accounting firms recognize that ethical rules and actual "legal limits" prevent accountants from doing "attorney work."\(^{98}\) Instead of attempting an "invasion" on legal territory, accounting firms are simply seeking mergers with attorneys as well as law firms who can provide legal services. Additionally, one must note that especially in the United States, lawyers still have much room to dictate what sort of relationship they will share, if any, with accounting firms and other business professionals.\(^{99}\)

B. The United States Should Advocate a Formal Business Referral Model for the Delivery of MDPs

The United States is not the only country still trying to decide whether to allow multidisciplinary practice; in fact, many countries have some sort of a ban either prohibiting lawyers and non-lawyers from sharing legal fees or forming partnerships.\(^{100}\) In order to avoid the prohibition, law firms in other countries often enter into "affiliate relationships" with accounting

\(^{93}\) Id.

\(^{94}\) See Munneke, supra note 26, at 7.

\(^{95}\) Id.

\(^{96}\) Id. Munneke's article further elaborates on some of the reasons why acquisitions of law firms are attractive to accounting firms at 7.

\(^{97}\) Id.

\(^{98}\) See Model Rules of Prof'l Conduct R. 5.4.

\(^{99}\) Because of the many ethical implications, the ABA has been considering the actual perimeters and scope of what an MDP would look like in the United States and what sort of regulations would govern its existence. See ABA, supra note 6, at 5.

\(^{100}\) See Daly, supra note 32, at 224. See also Connatser, supra note 9, at 367. Connatser notes that the United Kingdom has been skeptical of how multidisciplinary practice will affect the practice of law and therefore still bans fee-sharing.
firms. These "affiliate relationships" are best described as "close, contractual relationships" between law firms and Big Five accounting firms.

Wouldn't a similar structure work well within a United States multidisciplinary practice? If such a structure were emulated, would it be possible for the ABA to make necessary amendments to avoid ethical implications? And if such a model could avoid the negative ethical implications associated with a fully integrated MDP, why shouldn't the United States at least consider this form? The only potential and immediate point of concern seems to be Rule 7.2(c) of the ABA Model Rules of Professional Conduct. This rule states:

A lawyer shall not give anything of value to a person for recommending the lawyer's services except... payment for advertising, payment of charges for not for profit referral services, or buying a law practice.

This rule could potentially complicate implementing the business referral model within the United States. This rule, however, could perhaps be modified or amended similar to the proposed amendments considered for Rule 5.4 in order to allow for multidisciplinary practice.

It is too early to tell how the United States might structurally integrate the multidisciplinary practice because the MDP is currently illegal and experimentation with integration is unlawful. The bar, however, should begin to deal with some of these complicated integration issues, as the bar will most likely be able to fashion specific and narrow rules to preserve the core values of law and the legal profession.

Two scholars give some suggestions as to how the states could perhaps modify their individual, respective rules of professional conduct. These

\[101\] Id.
\[102\] Id.
\[103\] See Model Rules of Prof'l Conduct R. 7.2.
\[104\] See Model Rules of Prof'l Conduct R. 5.4. Washington D.C., the only area of the United States currently allowing multidisciplinary practice, has actually amended rule 5.4. See Connatser supra note 9, at 368. The D.C. Rule states, "This rule rejects an absolute prohibition against lawyers and nonlawyers joining together to provide collaborative services, but continues to impose traditional ethical requirements with respect to the organization thus created." D.C. RULES OF PROF'L CONDUCT R. 5.4 (2000).
\[105\] Dzienkowski & Peroni, supra note 7, at 174. The two authors consider the core values of the legal profession after examining possible structures for MDP integration and make suggestions concerning how the ethical rules could be modified to accommodate the MDP. The article continues to suggest possible ways of maintaining confidences, independent professional judgment, rendering conflict-free advice, and ways to refrain from potential conflicts of interest. See also Katherine L. Harrison, Multidisciplinary Practices: Changing the Global View of the Legal Profession, 21 U. Pa. Int'l Econ. L. 879 (2000) (giving three different suggestions for amending Model Rule 5.4).
\[106\] Id.
suggestions include: 1) modifying Rule 5.4 to allow for fee sharing, but no pure referral fees; 2) amending the rules to allow for lawyer participation in the delivery of multidisciplinary services; 3) allowing passive investments between law firms and MDPs; and 4) promulgation of professional responsibility rules and standards that apply to all MDPs.107

