ISSUES COMMITTEE
SUBCOMMITTEE TO STUDY REGULATORY CHANGE
North Carolina State Bar
Zoom Conference Call
August 24, 2021
2:00pm to 4:00pm

Ethics Act Statement

It is the duty of Committee members to avoid conflicts of interest and appearances of conflicts of interest in performing the duties as a member of the Committee to Study Regulatory Change and the North Carolina State Bar. Any member of the Committee who is aware of any personal conflicts or appearances thereof with respect to the matters before this Committee should disclose those at the meeting.

Agenda

I. Welcome

II. Approval of July 27, 2021, Minutes

III. Discussion and Development of Recommendation(s)
   a. Regulatory Sandbox (Jeff Kelly)

IV. Next Steps for Subcommittee

V. Adjourn

Minutes of the Meeting of the Subcommittee to Study Regulatory Change
July 27, 2021

The Issues Committee's Subcommittee to Study Regulatory Change met by Zoom videoconference on July 27, 2021. Mark Henriques, the chair of the subcommittee, presided. The following members of the subcommittee were present: A. Todd Brown; Lakisha Chichester; Warren Hodges; Jeff Kelly; S.M. Kernodle-Hodges; Joshua Malcolm; Dewitt "Mac" McCarley; Alicia Mitchell-Mercer; Stephen Robertson; and Jeff Summerlin-Long. The following State Bar officers were also present: State Bar President Barbara Christy; State Bar Past President Colon Willoughby; and State Bar Vice President Marci Armstrong. The following guests were also present: Mary Irvine, Executive Director of NC IOLTA. The following members of the staff were in attendance: Alice Neece Mine, executive director; and Brian Oten, ethics counsel and director of special programs. Mr. Oten prepared these minutes.

At approximately 2:00pm, Mr. Henriques called the meeting to order. He advised the members of the subcommittee of their responsibilities under the State Government Ethics Act. No conflicts or potential conflicts of interest were noted.

The first order of business was the review and approval of the minutes from the subcommittee's prior meeting on June 23, 2021. Upon motion duly made and seconded, those minutes were approved.

Mr. Henriques then called on Mr. Oten to update the subcommittee on regulatory change developments in other U.S. jurisdictions. Mr. Oten reported on a new report issued by the Florida State Bar, which recommends the development and implementation of a regulatory sandbox in Florida. Notably, the sandbox would encompass both alternative business structures and paraprofessional licensure. Similarly, Washington has also published and proposed a regulatory sandbox for the state. Both reports and recommendations will be further considered by each state's supreme court for potential approval. Lastly, Mr. Henriques noted recent updates in California as they pursue a paraprofessional license. The California proposal is not a state-wide program, but instead will initially only be authorized in certain counties. The proposal also outlines a three-year timetable to implement the new license and includes limitations on areas of law that license holders will be able to practice. The subcommittee discussed the California proposal, including the areas of law authorized for practice and the qualifications to sit for the paraprofessional license exam.

Mr. Henriques next updated the subcommittee on the State Bar Council's July 2021 quarterly meeting. Specifically, Mr. Henriques noted that the Council approved the creation of a new ad hoc committee for the purpose of further exploring and developing a license to practice limited areas of law for paraprofessionals. The new committee will likely be constituted prior to the October 2021 quarterly meeting, with work beginning during the last quarter of 2021.

The next item on the agenda was the discussion and development of potential recommendations on regulatory change ideas that had previously been studied by the subcommittee. Mr. Henriques asked Mr. Oten to introduce and describe each idea, then asked the subcommittee members to offer any thoughts in favor of or opposed to the idea. Following extensive discussion, Mr. Henriques asked subcommittee members to vote on whether the discussed idea should or should not be

recommended to the State Bar Council for further study and potential development. The topics discussed, and the associated votes on recommending the idea, were as follows:

1. Liberalization of the Unauthorized Practice of Law statutes
    a. Idea: Redefining what constitutes the practice of law; excludes required amendments to enable creation of a limited license for nonlawyers or other regulatory change ideas (including self-help opportunities, alternative business structures, etc.).
    b. 6-4 in favor of recommendation.

2. Alternative Business Structures
    a. Idea: Any business model through which legal services are delivered that is different from the traditional sole proprietorship or partnership model; includes nonlawyer ownership, corporate practice, publicly traded law firms; and/or multi-service associations (e.g. law firm partners with financial planning firm, with all partners owning the unified business).
    b. 6-2 in favor of recommendation.

3. Fee Sharing with Nonlawyers
    a. Idea: Granting authority to lawyers/law firms to share fees with nonlawyers, included staff and other third parties (distinct from ABS in that this does not include nonlawyer ownership).
    b. 6-3 in favor of recommendation.

4. Alternative Admission to the Bar
    a. Idea: Permitting additional pathways to obtaining a law license (including elimination of the bar exam or permitting non-J.D.s to take the bar exam upon completion of legal apprenticeship/substantial work experience).
    b. 4-4 tie vote; idea will not be recommended.

Mr. Henriques then updated the subcommittee on two additional ideas proposed by members of the State Bar Council for consideration by the subcommittee. The first was the expanded use of law students and law school clinics to address access to justice concerns, particularly with regard to the areas of need identified by the Legal Needs Assessment. Ms. Mine provided the subcommittee with an overview of the current structure for law student practice under the State Bar's administrative rules, and observed that law school clinics are presently maximizing their efforts to provide services to those who cannot afford legal services. Ms. Mine did not think expanding law school clinics would make much of an impact in remedying the identified access to justice issues given law schools' already substantial efforts on this front. After discussion, subcommittee agreed to not pursue additional opportunities through law school clinics. The next idea discussed by the subcommittee was the pursuit of an amendment to Rule 16 of the General Rules of Practice to require judges to allow withdrawal from representation, thereby enabling lawyers to offer unbundled services. The subcommittee generally expressed concern with proposing a rule that would eliminate a judge's discretion to permit withdrawal, both in terms of substance and likelihood of success. After discussion, the subcommittee agreed not to pursue an amendment.

Mr. Henriques then noted that the next meeting was scheduled for August 25, and would focus primarily on the idea of recommending a regulatory sandbox for North Carolina. Following that meeting, Mr. Henriques hoped to put together a report for submission to the Council at the October meeting summarizing this subcommittee's work and recommendations.

There being no further business to come before the subcommittee, the meeting was adjourned at approximately 3:50pm.

_____

Brian Oten, Subcommittee Staff Counsel

August 13, 2021

FEATURE

Why We Should Embrace the Regulatory Sandbox

Ellen Murphy

Share:

States should consider innovations to increase accessibility, affordability, and quality of civil legal services.

Pogonici/iStock via Getty Images Plus

In the middle of our global pandemic, Sandy Carpenter joined Blue Bee Bankruptcy Law (https://bluebeebankruptcy.com), a Salt Lake City, Utah, law firm with two attorneys representing consumers and small businesses in bankruptcy. When she joined, Sandy became the first paralegal in U.S. history to have equity interest in a law firm.

Cutting-Edge AI
With a Human Touch.
Get more from your marketing with Scorpion.
SCORPION
Learn More

How did this happen? Utah's Supreme Court granted Blue Bee, or B3 Law as it is known, a special allowance to transfer 10 percent of its outstanding shares to Sandy. Chip Parker, founder of B3 Law, says of Sandy's hire, "It's all about access to justice." The firm got an experienced paralegal willing to take a risk on a new firm. "Sandy is truly motivated to help others, but now she also has pride of ownership. She takes the success of our firm personally, and it shows." And it is not just Sandy and Chip who benefit. "Our clients ultimately reap the benefit of always dealing with an owner," says Chip.

Utah's regulatory sandbox made this possible.

What Is a Regulatory Sandbox?

The Utah Supreme Court describes a regulatory sandbox as "a well-established policy tool through which regulators permit new models and services in a market under careful oversight to test the interest, viability, and consumer impact and inform policy development" (Utah Legal Regulatory Reform: Basic Facts, https://tinyurl.com/3auzjhxk). Most fundamentally, it is a framework for risk-based regulation. Much like a pilot program, it is a narrow space in which the Utah Supreme Court may "change the rules in a very controlled and time-limited way, monitor how things go, collect data, and analyze the results."

The expressed regulatory objective of Utah's sandbox is "to ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services." This objective is rooted in access to justice, a staggering problem in our profession and our society. And while legal aid and pro bono are necessary, alone they are not sufficient. The data show that providing even a single hour of attorney time to every person in need of legal services in the United States would cost $40 billion, yet total expenditures on legal aid are just 3.5 percent of this amount (Gillian K. Hadfield and Deborah L. Rhode, "How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering," *Hastings Law Journal*, 2016, vol. 67, at 1191, 1193, https://tinyurl.com/59bu8tzk). Providing a single hour of pro bono time to these individuals would require more than 200 hours of pro bono work per attorney; the average is just over 42 hours.

How Was Utah's Sandbox Created?

As in all states, the Utah Supreme Court regulates the practice of law. Historically, this meant that the Utah State Bar, vested with the authority by the Utah Supreme Court, administered all the rules and regulations governing the practice of law in Utah. This includes the Utah Rules of Professional Conduct, as well as the Rules Governing Licensed Paralegal Practitioners.

With the sandbox, the Utah Supreme Court has created a new regulatory body, the Office of Legal Services Innovation, and vested it, under the Utah Supreme Court's oversight, with the authority to oversee new legal business models and services. The focus of this regulatory system is the same as that of the Utah State Bar: protecting consumers from harm. What is different is that the Office of Legal Services Innovation uses an objective-based, risk-based approach to regulation.

How Does Utah's Sandbox Work?

You are probably now thinking, well, what is risk-based regulation? Isn't that what the Rules of Professional Conduct provide?

Not exactly. The goal of the Rules of Professional Conduct is to protect the public, to prevent harm to any consumer of legal services. Take the current ABA Model Rule 5.4 as an example. This rule strives to protect clients from (1) nonlawyer interference with lawyer independence; (2) nonlawyers encouraging litigation; and (3) nonlawyers engaging in the amorphous "practice of law." However, Rule 5.4 assumes that any alignment of interests between nonlawyers and lawyers is bad and operates in such a way that nonlawyers and lawyers cannot be aligned in ways that may actually benefit the client.

In a presentation at the January 2021 Innovation in Technology Conference, Lucy Ricca, executive director of Utah's Office of Legal Services Innovation, explained that Utah's sandbox is grounded in five principles: regulation should be based on risk to the

consumer; this risk should be evaluated relative to the current legal services options; regulation should establish probabilistic thresholds for acceptable levels of harm; regulation should be empirically driven; and regulation should be market-based.

For individuals and entities seeking sandbox approval, these steps are required:

1. Tell the Office of Legal Services Innovation what you are proposing.
2. Explain what kinds of risks there might be for consumers.
3. The Office will then recommend to the Utah Supreme Court whether to permit your innovation; the Court is the decision-maker.
4. If the proposal is approved, the Office will tell you what data you must provide and what consumer disclosures you must make.
5. Then, the Office watches for harm.

When an innovator or entity makes a proposal, the Office of Legal Services Innovation and the Utah Supreme Court determine the risk level associated with the proposal. The higher the risk, the more frequent and detailed the reporting requirements will be.

From the observation and reporting of these individuals and entities, the Office of Legal Services Innovation will complete a final outcomes evaluation and report, which will help the Utah Supreme Court decide how to proceed, the possibilities of which could include new regulatory strategies through permanent changes, extension of the sandbox, or even additional experiments. To date, 28 applications have been approved.

But Why Do We Need the Sandbox?

Fundamentally, we need the sandbox to increase access to justice. We have known for some time that our current regulatory approach has failed to serve all members of our society. The *Report on the Future of Legal Services in the United States*, issued in 2016 by the ABA Commission on the Future of Legal Services (https://tinyurl.com/c74yuphx), found that (1) the access-to-justice gap is widening, including for both low- and moderate-income individuals; (2) technological advancements and other innovations that could change the delivery of legal services are not evenly distributed; and (3) public trust and confidence in the legal profession are low, due to a lack of diversity, implicit bias, complexity, and inadequate resources coupled with over-criminalization and mass incarceration.

Utah, like many states, has attempted to increase access to justice through various initiatives, including its licensed paralegal practitioner and online dispute resolution programs, as well as the Utah Courts Self-Help Center. However, as Utah Supreme Court Standing Order No. 15 explains, "real change in Utahns' access to legal services requires recognition that we will never volunteer ourselves across the access-to-justice divide and that what is needed is market-based, far-reaching reform focused on opening up the legal market to new providers, business models, and service options" (https://tinyurl.com/p9jmk73z).

Enter Chip and Sandy. Chip says of B3 Law's sandbox approval, "[T]he sandbox afforded me an opportunity to 'put my money where my mouth is.' Philosophically, I believe the best society is one where we are all given equality of opportunity, but I benefited from a privileged upbringing and opportunities not accessible to many at least as capable as I. Sandy and I divide [the] percentage of ownership based upon our relative risk in the venture."

And it is not just traditional law firms that are imagining new ways of providing legal services. Economically, the growth of nonlawyer legal businesses is staggering. Thomson Reuters and Adam Smith, Esq., predict that revenue from alternative legal

providers will grow from a mere $2 billion in 2015 to $55 billion by 2025 (Mark A. Cohen, "What's a 'Law Company' and Why Are Legal Consumers Embracing It?," *Forbes*, Nov. 20, 2017, https://tinyurl.com/3kf2fh9f).

While many lawyers (perhaps even you) are resistant to change, and especially nonlawyer ownership, there is much to be gained. Today's market for legal services includes a new generation of legal entrepreneurs and businesses and harbors new hope for the development of legal service tools and models that will increase access to justice. Permitting nonlawyer investment in law firms, and thereby allowing lawyers to create innovative law businesses, will allow lawyers to participate directly and fully in the creation and evolution of these businesses. This will ensure that our traditional professional values are at their core. Without this freedom, we limit our ability to engage directly in the innovations that can help solve the problems identified by the ABA Commission and confirmed by others.

In Utah, nonlawyer investment can now help fund a more efficient delivery of legal services; entrepreneurial enterprise behind new firm models and technologies will enable lawyers to serve more clients at lower cost. All the while, the Office of Legal Services Innovation and the Utah Supreme Court regulate the process, ensuring that our principles and values are preserved. Clients win. Lawyers win. Business wins. Society wins because the result is to open the courthouse doors to those who previously have not had access.

And What Is the Risk to My Practice?

Change does not necessarily equate to harm. Equity sharing arrangements such as B3 Law's need not interfere with any of the goals of Model Rule 5.4: (1) preventing nonlawyers' interference with lawyers; (2) preventing nonlawyers from encouraging litigation; and (3) preventing nonlawyers from engaging in the "practice of law." As a legal ethics teacher, I take comfort in the experience of the District of Columbia, which has allowed nonlawyer ownership for more than two decades and has experienced no increase in related disciplinary violations. The goal should be balancing protection of the public while still providing access to the courthouse to everyone.

Any state can create a sandbox. The ABA, while not changing its rules, has adopted a resolution encouraging states to consider innovations that could increase the accessibility, affordability, and quality of civil legal services. Just two weeks after the Utah Supreme Court approved the creation of the Office of Legal Services of Innovation, the Arizona Supreme Court went further, eliminating altogether its Rule 5.4. Other states are acting, forming task forces, groups, and commissions to study how they, too, can best address unmet legal needs through regulatory reform. (The University of Denver's Institute for the Advancement of the American Legal System maintains an up-to-date list at iaals.du.edu/knowledge-center.)

Download the PDF of this article

ENTITY:

SOLO, SMALL FIRM AND GENERAL PRACTICE DIVISION

TOPIC:

ETHICS

Authors

Closing the Justice Gap Working Group

Closing the justice gap for Californians by developing a controlled environment for testing innovative systems for delivering legal services

Background

The State Bar Board of Trustees established the Task Force on Access Through Innovation of Legal Services (ATILS) in July 2018 to develop recommendations for regulatory changes to enhance the delivery of—and access to—legal services through the use of technology, including artificial intelligence, and online legal service delivery models. That effort culminated in a series of actions in early 2020, including the establishment of the Closing the Justice Gap Working Group. The working group is charged with addressing the following:

1. Exploring the development of a regulatory sandbox.
2. Considering amendments to rule 5.4 regarding fee sharing.
3. Issuing for public comment a new rule 5.7 addressing the delivery of nonlegal services provided by lawyers and businesses owned or affiliated with lawyers.
4. Considering recommendations for amendments to the Certified Lawyer Referral Service statutes and Rules of the State Bar.
5. Considering recommendations for amendments to the rules governing advertising and solicitation.

The Board directed the working group to address these recommendations with a primary focus on exploring the development of a regulatory sandbox in order to:

- Foster experimentation with innovative legal services delivery systems in a manner that both protects the public and yields data to assess the impact on access to legal services of possible changes in the laws and rules regulating the practice of law in California;
- Evaluate possible changes to existing laws and rules that otherwise inhibit the development of innovative legal service delivery systems, such as consumer-facing technology that provides legal advice and services directly to clients at all income levels; and
- Evaluate changes to laws and rules that inhibit the formation and continuation of delivery systems created through the collaboration of lawyers, law firms, technologists, entrepreneurs, and others.

Working Group Charter

The working group will develop specific recommendations regarding the following:

1. **A regulatory sandbox.** Related recommendations will include an assessment of the pros and cons of a sandbox as a way to foster experimentation with innovative legal services delivery systems in a manner that protects the public and allows for the collection of data to assess the impact on access to legal services of possible changes in the laws and rules regulating the practice of law in California. Sandbox recommendations should specifically address:

a. Scope and regulatory structure of a sandbox, including funding, staffing, and governance, and conflicts of interest issues for members of any governing body;
b. Required changes to laws and rules, including practice of law statutes and attorney conduct rules;
c. Methods to apply to enter and processes governing entry into the sandbox, including eligibility criteria, approval processes, appeals processes for denied applicants, and possible reciprocity with sandbox participants in other jurisdictions;
d. Technology delivery system issues, including testing, accessibility, bias, confidentiality, privacy, dark patterns, and intellectual property rights of applicants;
e. Recordkeeping, reporting, data collection, and sandbox evaluation metrics;
f. Program oversight for persons and entities accepted for participation in the sandbox including standards of conduct, processing of client complaints, and enforcement through suspension or removal from the sandbox or other remedies; and
g. Termination of the sandbox, including participant exit/extensions and post-termination assessment of any permanent changes to laws and rules that might be considered as a result of the sandbox.

2. **California's lawyer advertising and solicitation rules.** In developing recommendations on this subject the working group will evaluate California's and the American Bar Association's lawyer advertising and solicitation rules to determine whether and to what extent these rules inhibit or advance innovation and access to legal services;
3. **Lawyer Referral Service statutes and rules.** In developing recommendations the working group will determine whether and to what extent the existing statutes and rules inhibit innovation and access to legal services;
4. **Amendments to rule 5.4 of the California Rules of Professional Conduct regarding attorney fee sharing with nonlawyers.** The working group will specifically address the question of whether amendments to this rule are warranted independent of any temporary changes that might be evaluated in a sandbox; and
5. **Amendments to the California Rules of Professional Conduct regarding the delivery of nonlegal services by lawyers and businesses owned or affiliated with lawyers,** including proposed rule 5.7 developed by the Task Force on Access Through Innovation of Legal Services.

The working group begins its work in January 2021 and is directed to submit its recommendations to the Board of Trustees no later than September 2022.

Working Group Composition

The working group's members were selected and appointed to ensure that a wide variety of perspectives are fully and thoughtfully considered in this exploration of fundamental shifts to the traditional practice of law. Chaired by Justice Alison M. Tucher, the working group includes state, national, and international experts whose work focuses on the nexus of legal services, technology, and regulatory reform. It also includes members from important practitioner groups as well as members continuing from ATILS—who bring deep experience in California's legal services community and expertise in legal ethics—to provide continuity with that foundational effort.

To follow the activities of the working group, including meeting notices and information about public comment opportunities, those interested can subscribe to the working group's e-list. The signup form is available at the bottom of this webpage.

FINAL REPORT OF THE
SPECIAL COMMITTEE TO IMPROVE THE DELIVERY OF LEGAL SERVICES

By:

John Stewart, Chair

Cesar Alvarez

Joseph Corsmeier

Josias Dewey

Santo DiGangi

Adriana Gonzalez

John F. Harkness, Jr.

Shawnna Hoffman-Childress

Lansing Scriven

Sarah Sullivan

Bar Consultant Lori Holcomb

June 28, 2021

I. Introduction

On November 6, 2019, the Supreme Court of Florida (the Court) sent a letter to John Stewart, then president of The Florida Bar, requesting that a study be conducted “into whether and how the rules governing the practice of law in Florida may be revised to improve the delivery of legal services to Florida's consumers and to assure Florida lawyers play a proper and prominent role in the provision of these services." (A copy of the referenced is attached in Appendix A.) The Court requested that the study address:

Lawyer Advertising

Referral Fees

Fee Splitting

Entity Regulation

Regulation of Online Service Providers

Regulation of Nonlawyer Providers of Limited Legal Services

Additional Topics Consistent with the Subject of the Study

Pursuant to the Court’s directive, the Special Committee to Improve the Delivery of Legal Services (the Committee) was appointed. The composition of the Committee is diverse in practice area, firm size, geography, gender and ethnicity and includes a member of the public considered an expert in artificial intelligence and other areas of technology. Because of the variety of issues involved, the Committee divided into subcommittees as follows:

Review of Rule 4-5.4 Professional Independence of a Lawyer and accompanying ethics opinions

Review of pertinent advertising rules as found in Chapter 4-7 of the Rules Regulating The Florida Bar

Review of Rule 4-7.17 relating to payment of referral to persons other than lawyers (including related rules and ethics opinions)

Review of Lawyer Referral services including Rule 4-7.22 (For Profit) and Chapter 8 (Not-for-Profit) and related rules and ethics opinions

Review of regulatory framework including entity regulation, regulatory sandbox and related concepts

Member and public engagement and data collection and review

Review of Advanced Florida Registered Paralegal Proposal

The Committee met a total of 16 times. The subcommittees met a total of 45 times with some subcommittees meeting more often than others.