The ABA committee studying the MDP also made some suggestions for MDP implementation. The ABA Commission on Multidisciplinary Practice proposed several models for the ABA House of Delegates to consider.108 In order to better frame the debate, it is helpful to briefly examine some of those different structures in order to distinguish the many possibilities and grasp which model seems the least threatening to the American legal system. This comment does not advocate any specific structure; instead, I will briefly describe how each structure would roughly operate and will suggest some general ethical concerns that will need consideration with each individual model.

One model, often labeled the cooperative model,109 is characterized by lawyers working with nonlawyer professionals on their staffs to advise clients.110 In the cooperative model, lawyers can also work with non-lawyer professionals in separate firms who are directly retained by either the non-lawyers or whose firms are retained by the client.111 If the cooperative model is incorporated into the United States’ system, it is most likely that the American rules of ethics will require the partners in the firm be lawyers “to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.”112 If this model was implemented, Model Rule 5.4 would likely remain unchanged: “[t]he cooperative model maintains the status quo by allowing lawyers to practice independently from other professionals while still having the freedom to hire other professionals as staff members or employees who are subordinate to the lawyers and cannot be managers or partners to the firm.”113

In what is often called the “command and control model,” the lawyer forms a partnership with non-lawyers and shares legal fees as long as certain restrictions are not violated.114 An example of such a restriction would be that “lawyers with a ‘financial interest or managerial authority [must] undertake to be responsible for the non-lawyer participants to the same extent as if non-lawyer participants were lawyers’.”115 Additionally, the con-

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107 Id. at 201-7.
108 See Connatser, supra note 9, at 392.
109 See Daly, supra note 32, at 224.
110 Id.
111 Id.
112 See id.
113 Connatser, supra note 9, at 392.
114 See id. at 225.
115 Id.
ditions of the “command and control” model must be set forth in writing.\textsuperscript{116} The command and control model is similar to the model that operates in Washington D.C..\textsuperscript{117} Under the command and control model, the sole purpose of the firm would be to provide legal services, and managers of such firms are responsible for non-lawyer participants of the MDP just as they would be under Rule 5.1.\textsuperscript{118}

In a third model, often labeled the “ancillary business model,” a law firm operates an ancillary business that can provide certain business or professional services for clients.\textsuperscript{119} The business is characterized to the clients as being distinct from the legal practice, and the ancillary business does not offer any legal services.\textsuperscript{120} The lawyer-partners can provide consulting services, but not legal service, to the clients of the ancillary business, and some, although not all, of the ancillary business’ clients might also be clients of the law firm.\textsuperscript{121} Additionally, some clients of the law firm may not be clients of the ancillary business.\textsuperscript{122} Under this model, the lawyers in the firm could be managers of the ancillary business and could share all and any fees with the non-lawyers.\textsuperscript{123}

The fourth model, often labeled the “contract model,” occurs when a business firm contracts with an independent law firm.\textsuperscript{124} Part of the arrangement between the two independent firms might include the law firm agreeing to identify the partner business firm on its letterhead and in advertising, both firms agreeing to refer clients to one another on a non-exclusive basis, or the law firm agreeing to purchase services and products from the business firm.\textsuperscript{125} In this model, the law firm stays independently controlled and managed by lawyers, and the law firm can continue to accept independent clients that have no connection whatsoever to the business firm.\textsuperscript{126}

Finally, the fifth model for structuring an MDP is called the “fully integrated model.”\textsuperscript{127} In the fully integrated model, there is a single firm with integrated units offering such services as accounting, business consulting, and legal services. In the legal services unit of the firm, lawyers may have clients who either retain only legal services or that also retain services in

\textsuperscript{116} Id.
\textsuperscript{117} Connatser, supra note 9, at 392.
\textsuperscript{118} Id.
\textsuperscript{119} Id.
\textsuperscript{120} Id.
\textsuperscript{121} Id.
\textsuperscript{122} Id.
\textsuperscript{123} Connatser, supra note 9, at 392-93.
\textsuperscript{124} Id.
\textsuperscript{125} Id.
\textsuperscript{126} Id.
\textsuperscript{127} See id. at 226.
other parts or organized units of the firm.\textsuperscript{128} Non-legal and legal services can be provided for the same or different matters.\textsuperscript{129} Although the fully integrated model certainly offers a system of “one-stop shopping,”\textsuperscript{130} this model would force the repeal of many different rules of professional conduct. The model would also give rise to many of the concerns professionals fear when considering multidisciplinary practice: there is a risk of disclosing information that is to be kept confidential for the client, a risk of conflicts of interest, and a risk of the loss of the lawyer’s highly regarded independent professional judgment.\textsuperscript{131}

Currently, the ABA permits the cooperative model, the command and control model, and the ancillary business model because fee-splitting does not occur with any of these organizational schemes.\textsuperscript{132} Considering the burdens and benefits of each of these five models, the United States should also compare the different descriptive models of MDPs operating across the world. Additionally, the United States should experiment with the different forms and models while considering the potential necessary modifications that would need to be made to the American ethical rules of conduct. Because there are other options besides a wholesale integration between various multidisciplinary professions, it should be possible for American lawyers to find a structure or derivative of a structure that reassures lawyers that the law still maintains an independent and distinct “space.”

Even if opponents find any allowance of an MDP disquieting, the American bar should at least consider change of the ethical rules in order for the American legal system to more accurately reflect “modern business realities.”\textsuperscript{133} Otherwise, “[A]merican lawyers will no longer be competitive in delivering legal services to the world’s business entities.”\textsuperscript{134}

\textbf{IV. THE MDP WILL LEAVE ROOM FOR LEGAL PRACTICE}

With the globalization of the economy, the common threads between law and law-related disciplines, and the complex needs of corporate clients who demand an interdisciplinary approach,\textsuperscript{135} law and lawyers must recognize the growing need to evolve:

Both individual and business clients often need interdisciplinary advice. For example, to plan an orderly testamentary disposition of her assets, the owner of a small business may require coordinated advice from a lawyer, a financial

\begin{itemize}
  \item \textsuperscript{128} See id.
  \item \textsuperscript{129} Id.
  \item \textsuperscript{130} Id.
  \item \textsuperscript{131} Id.
  \item \textsuperscript{132} See Prince, supra note 50, at 263.
  \item \textsuperscript{133} Dzienkowski & Peroni, supra note 7, at 205.
  \item \textsuperscript{134} Id.
  \item \textsuperscript{135} See Daly, supra note 32, at 234.
\end{itemize}
planner, and a business consultant. To comply with environmental regulations, a company with manufacturing plants on both sides of the U.S.-Canadian border may require coordinated advice from U.S. and Canadian lawyers, environmental engineers, and architects. In the view of some observers, the clients' efforts to coordinate the advice of nonaffiliated professionals raises the ultimate cost of the services and is replete with inefficiencies. These observers argue that there is a need for "one-stop shopping" in which a single professional services firm, generally referred to as an "MDP," can supply the needed advice.\textsuperscript{136}

Globally, the MDP is not emerging as a fully integrated system, but instead as a contractual model where a non-exclusive relationship between a law firm and a professional services firm is formed.\textsuperscript{137} It is important for opponents to understand that there are structural differences between MDP models because, as shown earlier, different models carry different degrees of potential ethical concerns. Instead of opposing all MDPs, opponents would do better by considering implementation of the model that makes the most sense within a jurisdiction because of its particular code of ethical conduct.\textsuperscript{138}

The United States should be willing to change the current regulatory guidelines that prohibit accommodation of the MDP. With the General Agreement on Tariffs and Trade ("GATT"), the development of the European Union, and other regional trade agreements in place, the United States must recognize the pressures of a global economy.\textsuperscript{139} American lawyers can no longer operate in a vacuum, ignoring changes that have been brought about by the growth of international business and ignoring the need for the MDP.\textsuperscript{140}