The Committee reviewed hundreds of pages of reports[1] and had discussions with the following individuals who have studied the issues before the Committee:

Justice Deno Himonas, Utah Supreme Court (the Committee heard from Justice Himonas two times)

Andrew Arruda, member of the California Task Force on Access Through Innovation of Legal Services

Crispin Passmore, Passmore Consulting, United Kingdom (the Committee heard from Crispin Passmore two times)

Vice Chief Justice Ann A. Scott Timmer, Arizona Supreme Court

John Lund, Chair of the Utah Office of Legal Services Innovation, past-president of the Utah Bar

In addition, the subcommittee studying public engagement and data collection had a conversation with Lawrence Alexander, Chair of the Access to Justice Service Innovation Lab of the Law Society of British Columbia. Mr. Alexander's presentation was made available to the Committee.

The input from these individuals was invaluable. They were able to provide insight into the thoughts and work of their committees/jurisdictions, interactions with their courts, and with members of their bars.

The Committee also heard from Mark Gold, a member of The Florida Bar, and reviewed the results from the 2021 Florida Bar Member Survey and the Florida Bar Survey of Florida Registered Paralegals.

II. The Court's Constitutional Authority

As the work of the Committee includes studying the provision of legal services by those not admitted to the practice of law, the Committee considered the ability of the Court to regulate such services. The questions addressed were the Court's regulatory authority in such instances. The Court has dealt with these issues on several occasions although the approach has varied. The Committee concluded that because the Court has the exclusive jurisdiction to admit persons to the practice of law, the Court can admit/authorize anyone to practice law and, once admitted, can regulate their conduct.

As noted in the Court's November 6, 2019 letter, Article V, section 15 of the Florida Constitution gives "[t]he supreme court . . . exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted." Even though the Florida Constitution gives the Court this exclusive jurisdiction, the Constitution does not dictate how the Court must regulate the admission of persons to the practice of law or how the Court may discipline persons admitted. While most individuals are admitted via The Florida Bar examination, that is not the sole process.[2]

[1] The reports can be found under Background Materials on the Committee's webpage on The Florida Bar's website at https://www.floridabar.org/about/cmtes/cmtes-me/special-committee-to-improve-the-delivery-of-legal-services/ The agendas and minutes can be found at that link as well.

[2] *See* Rules of the Supreme Court Relating to Admission to the Bar

For example, chapter 17 of the Rules Regulating The Florida Bar admits out-of-state lawyers to the practice of law for the limited purpose of acting as in-house counsel for a corporation located in Florida. Those lawyers may be admitted without having to successfully complete The Florida Bar examination. There are many other examples where through the Rules Regulating The Florida Bar, the Court has admitted individuals to the practice of law.[3] Although the rules do not speak in terms of admission, that is what the rules are doing – admitting someone to practice law in Florida by authorizing the practice in one or more areas.

In addition to the rules that admit/authorize an individual to practice law, case law has also authorized the practice of law. The Court can either authorize anyone to engage in an activity or can authorize only specific individuals to engage in an activity. For example, the Court has authorized anyone to complete a legal form with information provided by the individual who will be using the form in a court proceeding.[4] However, only certain individuals not admitted to the practice of law may draft and file a complaint for residential eviction for nonpayment of rent.[5] Similarly, case law authorizes a real estate licensee to prepare the documents necessary to bring together the buyer and seller including the contract for sale.[6] Alternatively, anyone who is not a real estate licensee who prepares a contract for sale is not admitted to the practice of law for that purpose and can be prosecuted for the unlicensed practice of law.[7]

Once someone is admitted or authorized to practice law in Florida, the Court can regulate that practice. This extends to anyone admitted to practice. As held by the Court, in addition to acting in a judicial capacity, the Court also "acts in its administrative capacity as chief policy maker, regulating the administration of the court system and supervising *all persons* who are engaged in rendering legal advice to members of the general public."[8] Part of this grant of constitutional authority and supervision is the authority to establish rules, regulations, and the parameters of practice that, if violated, will result in discipline.

There are many examples of the Court establishing rules, regulations, and parameters under which a person may practice law, the most obvious being the Rules of Professional Conduct.[9] For example, Chapter 17, which governs the admission of out-of-state lawyers to act as in-house counsel to Florida corporations, limits permissible activities to giving advice and providing services only to the corporation.[10] The lawyer is

---

[3] Chapter 11 – Certified Legal Intern Program
Chapter 12 – Emeritus Lawyer Rule
Chapter 16 – Foreign Legal Consultants
Chapter 18 – Military Legal Assistance Counsel
Chapter 21 – Military Spouse
Rule 4-5.5 – Multijurisdictional Practice of Law

[4] *The Florida Bar v. Brumbaugh,* 355 So. 2d 1186 (Fla. 1978); R. Regulating Fla. Bar 10-2.2.

[5] *The Fla. Bar re: Advisory Opinion Nonlawyer Preparation of Landlord Uncontested Evictions*, 605 So. 2d 868 (Fla. 1992), *clarified*, 627 So. 2d 485 (Fla. 1993).

[6] *Keyes Co. v. Dade County Bar Association*, 46 So. 2d 605 (Fla. 1950).

[7] *The Florida Bar v. Arango*, 461 So. 2d 932 (Fla. 1984).

[8] *The Florida Bar v. Brumbaugh,* 355 So. 2d 1186 (Fla. 1978) (emphasis supplied).

[9] R. Regulating Fla. Bar; Cp. 4 Rules of Professional Conduct.

[10] R. Regulating Fla. Bar 17-1.3(a).

not considered a member of The Florida Bar; however, the lawyer may be subject to discipline or sanctions if the lawyer engages in unethical conduct or provides services other than those allowed by the rule.[11]

Case law also provides examples of when the Court has regulated the conduct of individuals authorized or admitted to the practice of law. For example, in a case involving an out-of-state lawyer who was authorized through Federal statutes and regulations to practice tax law in Florida, the Court regulated how he could practice, including how he could advertise his services in Florida.[12] The Court has also established guidelines under which an interstate law firm may practice law in Florida, thereby regulating the conduct of all lawyers who are part of the firm.[13]

In sum, what the rules and case law show is that once an individual is admitted to the practice of law in Florida, the Court can regulate that individual's activities as they relate to the practice of law. After reviewing the case law and rules, the Committee concluded that the Court's constitutional authority to regulate the admission of persons to the practice of law and the discipline of persons who are admitted allows the Court to admit or authorize anyone to the practice of law and, once admitted, regulate the admittee's conduct.

III. Summary of Committee's Findings and Recommendations

Introduction

In 2014, the American Bar Association (ABA) commissioned a study on the future of legal services in the United States. The report begins with several observations which are still relevant today.

> Access to affordable legal services is critical in a society that depends on the rule of law. Yet legal services are growing more expensive, time-consuming, and complex, making them increasingly out of reach for most Americans. Many who need legal advice cannot afford to hire a lawyer and are forced to either represent themselves or avoid accessing the legal system altogether. Even those who can afford a lawyer often do not use one because they do not recognize that their problems have a legal dimension or because they prefer less expensive alternatives. For those whose legal problems require use of the courts but who cannot afford a lawyer, the persistent and deepening underfunding of the court systems further aggravates the access to justice crisis, as court programs designed to assist these individuals are being cut or not implemented in the first place.
>
> At the same time, technology, globalization, and other forces continue to transform how, why, and by whom legal services are accessed and delivered. Familiar and traditional practice structures are giving way in a marketplace that continues to evolve. New providers are emerging, online and offline, to offer a range of services in dramatically different ways. The legal profession, as the steward of the justice

[11] R. Regulating Fla. Bar 17-1.6.
[12] *The Florida Bar v. Kaiser*, 397 So. 2d 1132 (Fla. 1981).
[13] *The Florida Bar v. Savitt,* 363 So. 2d 559 (Fla. 1978).

> system, has reached an inflection point. Without significant change, the profession cannot ensure that the justice system serves everyone and that the rule of law is preserved. Innovation, and even unconventional thinking, is required. The justice system is overdue for fresh thinking about formidable challenges. The legal profession's efforts to address those challenges have been hindered by resistance to technological changes and other innovations. Now is the time to rethink how the courts and the profession serve the public. The profession must continue to seek adequate funding for core functions of the justice system. The courts must be modernized to ensure easier access. The profession must leverage technology and other innovations to meet the public's legal needs, especially for the underserved. The profession must embrace the idea that, in many circumstances, people other than lawyers can and do help to improve how legal services are delivered and accessed.[14]

Since the ABA report was issued in 2016, the legal marketplace has continued to evolve with little changes being made to how legal services are delivered in the United States. This started to change in 2019 and 2020 when various jurisdictions began studying how legal services are delivered and whether the delivery of legal services could, and should, change to provide greater access. Utah and Arizona led this charge with California, Illinois and New York close behind. Florida joined these jurisdictions in 2020 when the Court requested this study. The work of these jurisdictions, as well as reforms in other countries, helped guide the Committee. While the reforms may have been the starting point, the Committee reviewed the studies considering Florida's rules and legal marketplace. The recommendations in this report take all of this into account.

While the report contains several recommendations, the Committee is not recommending any rule changes at this time. Instead, the Committee took final action on certain items and voted to approve other items in concept.

Final Action Taken:

1. The Committee voted to recommend to The Florida Bar that The Florida Bar promote a better understanding of Rule 4-1.2(c) of the Rules Regulating The Florida Bar. This rule allows lawyers to limit the scope of their representation and provide unbundled legal services. As noted in the comment to the rule, "[a] limited representation may be appropriate because the client has limited objectives for the representation" or because the client may wish to "exclude actions that the client thinks are too costly . . . or which the client regards as financially impractical."[15] Although this option is available to both the lawyer and the client, it is being underutilized. Providing education in this area will help lawyers understand the rule. With better understanding, the rule may be utilized more with clients reaping the benefits.

2. The Committee voted that the Court should establish a regulatory sandbox where the recommendations approved in concept may be tested and appropriate data

[14] American Bar Association Report on the Future of Legal Services in the United States, American Bar Association Commission on the Future of Legal Services (2016) at pgs. 8 – 9 *available at* https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf
[15] R. Regulating Fla. Bar 4-1.2(c).

collected. The regulatory sandbox will be referred to in this report as the Law Practice Innovation Laboratory Program or the Lab. Although the Committee voted that the Lab be established, the format was approved in concept only. The Lab is discussed in more detail in section IV of this report.

3. The Committee agreed with the subcommittee report that Chapter 8 - Lawyer Referral Rule should not be amended.

4. The Committee agreed with the subcommittee report that rule 4-7.17 - Payment for Advertising and Promotion and rule 4-7.22 - Referrals, Directories and Pooled Advertising should not be amended at this time. Should changes be made to rule 4-5.4 and the advertising rules, these rules may have to be revisited.

Approved in Concept:

1. Rule 4-5.4, Fee Splitting and Law Firm Ownership

Rule 4-5.4 prohibits a lawyer from sharing legal fees with a nonlawyer and prohibits a lawyer from forming "a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law."[16] Florida first adopted a rule prohibiting fee sharing and entering into a partnership with a nonlawyer in 1955. Florida's current rule is based on the American Bar Association (ABA) Model Rule which was promulgated in 1969.[17] For over a decade, the ABA and several states, including Florida, debated whether the rule should be relaxed.[18] Until recently, the answer has been no.[19] Now, states are taking a fresh look at the rule and its prohibitions and are making changes.

The change is being driven in part to increase innovation in how legal services are provided with the hope of addressing unmet legal needs in the United States. Although the United States has one of the highest concentrations of lawyers in the world, the United States "ranks just 109 out of 128 countries in access to justice and affordability of civil legal services, below Zambia, Nicaragua, and Afghanistan. Two-thirds of American adults reported having a civil legal problem in [2019 – 2020], but only one-third of those received any help. . . Small businesses have significant legal issues as well, and yet 60% of small business owners who have at least one such issue– which they describe as one of the 'greatest threats to their business' – do not have a lawyer to assist them."[20] Unfortunately, "[l]egal aid and pro bono alone

[16] R. Regulating Fla. Bar 4-5.4,
[17] Alternative Law Business Structures ABA Issue Paper (April 5, 2011) available at http://www.americanbar.org/content/dam/aba/administrative/ethics_2020/abs_issues_paper.authcheckdam.pdf
[18] Ann Marie Puente, *Modern Complexity Demands New Ways of Working: The Future of the Lawyer-Nonlawyer Partnership*, 95 Fla. B. J. 34 (May/June 2021) *available at* https://www.floridabar.org/the-florida-bar-journal/new-ways-of-working-the-future-of-the-lawyer-nonlawyer-partnership/
[19] *Id.*
[20] Jason Solomon, Deborah Rhode & Annie Wanless, *How Reforming Rule 5.4 Would Benefit Lawyers and Consumers, Promote Innovation, and Increase Access to Justice*, Stanford Center on the Legal Profession, April 2020 at 1, *available at* https://www-cdn.law.stanford.edu/wp-content/uploads/2020/04/Rule_5.4_Whitepaper_-_Final.pdf

cannot solve the problem. Providing even one hour of attorney time to everyone in the United States with a legal problem would cost around $40 billion, but total expenditures on legal aid . . . are just 3.5% of that amount. Providing one hour of pro bono per justice problem would require over 200 hours of pro bono work per attorney per year, but the average pro bono hours worked per attorney is only 42.8."[21] Jurisdictions are now realizing that changes to how lawyers may form firms to practice law can help solve the problem.

While "the environment in which legal services are provided has been rapidly changing,"[22] "law firms suffer from a lack of innovation in marketing, finance systems, project management, and more" because law firms cannot offer equity to nonlawyers.[23] This prohibition is seen as "a major contributing factor to America's access to justice problem" because "prohibiting investment from non-lawyers leaves law firms strapped for capital [and] . . . makes it harder for law firms to keep up with modern innovations in business practices. Firms cannot form cost-effective multidisciplinary practices with other service providers, and few have incentive to invest in technology and business processes. Consumers today expect seamless, integrated services, and Rule 5.4 prevents lawyers from meeting the needs of their clientele."[24] The prohibition also impedes a lawyer's ability to practice law. Instead of using the skills learned in law school and focusing on the practice of law, "[t]he ban on nonlawyer ownership means lawyers — who receive no training on how best to manage a business during their three years in law school — are expected to run businesses" spending "only 2.5 hours of billable time per 8 hour work day."[25] "Many jurisdictions and entities have recognized that changing the prohibition on non-lawyer ownership may create strong, more stable law firms, as well as free up lawyers to focus more on legal practice" which they are trained to do.[26]

"Jurisdictions [outside of the United States] that have eliminated regulations similar to Rule [4-5.4] . . . demonstrate that involvement of non-lawyers fuels innovation without compromising legal services. . . . [C]omparative research finds no evidence that [alternative business] models result in adverse effects on consumers. Rather, they allow for increased choice and competition, improved services to consumers, reduced prices, and increased innovation in the provision of legal services."[27] Perhaps most telling of the success of relaxing or eliminating the prohibitions

[21] *Id.*
[22] *See* Court Letter at Appendix A.
[23] Solomon, *supra* note 20 at 5.
[24] *Id.* at 2 & 3.
[25] *Id.* at p. 5.
[26] *Id.* at 8.
[27] *Id.*

against nonlawyer ownership and fee sharing is the fact that "[t]o date, no jurisdiction that eliminated its prohibition . . . has reinstated it."[28]

It is against this environment and research that Arizona and Utah amended their rules in 2020 to eliminate the prohibitions of rule 4-5.4. Arizona eliminated their rule in its entirety.[29] Utah took a different approach by creating a regulatory sandbox where relaxation or elimination of the prohibition can be tested in a controlled environment.[30] The Committee is suggesting that Florida take the route taken by Utah and has unanimously voted to approve in concept the following recommendations of the subcommittee studying rule 4-5.4:

> *Amend Rule 4-5.4 to permit nonlawyers to have a non-controlling equity interest in law firms with restrictions.*

The approved concept, similar to the Washington D.C. rule, allows for nonlawyers to have a non-controlling equity interest in a law firm with restrictions. Specifically, the work of the nonlawyer must actively support the work of the law firm. For example, a nurse who analyzes medical records for a personal injury firm could have a non-controlling equity interest in the law firm. The lawyers in the firm must retain a controlling interest in the firm (e.g., the aggregate nonlawyer equity interest should be less than 50%). The lawyers would remain responsible for the actions of the nonlawyers, and the nonlawyers must agree to comply with the Rules of Professional Conduct. Additional amendments to the rule make it clear that none of the recommended changes would impact the lawyer's ethical obligation to exercise independent professional judgment.

Nothing in the rule or concept would *require* a law firm to offer an equity interest to any nonlawyers. To the contrary, if implemented, the Committee's approved concept would operate to eliminate the current restriction that limits a lawyer's ability to decide with whom the lawyer associates.

> *The Special Committee explicitly voted that professional rules should <u>not</u> be amended to permit passive ownership of law firms.*

Passive ownership would allow outside investors with no relationship to the law firm or the practice of law to have an ownership interest in a law firm. Although the subcommittee felt that there could be some benefit to consumers if passive ownership were allowed, the subcommittee was concerned with the risk of conflicts of interest and a possible impact on the lawyer's independent professional judgment. While passive ownership could allow for more ambitious ventures between law firms and technology companies, the other changes being proposed regarding fee splitting may also achieve the same goals but with fewer risks. If passive ownership were to be explored, it should

---

[28] *Id.*

[29] *In the Matter of Restyle and Amend Rules 31, 41, 42 (Various ERs from 1.0 to 5.7), 46-51, 54-58, 60 and 75 – 76*, Case No. R-20-0034 (AZ. Aug. 27, 2020) *available at* https://www-media.floridabar.org/uploads/2020/08/AZ-order-amending-ad-rules.pdf

[30] Utah Supreme Court Standing Order No. 15 (2020), *amended*, (April 30, 2021) *available at* https://www-media.floridabar.org/uploads/2021/06/Utah-Supreme-Court-Amended-Order-15-re-Sandbox.pdf

be done in the context of the proposed Law Practice Innovation Laboratory Program so that safeguards can be put in place and data collected.

Within the Law Practice Innovation Laboratory Program eliminate the restriction on fee sharing with nonlawyers under Rule 4-5.4.

The subcommittee concluded that there are benefits to allowing fee sharing with nonlawyers. The benefits include opening up new ways that lawyers can work with technology companies or other nonlawyer companies and individuals to provide more innovative ways to deliver services, and in some cases, provide consumers with more information useful to the selection of legal counsel. An innovation that is hindered by the current rule could include an arrangement between a technology company and law firm to streamline referrals, the engagement process, or case flow for situations where the client wants extra help. By not allowing a revenue share between others and the law firm, these types of relationships are inhibited.

The subcommittee considered several different approaches to allow fee splitting while protecting the core values of the legal profession. One would be to retain the idea of registered online providers pending before the Court as the Chapter 23 amendment to the Rules Regulating the Florida Bar but eliminate restrictions on how the fee is calculated.[31] Similarly, a distinction can be made between a true referral service and one that makes referrals ancillary to providing a product or service to consumers, such as forms preparation. Another approach is to only eliminate some restrictions on how a fee is calculated, not all. For example, fee sharing could be allowed on a per engagement basis but not on the value of a potential case. Also considered was whether to maintain the current restrictions on some types of cases but not others.

Rather than attempting to determine the best approach in a vacuum, perhaps the best approach is to eliminate or modify the fee sharing restrictions, but only as part of a pilot program or Law Practice Innovation Laboratory Program. This would allow the Court and The Florida Bar the flexibility to respond to issues and concerns that arise during the pilot program and to collect data around these types of relationships. A pilot or lab program also permits the drafting of a final regulatory scheme based on empirical data rather than anecdotal observations and conjecture.

Depending on the approach taken, other rules may have to be amended including,, but not necessarily limited to Rule 4-7.17 on referral fees and Rule 4-7.22 regarding referral services. Specific rule language was not approved.

Amend the rules to allow for not-for-profit law firms.

Also approved in concept is amending the rules to permit not-for-profit legal service providers to organize as a corporation and to permit nonlawyers to serve on the not-for-

[31] *In Re: Amendments to Rules Regulating The Florida Bar – Chapter 23 Registered Online Service Provider Program,* SC19-2077 (Dec. 2019). On November 3, 2020, the Court entered an order deferring consideration of this petition until after the Court receives the Committee's final report. Other than the discussion noted here, the Committee did not discuss Chapter 23 or take any action on Chapter 23. Whether the petition needs consideration and action will depend on how the Court views the recommendations made in this report.

profit legal service provider's board of directors. This conforms the rules to current practice. The amendments include a definition of a not-for-profit law firm.