A. The Rise of the MDP is Not a Sign of Legal Crisis

Some academics opposing MDPs doubt the truth of the claim that multidisciplinary attorneys are not really practicing law, but are instead now only involved in general tax work, ERISA, employment, mergers and acquisitions and general consulting.\textsuperscript{141} According to one critic, "Everyone agrees that 5,000 lawyers are engaging in civil disobedience when they assert they are not practicing law in the Big Five accounting firms."\textsuperscript{142} This sort of doomsday prediction creates the sense of impending crisis to the legal

\begin{itemize}
  \item \textsuperscript{136} See id. at 222.
  \item \textsuperscript{137} Institute of Mgmt. and Admin, Inc. ABA Expert Offers Insight on the Multidisciplinary Partnership Question, LAW OFF. & ADMIN. REP. 1 (2000).
  \item \textsuperscript{138} Id.
  \item \textsuperscript{139} See Dzienkowski & Peroni, supra note 7, at 205.
  \item \textsuperscript{140} Id.
  \item \textsuperscript{141} See Fox supra note 90, at 1097.
  \item \textsuperscript{142} See id. at 1108.
\end{itemize}
profession, and such a crisis is not necessarily present. Bryant Garth, director of the American Bar Foundation, notes,

Historically, the elite of the legal profession in the United States has managed to practice its brand of business law without undermining too much the image of pure law. There is always tension, however, and the strong identification of U.S. practitioners with some variation of the status quo in the United States may permit further openings for new models and approaches abroad—not only for the lawyers affiliated with the Big Five, but also for those who create new mixes of business and law in investment banks, business consultancies, and other entities.143

Indeed, law has often grappled with the fact that legal theory, legal reasoning and legal thinking are not completely pure and independent of other fields and often share a place with other academic subjects and disciplines.144 At the time of the New Deal, an overlap of convergence between law and social science was once characterized as both a competition of the disciplines as well as a national legal crisis.145 Noting that the law would need to take advantage of other forms of social knowledge in order to survive, lawyers recognized “[t]hey could be merely ‘guardians of outworn ideas.’ Or they could seek instead to be ‘leaders in social thinking,’ social engineers who could apply general social scientific method over a wide front and in the practical solution of urgent social problems.”146 The article continues, “The opportunity was there; so was the threat of irrelevance if it were not grasped. Would ‘the lawmen’ respond, or be bypassed by—a new type of public servant—a real social engineer?”147

The New Deal struggle between law and social science offers an analogy to the current professional struggle occurring between the law and proponents of multidisciplinary practice. It is clear that law is not for the first time finding itself in competition with another profession or discipline. Even though many legal critics believed embracing social science would hinder or harm the aristocratic profession of law, the merger of law and social science actually created a perfectly healthy symbiotic relationship be-

144 See Christopher Tomlins, Framing the Field of Law’s Disciplinary Encounters: A Historical Narrative, 34 L. & SOC. REV. 911, 963 (2001). Tomlins writes that social science is one example of law’s capacity to police entry of new forms of social knowledge.
145 See generally Tomlins supra note 144, at 911-55, (discussing the “production period” of history.)
146 Id. at 946.
147 Id.
between the two professions. And, because some mix of business and law characterizes most international law, there is no reason to fear the result of regulated collaboration between the two professions.

Additionally, many MDP resisters fail to recognize many of the other outside intrusions already creeping into the attorney’s exclusive right to control legal practice. Although opponents to the MDP fear that interdisciplinary mergers will inevitably lead to greedy accountants doing legal work, opponents fail to recognize that many legal instruments are already drafted by nonlawyers, “from trust instruments drafted in banks, to real estate documents drafted in real estate and title companies, to virtually all other areas of business activity.” It is important to note that the legal drafting business has even been affected by the growth of many legal forms now available on disk, CD-ROM, and the Internet. One writer notes, “If you want to do your own will today, you can go to Borders instead of your local law office,” and notes, “[i]n truth, most of what lawyers do is not protected by professional monopoly, and with respect to such activities, our choices are either to get out of the business or learn to compete.” Indeed, lawyers and law firms must compete by embracing the MDP model, a model able to provide services to clients who desire one-stop shopping.

B. The MDP Structure Will Leave an Independent Space for Law

Lawyers in the United States will be able to voice concerns and dictate the direction in which the MDP will grow. In fact, direction from those involved with legal practice will help to eliminate many of the potential problems that could plague the new integration and experimentation with the MDP. The ABA has in fact considered structural and regulatory guidelines that might govern multidisciplinary practice in the United States. First, the legal profession would adopt rules of professional conduct to protect independent judgment, client confidentiality and loyalty to clients by continuing to consider conflicts of interest without hurting the development of new structures for more effective delivery of services. Additionally, new rules could be adopted that would allow a lawyer to share legal fees with a nonattorney and allow supervision of an attorney by a

148 Id.
149 See generally Dezalay & Garth, supra note 143, at 531-32.
150 See Munneke supra note 26, at 13-14.
151 See id. at 14.
152 Id.
153 Id. at 15.
154 Id.
155 See Dzienkowski & Peroni, supra note 7, at 175.
156 See generally Int’l Ass’n of Def. Counsel, supra note 8, at 466.
157 See id. at 460.
nonlawyer. Most likely, there would be a rule modification allowing a law firm to join with one or more other firms to provide necessary services to clients, including legal services.

As stated earlier, the ABA is not the only legal organization investigating the trend toward multidisciplinary practice. Most of the arrangements reported in the International Bar Association’s survey have been found to be reciprocal referral agreements as well as agreements to pay management fees or rent in exchange for client referrals. In another article commenting on the structure of European MDPs, the author found lawyers were rarely placed in an integrated operation. More frequently, however, MDPs were better characterized as side-by-side relationships with a law firm and an accounting firm sharing offices, equipment, and staff without any fee-sharing whatsoever.

With responsible planning, lawyers could successfully make room for MDPs. In turn, making space would offer a laundry list of perks for the lawyer who chooses not to fear the interdisciplinary cohort. One benefit is efficiency. Because there is less duplication of effort, time as well as money is saved by the lawyer. The increased efficiency will lead to an appreciative client because the client saves in research, contracting, coordination, information, and monitoring costs. Second, lawyers and nonlawyers could complement one another by using separate problem solving techniques unique to their respective professions. Legal analysis combined with practical tools of investigation and inquiry used in consulting, accounting and other independent professions could provide the client with a more complex and interesting perspective allowing more innovative transactions and business decisions. Third, the MDP will assure that the client is immediately steered toward the professional that can provide the most optimal service. This will keep both attorneys and nonattorneys from doing the wrong type of specialized work for a client. Fourth, lawyers can benefit from the diversification an MDP provides. Because

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158 Id.
159 Id.
160 Id.
161 Id.
163 Id.
164 See Dzienkowski & Peroni, supra note 7, at 118-19 (discussing the many benefits associated with the multidisciplinary practice).
165 Id.
166 Id.
167 Id. at 119.
168 Id. at 122.
169 Id.
170 Id.
171 Id.
MDPs can comprise a number of different professions, the MDP can leverage an attorney’s reputation because of its reputation among a number of different professional specialties.\(^{172}\)

Legal practices around the world are coming to realize the importance of providing clients with services that can only be obtained through the MDP. Legal rules and constructs are increasingly relying upon non-law factors such as economics, quantitative analysis and sociology.\(^ {173}\) By forming an MDP, all of the various professionals have ownership interests in all areas of the firm, and legal practice will only benefit from the growing number of loyalty ties as well as new forms of capital created.\(^ {174}\)

C. Law Firms Must “Compete” With Business by Allowing MDPs

If the United States intends to continue to be a leader in global commerce, American attorneys should attempt to see the benefits of multidisciplinary practice and accommodate the MDP as other countries have begun to welcome the structure.\(^ {175}\) Otherwise, American clients and worldwide clients will perhaps begin to seek services from the countries that can provide more innovative legal assistance.\(^ {176}\) Again, there are at least four arguments in support of the United States implementing the MDP.\(^ {177}\) First, many United States-based accounting firms are currently affiliating with European law firms in order to offer much needed tax services to multinational clients who have a need and demand for an “international network” of legal services.\(^ {178}\) The United States should accept the MDP as soon as possible in order to compete with the European law firms now partnering with top accounting firms; otherwise, the United States might have to later settle for accounting firms less successful and less likely to attract large multi-national corporations.\(^ {179}\)