Not-for-profit law firms play a vital role in Florida's legal landscape as the only place for low income people to receive civil legal assistance. Adopting a rule change to explicitly authorize their charitable corporate structure and incorporate the federal requirements for nonlawyer eligible client board members[32] is essential to validate the already existing network of Florida legal aid providers, many of which have operated since the Rules of Professional Conduct were adapted from the prior canons. The omission of legal aid organizations as "law firms" for purposes of the Rules of Professional Conduct can be explained as an oversight, as there is no public policy reason or benefit from exclusion. A study done in 2017 showed that on a nationwide basis, 77% of persons with legal problems do not receive legal help[33] and 86% of the civil legal needs of low-income individuals receive inadequate legal help or no legal help at all.[34] The Special Committee's amendments pertaining to legal service non-profits would fuel innovation within these entities to provide an even broader scope to underserved communities and populations.

All of the aforementioned changes approved in concept are included in Appendix B. Although some of the changes are in rule amendment format, they were approved in concept only and have not been vetted by The Florida Bar's rule making process. As noted, the recommendations anticipate that should the recommendation to establish a Law Practice Innovation Laboratory Program be adopted by the Court, all or part of the recommended changes would be placed in the Lab for implementation and study.

One possibility the subcommittee studying fee sharing discussed is the concept of an entity that includes both lawyers and nonlawyers and provides both legal and nonlegal services to its clients. The arrangement could involve direct or indirect fee sharing. An example might be a single business organization that offers both legal services and accounting services or a non-profit legal provider that also provides social work, therapeutic services, or job coaching to its low-income clients. An additional possibility the subcommittee discussed is the ability of nonlawyers to provide certain legal services within the operation of a law firm.

The subcommittee believes that the Lab could consider (1) entities that offer both legal and non-legal services, whether owned entirely by lawyers or not and (2) entities that allow nonlawyers to provide certain legal services. As with other recommendations made by the Committee, the subcommittee is not proposing a rule change. Rather, the subcommittee is recommending that the scope of the Lab not be limited to certain types of entities and that each entity applying to the Lab be evaluated on its individual merits. The Committee agrees with this approach.

---

[32] 45 C.F.R. § 1607.2(c) (2019).
[33] World Justice Project, Global Insights on Access to Justice, 2018, *available at*, https://worldjusticeproject.org/news/global-insights-access-justice
[34] The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans, Legal Services Corporation (June 2017) *available at* https://worldjusticeproject.org/news/global-insights-access-justice

2. Lawyer Advertising

As requested by the Court, the Committee reviewed Florida's advertising rules. Although the advertising rules are continually amended, the last major revision of the advertising rules was in 2013.[35] Much has changed during the past eight years. Consumers access legal services differently, relying heavily on websites, social media, and peer reviews. The Association for Professional Responsibility Lawyers (APRL), a national association of lawyers who are immersed in lawyer ethics rules and professional responsibility issues, recognized this in 2015 when it recommended that the ABA model rules on advertising be amended and streamlined. As noted in the report:

> The realities of on-line and other forms of electronic media advertising reflect the advent of ecommerce, competition, and changes in market forces. … The legal profession today is an integral part of the Internet-based economy, and advertising regulations should enable lawyers to effectively use new on-line marketing tools and other innovations to inform the public. The sharp increase in mobile technology and Internet marketing options have resulted in borderless forms of marketing and advertising. Virtual law practice and web-based delivery of legal services, as well as the public's increased reliance on and use of the Internet and mobile technology, mandate a reexamination of how the legal profession views lawyer advertising and what can or should be effectively regulated.
>
> A realignment of the balance between the core values of professional responsibility and effective lawyer advertising designed to communicate accurate information about the availability of legal services for consumers in the twenty-first century is essential. . . . [T]he overarching goals are two-fold: (1) establishing a uniform and simplified rule that prohibits false and misleading advertisements; and (2) ensuring that consumers have access to accurate information about legal services while not being deceived by members of the Bar.[36]

The APLR's conclusion was that the public and the profession are best served "by having a single rule that prohibits false and misleading communications about a lawyer or the lawyer's services."[37]

Taking the lead from APRL, the American Bar Association adopted Resolution 101 in 2018, which reduced the number of model advertising rules and focused on preventing advertisements that are unfair, deceptive, or misleading.[38]

This is also the approach that Arizona took in 2019 when the Arizona Task Force on the Delivery of Legal Services recommended that their adverting rules be amended and

---

[35] *In re: Amendments to the Rules Regulating The Florida Bar – Subchapter 4-7, Lawyer Advertising Rules*, 108 So. 3d 609 (Fla. 2013).

[36] Association of Professional Responsibility Lawyers 2015 report of the Regulation of Lawyer Advertising Committee, p. 5 *available at* https://www-media.floridabar.org/uploads/2021/06/aprl-advertising-report-6-22-15-final.pdf

[37] *Id* at p. 3.

[38] American Bar Association Resolution 101 (Aug. 2018) *available at* https://www-media.floridabar.org/uploads/2021/06/ABA-Resolution-101-Lawyer-Advertising.pdf

simplified.[39] On August 27, 2020, the Supreme Court of Arizona adopted the amendments.[40]

Following the example of APRL, ABA, and the Supreme Court of Arizona, the Committee unanimously voted to approve amendments to the advertising rules in concept. These amendments would streamline the advertising rules, make the language of the rules more succinct, and eliminate any processes or requirements that are no longer as appropriate or necessary as they may have been in the past.

In streamlining the language of the advertising rules and making them more succinct, the amendments approved in concept simplify prohibited advertisement to deceptive and misleading advertisements. A substantial amount of language contained in the body of the rules is moved to the comment section of the rules. The language which has been moved to the comment sections mainly consist of examples that helped illustrate the content of each respective rule. The comments are guides to interpretation and can be used as guidance to determine if discipline is warranted.[41]

Among the other notable changes are deletions to outdated requirements in the rules, for example, the use of celebrities in advertisements; deletions to language regarding presumptively valid content in advertisements; and deletions to required content in advertisements. The Committee believes that these sections of the rules are no longer necessary based on the more streamlined definition of prohibited advertisements in addition to modern views on lawyer advertising and lawyer advertising rules. The amendments also propose language which would be required in advertisements for lawyers with virtual offices.

One process and requirement that would be eliminated if the rules are proposed and adopted is removing the requirement of pre-authorization and approval of an advertisement by The Florida Bar. Instead, a lawyer may voluntarily submit their advertisement to The Florida Bar for review. Upon review and approval, the lawyer/law firm will be provided with a "safe harbor" and not be subject to discipline. A lawyer who does not voluntarily submit her or his advertisement for review and produces a deceptive and misleading advertisement will be subject to discipline by The Florida Bar.

The history of discipline regarding advertising violations supports the recommendations to streamline the rules and remove the pre-authorization and approval process. For fiscal year 2019-2020, The Florida Bar reviewed 4,089 new advertisements and 1,056 revisions for a total of 5,145 advertisements reviewed. During that same period, there were 12 cases regarding lawyer advertising, which can include cases closed, and pending that fiscal year and no cases where discipline was imposed. Over the past 10 years, the bar has imposed discipline in only 10 cases involving advertising.

---

[39] Arizona Task Force on the Delivery of Legal Services, (Oct. 2019) 21- 28 *available at* https://www.azcourts.gov/Portals/74/LSTF/Report/LSTFReportRecommendationsRED10042019.pdf?ver=2019-10-07-084849-750

[40] *In the Matter of Rule 42 Rules of the Supreme Court*, Case No. R-20-0030 (AZ Aug. 27, 2020) *available at* https://www-media.floridabar.org/uploads/2020/08/AZ-order-amending-ad-rules.pdf

[41] Chapter 4. Rules of Professional Conduct Preamble: A Lawyer's Responsibilities.

The revisions approved in concept are included in Appendix C. Although the revisions are in rule amendment format, they were approved in concept only and have not been reviewed by The Florida Bar's rule making process.

3. Regulation of Nonlawyer Providers of Limited Legal Services

In 2020, Rebecca L. Sandefur, a professor at the Arizona State University School of Social and Family Dynamics and Faculty Fellow of the American Bar Foundation, published an article titled, "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms."[42] The article started with several observations, beginning with the crisis in access to civil justice in the United States.

"The crisis in access to civil justice in the United States is well-established. Recently, the World Justice Project compared access to justice in nations across the globe based on surveys of ordinary people's experiences with civil justice problems. This study highlighted the United States' poor performance. Americans experience an enormous number of civil justice problems, many affecting basic needs in core areas of life: fully two-thirds of surveyed American adults reported having a justice problem in the past two years. Of those reporting justice problems, only one third received any help, despite the fact that their problems caused hardships such as illness, economic adversity, or damage to important relationships for 45% of those who had them. Most of the time people navigate these problems and their sequalae without help, much less help from a lawyer."[43]

The article concludes that "[o]ne small change in the typical regulation of the practice of law could put a meaningful dent in this massive and to-date intractable problem: allowing people and things that are not lawyers to give legal advice. Expanding sources of legal advice is part of a broader approach to access to justice, which recognizes that achieving justice is not the same as receiving a specific type of service, such as the services of a lawyer. Rather, achieving justice means realizing substantively just solutions to situations and conflicts that are endemic to contemporary life."[44]

In Florida, as in most United States jurisdictions, a consumer's options for obtaining legal advice and services are mostly limited to lawyers. There are some areas of the law where individuals other than lawyers can provide legal advice and services.[45] However, for the most part, the consumer's choice is restricted by court rules and prohibitions against the unlicensed practice of law.

---

[42] Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. C.R. & C.L. 283 (2020) *available at* https://www-media.floridabar.org/uploads/2021/02/Sandefur-article-Legal-Advice-from-Nonlawyers.pdf
[43] *Id* at 284.
[44] *Id* at 284 – 285.
[45] *Id* at 289.

In 2012, Washington became the first state to license nonlawyers to provide limited legal services.[46] [47] Since then, other states have adopted programs and rules allowing nonlawyers to provide some legal services and more are studying the issue.

In 2018, Utah adopted rules establishing a licensing program for Limited Paralegal Professionals allowing the provision of legal services in certain circumstances.[48] More recently, in 2020, the Utah Supreme Court approved the establishment of a regulatory sandbox, housed in the Office of Legal Services Innovation, to allow traditional and nontraditional legal services providers to provide legal services.[49] This can include a nonlawyer providing legal services.

New York has allowed nonlawyers to act as court navigators since 2014.[50] In late 2020, the New York Working Group on Regulatory Innovation recommended that the navigator program be expanded and that social workers be permitted to provide limited legal services and advocacy.[51] Those recommendations are pending.

In August 2020, the Supreme Court of Arizona adopted licensing rules for nonlawyers, called legal paraprofessionals. Licensed paraprofessionals may provide limited legal services, including going to court with clients.[52] The rule became effective January 1, 2021. California[53], Illinois[54], and New Mexico[55] are studying limited licensing. Changes in those jurisdictions have not yet been implemented.

Although the rules and programs vary, all share the characteristic of allowing nonlawyers to provide legal services under a regulatory system monitored by the court or a body established by the court. The Committee is recommending that Florida explore this option by approving a pilot program allowing Florida Registered Paralegals to provide limited legal services in specific areas and within a law office.

---

[46] *In the Matter of Adoption of New APR 28-Limited Practice Rule for Limited License Legal Technicians*, Case No. 25700-A-1005 (Wash. June 15, 2012) *available at* https://www.abajournal.com/files/2012_court_order_LLLTs.pdf

[47] On June 5, 2020 the Supreme Court of the State of Washington sunset the LLLT program finding that the overall cost of the program and the small number of LLLTs was not an effective way to address the issue of the unmet legal needs of individuals who could not hire a lawyer. June 5, 2020 letter from The Supreme Court of the State of Washington *available at* https://www.abajournal.com/files/Stephens_LLLT_letter.pdf . The Committee believes that their proposal does not have the issues that lead to the sun setting of Washington's program.

[48] *See* www.utcourts.gov/legal/llp

[49] Utah Supreme Court Standing Order No. 15, *supra* note 30.

[50] *See* www.mycourts.gov/courts/nyc/housing/rap.shtml

[51] New York Commission to Reimagine the Future of New York's Courts, Report and Recommendations of the Working Group on Regulatory Innovation, Dec. 3, 2020 *available at* https://www-media.floridabar.org/uploads/2021/02/New-York-RegulatoryInnovation_Final_12.2.20.pdf

[52] *In the Matter of Restyle and Amend Rules, supra* note 29.

[53] *State Bar of California Task Force on Access Through Innovation of Legal Services* (March 6, 2020) *available at* http://www.calbar.ca.gov/Portals/0/documents/publicComment/ATILS-Final-Report.pdf

[54] *Chicago Bar Foundation Task Force Report Ensuring Access to Justice for All* (Sept. 28, 2020) *available at* http://chicagobarfoundation.org/pdf/advocacy/task-force-report.pdf

[55] *Innovation to Address the Access to Justice Gap, Report of the New Mexico Supreme Court of the Ad Hoc Licensed Legal Technicians Workgroup*¸ (Dec. 2019) *available at* https://www-media.floridabar.org/uploads/2021/06/New-Mexico-Report-to-Supreme-Court-Ad-Hoc-Licensed-Legal-Technicians-Workgroup.pdf

Specifically, the Committee unanimously voted to approve in concept a Limited Assistance Paralegal Pilot Program (the pilot program) to allow qualified Florida Registered Paralegals (FRP) to provide certain limited services to some clients of a law firm or legal aid organization.[56] Rule amendments were not discussed and are not being proposed. Rather, the Committee is recommending that a pilot program be tested in the Lab.

The Limited Assistance Paralegal Pilot Program would allow a qualified Florida Registered Paralegal to assist a client in preparing and filing legal forms, provide some information to the client regarding their legal matter, and provide ministerial assistance in court proceedings. All the services must be provided in a law office and are limited to specified areas of the law.

The Committee discussed two settings where the pilot program may take place: the Law Practice Innovation Laboratory Program or the office of a legal aid organization.[57] Putting the pilot program in the Lab would allow any law firm or authorized business entity accepted into the Lab to apply to the Lab to allow the FRP to provide the limited services to clients. As with all other entities in the Lab, the Lab would establish an application and review process and criteria for reporting results and data.

A Florida Registered Paralegal working in the pilot program would be able to provide assistance to a limited representation client, a term defined in the outline as "a person who agrees in writing to receive authorized services from a paralegal providing services as part of the pilot program and acting under the authority of a supervising lawyer." The authorized services may only involve certain areas of the law. The areas of the law are areas where litigants are often self-represented and where access may be limited. The areas encompass suggestions made by the Family Law and Real Property and Probate Sections of The Florida Bar when the sections, at the request of the Board of Governors of The Florida Bar, reviewed a rule being considered by the Services Options Committee of the Florida Commission on Access to Civil Justice. Ultimately, a rule amendment was not proposed. While the definitional language in the outline incorporates the suggestions made by the Family Law and Real Property, Probate and Trust Law Sections of The Florida Bar, those sections have not been consulted on the language in the outline and have not given input regarding the pilot program.

The responsibilities of the supervising lawyer are also spelled out in the outline. The supervising lawyer must ensure that the Florida Registered Paralegal is aware of the lawyer's responsibilities and provide guidance to the paralegal. The supervising lawyer remains professionally responsible for the services provided. Moreover, the services performed by the FRP supplement, merge with, and become the lawyer's work product.

---

[56] The Florida Bar's Florida Registered Paralegal Program is set forth in Chapter 20 of the Rules Regulating The Florida Bar.

[57] Although not fully vetted by the subcommittee, it was mentioned at a Committee meeting that clerks of court with a self-help assistance program may also be able to use the Limited Assistance Paralegal Pilot Program to provide services. As this was not fully explored, no recommendation is being made to include the clerks of court at this time. However, this should not preclude a clerk from applying to the Lab if the pilot program is put in the Lab.

Perhaps, the topic of most discussion was the scope of permissible activities. The Committee sought to strike a balance between protecting the public and allowing activities that would assist a limited representation client and provide greater access. The list of permissible activities strikes this balance. While some of the activities expand services a nonlawyer is authorized to provide, thereby making an exception to the unlicensed practice of law or authorizing the practice of law, many of the activities are currently permitted.

In brief, the activities the Committee approved in concept are:

Selection, Completion, and Filing Forms.

A paralegal in the pilot program may assist a limited representation client in selecting a form (including conducting intake to obtain relevant information), completing the form, and filing and serving the form. Assisting an individual in selecting a form is the unlicensed practice of law.[58] The pilot program expands existing case law by allowing this activity. The remaining activities are authorized and not the unlicensed practice of law.[59]

Providing Information.

A paralegal in the pilot program may give general information about the form, the court process, and legal rights, procedures or options. Giving general information is not the unlicensed practice of law.[60] However, there may be instances where the information would be more specific and constitute giving legal advice which would be the unlicensed practice of law.[61] This provision could expand the unlicensed practice of law depending on the information given.

Assistance with Court Proceedings.

A paralegal in the pilot program may accompany a limited representation client to court appearances to provide administrative support and reassurance. The support is limited to ministerial matters such as assisting with scheduling court proceedings. These activities are not an expansion of what a paralegal is now authorized to do as the activities are not the practice of law.

Even though most of the permissible activities are not the unlicensed practice of law and do not expand existing case law, the pilot program itself does expand the concept of reliance found in unlicensed practice of law case law. Generally, it constitutes the unlicensed practice of law for a nonlawyer to put themselves in a position where an individual is relying on them to properly complete a legal form.[62] When discussing the preparation of legal forms, the Court is assuming that the nonlawyer is merely providing a secretarial service and the individual is responsible for the choices and selections they

---

[58] *The Florida Bar v. Glueck*, 985 So. 2d 1052 (Fla. 2008).
[59] R. Regulating Fla. Bar 10-2.2(a).
[60] *In re Joint Petition Raymond, James and Associates, Inc*., 215 So. 2d 613 (Fla. 1968); R. Regulating Fla. Bar 10-2.2(a).
[61] *Id.*
[62] *Brumbaugh*, 355 So. 2d 1186 (Fla. 1978).

make as they are representing themselves. As the pilot program allows the Florida Registered Paralegal to do more than act as a secretarial service, the pilot program places the paralegal in a position of being relied upon, thereby creating an exception to this general concept. However, as the services are taking place in a law office and under the supervision of a lawyer, the chance of public harm is lessened and is outweighed by the increased access the pilot program can provide.

Again, the Committee is not recommending a rule change and is instead recommending a pilot program to be included in the Law Practice Innovation Laboratory Program so that the concept may be tested. A recent survey of Florida Registered Paralegals supports this recommendation. The survey asked two substantive questions:

1) If you were allowed to have more responsibility and provide services to clients including helping the client fill out forms and explaining how the court process works, would you want to do that?

Over two-fifths (45%) of those responding were in favor of being allowed to have more responsibility and provide the additional services to clients. One-quarter (25%) were either neutral or need additional information before providing an opinion.

2) If you were allowed to have responsibility and provide services to clients including helping the client fill out forms and explaining how the court process works, do you believe that it would help people who are unable to obtain legal services solve their legal problems?

In response, over one-third (37%) said that the ability to provide more services would help people obtain legal services; however, 45% are either not sure or need more information before providing an opinion.[63]

The Committee believes that taking the approach of a pilot program allows the gathering of more information and data on whether these services lead to positive outcomes. Studies have shown that "[w]hen American consumers have the choice of using an authorized nonlawyer provider, many do so."[64] The Committee's recommendation allows Florida consumers to have this choice in a controlled environment where data can be collected and changes to protect the public can more easily be made. An outline of the pilot program is included in Appendix D.

IV. Law Practice Innovation Laboratory Program

In 2021, The Florida Bar conducted a member survey.[65] The Committee requested that the survey include questions relating to nonlawyer ownership and fee sharing with nonlawyers. A majority of lawyers responding did not feel that eliminating or relaxing the rule prohibiting fee sharing would increase business development opportunities for lawyers (53%), did not feel that technology companies who match clients with lawyers

[63] *See* Results of the Delivery of Legal Services Survey – Florida Registered Paralegals *available at* https://www-media.floridabar.org/uploads/2021/06/Results-of-the-Delivery-of-Legal-Services-Survey-Florida-Registered-Paralegals.pdf
[64] Sandefur, *supra* note 43 at 289.
[65] *See* https://www-media.floridabar.org/uploads/2021/02/2021-Florida-Bar-Member-Survey-Final-2-17-21.pdf

should be permitted to retain a portion of the fee paid by the consumer (65%), did not feel that nonlawyers who supports a legal practice should be permitted to have an ownership interest in the practice (81%), and did not approve of passive ownership of law firms by nonlawyers (84%).[66] In other words, most lawyers responding did not want to see any change. Unfortunately, the reality is that the current rules are not addressing "the challenges facing Florida lawyers, and the difficulties that many Floridians encounter in securing legal services."[67] This fear of change is likely more fear of the unknown – how will relaxing the rules on firm ownership, fee splitting, and nonlawyer practice affect the practice of law. While this is understandable, it is no reason to keep the status quo when the status quo is not working.

Understanding the fear of the unknown and the reluctance to change, most of the recommendations the Committee is making are changes in concept only with the changes taking place in the controlled environment of the Law Practice Innovation Lab Program (the Lab). The Lab concept is not new. It has been utilized in the United Kingdom for several years [68] and is now being utilized in Utah[69] , Ontario[70], and British Columbia [71]. The Committee looked at the different approaches being taken elsewhere and voted that the model being used in Utah would best fit Florida's needs and rules.