Second, today’s business questions often blur the lines between business and law.\(^ {180}\) While a client could perhaps assemble a team of legal and business advisors, the MDP allows for clients to go immediately to one clearly accountable and merged body.\(^ {181}\) When working as a team, both lawyers and nonlawyers are likely to be more sensitive to their respective

\(\ldots\)
professional fields, and clients are likely to therefore obtain a more comprehensive definition of their particular individual problem.\textsuperscript{182}

Third, many consumer advocate groups have noted that the MDP will usually provide constituents with better access to the legal system because it allows clients and consumers a recognizable point of entry.\textsuperscript{183} For example, either a social worker or perhaps a health care worker "would help elderly or low-income clients who don't have wills or are not pursuing the right legal remedies."\textsuperscript{184} Low and middle income individuals as well as smaller businesses will greatly benefit by exposure to multidisciplinary services: "[f]amily mediation clinics, small business consulting practices, environmental service firms, and gerontological services firms will all be casualties of a failure to move towards an acceptance of MDPs."\textsuperscript{185} Multidisciplinary practices would give low and middle income individuals the opportunity to access personal services not often present in their own "ordering of personal and business matters."\textsuperscript{186}

Finally and most importantly, the MDP concept is booming in Asia, Latin America, Europe and Canada.\textsuperscript{187} The demand for the MDP exists and clients will seek services abroad if the United States' ethical rules are not modified to allow American lawyers to participate.\textsuperscript{188} The United States must keep up with other international models, or the American legal system could fall behind the pack and lose high-dollar international clients requiring a wide range of professional services and very much attracted to the concept of "one-stop shopping."

It is true that many activities once undertaken by only attorneys are now open playing fields for other professionals looking for a link with law. According to one academic,

[T]he accounting gargantuas now offer, e.g., financial planning, appraisals, litigation support, international tax practice, and alternative dispute resolution. The smaller accounting firms, along with investment advisors, insurance companies, and banks, blur the boundaries between various disciplines by expanding their respective traditional business lines. A tide rolls toward one-stop shopping for professional services.\textsuperscript{189}

\textsuperscript{182} Dzienkowski & Peroni, supra note 7, at 121.
\textsuperscript{183} Ellis, supra note 82, at 629.
\textsuperscript{184} Id. at 629-30.
\textsuperscript{185} Dzienkowski & Peroni, supra note 7, at 126.
\textsuperscript{186} Id.
\textsuperscript{187} See Ellis, supra note 82, at 630.
\textsuperscript{188} See Dzienkowski & Peroni, supra note 7, at 124.
\textsuperscript{189} See Swan, supra note 16, at 156.
Finally, it is important to note that the “tide” may be too powerful to stop: the ABA Commission on Multidisciplinary Practice found that although MDPs exist de facto now in the United States, unlicensed practice of law and discipline enforcement is nonexistent. As of now, there has been no action against any firms or any lawyers since they started developing MDPs. Texas has tried to enforce the laws prohibiting development of multidisciplinary practice, but could not follow up with any sort of suit because they could not find a lawyer to take on Arthur Andersen, which had set aside a “war chest” of $10 million.

In the July 30, 1999, the Lawyers Journal noted, “[a]s huge accounting firms continue to edge into traditional legal fields, both nationally and internationally, the legal community will be forced to respond.” MDPs should not be banned in the United States because of the fear of regulatory problems that may arise. Instead, opponents of MDPs should direct their energy toward finding new solutions to potential problems and attempt to correct the complications that provide the most concern for the practice of law. Finally, one must keep in mind that those persons who do not wish to be represented by an MDP will still have the opportunity as well as the choice to seek representation from a traditional legal practice firm that is not linked to the MDP movement. The client will be able to choose whether or not to turn to the MDP for legal aid. The legal profession must recognize that there is no longer an opportunity to limit the client’s choice.