A Lab, or regulatory sandbox, is a mechanism whereby the Court, or a body appointed by the Court, permits entities that may be different from a traditional law firm to offer new and innovative methods, ideas, and types of legal services without a wholesale amendment of the rules. The Utah model, known as a regulatory sandbox, is under the direction of the Office of Legal Services Innovation, an office established by and under the control of the Supreme Court of Utah to evaluate, recommend, and monitor entities that wish to try new approaches to practicing law.[72] "A regulatory sandbox is a policy tool through which new models or services can be offered and tested to assess marketability and impact and inform future policy-making. . . In the sandbox, regulations can be relaxed, data gathered, and policy improved. . . . [T]he legal regulatory Sandbox creates a limited and controlled space outside of the traditional rules governing legal practice [and] is open to legal business models and services that would not have been

---

[66] *Id.* questions 60 – 63.
[67] *See* Court Letter at Appendix A.
[68] *See* Report prepared by Crispin Passmore *available at* https://www-media.floridabar.org/uploads/2020/12/2020-10-01-Passmore-Consulting-submission-to-Florida-working-group.pdf
[69] Narrowing the Access-to-Justice Gap by Reimagining Regulation Report and Recommendations from the Utah Work Group on Regulatory Reform (Aug. 2019) *available* at https://www.utahbar.org/wp-content/uploads/2019/08/FINAL-Task-Force-Report.pdf; Utah Supreme Court Standing Order No. 15, *supra* note 30. *See also* The Office of Legal Services Innovation, an office of the Utah Supreme Court at https://utahinnovationoffice.org/
[70] Law Society of Ontario Approves Regulatory Sandbox for Legal Tech, The Canadian Bar Association (April 22, 2021) *available at* https://www.nationalmagazine.ca/en-ca/articles/legal-market/regulatory/2021/law-society-of-ontario-approves-regulatory-sandbox
[71] *See* Innovation in the British Columbia Justice Sector presentation by Lawrence Alexander *available at* https://www-media.floridabar.org/uploads/2020/12/Larry-Alexander-Presentation.pdf
[72] Utah Supreme Court Standing Order No. 15, *supra* note 30.

permitted under the traditional rules of professional conduct and unauthorized practice of law doctrine." [73]

As of April 30, 2021, the Office of Legal Services Innovation had received 47 applications to the Sandbox. From those, the Supreme Court of Utah authorized 26 entities to provide services. "Services provided range across legal needs, including family law, end of life planning, and small-business needs. Entities include those with new business structures, including nonlawyer ownership and investment and joint ventures between lawyers and nonlawyers. Several entities have been authorized to use nonlawyer human or software providers of legal advice and assistance. . . . To date, the Office has not observed evidence of consumer harm in the services being provided by the Sandbox." [74]

The Committee is recommending that Florida adopt a Law Practice Innovation Lab Program very similar to the approach taken in Utah. The advantage to taking this approach is that the concepts recommended by the Committee can be tested in a controlled environment where data can be collected, and public harm can be assessed and prevented.

Just as in Utah, the Committee is recommending that the Lab be under the direction of a Commission established and supervised by the Court. The regulatory objective and authority would be delegated to The Florida Bar for budgetary and staffing purposes much in the way lawyer discipline is structured. The Commission will designate a supervisory body that will evaluate applications and make recommendations regarding approval. The Commission will also have the ability to selectively modify current rules or regulations to see how much and what kinds of innovation might be possible within the legal services market. It is recommended that the initial phase of the Lab be 3 years.

To be considered for acceptance into the Lab, the organization or individual proposing the new venture must detail exactly what the new offering is; how they expect it to benefit the public; what risks or harms they expect might arise; how they will deploy and measure this offering; and which rules or regulations need to be modified in order for this offering to be allowed. While in the Lab, the participant must collect and provide requested data to the supervisory body. The data may vary by organization and services offered. The supervisory body and Commission will regularly report to the Court.

Participants in the Lab will be regulated by the supervisory body, the Commission and ultimately the Court. At any time, a regulated entity may be removed if the data shows that unacceptable levels of consumer harm are occurring. If consumer harm is not taking place and the other requirements imposed on the regulated entity are met within the designated period, the entity will be granted a license by the Court and can continue

[73] The Office of Legal Services Innovation, an office of the Utah Supreme Court at https://utahinnovationoffice.org/

[74] https://utahinnovationoffice.org/wp-content/uploads/2021/05/Sandbox-Extension-PR-4-21.pdf; *See also* Sandbox Public Report through March 2021 at https://www-media.floridabar.org/uploads/2021/05/Sandbox-Public-Report-through-March-2020.pdf

offering the approved services outside of the Lab under the guidelines established by the Commission and the supervisory body. If study shows that amendments to the rules would be beneficial to the practice of law, the Commission may recommend that changes be made.

As noted earlier, the Committee is recommending that the initial phase of the Lab be 3 years. At the end of the 3 year period, the Commission will recommend to the Court whether to permanently establish the Commission as a standing Supreme Court Commission or whether to sunset the Commission. To encourage innovation and participation in the Lab, those who have been licensed and exited the Lab will be allowed to continue offering the approved services under the regulation of the supervisory body after the Lab is formally concluded, provided there is a continued showing of low consumer harm. In other words, the regulated entity will be licensed and allowed to offer its services after the 3-year period unless there is evidence of harm to the consumer. Allowing the venture to continue is necessary to encourage innovators to apply to the Lab. Organizations and individuals will not invest the capital necessary to ensure that the venture is a success if the venture will automatically be terminated after 3 years. It is the opinion of the Committee that the Lab will be successful and will be made a permanent Commission by the Court at the conclusion of the initial 3 year period.

There are primarily two areas of the Committee's recommendations where the Lab will allow for innovation and provide valuable data: (1) the conceptual changes to rule 4-5.4 and; (2) the Limited Assistance Paralegal Pilot Program. One change to rule 4-5.4 approved in concept would allow a nonlawyer to have an ownership interest in a law firm under certain circumstances and conditions. Imagine a law firm practicing in the area of consumer debt which employs a debt counselor to work with clients on the non-legal aspects of reducing debt. The law firm could apply to the Lab for approval for the debt counselor to have an ownership interest in the firm. After evaluation, the Commission could recommend approval with conditions and for a certain time period. If all conditions are met during that time period, the firm would exit the Lab with the debt counselor having an ownership interest. This ownership interest would remain in place unless there is later evidence of consumer harm or the law firm decides to discontinue the relationship.

If the same law firm wishes to have one of the Florida Registered Paralegals employed by the firm assist clients with selecting, completing and filing forms in defending a debt collection matter, the law firm could apply to the Lab to have the Florida Registered Paralegal authorized to provide the services outlined in the Limited Assistance Paralegal Pilot Program proposal. The supervisory body would evaluate and make a recommendation. If recommended for approval and approved by the Commission, the Florida Registered Paralegal would be able to provide the service with conditions and for a certain period of time which would continue unless there is later evidence of consumer harm or the law firm decides it no longer wants to participate in the Lab.

In both scenarios, the law firm would have to provide data to the supervisory body and Commission while the activity is taking place in the Lab and possibly for a period of time after. In both examples, the data could include whether more clients are served by the

firm; whether the firm is able to provide the services at a reduced fee; and whether the services or ownership interest benefit the clients. In both examples, if there is evidence of unacceptable levels of consumer harm, participation in the Lab would be terminated.

The outline for the Lab approved in concept by the Committee is attached in Appendix E. Although the outline is somewhat extensive, it only sets forth the core of the program with certain details yet to be determined. The outline goes as far as it can until the Court provides some direction on the recommendations approved in concept by the Committee. Once that direction is received, the outline can be finalized and the Lab put in place.

V. Conclusion

An important objective of The Florida Bar's 2019-2022 strategic plan is to "strive for equal access to and availability of legal services" in part by evaluating "new and innovative potential solutions to address the gap in legal services for under-served Florida citizens."[75] Many Floridians are facing significant difficulties in securing needed legal services. Protection of the public has been of paramount importance in all of the Committee's recommendations, but that protection must be weighed against the current harm the public faces in receiving no legal services. The Committee also believes that rule changes need to be made. However, those changes should not occur based upon conjecture nor should needed changes be rejected based upon fear of the unknown. The Committee, through extensive research and study, finds that data driven decision making through the regulatory framework of the Law Practice Innovation Laboratory Program strikes the proper balance between these competing needs. For the reasons set forth in this Final Report, the Committee respectfully requests that the Court direct the Committee to prepare and deliver to the Court, within 6 months of the Court's direction, a fully developed Law Practice Innovation Laboratory Program for the Court's consideration as to whether the same should be created as Commission of the Florida Supreme Court. The Committee's recommendations are a necessary step toward meeting the Court's request for the study which can be attained by continuing the vital work the Committee started.

[75]The Florida Bar 2019-2022 Strategic Plan *available at* https://www.floridabar.org/about/stratplan/2019-2022-strategic-plan/

TABLE OF APPENDICES

Appendix A	Letter from Court requesting study
Appendix B	Amendments to Rule 4-5.4 approved in concept
Appendix C	Amendments to advertising rules approved in concept
Appendix D	Outline of Paralegal Pilot Program approved in concept
Appendix E	Outline of Law Practice Innovation Laboratory Program approved in concept

APPENDIX
A

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
RICKY POLSTON
JORGE LABARGA
C. ALAN LAWSON
BARBARA LAGOA
ROBERT J. LUCK
CARLOS G. MUÑIZ
JUSTICES

JOHN A. TOMASINO
CLERK OF COURT

SILVESTER DAWSON
MARSHAL

November 6, 2019

Mr. John M. Stewart
President
The Florida Bar
651 E Jefferson Street
Tallahassee, Florida 32399

Dear President Stewart:

Thank you for your letter of September 27, 2019, concerning a potential study of issues related to the regulation of the legal profession in Florida. In your letter you suggest a "study into whether and how the rules governing the practice of law in Florida may be revised to improve the delivery of legal services to Florida's consumers and to assure Florida lawyers play a proper and prominent role in the provision of these services."

As discussed in your letter, the environment in which legal services are provided has been rapidly changing. In view of that changing environment, the challenges facing Florida lawyers, and the difficulties that many Floridians encounter in securing legal services, the Court agrees that The Florida Bar should conduct a study of the rules governing the practice of law to ensure that our regulation meets the needs of Floridians for legal services while also protecting against misconduct and maintaining the strength of Florida's legal profession.

As you have suggested, the topics that should be addressed in this study include the following: lawyer advertising; referral fees; fee splitting; entity

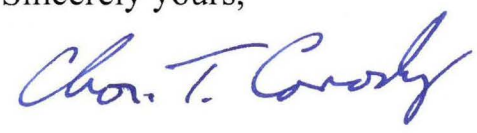
regulation; regulation of online service providers; and regulation of nonlawyer providers of limited legal services. Additional topics consistent with the subject of the study may also be addressed.

The Court requests that this study be undertaken by a study group chaired and appointed by you. The work of the study group should begin by January 2020 and should be completed by July 1, 2021. Quarterly reports of the study group's work should be submitted to the Court and to the Board of Governors of The Florida Bar. A final report, including recommendations for any rule changes or other actions, should be submitted no later than July 1, 2021, to the Board of Governors and the Court.

In fulfilling the Court's responsibility under Article V, section 15 of the Florida Constitution "to regulate . . . the discipline of persons admitted" "to the practice of law," we are committed to ensuring a strong and vibrant Bar to meet the legal needs of the people of Florida and to enforcing appropriate ethical standards for Florida lawyers. The foundation of our efforts in this arena is the recognition that The Florida Bar exists to serve the people of our state. We believe that the study we are asking the Bar to undertake can assist us in carrying out this important constitutional responsibility.

The Court is grateful to you for your leadership in this important initiative. We look forward to receiving updates on the work of the study group as well as the final report that will result from the study group's labors.

Sincerely yours,



Charles T. Canady

CTC/jo

APPENDIX
B

RULE 4-5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER

(a) Sharing Fees with Nonlawyers. A lawyer or law firm ~~shall not~~ may share legal fees with a nonlawyer~~, except that:~~

~~(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to 1 or more specified persons;~~

~~(2) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation that fairly represents the services rendered by the deceased lawyer;~~

~~(3) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, in accordance with the provisions of rule 4-1.17, pay to the estate or other legally authorized representative of that lawyer the agreed upon purchase price;~~

~~(4) bonuses may be paid to nonlawyer employees for work performed, and may be based on their extraordinary efforts on a particular case or over a specified time period. Bonus payments shall not be based on cases or clients brought to the lawyer or law firm by the actions of the nonlawyer. A lawyer shall not provide a bonus payment that is calculated as a percentage of legal fees received by the lawyer or law firm; and~~

~~(5) a lawyer may share court-awarded fees with a nonprofit, pro bono legal services organization that employed, retained, or recommended employment of the lawyer in the matter.~~

[*If the nonlawyer is a qualifying provider (as defined elsewhere in these rules) that is primarily engaged in the business of operating a lawyer referral network or service or otherwise being compensated in exchange for referring potential clients to lawyers, the fee may not be calculated as a percentage of the fee received by a lawyer; calculated as a percentage of the client's recovery in the matter; based on the perceived value of the case referred to or accepted by a participating lawyer; a flat charge that differs based on the perceived value of the case referred to or accepted by*

a participating lawyer; *a flat charge per case accepted by a participating lawyer; or a flat charge per case accepted by a participating lawyer that differs based on the type of matter*.][1]

(b) Qualified Pension Plans. A lawyer or law firm may include nonlawyer employees in a qualified pension, profit-sharing, or retirement plan, even though the lawyer's or law firm's contribution to the plan is based in whole or in part on a profit-sharing arrangement.

(c) ~~Partnership~~ Ownership Interest with Nonlawyer. ~~A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.~~ A lawyer may practice law in a partnership or other form of authorized business entity in which an ownership interest is held by an individual nonlawyer who performs professional services that assist the entity in providing legal services to clients, but only if:

(1) the partnership or authorized business entity has as its sole purpose providing legal services to clients;

(2) all persons having an ownership interest in the partnership or authorized business entity agrees to abide by these Rules of Professional Conduct;

(3) the lawyers who have an ownership interest or managerial authority in the partnership or authorized business entity agree to be responsible for the nonlawyer participants to the same extent as if nonlawyer participants were lawyers under Rule 4-5.1;

(4) the aggregate ownership interests of all nonlawyer participants are a minority interest in the partnership or authorized business entity; and

(5) the above conditions are confirmed in writing.

---

[1] Possible alternatives: (1) leave ethics opinion framework in place and restrict permissible fee sharing among lawyers and qualified providers (keep italicized text); (2) remove all restrictions on fee sharing with qualified providers (*delete italicized text*); (3) retain some restrictions on fee sharing with qualified providers, while eliminating others (e.g., *deleting blue, italicized text*); or (4) distinguish between non-lawyers who operate a business whose primary purpose is to serve as a lawyer referral network or service (e.g., typical qualified provider) versus one that does not (e.g., LegalZoom, Willing.com) and retain restrictions on the former, but not the latter (add *purple italicized text*). Depending on outcome of analysis, conforming changes may be needed to other rules restricting certain payments of marketing fees.

(d) Exercise of Independent Professional Judgment. A lawyer ~~shall~~ will not permit a person who recommends, employs, or pays the lawyer to render legal services for another, a nonlawyer who the lawyer is sharing a fee with, or a nonlawyer who has an ownership interest in the law firm to direct or regulate the lawyer's professional judgment in rendering ~~such~~ legal services.

~~(e) Nonlawyer Ownership or Management of Authorized Business Entity. A lawyer may practice with a not-for-profit business entity authorized to practice law. For purposes of this rule and applicable to not-for-profit business entities only, the business entity may be formed as a corporation and a nonlawyer may be a corporate director or office of the authorized business entity. However, a nonlawyer owner, corporate director, or corporate officer does not have the right to direct or control the professional judgment of a lawyer working with the not-for-profit business entity.~~

(e) Nonlawyer Governance of Not-for-Profit Authorized Business Entity.

(1) Generally. A lawyer may practice with a not-for-profit business entity authorized to practice law.

(2) Definition of not-for-profit business entity. A not-for-profit business entity is an organization providing pro and low bono legal services operating as a tax-exempt public charity authorized by section 501(c)(3) of the Internal Revenue Code with the purpose of providing legal services to clients within 400% of the Federal Poverty level as defined by the United States Code of Federal Regulations. The lawyer's compensation by the not-for-profit business entity cannot be tied, directly or indirectly, to the client's ability to pay.

(3) Form of authorized business entity. For purposes of this rule and applicable to not-for-profit business entities only, the business entity may be formed as a corporation and a nonlawyer may be a member of the board of directors of the authorized business entity. However, a nonlawyer board member does not have the right to direct or control the professional judgment of a lawyer working with the not-for-profit business entity.

(4) Obligations of authorized business entity. The not-for-profit business entity must:

(i) ensure that confidential information is inaccessible to board members of the not-for-profit business entity who are not engaged in legal services representation;

(ii) ensure that any communications which the lawyer intends to be kept protected under attorney-client privilege meet existing prerequisites for such privilege;

(iii) inform the client that all communications within the not-for-profit business entity may not fall under attorney-client privilege; and

(iv) ensure that all nonlawyers assisting the lawyer in providing legal services abide by the ethical standards governing the lawyer.

Comment

~~The provisions of this rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment.~~ One of the core values of the legal profession is that the lawyer's professional independence of judgment must be protected. The simple act of sharing a legal fee with a nonlawyer does not lead to the conclusion that the lawyer's professional independence of judgment will be compromised. Where someone other than the client shares a fee with a lawyer, pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in subdivision (d), such arrangements should not and may not interfere with the lawyer's professional judgment.

[CONFORM TO FINAL TEXT IN SUBPART (a) Although sharing of fees with a nonlawyer does not in and of itself compromise the lawyer's independence of professional judgment, when the fee is being shared with a qualifying provider as defined elsewhere in this chapter, certain safeguards are necessary due to the nature of the relationship between the lawyer and qualifying provider. These safeguards are

set forth in the rule and are intended to prevent the lawyer's independence of professional judgment from being influenced by the fee sharing arrangement.]

~~This rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also rule 4-1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent). The prohibition against sharing legal fees with nonlawyer employees is not intended to prohibit profit-sharing arrangements that are part of a qualified pension, profit-sharing, or retirement plan. Compensation plans, as opposed to retirement plans, may not be based on legal fees.~~

Similarly, a lawyer's independence of professional judgment is not compromised simply by a nonlawyer having an ownership interest in the law firm or authorized business entity. This rule allows a nonlawyer to have an ownership interest as long as the requirements of the rule are met and makes clear that a nonlawyer who has an ownership interest in an entity is not permitted to direct or regulate the lawyer's professional judgment in rendering legal services.

A nonlawyer may only have an ownership interest in a law firm or authorized business entity if the sole purpose of the firm or entity is to provide legal services to clients. The entity may only practice law and the nonlawyer must be assisting the lawyer in the practice of law. Therefore, the rule does not permit a lawyer to open an office with a doctor to provide legal and medical services. Only a law firm engaged exclusively in the practice of law is allowed.

While the sole purpose of the entity must be the practice of law, the activity the nonlawyer is engaging in does not in and of itself have to involve the practice of law. For example, a personal injury law firm may have a doctor on staff to assist in the analysis of medical records. A patent law office may have a patent agent on staff to work on patent matters. Many real estate practices employ paralegals to handle real estate closings. A family law practice may employ financial advisors and counselors to assist in matters involving the dissolution of marriage. A practice that provides legal services in the area of governmental affairs may have a nonlawyer lobbyist employed

at the firm. Most large offices have a nonlawyer office manager who is in charge of the daily operation of the office from the business side. All of these individuals are performing professional services that assist the entity in providing legal services to clients and under this rule may have an ownership interest in the entity. Nonlawyers are limited to a minority ownership interest. If there is more than one nonlawyer owner, all of the combined ownership interests of the nonlawyers must equal a minority ownership interest.

Subdivision (e) provides that if the law firm or authorized business entity is a not-for-profit entity, the entity may practice law in the form of a corporation. This creates an exception to the authorized forms of business entities set forth in rule 4-8.6 for purposes of not-for-profit firms only.

APPENDIX
C

NOTE

THE BOARD OF GOVERNORS AND THE BOARD REVIEW COMMITTEE ON PROFESSIONAL ETHICS HAVE APPROVED AMENDMENTS TO THE ADVERTISING RULES

THOSE AMENDMENTS ARE NOT REFLECTED IN THE REDLINED OR CLEAN VERSION OF THE RULES INCLUDED IN THIS APPENDIX AS THE AMENDENTS HAVE NOT BEEN APPROVED BY THE COURT

RULE 4-7.11 APPLICATION OF RULES

Commented [HL1]: No changes were made to this rule.

(a) Type of Media. Unless otherwise indicated, this subchapter applies to all forms of communication in any print or electronic forum, including but not limited to newspapers, magazines, brochures, flyers, television, radio, direct mail, electronic mail, and Internet, including banners, pop-ups, websites, social networking, and video sharing media. The terms “advertising” and “advertisement” as used in chapter 4-7 refer to all forms of communication seeking legal employment, both written and spoken.

(b) Lawyers. This subchapter applies to lawyers, whether or not admitted to practice in Florida or other jurisdictions, who advertise that the lawyer provides legal services in Florida or who target advertisements for legal employment at Florida residents. The term “lawyer” as used in subchapter 4-7 includes 1 or more lawyers or a law firm. This rule does not permit the unlicensed practice of law or advertising that the lawyer provides legal services that the lawyer is not authorized to provide in Florida.

(c) Referral Sources. This subchapter applies to communications made to referral sources about legal services.

Comment

Websites

Websites are subject to the general lawyer advertising requirements in this subchapter and are treated the same as other advertising media. Websites of multistate firms present specific regulatory concerns. Subchapter 4-7 applies to portions of a multistate firm that directly relate to the provision of legal services by a member of the firm who is a member of The Florida Bar. Additionally, subchapter 4-7 applies to portions of a multistate firm’s website that relate to the provision of legal services in Florida, e.g., where a multistate firm has offices in Florida and discusses the provision of legal services in those Florida offices. Subchapter 4-7 does not apply to portions of a multistate firm’s website that relate to the provision of legal services by lawyers who are not admitted to The Florida Bar and who do not provide legal services in Florida. Subchapter 4-7 does not apply to portions of a multistate firm’s website that relate to the provision of legal services in jurisdictions other than Florida.

Lawyers Admitted in Other Jurisdictions

Subchapter 4-7 does not apply to any advertisement broadcast or disseminated in another jurisdiction in which a Florida Bar member is admitted to practice if the advertisement complies with the rules governing lawyer advertising in that jurisdiction and is not broadcast or disseminated within the state of Florida or targeted at Florida residents. Subchapter 4-7 does not apply to such advertisements appearing in national media if the disclaimer “cases not accepted in Florida” is plainly noted in the advertisement. Subchapter 4-7 also does not apply to a website advertisement that does not offer the services of a Florida Bar member, a lawyer located in Florida, or a lawyer offering to provide legal services in Florida.

Subchapter 4-7 applies to advertisements by lawyers admitted to practice law in jurisdictions other than Florida who have established a regular and/or permanent presence in Florida for the practice of law as authorized by other law and who solicit or advertise for legal employment in Florida or who target solicitations or advertisements for legal employment at Florida residents.

For example, in the areas of immigration, patent, and tax, a lawyer from another jurisdiction may establish a regular or permanent presence in Florida to practice only that specific federal practice as authorized by federal law. Such a lawyer must comply with this subchapter for all advertisements disseminated in Florida or that target Florida residents for legal employment. Such a lawyer must include in all advertisements that the lawyer is "Not a Member of The Florida Bar" or "Admitted in [jurisdiction where admitted] Only" or the lawyer's limited area of practice, such as "practice limited to [area of practice] law." *See Fla. Bar v. Kaiser*, 397 So. 2d 1132 (Fla. 1981).

A lawyer from another jurisdiction is not authorized to establish a regular or permanent presence in Florida to practice law in an area in which that lawyer is not authorized to practice or to advertise for legal services the lawyer is not authorized to provide in Florida. For example, although a lawyer from another state may petition a court to permit admission pro hac vice on a specific Florida case, no law authorizes a pro hac vice practice on a general or permanent basis in the state of Florida. A lawyer cannot advertise for Florida cases within the state of Florida or target advertisements to Florida residents, because such an advertisement in and of itself constitutes the unlicensed practice of law.

A lawyer from another jurisdiction may be authorized to provide Florida residents legal services in another jurisdiction. For example, if a class action suit is pending in another state, a lawyer from another jurisdiction may represent Florida residents in the litigation. Any such advertisements disseminated within the state of Florida or targeting Florida residents must comply with this subchapter.

RULE 4-7.12 ~~REQUIRED CONTENT~~

~~**(a) Name and Office Location.** All advertisements for legal employment must include:~~

~~(1) the name of at least 1 lawyer, the law firm, the lawyer referral service if the advertisement is for the lawyer referral service, the qualifying provider if the advertisement is for the qualifying provider, or the lawyer directory if the advertisement is for the lawyer directory, responsible for the content of the advertisement; and~~

~~(2) the city, town, or county of 1 or more bona fide office locations of the lawyer who will perform the services advertised.~~

~~**(b) Referrals.** If the case or matter will be referred to another lawyer or law firm, the advertisement must include a statement to this effect.~~

Commented [HL2]: The requirements of (a)(1) and (2), (b) (c) and (d) have been moved to the comment language of new 4-7.2 which prevents misleading and deceptive advertising. Grammatical changes made where necessary but intent of rule remains.

(c) Languages Used in Advertising. Any words or statements required by this subchapter to appear in an advertisement must appear in the same language in which the advertisement appears. If more than 1 language is used in an advertisement, any words or statements required by this subchapter must appear in each language used in the advertisement.

(d) Legibility. Any information required by these rules to appear in an advertisement must be reasonably prominent and clearly legible if written, or intelligible if spoken.

Comment

Name of Lawyer or Lawyer Referral Service

All advertisements are required to contain the name of at least 1 lawyer who is responsible for the content of the advertisement. For purposes of this rule, including the name of the law firm is sufficient. A lawyer referral service, qualifying provider or lawyer directory must include its actual legal name or a registered fictitious name in all advertisements in order to comply with this requirement.

Geographic Location

For the purposes of this rule, a bona fide office is defined as a physical location maintained by the lawyer or law firm where the lawyer or law firm reasonably expects to furnish legal services in a substantial way on a regular and continuing basis.

An office in which there is little or no full-time staff, the lawyer is not present on a regular and continuing basis, and where a substantial portion of the necessary legal services will not be provided, is not a bona fide office for purposes of this rule. An advertisement cannot state or imply that a lawyer has offices in a location where the lawyer has no bona fide office. However, an advertisement may state that a lawyer is "available for consultation" or "available by appointment" or has a "satellite" office at a location where the lawyer does not have a bona fide office, if the statement is true.

Referrals to Other Lawyers

If the advertising lawyer knows at the time the advertisement is disseminated that the lawyer intends to refer some cases generated from an advertisement to another lawyer, the advertisement must state that fact. An example of an appropriate disclaimer is as follows: "Your case may be referred to another lawyer."

Language of Advertisement

Any information required by these rules to appear in an advertisement must appear in all languages used in the advertisement. If a specific disclaimer is required in order to avoid the advertisement misleading the viewer, the disclaimer must be made in the same language that the statement requiring the disclaimer appears.

RULE 4-7.13 DECEPTIVE AND ~~INHERENTLY~~ MISLEADING ADVERTISEMENTS

A lawyer may not engage in deceptive or ~~inherently~~ misleading advertising. An advertisement is deceptive or misleading if it:

~~**(a) Deceptive and Inherently Misleading Advertisements.** An advertisement is deceptive or inherently misleading if it:~~

(~~1~~ a) contains a material statement that is factually or legally inaccurate;

(~~2~~ b) omits information that is necessary to prevent the information supplied from being misleading; or

(~~3~~ c) implies the existence of a material nonexistent fact.

(d) is subject to varying reasonable interpretations, 1 or more of which would be materially misleading when considered in the relevant context; ~~or~~

(e) is literally accurate, but could reasonably mislead a prospective client regarding a material fact;

(f) is unduly manipulative or intrusive, or

(g) cannot be objectively verified.

~~**(b) Examples of Deceptive and Inherently Misleading Advertisements.** Deceptive or inherently misleading advertisements include, but are not limited to advertisements that contain:~~

~~(1) statements or information that can reasonably be interpreted by a prospective client as a prediction or guaranty of success or specific results;~~

~~(2) references to past results unless the information is objectively verifiable, subject to rule 4-7.14;~~

~~(3) comparisons of lawyers or statements, words or phrases that characterize a lawyer's or law firm's skills, experience, reputation or record, unless such characterization is objectively verifiable;~~

~~(4) references to areas of practice in which the lawyer or law firm does not practice or intend to practice at the time of the advertisement;~~

~~(5) *a voice or image that creates the erroneous impression that the person speaking or shown is the advertising lawyer or a lawyer or employee of the advertising firm. The following notice, prominently displayed would resolve the erroneous impression: "Not an employee or member of law firm"*;~~

~~(6) a dramatization of an actual or fictitious event unless the dramatization contains the following prominently displayed notice: "DRAMATIZATION. NOT AN~~

Commented [HL3]: (d), (e) and (g) are moved from 4-7.14. (f) is moved from 4-7.15.

Commented [HL4]: The language of (b) is moved to the comment as it gives examples.

Commented [HL5]: This language is removed in its entirety and not included in new rule or comment language.

~~ACTUAL EVENT." When an advertisement includes an actor purporting to be engaged in a particular profession or occupation, the advertisement must include the following prominently displayed notice: "ACTOR. NOT ACTUAL [. . . . .]";~~

~~(7) statements, trade names, telephone numbers, Internet addresses, images, sounds, videos or dramatizations that state or imply that the lawyer will engage in conduct or tactics that are prohibited by the Rules of Professional Conduct or any law or court rule;~~

~~(8) a testimonial:~~

~~(A) regarding matters on which the person making the testimonial is unqualified to evaluate;~~

~~(B) that is not the actual experience of the person making the testimonial;~~

~~(C) that is not representative of what clients of that lawyer or law firm generally experience;~~

~~(D) that has been written or drafted by the lawyer;~~

~~(E) in exchange for which the person making the testimonial has been given something of value; or~~

~~(F) that does not include the disclaimer that the prospective client may not obtain the same or similar results;~~

~~(9) a statement or implication that The Florida Bar has approved an advertisement or a lawyer, except a statement that the lawyer is licensed to practice in Florida or has been certified pursuant to chapter 6, Rules Regulating the Florida Bar; or~~

~~(10) a judicial, executive, or legislative branch title, unless accompanied by clear modifiers and placed subsequent to the person's name in reference to a current, former or retired judicial, executive, or legislative branch official currently engaged in the practice of law. For example, a former judge may not state "Judge Doe (retired)" or "Judge Doe, former circuit judge." She may state "Jane Doe, Florida Bar member, former circuit judge" or "Jane Doe, retired circuit judge…."~~

Comment

A lawyer may not engage in deceptive or misleading advertising. The examples of deceptive or misleading advertising contained in this rule and this comment are illustrative and not exhaustive. An advertisement may be considered deceptive or

Commented [HL6]: New introductory paragraph added.

misleading even if it does not fall within one of the examples given in this rule or comment.

Material Omissions

An advertisement may be considered to contain a material omission if the advertisement does not state the name of at least 1 lawyer in the advertising firm or the name of the law firm and the city, town or county of 1 or more bona fide office location of the lawyer who will perform the services advertised, or if practicing virtually a statement that the lawyer is practicing virtually. Failure to include the name of the lawyer referral service if the advertisement is for the lawyer referral service, the qualifying provider if the advertisement is for the qualifying provider, or the lawyer directory is the advertisement is for the lawyer directory is also a material omission. If the case or matter will be referred to another lawyer or law firm, the failure to disclose this in the advertisement is a material omission.

~~An example of a material omission is stating~~ Stating "over 20 years' experience" when the experience is the combined experience of all lawyers in the advertising firm. Another example is a lawyer who states "over 20 years' experience" when the lawyer includes within that experience time spent as a paralegal, investigator, police officer, or other nonlawyer position.

Implied Existence of Nonexistent Fact

An example of the implied existence of a nonexistent fact is an advertisement stating that a lawyer has offices in multiple states if the lawyer is not licensed in those states or is not authorized to practice law. Such a statement implies the nonexistent fact that a lawyer is licensed or is authorized to practice law in the states where offices are located.

Another example of the implied existence of a nonexistent fact is a statement in an advertisement that a lawyer is a founding member of a legal organization when the lawyer has just begun practicing law. Such a statement falsely implies that the lawyer has been practicing law longer than the lawyer actually has.

Predictions of Success

Statements that promise a specific result or predict success in a legal matter are prohibited because they are misleading. Examples of statements that impermissibly predict success include: "I will save your home," "I can save your home," "I will get you money for your injuries," and "Come to me to get acquitted of the charges pending against you."

Statements regarding the legal process as opposed to a specific result generally will be considered permissible. For example, a statement that the lawyer or law firm will protect the client's rights, protect the client's assets, or protect the client's family do not promise a specific legal result in a particular matter. Similarly, a statement that a lawyer

Commented [HL7]: Language regarding name of lawyer, location of firm, and referral moved from 4-7.12 Language about virtual office added.

will prepare a client to effectively handle cross-examination is permissible, because it does not promise a specific result, but describes the legal process.

Aspirational statements are generally permissible as such statements describe goals that a lawyer or law firm will try to meet. Examples of aspirational words include "goal," "strive," "dedicated," "mission," and "philosophy." For example, the statement, "My goal is to achieve the best possible result in your case," is permissible. Similarly, the statement, "If you've been injured through no fault of your own, I am dedicated to recovering damages on your behalf," is permissible.

Modifying language can be used to prevent language from running afoul of this rule. For example, the statement, "I will get you acquitted of the pending charges," would violate the rule as it promises a specific legal result. In contrast, the statement, "I will pursue an acquittal of your pending charges," does not promise a specific legal result. It merely conveys that the lawyer will try to obtain an acquittal on behalf of the prospective client. The following list is a nonexclusive list of words that generally may be used to modify language to prevent violations of the rule: try, pursue, may, seek, might, could, and designed to.

General statements describing a particular law or area of law are not promises of specific legal results or predictions of success. For example, the following statement is a description of the law and is not a promise of a specific legal result: "When the government takes your property through its eminent domain power, the government must provide you with compensation for your property."

Past Results

~~The prohibitions in subdivisions (b)(1) and (b)(2) of this~~ This rule preclude advertisements about results obtained on behalf of a client, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts, if the results are not objectively verifiable or are misleading, either alone or in the context in which they are used. For example, an advertised result that is atypical of persons under similar circumstances is likely to be misleading. A result that omits pertinent information, such as failing to disclose that a specific judgment was uncontested or obtained by default, or failing to disclose that the judgment is far short of the client's actual damages, is also misleading. The information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances. An example of a past result that can be objectively verified is that a lawyer has obtained acquittals in all charges in 4 criminal defense cases. On the other hand, general statements such as, "I have successfully represented clients," or "I have won numerous appellate cases," may or may not be sufficiently objectively verifiable. For example, a lawyer may interpret the words "successful" or "won" in a manner different from the average prospective client. In a criminal law context, the lawyer may interpret the word "successful" to mean a conviction to a lesser charge or a lower sentence than recommended by the prosecutor, while the average prospective client likely would interpret the words "successful" or "won" to mean an acquittal.

Rule 4-1.6(a), Rules Regulating the Florida Bar, prohibits a lawyer from voluntarily disclosing any information regarding a representation without a client's informed consent, unless one of the exceptions to rule 4-1.6 applies. A lawyer who wishes to advertise information about past results must have the affected client's informed consent. The fact that some or all of the information a lawyer may wish to advertise is in the public record does not obviate the need for the client's informed consent.

Comparisons

~~The prohibition against comparisons~~ Advertisements that contain comparisons that cannot be factually substantiated are prohibited as deceptive or misleading. Comparisons that cannot be factually substantiated would preclude a lawyer from representing that the lawyer or the lawyer's law firm is "the best," or "one of the best," in a field of law.

On the other hand, statements that the law firm is the largest in a specified geographic area, or is the only firm in a specified geographic area that devotes its services to a particular field of practice are permissible if they are true, because they are comparisons capable of being factually substantiated.

Characterization of Skills, Experience, Reputation or Record

~~The rule prohibits statements that characterize skills, experience, reputation, or record that are not objectively verifiable.~~ Statements that characterize skills, experience, reputation, or record that are not objectively verifiable are prohibited as deceptive and misleading. Statements of a character trait or attribute are not statements that characterize skills, experience, or record. For example, a statement that a lawyer is aggressive, intelligent, creative, honest, or trustworthy is a statement of a lawyer's personal attribute, but does not characterize the lawyer's skills, experience, reputation, or record. These statements are permissible.

Descriptive statements characterizing skills, experience, reputation, or a record that are true and factually verified are permissible. For example, the statement "Our firm is the largest firm in this city that practices exclusively personal injury law," is permissible if true, because the statement is objectively verifiable. Similarly, the statement, "I have personally handled more appeals before the First District Court of Appeal than any other lawyer in my circuit," is permissible if the statement is true, because the statement is objectively verifiable.

Descriptive statements that are misleading are prohibited by this rule. Descriptive statements such as "the best," "second to none," or "the finest" will generally run afoul of this rule, as such statements are not objectively verifiable and are likely to mislead prospective clients as to the quality of the legal services offered.

Aspirational statements are generally permissible as such statements describe goals that a lawyer or law firm will try to meet. Examples of aspirational words include "goal," "dedicated," "mission," and "philosophy." For example, the statement, "I am dedicated to excellence in my representation of my clients," is permissible as a goal.

Similarly, the statement, “My goal is to provide high quality legal services,” is permissible.

Areas of Practice

A lawyer may not advertise references to areas of practice in which the lawyer or law firm does not practice or intend to practice at the time of advertisement, However, this ~~This~~ rule is not intended to prohibit lawyers from advertising for areas of practice in which the lawyer intends to personally handle cases, but does not yet have any cases of that particular type.

Commented [HL8]: From 4-7.13(b)(4).

Dramatizations

A re-creation or staging of an event must contain a prominently displayed disclaimer, “DRAMATIZATION. NOT AN ACTUAL EVENT.” For example, a re-creation of a car accident must contain the disclaimer. A re-enactment of lawyers visiting the re-construction of an accident scene must contain the disclaimer.

If an actor is used in an advertisement purporting to be engaged in a particular profession or occupation who is acting as a spokesperson for the lawyer or in any other circumstances where the viewer could be misled, a disclaimer must be used. However, an authority figure such as a judge or law enforcement officer, or an actor portraying an authority figure, may not be used in an advertisement to endorse or recommend a lawyer, or to act as a spokesperson for a lawyer ~~under rule 4-7.15~~.

All required disclaimers must be in the same language or languages as the advertisement and be reasonably prominent and clearly legible if written or intelligible if spoken.

Commented [HL9]: From 4-7.12

Unduly Manipulative or Intrusive

Commented [HL10]: From the rule language of 4-7.15. Language prohibiting voice or image of celebrity deleted.

A lawyer may not engage in unduly manipulative or intrusive advertisements. An advertisement that uses an image, sound, video or dramatization in a manner that is designed to solicit legal employment by appealing to a prospective client’s emotions rather than to a rational evaluation of a lawyer’s suitability to represent the prospective client is unduly manipulative or intrusive. An advertisement that uses an authority figure such as a judge or law enforcement officer, or an actor portraying an authority figure, to endorse or recommend the lawyer or act as a spokesperson for the lawyer is also unduly manipulative or intrusive.

A lawyer also may not offer consumers an economic incentive to employ the lawyer or review the lawyer’s advertising. However, a lawyer is not prohibited from offering a discounted fee or special fee or cost structure as otherwise permitted by these rules and is not prohibited from offering free legal advice or information that might indirectly benefit a consumer economically.

Implying Lawyer Will Violate Rules of Conduct or Law

Advertisements which state or imply that the advertising lawyers will engage in conduct that violates the Rules of Professional Conduct are prohibited. The Supreme Court of Florida found that lawyer advertisements containing an illustration of a pit bull canine and the telephone number 1-800-pitbull were false, misleading, and manipulative, because use of that animal implied that the advertising lawyers would engage in "combative and vicious tactics" that would violate the Rules of Professional Conduct. *Fla. Bar v. Pape*, 918 So. 2d 240 (Fla.2005).

Testimonials

A testimonial is a personal statement, affirmation, or endorsement by any person other than the advertising lawyer or a member of the advertising lawyer's firm regarding the quality of the lawyer's services or the results obtained through the representation. Clients as consumers are well-qualified to opine on matters such as courtesy, promptness, efficiency, and professional demeanor. Testimonials by clients on these matters, as long as they are truthful and are based on the actual experience of the person giving the testimonial, are beneficial to prospective clients and are permissible.

However, a testimonial regarding matters on which the person making the testimonial is unqualified to evaluate; is not the actual experience of the person making the testimonial; is not representative of what clients of that lawyer or law firm generally experience; that has been written or drafted by the lawyer; is in exchange for which the person making the testimonial has been given something of value; or that does not include the disclaimer that the prospective client may not obtain the same or similar results is deceptive and misleading.

Commented [HL11]: From 4-7.13(b)(8)

Florida Bar Approval of Ad or Lawyer

An advertisement may not state or imply that either the advertisement or the lawyer has been approved by The Florida Bar. Such a statement or implication implies that The Florida Bar endorses a particular lawyer. Statements prohibited by this provision include, "This advertisement was approved by The Florida Bar." A lawyer referral service also may not state that it is a "Florida Bar approved lawyer referral service," unless the service is a not-for-profit lawyer referral service approved under chapter 8 of the Rules Regulating the Florida Bar. A qualifying provider also may not state that it is a "Florida Bar approved qualifying provider" or that its advertising is approved by The Florida Bar.

Judicial, Executive, and Legislative Titles

This rule prohibits use of a judicial, executive, or legislative branch title, unless accompanied by clear modifiers and placed subsequent to the person's name, when used to refer to a current or former officer of the judicial, executive, or legislative branch. Use of a title before a name is inherently misleading in that it implies that the current or

former officer has improper influence. Thus, the titles Senator Doe, Representative Smith, Former Justice Doe, Retired Judge Smith, Governor (Retired) Doe, Former Senator Smith, and other similar titles used as titles in conjunction with the lawyer's name are prohibited by this rule. This includes, but is not limited to, use of the title in advertisements and written communications, computer-accessed communications, letterhead, and business cards.

However, an accurate representation of one's judicial, executive, or legislative experience is permitted if the reference is subsequent to the lawyer's name and is clearly modified by terms such as "former" or "retired." For example, a former judge may state "Jane Doe, Florida Bar member, former circuit judge" or "Jane Doe, retired circuit judge."

As another example, a former state representative may not include "Representative Smith (former)" or "Representative Smith, retired" in an advertisement, letterhead, or business card. However, a former representative may state, "John Smith, Florida Bar member, former state representative."