V. CONCLUSION

As has been noted throughout this comment, MDPs are gaining popularity globally and might soon sweep to the United States as well:

Lawyers have been slow to embrace technology, in part because they are uncertain of how to provide services efficiently. Instead, they rely on economic protectionism to defend their turf. Lawyers have resisted notions like “one-stop shopping” while their accounting friends have embraced it. Lawyers have failed to accept the practice of law combined with multidisciplinary problem solving, unless they control it. If the legal profession does not want to go the way of the railroads, lawyers are going to have to view what we do in a different light.

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190 Id. at 158.
191 Id.
192 Id.
193 Rachel Berresford, Beat ‘Em or Join ‘Em: The Multidisciplinary Practice Debate, 1 LAWYERS J. 1, 13 (July 1999).
194 See Int’l Ass’n of Def. Counsel, supra note 8, at 467.
195 See Munneke supra note 26, at 15-16.
If critics paid more attention to the actual structure of model multidisciplinary practices in other countries, critics would find that the MDP is in fact not so controversial and should not be so vehemently opposed. As indicated earlier in this article, the United States model would best be shaped by adopting some of the principles examined in the United Kingdom model: a model without fee-sharing, but where a formal partnership for business referral is not frowned upon but seen instead as key for survival of mid-sized and large law firms.\textsuperscript{196}

The multidisciplinary practice debate in the United States revolves around fee-sharing relationships and has very little to do with the actual interdisciplinary approach of merged practice. The rhetoric instead should focus on how to successfully integrate MDPs into the United States instead of whether the United States \textit{should} integrate MDPs. Legal practice should now concentrate on what features of multidisciplinary practice the United States wishes to adopt. Lawyers and accountants, for example, could begin to emphasize the most ideal forms of integration, and the rules that should govern the associations between law firms and accounting firms, as well as consulting firms and investment banks. The MDP in the United States does not have to be an integrated model with fee-sharing among the two practices. Instead, the American model can follow the example set by other international multidisciplinary practices, operating as a formal business referral system rather than as a wholly integrated, merged practice between two different and distinct disciplines.

Finally, it is most important for the legal profession not to panic as the rhetoric of professional crisis continues. In any time of professional change, there is bound to be criticism and hysteria.\textsuperscript{197} Bryant Garth, director of the American Bar Foundation in Chicago, has stated before that it is not surprising for changes in the relationship between lawyers and the businesses they serve to promote "denunciations and preoccupations with commercialism" because of the feared danger of business values overcoming professional values.\textsuperscript{198} "The success of the legal profession in the United States has come in part from its ability to absorb criticism and to mutate subtly to accommodate changes in the state as well as in the economy." Garth continues by emphasizing prior "crises" that have created a supposed strain on the legal profession earlier in legal history:

There have been professional "crises," for example, about lawyers working for insurance companies, about the rise of in-house counsel, and about plaintiffs' lawyers personally financing litigation, but in each case the norms of the profession have managed to al-
low the new kinds of practices to exist. Each time there is concern about the ability of the lawyers in these settings to maintain the requisite degree of "professional independence." And once the debate has passed, almost no one even remembers that there was once a crisis. The new forms of practice become accepted – now defined as not per se inconsistent with professional values.\\(^{200}\)

Like all other forms of change to legal practice, the MDP will eventually be embraced and no longer feared by the American legal system. Now, it is more important than ever for the rhetoric to focus on the appropriate form of regulation for legal practice within the MDP. The American legal system has been warned: "[i]f the regulatory bodies in the legal profession cannot come to a consensus about what rules govern lawyers in MDPs, it is possible that they could lose complete control over lawyers practicing in the MDPs. Those lawyers might not even be called 'lawyers' anymore."\\(^{201}\) Another observer has noted that acceptance on the legal profession's terms should now seem more attractive than being forced to accept MDPs on another profession's or the government's terms.\\(^{202}\) American lawyers must embrace the opportunity to regulate itself and must allow multidisciplinary practice, or American law will suffer by its adamant refusal to recognize inevitable global trends.

Now is the time to discuss appropriate regulations and create necessary ethical firewalls. Regulation will provide the true protection of the legal profession in an era of growing multidisciplinary practice.

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\(^{200}\) Id.

\(^{201}\) Connatser, supra note 9, at 396.