Further, an accurate representation of one's judicial, executive, or legislative experience is permitted in reference to background and experience in biographies, curriculum vitae, and resumes if accompanied by clear modifiers and placed subsequent to the person's name. For example, the statement "John Jones was governor of the State of Florida from [. . . years of service . . .]" would be permissible.

Also, the rule governs attorney advertising. It does not apply to pleadings filed in a court. A practicing attorney who is a former or retired judge may not use the title in any form in a court pleading. A former or retired judge who uses that former or retired judge's previous title of "Judge" in a pleading could be sanctioned.

Awards, honors, and ratings

Commented [HL12]: Moved from comment language of 4-7.14

Awards, honors, and ratings are not subjective statements characterizing a lawyer's skills, experience, reputation, or record. Instead, they are statements of objectively verifiable facts from which an inference of quality may be drawn. It is therefore permissible under the rule for a lawyer to list bona fide awards, honors, and recognitions using the name or title of the actual award and the date it was given. If the award was given in the same year that the advertisement is disseminated or the advertisement references a rating that is current at the time the advertisement is disseminated, the year of the award or rating is not required.

For example, the following statements are permissible:

"John Doe is AV rated by Martindale-Hubbell. This rating is Martindale-Hubbell's highest rating."

"Jane Smith was named a 2008 Florida Super Lawyer by Super Lawyers Magazine."

Claims of board certification, specialization or expertise

Commented [HL13]: Moved from comment language of 4-7.14

This rule permits a lawyer or law firm to indicate areas of practice in communications about the lawyer's or law firm's services, provided the advertising lawyer or law firm actually practices in those areas of law at the time the advertisement is disseminated. If a lawyer practices only in certain fields, or will not accept matters except in those fields, the lawyer is permitted to indicate that. A lawyer also may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true. A lawyer who is not certified by The Florida Bar, by another state bar with comparable standards, or an organization accredited by the American Bar Association or The Florida Bar may not be described to the public as "certified" or "board certified" or any variation of similar import. A lawyer may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true.

Certification is specific to individual lawyers; a law firm cannot be certified in an area of practice per subdivision (c) of rule 6-3.4. Therefore, an advertisement may not state that a law firm is certified in any area of practice.

A lawyer can only state or imply that the lawyer is "certified" in the actual area(s) of practice in which the lawyer is certified. A lawyer who is board certified in civil trial law, may state that, but may not state that the lawyer is certified in personal injury.

The criteria set forth in the Florida Certification Plan is designed to establish a reasonable degree of objectivity and uniformity so that the use of the terms "specialization," "expertise," or other variations of those terms, conveys some meaningful information to the public and is not misleading. A lawyer who meets the criteria for certification in a particular field automatically qualifies to state that the lawyer is a specialist or expert in the area of certification. However, a lawyer making a claim of specialization or expertise is not required to be certified in the claimed field of specialization or expertise or to have met the specific criterion for certification if the lawyer can demonstrate that the lawyer has the education, training, experience, or substantial involvement in the area of practice commensurate with specialization or expertise.

A law firm claim of specialization or expertise may be based on 1 lawyer who is a member of or employed by the law firm either having the requisite board certification or being able to objectively verify the requisite qualifications enumerated in this rule. For purposes of this rule, a lawyer's "of counsel" relationship with a law firm is a sufficiently close relationship to permit a law firm to claim specialization or expertise based on the "of counsel" lawyer's board certification or qualifications only if the "of counsel" practices law solely through the law firm claiming specialization or expertise and provides substantial legal services through the firm as to allow the firm to reasonably rely on the "of counsel" qualifications in making the claim.

Fee and cost information

Every advertisement that contains information about the lawyer's fee, including a contingent fee, must disclose all fees and costs that the client will be liable for. If the client is, in fact, not responsible for any costs in addition to the fee, then no disclosure is necessary. For example, if a lawyer charges a flat fee to create and execute a will and there are no costs associated with the services, the lawyer's advertisement may state only the flat fee for that service.

However, if there are costs for which the client is responsible, the advertisement must disclose this fact. For example, if fees are contingent on the outcome of the matter, but the client is responsible for costs regardless of the matter's outcome, the following statements are permissible: "No Fee if No Recovery, but Client is Responsible for Costs," "No Fee if No Recovery, Excludes Costs," "No Recovery, No Fee, but Client is Responsible for Costs" and other similar statements.

On the other hand, if both fees and costs are contingent on the outcome of a personal injury case, the statements "No Fees or Costs If No Recovery" and "No Recovery - No Fees or Costs" are permissible.

RULE 4-7.14 ~~POTENTIALLY MISLEADING ADVERTISEMENTS~~

~~A lawyer may not engage in potentially misleading advertising.~~

~~**(a) Potentially Misleading Advertisements.** Potentially misleading advertisements include, but are not limited to:~~

~~(1) advertisements that are subject to varying reasonable interpretations, 1 or more of which would be materially misleading when considered in the relevant context;~~

~~(2) advertisements that are literally accurate, but could reasonably mislead a prospective client regarding a material fact;~~

~~(3) references to a lawyer's membership in, or recognition by, an entity that purports to base the membership or recognition on a lawyer's ability or skill, unless the entity conferring the membership or recognition is generally recognized within the legal profession as being a bona fide organization that makes its selections based on objective and uniformly applied criteria, and that includes among its members or those recognized a reasonable cross-section of the legal community the entity purports to cover;~~

~~(4) a statement that a lawyer is board certified or other variations of that term unless:~~

~~(A) the lawyer has been certified under the Florida Certification Plan as set forth in chapter 6, Rules Regulating The Florida Bar and the advertisement~~

Commented [HL14]: Moved from comment language of 4-7.14

Commented [HL15]: The rule language has been deleted and the comment language has been moved to the general rule prohibiting deceptive and misleading advertising.

~~includes the area of certification and that The Florida Bar is the certifying organization;~~

~~(B) the lawyer has been certified by an organization whose specialty certification program has been accredited by the American Bar Association or The Florida Bar as provided elsewhere in these rules. A lawyer certified by a specialty certification program accredited by the American Bar Association but not The Florida Bar must include the statement "Not Certified as a Specialist by The Florida Bar" in reference to the specialization or certification. All such advertisements must include the area of certification and the name of the certifying organization; or~~

~~(C) the lawyer has been certified by another state bar if the state bar program grants certification on the basis of standards reasonably comparable to the standards of the Florida Certification Plan set forth in chapter 6 of these rules and the advertisement includes the area of certification and the name of the certifying organization.~~

~~In the absence of the certification, a lawyer may communicate the fact that the lawyer limits his or her practice to 1 or more fields of law;~~

~~(5) a statement that the lawyer is a specialist or an expert in an area of practice, or other variations of those terms, unless the lawyer is certified under the Florida Certification Plan or an American Bar Association or Florida Bar accredited certification plan or the lawyer can objectively verify the claim based on the lawyer's education, training, experience, or substantial involvement in the area of practice in which specialization or expertise is claimed;~~

~~(6) a statement that a law firm specializes or has expertise in an area of practice, or other variations of those terms, unless the law firm can objectively verify the claim as to at least 1 of the lawyers who are members of or employed by the law firm as set forth in subdivision (a)(5) above, but if the law firm cannot objectively verify the claim for every lawyer employed by the firm, the advertisement must contain a reasonably prominent disclaimer that not all lawyers in the firm specialize or have expertise in the area of practice in which the firm claims specialization or expertise; or~~

~~(7) information about the lawyer's fee, including those that indicate no fee will be charged in the absence of a recovery, unless the advertisement discloses all fees and expenses for which the client might be liable and any other material information relating to the fee. A lawyer who advertises a specific fee or range of fees for a particular service must honor the advertised fee or range of fees for at least 90 days unless the advertisement specifies a shorter period; provided that, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees must be honored for no less than 1 year following publication.~~

(b) Clarifying Information. A lawyer may use an advertisement that would otherwise be potentially misleading if the advertisement contains information or statements that adequately clarify the potentially misleading issue.

Comment

Awards, honors, and ratings

Awards, honors, and ratings are not subjective statements characterizing a lawyer's skills, experience, reputation, or record. Instead, they are statements of objectively verifiable facts from which an inference of quality may be drawn. It is therefore permissible under the rule for a lawyer to list bona fide awards, honors, and recognitions using the name or title of the actual award and the date it was given. If the award was given in the same year that the advertisement is disseminated or the advertisement references a rating that is current at the time the advertisement is disseminated, the year of the award or rating is not required.

For example, the following statements are permissible:

"John Doe is AV rated by Martindale-Hubbell. This rating is Martindale-Hubbell's highest rating."

"Jane Smith was named a 2008 Florida Super Lawyer by Super Lawyers Magazine."

Claims of board certification, specialization or expertise

This rule permits a lawyer or law firm to indicate areas of practice in communications about the lawyer's or law firm's services, provided the advertising lawyer or law firm actually practices in those areas of law at the time the advertisement is disseminated. If a lawyer practices only in certain fields, or will not accept matters except in those fields, the lawyer is permitted to indicate that. A lawyer also may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true. A lawyer who is not certified by The Florida Bar, by another state bar with comparable standards, or an organization accredited by the American Bar Association or The Florida Bar may not be described to the public as "certified" or "board certified" or any variation of similar import. A lawyer may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true.

Certification is specific to individual lawyers; a law firm cannot be certified in an area of practice per subdivision (c) of rule 6-3.4. Therefore, an advertisement may not state that a law firm is certified in any area of practice.

A lawyer can only state or imply that the lawyer is "certified" in the actual area(s) of practice in which the lawyer is certified. A lawyer who is board certified in civil trial law, may state that, but may not state that the lawyer is certified in personal injury.

The criteria set forth in the Florida Certification Plan is designed to establish a reasonable degree of objectivity and uniformity so that the use of the terms "specialization," "expertise," or other variations of those terms, conveys some meaningful information to the public and is not misleading. A lawyer who meets the criteria for certification in a particular field automatically qualifies to state that the lawyer is a specialist or expert in the area of certification. However, a lawyer making a claim of specialization or expertise is not required to be certified in the claimed field of specialization or expertise or to have met the specific criterion for certification if the lawyer can demonstrate that the lawyer has the education, training, experience, or substantial involvement in the area of practice commensurate with specialization or expertise.

A law firm claim of specialization or expertise may be based on 1 lawyer who is a member of or employed by the law firm either having the requisite board certification or being able to objectively verify the requisite qualifications enumerated in this rule. For purposes of this rule, a lawyer's "of counsel" relationship with a law firm is a sufficiently close relationship to permit a law firm to claim specialization or expertise based on the "of counsel" lawyer's board certification or qualifications only if the "of counsel" practices law solely through the law firm claiming specialization or expertise and provides substantial legal services through the firm as to allow the firm to reasonably rely on the "of counsel" qualifications in making the claim.

Fee and cost information

Every advertisement that contains information about the lawyer's fee, including a contingent fee, must disclose all fees and costs that the client will be liable for. If the client is, in fact, not responsible for any costs in addition to the fee, then no disclosure is necessary. For example, if a lawyer charges a flat fee to create and execute a will and there are no costs associated with the services, the lawyer's advertisement may state only the flat fee for that service.

However, if there are costs for which the client is responsible, the advertisement must disclose this fact. For example, if fees are contingent on the outcome of the matter, but the client is responsible for costs regardless of the matter's outcome, the following statements are permissible: "No Fee if No Recovery, but Client is Responsible for Costs," "No Fee if No Recovery, Excludes Costs," "No Recovery, No Fee, but Client is Responsible for Costs" and other similar statements.

On the other hand, if both fees and costs are contingent on the outcome of a personal injury case, the statements "No Fees or Costs If No Recovery" and "No Recovery - No Fees or Costs" are permissible.

RULE 4-7.15 UNDULY MANIPULATIVE OR INTRUSIVE ADVERTISEMENTS

A lawyer may not engage in unduly manipulative or intrusive advertisements. An advertisement is unduly manipulative if it:

Commented [HL16]: Introductory language, (a), (b) and (d) are moved to the comment of the rule prohibiting deceptive and misleading advertising.

(a) uses an image, sound, video or dramatization in a manner that is designed to solicit legal employment by appealing to a prospective client's emotions rather than to a rational evaluation of a lawyer's suitability to represent the prospective client;

(b) uses an authority figure such as a judge or law enforcement officer, or an actor portraying an authority figure, to endorse or recommend the lawyer or act as a spokesperson for the lawyer;

(c) *contains the voice or image of a celebrity, except that a lawyer may use the voice or image of a local announcer, disc jockey or radio personality who regularly records advertisements so long as the person recording the announcement does not endorse or offer a testimonial on behalf of the advertising lawyer or law firm; or*

(d) offers consumers an economic incentive to employ the lawyer or review the lawyer's advertising; provided that this rule does not prohibit a lawyer from offering a discounted fee or special fee or cost structure as otherwise permitted by these rules and does not prohibit the lawyer from offering free legal advice or information that might indirectly benefit a consumer economically.

Comment

Unduly Manipulative Sounds and Images

Illustrations that are informational and not misleading are permissible. As examples, a graphic rendering of the scales of justice to indicate that the advertising lawyer practices law, a picture of the lawyer, or a map of the office location are permissible illustrations.

An illustration that provides specific information that is directly related to a particular type of legal claim is permissible. For example, a photograph of an actual medication to illustrate that the medication has been linked to adverse side effects is permissible. An x-ray of a lung that has been damaged by asbestos would also be permissible. A picture or video that illustrates the nature of a particular claim or practice, such as a person on crutches or in jail, is permissible.

An illustration or photograph of a car that has been in an accident would be permissible to indicate that the lawyer handles car accident cases. Similarly, an illustration or photograph of a construction site would be permissible to show either that the lawyer handles construction law matters or workers' compensation matters. An illustration or photograph of a house with a foreclosure sale sign is permissible to indicate that the lawyer handles foreclosure matters. An illustration or photograph of a person with a stack of bills to indicate that the lawyer handles bankruptcy is also permissible. An illustration or photograph of a person being arrested, a person in jail, or an accurate rendering of a traffic stop also is permissible. An illustration, photograph, or portrayal of a bulldozer to indicate that the lawyer handles eminent domain matters is permissible. Illustrations, photographs, or scenes of doctors examining x-rays are permissible to show that a lawyer handles medical malpractice or medical products

Commented [HL17]: This language is deleted in its entirety.

Commented [HL18]: The comment language is deleted and not moved to other comment language.

liability cases. An image, dramatization, or sound of a car accident actually occurring would also be permissible, as long as it is not unduly manipulative.

Although some illustrations are permissible, an advertisement that contains an image, sound or dramatization that is unduly manipulative is not. For example, a dramatization or illustration of a car accident occurring in which graphic injuries are displayed is not permissible. A depiction of a child being taken from a crying mother is not permissible because it seeks to evoke an emotional response and is unrelated to conveying useful information to the prospective client regarding hiring a lawyer. Likewise, a dramatization of an insurance adjuster persuading an accident victim to sign a settlement is unduly manipulative, because it is likely to convince a viewer to hire the advertiser solely on the basis of the manipulative advertisement.

Some illustrations are used to seek attention so that viewers will receive the advertiser's message. So long as those illustrations, images, or dramatizations are not unduly manipulative, they are permissible, even if they do not directly relate to the selection of a particular lawyer.

Use of Celebrities

A lawyer or law firm advertisement may not contain the voice or image of a celebrity. A celebrity is an individual who is known to the target audience and whose voice or image is recognizable to the intended audience. A person can be a celebrity on a regional or local level, not just a national level. Local announcers or disc jockeys and radio personalities are regularly used to record advertisements. Use of a local announcer or disc jockey or a radio personality to record an advertisement is permissible under this rule as long as the person recording the announcement does not endorse or offer a testimonial on behalf of the advertising lawyer or law firm.

RULE 4-7.16 PRESUMPTIVELY VALID CONTENT

Commented [HL19]: Rule and comment deleted in its entirety.

The following information in advertisements is presumed not to violate the provisions of rules 4-7.11 through 4-7.15:

(a) Lawyers and Law Firms. A lawyer or law firm may include the following information in advertisements and unsolicited written communications:

(1) the name of the lawyer or law firm subject to the requirements of this rule and rule 4-7.21, a listing of lawyers associated with the firm, office locations and parking arrangements, disability accommodations, telephone numbers, website addresses, and electronic mail addresses, office and telephone service hours, and a designation such as "attorney" or "law firm";

(2) date of admission to The Florida Bar and any other bars, current membership or positions held in The Florida Bar or its sections or committees or those of other state bars, former membership or positions held in The Florida Bar or its sections or committees with dates of membership or those of other state bars, former positions of employment held in the legal profession with dates the positions

were held, years of experience practicing law, number of lawyers in the advertising law firm, and a listing of federal courts and jurisdictions other than Florida where the lawyer is licensed to practice;

(3) technical and professional licenses granted by the state or other recognized licensing authorities and educational degrees received, including dates and institutions;

(4) military service, including branch and dates of service;

(5) foreign language ability;

(6) fields of law in which the lawyer practices, including official certification logos, subject to the requirements of subdivision (a)(4) of rule 4-7.14 regarding use of terms such as certified, specialist, and expert;

(7) prepaid or group legal service plans in which the lawyer participates;

(8) acceptance of credit cards;

(9) fee for initial consultation and fee schedule, subject to the requirements of subdivisions (a)(5) of rule 4-7.14 regarding cost disclosures and honoring advertised fees;

(10) common salutary language such as "best wishes," "good luck," "happy holidays," "pleased to announce," or "proudly serving your community";

(11) punctuation marks and common typographical marks;

(12) an illustration of the scales of justice not deceptively similar to official certification logos or The Florida Bar logo, a gavel, traditional renditions of Lady Justice, the Statue of Liberty, the American flag, the American eagle, the State of Florida flag, an unadorned set of law books, the inside or outside of a courthouse, column(s), diploma(s), or a photograph of the lawyer or lawyers who are members of, or employed by, the firm against a plain background such as a plain unadorned office or a plain unadorned set of law books.

(b) Lawyer Referral Services and Qualifying Providers. A lawyer referral service or qualifying provider may advertise its name, location, telephone number, the fee charged, its hours of operation, the process by which referrals or matches are made, the areas of law in which referrals or matches are offered, the geographic area in which the lawyers practice to whom those responding to the advertisement will be referred or matched. The Florida Bar's lawyer referral service or a lawyer referral service approved by The Florida Bar under chapter 8 of the Rules Regulating the Florida Bar also may advertise the logo of its sponsoring bar association and its nonprofit status.

~~**Comment**~~

~~The presumptively valid content creates a safe harbor for lawyers. A lawyer desiring a safe harbor from discipline may choose to limit the content of an advertisement to the information listed in this rule and, if the information is true, the advertisement complies with these rules. However, a lawyer is not required to limit the information in an advertisement to the presumptively valid content, as long as all information in the advertisement complies with these rules.~~

RULE 4-7.17 PAYMENT FOR ADVERTISING AND PROMOTION

Commented [HL20]: Changes made to rule numbers only (not shown here)

(a) Payment by Other Lawyers. No lawyer may, directly or indirectly, pay all or a part of the cost of an advertisement by a lawyer not in the same firm. Rule 4-1.5(f)(4)(D) (regarding the division of contingency fees) is not affected by this provision even though the lawyer covered by subdivision (f)(4)(D)(ii) of rule 4-1.5 advertises.

(b) Payment for Referrals. A lawyer may not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by these rules, may pay the usual charges of a lawyer referral service, lawyer directory, qualifying provider or other legal service organization, and may purchase a law practice in accordance with rule 4-1.17.

(c) Payment by Nonlawyers. A lawyer may not permit a nonlawyer to pay all or a part of the cost of an advertisement by that lawyer.

Comment

Paying for the Advertisements of Another Lawyer

A lawyer is not permitted to pay for the advertisements of another lawyer not in the same firm. This rule is not intended to prohibit more than 1 law firm from advertising jointly, but the advertisement must contain all required information as to each advertising law firm.

Paying Others for Recommendations

A lawyer is allowed to pay for advertising permitted by this rule and for the purchase of a law practice in accordance with the provisions of rule 4-1.17, but otherwise is not permitted to pay or provide other tangible benefits to another person for procuring professional work. However, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in lawyer referral programs, qualifying providers, or lawyer directories and pay the usual fees charged by such programs, subject, however, to the limitations imposed by rule 4-7.22. This rule does not prohibit paying regular compensation to an assistant, such as a secretary or advertising consultant, to prepare communications permitted by this rule.

RULE 4-7.18 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

Commented [HL21]: Changes made to rule numbers only (not shown here)

(a) Solicitation. Except as provided in subdivision (b) of this rule, a lawyer may not:

(1) solicit in person, or permit employees or agents of the lawyer to solicit in person on the lawyer's behalf, professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone, by electronic means that include real-time communication face-to-face such as video telephone or video conference, or by other communication directed to a specific recipient that does not meet the requirements of subdivision (b) of this rule and rules 4-7.11 through 4-7.17 of these rules.

(2) enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule.

(b) Written Communication.

(1) A lawyer may not send, or knowingly permit to be sent, on the lawyer's behalf or on behalf of the lawyer's firm or partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication directly or indirectly to a prospective client for the purpose of obtaining professional employment if:

(A) the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the mailing of the communication;

(B) the written communication concerns a specific matter and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;

(C) it has been made known to the lawyer that the person does not want to receive such communications from the lawyer;

(D) the communication involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;

(E) the communication violates rules 4-7.11 through 4-7.17 of these rules;

(F) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer; or

(G) the communication concerns a request for an injunction for protection against any form of physical violence and is addressed to the respondent in the injunction petition, if the lawyer knows or reasonably should know that the respondent named in the injunction petition has not yet been served with notice of process in the matter.

(2) Written communications to prospective clients for the purpose of obtaining professional employment that are not prohibited by subdivision (b)(1) are subject to the following requirements:

(A) Such communications are subject to the requirements of 4-7.11 through 4-7.17 of these rules.

(B) Each separate enclosure of the communication and the face of an envelope containing the communication must be reasonably prominently marked "advertisement" in ink that contrasts with both the background it is printed on and other text appearing on the same page. If the written communication is in the form of a self-mailing brochure or pamphlet, the "advertisement" mark must be reasonably prominently marked on the address panel of the brochure or pamphlet, on the inside of the brochure or pamphlet, and on each separate enclosure. If the written communication is sent via electronic mail, the subject line must begin with the word "Advertisement."

(C) Every written communication must be accompanied by a written statement detailing the background, training and experience of the lawyer or law firm. This statement must include information about the specific experience of the advertising lawyer or law firm in the area or areas of law for which professional employment is sought. Every written communication disseminated by a lawyer referral service must be accompanied by a written statement detailing the background, training, and experience of each lawyer to whom the recipient may be referred.

(D) If a contract for representation is mailed with the written communication, the top of each page of the contract must be marked "SAMPLE" in red ink in a type size one size larger than the largest type used in the contract and the words "DO NOT SIGN" must appear on the client signature line.

(E) The first sentence of any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must be: "If you have already retained a lawyer for this matter, please disregard this letter."

(F) Written communications must not be made to resemble legal pleadings or other legal documents.

(G) If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, or if the case or

matter will be referred to another lawyer or law firm, any written communication concerning a specific matter must include a statement so advising the client.

(H) Any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the lawyer obtained the information prompting the communication. The disclosure required by this rule must be specific enough to enable the recipient to understand the extent of the lawyer's knowledge regarding the recipient's particular situation.

(I) A written communication seeking employment by a specific prospective client in a specific matter must not reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the client's legal problem.

(3) The requirements in subdivision (b)(2) of this rule do not apply to communications between lawyers, between lawyers and their own current and former clients, or between lawyers and their own family members, or to communications by the lawyer at a prospective client's request.

Comment

Prior Professional Relationship

Persons with whom the lawyer has a prior professional relationship are exempted from the general prohibition against direct, in-person solicitation. A prior professional relationship requires that the lawyer personally had a direct and continuing relationship with the person in the lawyer's capacity as a professional. Thus, a lawyer with a continuing relationship as the patient of a doctor, for example, does not have the professional relationship contemplated by the rule because the lawyer is not involved in the relationship in the lawyer's professional capacity. Similarly, a lawyer who is a member of a charitable organization totally unrelated to the practice of law and who has a direct personal relationship with another member of that organization does not fall within the definition.

On the other hand, a lawyer who is the legal advisor to a charitable board and who has direct, continuing relationships with members of that board does have prior professional relationships with those board members as contemplated by the rule. Additionally, a lawyer who has a direct, continuing relationship with another professional where both are members of a trade organization related to both the lawyer's and the nonlawyer's practices would also fall within the definition. A lawyer's relationship with a doctor because of the doctor's role as an expert witness is another example of a prior professional relationship as provided in the rule.

A lawyer who merely shared a membership in an organization in common with another person without any direct, personal contact would not have a prior professional relationship for purposes of this rule. Similarly, a lawyer who speaks at a seminar does not develop a professional relationship within the meaning of the rule with seminar attendees merely by virtue of being a speaker.

Disclosing Where the Lawyer Obtained Information

In addition, the lawyer or law firm should reveal the source of information used to determine that the recipient has a potential legal problem. Disclosure of the information source will help the recipient to understand the extent of knowledge the lawyer or law firm has regarding the recipient's particular situation and will avoid misleading the recipient into believing that the lawyer has particularized knowledge about the recipient's matter if the lawyer does not. The lawyer or law firm must disclose sufficient information or explanation to allow the recipient to locate the information that prompted the communication from the lawyer.

Alternatively, the direct mail advertisement would comply with this rule if the advertisement discloses how much information the lawyer has about the matter.

For example, a direct mail advertisement for criminal defense matters would comply if it stated that the lawyer's only knowledge about the prospective client's matter is the client's name, contact information, date of arrest and charge. In the context of securities arbitration, a direct mail advertisement would comply with this requirement by stating, if true, that the lawyer obtained information from a list of investors, and the only information on that list is the prospective client's name, address, and the fact that the prospective client invested in a specific company.

Group or Prepaid Legal Services Plans

This rule would not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for its members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of, and details concerning, the plan or arrangement that the lawyer or the lawyer's law firm is willing to offer. This form of communication is not directed to a specific prospective client known to need legal services related to a particular matter. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become clients of the lawyer. Under these circumstances, the activity that the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under other rules in this subchapter.

RULE 4-7.19 EVALUATION OF ADVERTISEMENTS

Commented [HL22]: Filing changed from mandatory to voluntary.

(a) Voluntary Filing Requirements. ~~Subject to the exemptions stated in rule 4-7.20, any lawyer who advertises services shall file~~ Filing of advertisements is voluntary. Any lawyer may obtain an opinion from The Florida Bar regarding an advertisement's compliance with these rules by filing with The Florida Bar a copy of each advertisement at least 20 days prior to the lawyer's first dissemination of the advertisement. The advertisement must be filed at The Florida Bar headquarters address in Tallahassee. A lawyer who seeks an opinion from The Florida Bar regarding compliance with these rules will not be subject to discipline for dissemination of an advertisement deemed to

be compliant. Dissemination of an advertisement deemed to be noncompliant may subject the lawyer to discipline.

(b) Evaluation by The Florida Bar. The Florida Bar will evaluate all advertisements voluntarily filed with it pursuant to this rule for compliance with the applicable provisions set forth in ~~rules 4-7.11 through 4-7.15 and 4-7.18(b)(2)~~ this subchapter. If The Florida Bar does not send any communication to the filer within 15 days of receipt by The Florida Bar of a complete filing, or within 15 days of receipt by The Florida Bar of additional information when requested within the initial 15 days, the lawyer will not be subject to discipline by The Florida Bar, except if The Florida Bar subsequently notifies the lawyer of noncompliance, the lawyer may be subject to discipline for dissemination of the advertisement after the notice of noncompliance.

~~**(c) Preliminary Opinions.** A lawyer may obtain an advisory opinion concerning the compliance of a contemplated advertisement prior to production of the advertisement by submitting to The Florida Bar a draft or script that includes all spoken or printed words appearing in the advertisement, a description of any visual images to be used in the advertisement, and the fee specified in this rule. The voluntary prior submission does not satisfy the filing and evaluation requirements of these rules, but once completed, The Florida Bar will not charge an additional fee for evaluation of the completed advertisement.~~

(~~d~~ c) Opinions on ~~Exempt Advertisements~~ Websites. ~~A lawyer may obtain an advisory opinion concerning the compliance of an existing or contemplated advertisement intended to be used by the lawyer seeking the advisory opinion that is not required to be filed for review by submitting the material and fee specified in subdivision (h) of this rule to The Florida Bar, except that a lawyer may not file an entire website for review.~~ A lawyer who wishes to obtain an opinion regarding the lawyer's website may not file an entire website for review. Instead, a lawyer may obtain an advisory opinion concerning the compliance of a specific page, provision, statement, illustration, or photograph on a website.

(~~e~~ d) Facial Compliance. Evaluation of advertisements is limited to determination of facial compliance with rules 4-7.11 through 4-7.15 and 4-7.18(b)(2), and notice of compliance does not relieve the lawyer of responsibility for the accuracy of factual statements.

Commented [HL23]: Rule number references will be changed to correspond with new numbering.

(~~f~~ e) Notice of Compliance and Disciplinary Action. A finding of compliance by The Florida Bar will be binding on The Florida Bar in a grievance proceeding unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement. The Florida Bar has a right to change its finding of compliance and in such circumstances must notify the lawyer of the finding of noncompliance, after which the lawyer may be subject to discipline for continuing to disseminate the advertisement, including dissemination of the portions of the lawyer's Internet website(s). ~~A lawyer will be subject to discipline as provided in these rules for:~~

~~(1) failure to timely file the advertisement with The Florida Bar;~~

~~(2) dissemination of a noncompliant advertisement in the absence of a finding of compliance by The Florida Bar;~~

~~(3) filing of an advertisement that contains a misrepresentation that is not apparent from the face of the advertisement;~~

~~(4) dissemination of an advertisement for which the lawyer has a finding of compliance by The Florida Bar more than 30 days after the lawyer has been notified that The Florida Bar has determined that the advertisement does not comply with this subchapter; or~~

~~(5) dissemination of portions of a lawyer's Internet website(s) that are not in compliance with rules 4-7.14 and 4-7.15 only after 15 days have elapsed since the date of The Florida Bar's notice of noncompliance sent to the lawyer's official bar address.~~

(~~g~~ f) Notice of Noncompliance. If The Florida Bar determines that an advertisement is not in compliance with the applicable rules, The Florida Bar will advise the lawyer that dissemination or continued dissemination of the advertisement may result in professional discipline.

(~~h~~ g) Contents of Filing. A filing with The Florida Bar as ~~required or~~ permitted by subdivision (a) must include:

(1) a copy of the advertisement in the form or forms in which it is to be disseminated, which is readily capable of duplication by The Florida Bar (e.g., video, audio, print media, photographs of outdoor advertising);

(2) a transcript, if the advertisement is in electronic format;

(3) a printed copy of all text used in the advertisement, including both spoken language and on-screen text;

(4) an accurate English translation of any portion of the advertisement that is in a language other than English;

(5) a sample envelope in which the written advertisement will be enclosed, if the advertisement is to be mailed;

(6) a statement listing all media in which the advertisement will appear, the anticipated frequency of use of the advertisement in each medium in which it will appear, and the anticipated time period during which the advertisement will be used;

(7) the name of at least 1 lawyer who is responsible for the content of the advertisement;

(8) a fee paid to The Florida Bar, in an amount of $150 for each advertisement timely filed as provided in subdivision (a), or $250 for each advertisement not timely filed. This fee will be used to offset the cost of evaluation and review of advertisements submitted under these rules and the cost of enforcing these rules; and

(9) additional information as necessary to substantiate representations made or implied in an advertisement if requested by The Florida Bar.

(~~l~~ h) Change of Circumstances; Refiling Requirement. If a change of circumstances occurs subsequent to The Florida Bar's evaluation of an advertisement that raises a substantial possibility that the advertisement has become false or misleading as a result of the change in circumstances, the lawyer must promptly re-file the advertisement or a modified advertisement with The Florida Bar at its headquarters address in Tallahassee along with an explanation of the change in circumstances and an additional fee set by the Board of Governors, which will not exceed $100 if the lawyer wishes to obtain an opinion regarding compliance which will be binding in disciplinary proceedings as provided elsewhere in this rule.

(~~j~~ i) Maintaining Copies of Advertisements. A copy or recording of an advertisement must be submitted to The Florida Bar in accordance with the requirements of this rule, and the lawyer must retain a copy or recording for 3 years after its last dissemination along with a record of when and where it was used. If identical advertisements are sent to 2 or more prospective clients, the lawyer may comply with this requirement by filing 1 of the identical advertisements and retaining for 3 years a single copy together with a list of the names and addresses of persons to whom the advertisement was sent.

Comment

~~All advertisements must be filed for review pursuant to this rule, unless the advertisement is exempt from filing under rule 4-7.20. Even where an advertisement is exempt from filing under rule 4-7.20, a lawyer who wishes to obtain a safe harbor from discipline can submit the lawyer's advertisement that is exempt from the filing requirement and obtain The Florida Bar's opinion prior to disseminating the advertisement.~~ Filing of advertisements prior to dissemination is voluntary. A lawyer who wishes to obtain a safe harbor from discipline can submit the lawyer's advertisement and obtain The Florida Bar's opinion prior to disseminating the advertisement. A lawyer who files an advertisement and obtains a notice of compliance is therefore immune from grievance liability unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement.

Subdivision (~~d~~ c) of this rule precludes a lawyer from filing an entire website as an advertising submission, but a lawyer may submit a specific page, provision, statement, illustration, or photograph on a website. A lawyer who wishes to be able to rely on The Florida Bar's opinion as demonstrating the lawyer's good faith effort to comply with these rules has the responsibility of supplying The Florida Bar with all information material to a determination of whether an advertisement is false or misleading.

RULE 4-7.20 ~~EXEMPTIONS FROM THE FILING AND REVIEW~~ REQUIREMENT

Commented [HL24]: Rule and comment deleted in its entirety.

~~The following are exempt from the filing requirements of rule 4-7.19:~~

~~**(a)** an advertisement in any of the public media that contains no illustrations and no information other than that set forth in rule 4-7.16;~~

~~**(b)** a brief announcement that identifies a lawyer or law firm as a contributor to a specified charity or as a sponsor of a public service announcement or a specified charitable, community, or public interest program, activity, or event, provided that the announcement contains no information about the lawyer or law firm other than the permissible content of advertisements listed in rule 4-7.16, and the fact of the sponsorship or contribution. In determining whether an announcement is a public service announcement, the following criteria may be considered:~~

~~(1) whether the content of the announcement appears to serve the particular interests of the lawyer or law firm as much as or more than the interests of the public;~~

~~(2) whether the announcement concerns a legal subject;~~

~~(3) whether the announcement contains legal advice; and~~

~~(4) whether the lawyer or law firm paid to have the announcement published;~~

~~**(c)** a listing or entry in a law list or bar publication;~~

~~**(d)** a communication mailed only to existing clients, former clients, or other lawyers;~~

~~**(e)** a written or recorded communication requested by a prospective client;~~

~~**(f)** professional announcement cards stating new or changed associations, new offices, and similar changes relating to a lawyer or law firm, and that are mailed only to other lawyers, relatives, close personal friends, and existing or former clients; and~~

~~**(g)** information contained on the lawyer's Internet website(s).~~

RULE 4-7.21 FIRM NAMES AND LETTERHEAD

Commented [HL25]: Changes to rule references only (not shown here)

(a) False, Misleading, or Deceptive Firm Names. A lawyer may not use a firm name, letterhead, or other professional designation that violates rules 4-7.11 through 4-7.15.

(b) Trade Names. A lawyer may practice under a trade name if the name is not deceptive and does not imply a connection with a government agency or with a public or charitable legal services organization, does not imply that the firm is something other than a private law firm, and is not otherwise in violation of rules 4-7.11 through 4-7.15. A lawyer in private practice may use the term "legal clinic" or "legal services" in

conjunction with the lawyer's own name if the lawyer's practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.

(c) Advertising Under Trade Names. A lawyer may not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name is in violation of this rule unless the same name is the law firm name that appears on the lawyer's letterhead, business cards, office sign, and fee contracts, and appears with the lawyer's signature on pleadings and other legal documents.

(d) Law Firm with Offices in Multiple Jurisdictions. A law firm with offices in more than 1 jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm must indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(e) Name of Public Officer in Firm Name. The name of a lawyer holding a public office may not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(f) Partnerships and Business Entities. A name, letterhead, business card or advertisement may not imply that lawyers practice in a partnership or authorized business entity when they do not.

(g) Insurance Staff Attorneys. Where otherwise consistent with these rules, lawyers who practice law as employees within a separate unit of a liability insurer representing others pursuant to policies of liability insurance may practice under a name that does not constitute a material misrepresentation. In order for the use of a name other than the name of the insurer not to constitute a material misrepresentation, all lawyers in the unit must comply with all of the following:

(1) the firm name must include the name of a lawyer who has supervisory responsibility for all lawyers in the unit;

(2) the office entry signs, letterhead, business cards, websites, announcements, advertising, and listings or entries in a law list or bar publication bearing the name must disclose that the lawyers in the unit are employees of the insurer;

(3) the name of the insurer and the employment relationship must be disclosed to all insured clients and prospective clients of the lawyers, and must be disclosed in the official file at the lawyers' first appearance in the tribunal in which the lawyers appear under such name;

(4) the offices, personnel, and records of the unit must be functionally and physically separate from other operations of the insurer to the extent that would be

required by these rules if the lawyers were private practitioners sharing space with the insurer; and

(5) additional disclosure should occur whenever the lawyer knows or reasonably should know that the lawyer's role is misunderstood by the insured client or prospective clients.

Comment

Misleading Firm Name

A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity, or by a trade name such as "Family Legal Clinic." Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in a law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

A sole practitioner may not use the term "and Associates" as part of the firm name, because it is misleading where the law firm employs no associates in violation of rule 4-7.13. *See Fla. Bar v. Fetterman*, 439 So. 2d 835 (Fla. 1983). Similarly, a sole practitioner's use of "group" or "team" implies that more than one lawyer is employed in the advertised firm and is therefore misleading.

Subdivision (a) precludes use in a law firm name of terms that imply that the firm is something other than a private law firm. Three examples of such terms are "academy," "institute" and "center." Subdivision (b) precludes use of a trade or fictitious name suggesting that the firm is named for a person when in fact such a person does not exist or is not associated with the firm. An example of such an improper name is "A. Aaron Able." Although not prohibited per se, the terms "legal clinic" and "legal services" would be misleading if used by a law firm that did not devote its practice to providing routine legal services at prices below those prevailing in the community for like services.

Trade Names

Subdivision (c) of this rule precludes a lawyer from advertising under a nonsense name designed to obtain an advantageous position for the lawyer in alphabetical directory listings unless the lawyer actually practices under that nonsense name. Advertising under a law firm name that differs from the firm name under which the lawyer actually practices violates both this rule and the prohibition against false, misleading, or deceptive communications as set forth in these rules.

With regard to subdivision (f), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, “Smith and Jones,” for that title suggests partnership in the practice of law.

All lawyers who practice under trade or firm names are required to observe and comply with the requirements of the Rules Regulating the Florida Bar, including but not limited to, rules regarding conflicts of interest, imputation of conflicts, firm names and letterhead, and candor toward tribunals and third parties.

Insurance Staff Lawyers

Some liability insurers employ lawyers on a full-time basis to represent their insured clients in defense of claims covered by the contract of insurance. Use of a name to identify these lawyers is permissible if there is such physical and functional separation as to constitute a separate law firm. In the absence of such separation, it would be a misrepresentation to use a name implying that a firm exists. Practicing under the name of a lawyer inherently represents that the identified person has supervisory responsibility. Practicing under a name prohibited by subdivision (f) is not permitted. Candor requires disclosure of the employment relationship on letterhead, business cards, and in certain other communications that are not presented to a jury. The legislature of the State of Florida has enacted, as public policy, laws prohibiting the joinder of a liability insurer in most such litigation, and Florida courts have recognized the public policy of not disclosing the existence of insurance coverage to juries. Requiring lawyers who are so employed to disclose to juries the employment relationship would negate Florida public policy. For this reason, the rule does not require the disclosure of the employment relationship on all pleadings and papers filed in court proceedings. The general duty of candor of all lawyers may be implicated in other circumstances, but does not require disclosure on all pleadings.

RULE 4-7.22 REFERRALS, DIRECTORIES AND POOLED ADVERTISING

(a) Applicability of Rule. A lawyer is prohibited from participation with any qualifying provider that does not meet the requirements of this rule and any other applicable Rule Regulating the Florida Bar.

(b) Qualifying Providers. A qualifying provider is any person, group of persons, association, organization, or entity that receives any benefit or consideration, monetary or otherwise, for the direct or indirect referral of prospective clients to lawyers or law firms, including but not limited to:

(1) matching or other connecting of a prospective client to a lawyer drawn from a specific group or panel of lawyers or who matches a prospective client with lawyers or law firms;

(2) a group or pooled advertising program, offering to refer, match or otherwise connect prospective legal clients with lawyers or law firms, in which the advertisements for the program use a common telephone number or website

address and prospective clients are then matched or referred only to lawyers or law firms participating in the group or pooled advertising program;

(3) publishing in any media a listing of lawyers or law firms together in one place; or

(4) providing tips or leads for prospective clients to lawyers or law firms.

(c) Entities that are not Qualifying Providers. The following are not qualifying providers under this rule:

(1) a pro bono referral program, in which the participating lawyers do not pay a fee or charge of any kind to receive referrals or to belong to the referral panel, and are undertaking the referred matters without expectation of remuneration; and

(2) a local or voluntary bar association solely for listing its members on its website or in its publications.

(d) When Lawyers May Participate with Qualifying Providers. A lawyer may participate with a qualifying provider as defined in this rule only if the qualifying provider:

(1) engages in no communication with the public and in no direct contact with prospective clients in a manner that would violate the Rules of Professional Conduct if the communication or contact were made by the lawyer;

(2) receives no fee or charge that is a division or sharing of fees, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(3) refers, matches or otherwise connects prospective clients only to persons lawfully permitted to practice law in Florida when the services to be rendered constitute the practice of law in Florida;

(4) does not directly or indirectly require the lawyer to refer, match or otherwise connect prospective clients to any other person or entity for other services or does not place any economic pressure or incentive on the lawyer to make such referrals, matches or other connections;

(5) provides The Florida Bar, on no less than an annual basis, with the names and Florida bar membership numbers of all lawyers participating in the service unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(6) provides the participating lawyer with documentation that the qualifying provider is in compliance with this rule unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(7) responds in writing, within 15 days, to any official inquiry by bar counsel when bar counsel is seeking information described in this subdivision or conducting an investigation into the conduct of the qualifying provider or a lawyer who participates with the qualifying provider;

(8) neither represents nor implies to the public that the qualifying provider is endorsed or approved by The Florida Bar, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(9) uses its actual legal name or a registered fictitious name in all communications with the public;

(10) affirmatively discloses to the prospective client at the time a referral, match or other connection is made of the location of a bona fide office by city, town or county of the lawyer to whom the referral, match or other connection is being made; and

(11) does not use a name or engage in any communication with the public that could lead prospective clients to reasonably conclude that the qualifying provider is a law firm or directly provides legal services to the public.

(e) Responsibility of Lawyer. A lawyer who participates with a qualifying provider:

(1) must report to The Florida Bar within 15 days of agreeing to participate or ceasing participation with a qualifying provider unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules; and

(2) is responsible for the qualifying provider's compliance with this rule if:

(A) the lawyer does not engage in due diligence in determining the qualifying provider's compliance with this rule before beginning participation with the qualifying provider; or

(B) The Florida Bar notifies the lawyer that the qualifying provider is not in compliance and the lawyer does not cease participation with the qualifying provider and provide documentation to The Florida Bar that the lawyer has ceased participation with the qualifying provider within 30 days of The Florida Bar's notice.

Comment

Every citizen of the state should have access to the legal system. A person's access to the legal system is enhanced by the assistance of a qualified lawyer. Citizens often encounter difficulty in identifying and locating lawyers who are willing and qualified to consult with them about their legal needs. It is the policy of The Florida Bar to

encourage qualifying providers to: (a) make legal services readily available to the general public through a referral method that considers the client's financial circumstances, spoken language, geographical convenience, and the type and complexity of the client's legal problem; (b) provide information about lawyers and the availability of legal services that will aid in the selection of a lawyer; and (c) inform the public where to seek legal services.

Subdivision (b)(3) addresses the publication of a listing of lawyers or law firms together in any media. Any media includes but is not limited to print, Internet, or other electronic media.

A lawyer may not participate with a qualifying provider that receives any fee that constitutes a division of legal fees with the lawyer, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules. A fee calculated as a percentage of the fee received by a lawyer, or based on the success or perceived value of the case, would be an improper division of fees. Additionally, a fee that constitutes an improper division of fees occurs when the qualifying provider directs, regulates, or influences the lawyer's professional judgment in rendering legal services to the client. See e.g. rules 4-5.4 and 4-1.7(a)(2). Examples of direction, regulation or influence include when the qualifying provider places limits on a lawyer's representation of a client, requires or prohibits the performance of particular legal services or tasks, or requires the use of particular forms or the use of particular third party providers, whether participation with a particular qualifying provider would violate this rule requires a case-by-case determination.

Division of fees between lawyers in different firms, as opposed to any monetary or other consideration or benefit to a qualifying provider, is governed by rule 4-1.5(g) and 4-1.5(f)(4)(D).

If a qualifying provider has more than 1 advertising or other program that the lawyer may participate in, the lawyer is responsible for the qualifying provider's compliance with this rule solely for the program or programs that the lawyer agrees to participate in. For example, there are qualifying providers that provide a directory service and a matching service. If the lawyer agrees to participate in only one of those programs, the lawyer is responsible for the qualifying provider's compliance with this rule solely for that program.

A lawyer who participates with a qualifying provider should engage in due diligence regarding compliance with this rule before beginning participation. For example, the lawyer should ask The Florida Bar whether the qualifying provider has filed any annual reports of participating lawyers, whether the qualifying provider has filed any advertisements for evaluation, and whether The Florida Bar has ever made inquiry of the qualifying provider to which the qualifying provider has failed to respond. If the qualifying provider has filed advertisements, the lawyer should ask either The Florida Bar or the qualifying provider for copies of the advertisement(s) and The Florida Bar's written opinion(s). The lawyer should ask the qualifying provider to provide

documentation that the provider is in full compliance with this rule, including copies of filings with the state in which the qualifying provider is incorporated to establish that the provider is using either its actual legal name or a registered fictitious name. The lawyer should also have a written agreement with the qualifying provider that includes a clause allowing immediate termination of the agreement if the qualifying provider does not comply with this rule.

A lawyer participating with a qualifying provider continues to be responsible for the lawyer's compliance with all Rules Regulating the Florida Bar. For example, a lawyer may not make an agreement with a qualifying provider that the lawyer must refer clients to the qualifying provider or another person or entity designated by the qualifying provider in order to receive referrals or leads from the qualifying provider. See rule 4-7.17(b). A lawyer may not accept referrals or leads from a qualifying provider if the provider interferes with the lawyer's professional judgment in representing clients, for example, by requiring the referral of the lawyer's clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider. See rule 4-1.7(a)(2). A lawyer also may not refer clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider, unless the requirements of rules 4-1.7 and 4-1.8 are met and the lawyer provides written disclosure of the relationship to the client and obtains the client's informed consent confirmed in writing. A lawyer participating with a qualifying provider may not pass on to the client the lawyer's costs of doing business with the qualifying provider. See rules 4-1.7(a)(2) and 4-1.5(a).

NEW RULE NUMBERING

4-7. INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.1 APPLICATION OF RULES

RULE 4-7.2 DECEPTIVE AND MISLEADING ADVERTISEMENTS

RULE 4-7.3 PAYMENT FOR ADVERTISING AND PROMOTION

RULE 4-7.4 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

RULE 4-7.5 EVALUATION OF ADVERTISEMENTS

RULE 4-7.6 FIRM NAMES AND LETTERHEAD

RULE 4-7.7 REFERRALS, DIRECTORIES AND POOLED ADVERTISING

4-7. INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.1 APPLICATION OF RULES

(a) Type of Media. Unless otherwise indicated, this subchapter applies to all forms of communication in any print or electronic forum, including but not limited to newspapers, magazines, brochures, flyers, television, radio, direct mail, electronic mail, and Internet, including banners, pop-ups, websites, social networking, and video sharing media. The terms "advertising" and "advertisement" as used in chapter 4-7 refer to all forms of communication seeking legal employment, both written and spoken.

(b) Lawyers. This subchapter applies to lawyers, whether or not admitted to practice in Florida or other jurisdictions, who advertise that the lawyer provides legal services in Florida or who target advertisements for legal employment at Florida residents. The term "lawyer" as used in subchapter 4-7 includes 1 or more lawyers or a law firm. This rule does not permit the unlicensed practice of law or advertising that the lawyer provides legal services that the lawyer is not authorized to provide in Florida.

(c) Referral Sources. This subchapter applies to communications made to referral sources about legal services.

Comment Websites

Websites are subject to the general lawyer advertising requirements in this subchapter and are treated the same as other advertising media. Websites of multistate firms present specific regulatory concerns. Subchapter 4-7 applies to portions of a multistate firm that directly relate to the provision of legal services by a member of the firm who is a member of The Florida Bar. Additionally, subchapter 4-7 applies to portions of a multistate firm's website that relate to the provision of legal services in Florida, e.g., where a multistate firm has offices in Florida and discusses the provision of legal services in those Florida offices. Subchapter 4-7 does not apply to portions of a multistate firm's website that relate to the provision of legal services by lawyers who are not admitted to The Florida Bar and who do not provide legal services in Florida. Subchapter 4-7 does not apply to portions of a multistate firm's website that relate to the provision of legal services in jurisdictions other than Florida.

Lawyers Admitted in Other Jurisdictions

Subchapter 4-7 does not apply to any advertisement broadcast or disseminated in another jurisdiction in which a Florida Bar member is admitted to practice if the advertisement complies with the rules governing lawyer advertising in that jurisdiction and is not broadcast or disseminated within the state of Florida or targeted at Florida residents. Subchapter 4-7 does not apply to such advertisements appearing in national media if the disclaimer "cases not accepted in Florida" is plainly noted in the advertisement. Subchapter 4-7 also does not apply to a website advertisement that

does not offer the services of a Florida Bar member, a lawyer located in Florida, or a lawyer offering to provide legal services in Florida.

Subchapter 4-7 applies to advertisements by lawyers admitted to practice law in jurisdictions other than Florida who have established a regular and/or permanent presence in Florida for the practice of law as authorized by other law and who solicit or advertise for legal employment in Florida or who target solicitations or advertisements for legal employment at Florida residents.

For example, in the areas of immigration, patent, and tax, a lawyer from another jurisdiction may establish a regular or permanent presence in Florida to practice only that specific federal practice as authorized by federal law. Such a lawyer must comply with this subchapter for all advertisements disseminated in Florida or that target Florida residents for legal employment. Such a lawyer must include in all advertisements that the lawyer is "Not a Member of The Florida Bar" or "Admitted in [jurisdiction where admitted] Only" or the lawyer's limited area of practice, such as "practice limited to [area of practice] law." *See Fla. Bar v. Kaiser*, 397 So. 2d 1132 (Fla. 1981).

A lawyer from another jurisdiction is not authorized to establish a regular or permanent presence in Florida to practice law in an area in which that lawyer is not authorized to practice or to advertise for legal services the lawyer is not authorized to provide in Florida. For example, although a lawyer from another state may petition a court to permit admission pro hac vice on a specific Florida case, no law authorizes a pro hac vice practice on a general or permanent basis in the state of Florida. A lawyer cannot advertise for Florida cases within the state of Florida or target advertisements to Florida residents, because such an advertisement in and of itself constitutes the unlicensed practice of law.

A lawyer from another jurisdiction may be authorized to provide Florida residents legal services in another jurisdiction. For example, if a class action suit is pending in another state, a lawyer from another jurisdiction may represent Florida residents in the litigation. Any such advertisements disseminated within the state of Florida or targeting Florida residents must comply with this subchapter.

RULE 4-7.2 DECEPTIVE AND MISLEADING ADVERTISEMENTS

A lawyer may not engage in deceptive or misleading advertising. An advertisement is deceptive or misleading if it:

(a) contains a material statement that is factually or legally inaccurate;

(b) omits information that is necessary to prevent the information supplied from being misleading;

(c) implies the existence of a material nonexistent fact;

(d) is subject to varying reasonable interpretations, 1 or more of which would be materially misleading when considered in the relevant context;

(e) is literally accurate, but could reasonably mislead a prospective client regarding a material fact;

(f) is unduly manipulative or intrusive, or (g) cannot be objectively verified.

Comment

A lawyer may not engage in deceptive or misleading advertising. The examples of deceptive or misleading advertising contained in this rule and this comment are illustrative and not exhaustive. An advertisement may be considered deceptive or misleading even if it does not fall within one of the examples given in this rule or comment.

Material Omissions

An advertisement may be considered to contain a material omission if the advertisement does not state the name of at least 1 lawyer in the advertising firm or the name of the law firm and the city, town or county of 1 or more bona fide office location of the lawyer who will perform the services advertised, or if practicing virtually a statement that the lawyer is practicing virtually. Failure to include the name of the lawyer referral service if the advertisement is for the lawyer referral service, the qualifying provider if the advertisement is for the qualifying provider, or the lawyer directory is the advertisement is for the lawyer directory is also a material omission. If the case or matter will be referred to another lawyer or law firm, the failure to disclose this in the advertisement is a material omission.

Stating “over 20 years’ experience” when the experience is the combined experience of all lawyers in the advertising firm is an example of a material omission. Another example is a lawyer who states “over 20 years’ experience” when the lawyer includes within that experience time spent as a paralegal, investigator, police officer, or other nonlawyer position.

Implied Existence of Nonexistent Fact

An example of the implied existence of a nonexistent fact is an advertisement stating that a lawyer has offices in multiple states if the lawyer is not licensed in those states or is not authorized to practice law. Such a statement implies the nonexistent fact that a lawyer is licensed or is authorized to practice law in the states where offices are located.

Another example of the implied existence of a nonexistent fact is a statement in an advertisement that a lawyer is a founding member of a legal organization when the

lawyer has just begun practicing law. Such a statement falsely implies that the lawyer has been practicing law longer than the lawyer actually has.

Predictions of Success

Statements that promise a specific result or predict success in a legal matter are prohibited because they are misleading. Examples of statements that impermissibly predict success include:

"I will save your home," "I can save your home," "I will get you money for your injuries," and

"Come to me to get acquitted of the charges pending against you."

Statements regarding the legal process as opposed to a specific result generally will be considered permissible. For example, a statement that the lawyer or law firm will protect the client's rights, protect the client's assets, or protect the client's family do not promise a specific legal result in a particular matter. Similarly, a statement that a lawyer will prepare a client to effectively handle cross-examination is permissible, because it does not promise a specific result, but describes the legal process.

Aspirational statements are generally permissible as such statements describe goals that a lawyer or law firm will try to meet. Examples of aspirational words include "goal," "strive," "dedicated," "mission," and "philosophy." For example, the statement, "My goal is to achieve the best possible result in your case," is permissible. Similarly, the statement, "If you've been injured through no fault of your own, I am dedicated to recovering damages on your behalf," is permissible.

Modifying language can be used to prevent language from running afoul of this rule. For example, the statement, "I will get you acquitted of the pending charges," would violate the rule as it promises a specific legal result. In contrast, the statement, "I will pursue an acquittal of your pending charges," does not promise a specific legal result. It merely conveys that the lawyer will try to obtain an acquittal on behalf of the prospective client. The following list is a nonexclusive list of words that generally may be used to modify language to prevent violations of the rule: try, pursue, may, seek, might, could, and designed to.

General statements describing a particular law or area of law are not promises of specific legal results or predictions of success. For example, the following statement is a description of the law and is not a promise of a specific legal result: "When the government takes your property through its eminent domain power, the government must provide you with compensation for your property."

Past Results

This rule precludes advertisements about results obtained on behalf of a client, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts,

if the results are not objectively verifiable or are misleading, either alone or in the context in which they are used. For example, an advertised result that is atypical of persons under similar circumstances is likely to be misleading. A result that omits pertinent information, such as failing to disclose that a specific judgment was uncontested or obtained by default, or failing to disclose that the judgment is far short of the client's actual damages, is also misleading. The information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances. An example of a past result that can be objectively verified is that a lawyer has obtained acquittals in all charges in 4 criminal defense cases. On the other hand, general statements such as, "I have successfully represented clients," or "I have won numerous appellate cases," may or may not be sufficiently objectively verifiable. For example, a lawyer may interpret the words "successful" or "won" in a manner different from the average prospective client. In a criminal law context, the lawyer may interpret the word "successful" to mean a conviction to a lesser charge or a lower sentence than recommended by the prosecutor, while the average prospective client likely would interpret the words "successful" or "won" to mean an acquittal.

Rule 4-1.6(a), Rules Regulating the Florida Bar, prohibits a lawyer from voluntarily disclosing any information regarding a representation without a client's informed consent, unless one of the exceptions to rule 4-1.6 applies. A lawyer who wishes to advertise information about past results must have the affected client's informed consent. The fact that some or all of the information a lawyer may wish to advertise is in the public record does not obviate the need for the client's informed consent.

Comparisons

Advertisements that contain comparisons that cannot be factually substantiated are prohibited as deceptive or misleading. Comparisons that cannot be factually substantiated would preclude a lawyer from representing that the lawyer or the lawyer's law firm is "the best," or "one of the best," in a field of law.

On the other hand, statements that the law firm is the largest in a specified geographic area, or is the only firm in a specified geographic area that devotes its services to a particular field of practice are permissible if they are true, because they are comparisons capable of being factually substantiated.

Characterization of Skills, Experience, Reputation or Record

Statements that characterize skills, experience, reputation, or record that are not objectively verifiable are prohibited as deceptive and misleading. Statements of a character trait or attribute are not statements that characterize skills, experience, or record. For example, a statement that a lawyer is aggressive, intelligent, creative, honest, or trustworthy is a statement of a lawyer's personal attribute, but does not

characterize the lawyer's skills, experience, reputation, or record. These statements are permissible.

Descriptive statements characterizing skills, experience, reputation, or a record that are true and factually verified are permissible. For example, the statement "Our firm is the largest firm in this city that practices exclusively personal injury law," is permissible if true, because the statement is objectively verifiable. Similarly, the statement, "I have personally handled more appeals before the First District Court of Appeal than any other lawyer in my circuit," is permissible if the statement is true, because the statement is objectively verifiable.

Descriptive statements that are misleading are prohibited by this rule. Descriptive statements such as "the best," "second to none," or "the finest" will generally run afoul of this rule, as such statements are not objectively verifiable and are likely to mislead prospective clients as to the quality of the legal services offered.

Aspirational statements are generally permissible as such statements describe goals that a lawyer or law firm will try to meet. Examples of aspirational words include "goal," "dedicated," "mission," and "philosophy." For example, the statement, "I am dedicated to excellence in my representation of my clients," is permissible as a goal. Similarly, the statement, "My goal is to provide high quality legal services," is permissible.

Areas of Practice

A lawyer may not advertise references to areas of practice in which the lawyer or law firm does not practice or intend to practice at the time of advertisement, However, this rule is not intended to prohibit lawyers from advertising for areas of practice in which the lawyer intends to personally handle cases, but does not yet have any cases of that particular type.

Dramatizations

A re-creation or staging of an event must contain a prominently displayed disclaimer,
"DRAMATIZATION. NOT AN ACTUAL EVENT." For example, a re-creation of a car accident must contain the disclaimer. A re-enactment of lawyers visiting the re-construction of an accident scene must contain the disclaimer.

If an actor is used in an advertisement purporting to be engaged in a particular profession or occupation who is acting as a spokesperson for the lawyer or in any other circumstances where the viewer could be misled, a disclaimer must be used. However, an authority figure such as a judge or law enforcement officer, or an actor portraying an authority figure, may not be used in an advertisement to endorse or recommend a lawyer, or to act as a spokesperson for a lawyer.

All required disclaimers must be in the same language or languages as the advertisement and be reasonably prominent and clearly legible if written or intelligible if spoken.

Unduly Manipulative or Intrusive

A lawyer may not engage in unduly manipulative or intrusive advertisements. An advertisement that uses an image, sound, video or dramatization in a manner that is designed to solicit legal employment by appealing to a prospective client's emotions rather than to a rational evaluation of a lawyer's suitability to represent the prospective client is unduly manipulative or intrusive. An advertisement that uses an authority figure such as a judge or law enforcement officer, or an actor portraying an authority figure, to endorse or recommend the lawyer or act as a spokesperson for the lawyer is also unduly manipulative or intrusive.

A lawyer also may not offer consumers an economic incentive to employ the lawyer or review the lawyer's advertising. However, a lawyer is not prohibited from offering a discounted fee or special fee or cost structure as otherwise permitted by these rules and is not prohibited from offering free legal advice or information that might indirectly benefit a consumer economically.

Implying Lawyer Will Violate Rules of Conduct or Law

Advertisements which state or imply that the advertising lawyers will engage in conduct that violates the Rules of Professional Conduct are prohibited. The Supreme Court of Florida found that lawyer advertisements containing an illustration of a pit bull canine and the telephone number 1-800-pitbull were false, misleading, and manipulative, because use of that animal implied that the advertising lawyers would engage in "combative and vicious tactics" that would violate the Rules of Professional Conduct. *Fla. Bar v. Pape*, 918 So. 2d 240 (Fla. 2005).

Testimonials

A testimonial is a personal statement, affirmation, or endorsement by any person other than the advertising lawyer or a member of the advertising lawyer's firm regarding the quality of the lawyer's services or the results obtained through the representation. Clients as consumers are well-qualified to opine on matters such as courtesy, promptness, efficiency, and professional demeanor. Testimonials by clients on these matters, as long as they are truthful and are based on the actual experience of the person giving the testimonial, are beneficial to prospective clients and are permissible.

However, a testimonial regarding matters on which the person making the testimonial is unqualified to evaluate; is not the actual experience of the person making the testimonial; is not representative of what clients of that lawyer or law firm generally experience; that has been written or drafted by the lawyer; is in exchange for which the person making the testimonial has been given something of value; or that does not

include the disclaimer that the prospective client may not obtain the same or similar results is deceptive and misleading.

Florida Bar Approval of Ad or Lawyer

An advertisement may not state or imply that either the advertisement or the lawyer has been approved by The Florida Bar. Such a statement or implication implies that The Florida Bar endorses a particular lawyer. Statements prohibited by this provision include, “This advertisement was approved by The Florida Bar.” A lawyer referral service also may not state that it is a “Florida Bar approved lawyer referral service,” unless the service is a not-for-profit lawyer referral service approved under chapter 8 of the Rules Regulating the Florida Bar. A qualifying provider also may not state that it is a “Florida Bar approved qualifying provider” or that its advertising is approved by The Florida Bar.

Judicial, Executive, and Legislative Titles

The use of a judicial, executive, or legislative branch title is prohibited as deceptive and misleading unless accompanied by clear modifiers and placed subsequent to the person’s name, when used to refer to a current or former officer of the judicial, executive, or legislative branch. Use of a title before a name is misleading in that it implies that the current or former officer has improper influence. Thus, the titles Senator Doe, Representative Smith, Former Justice Doe, Retired Judge Smith, Governor (Retired) Doe, Former Senator Smith, and other similar titles used as titles in conjunction with the lawyer’s name are prohibited by this rule. This includes, but is not limited to, use of the title in advertisements and written communications, computeraccessed communications, letterhead, and business cards.

However, an accurate representation of one’s judicial, executive, or legislative experience is permitted if the reference is subsequent to the lawyer’s name and is clearly modified by terms such as “former” or “retired.” For example, a former judge may state “Jane Doe, Florida Bar member, former circuit judge” or “Jane Doe, retired circuit judge.”

As another example, a former state representative may not include “Representative Smith (former)” or “Representative Smith, retired” in an advertisement, letterhead, or business card.
However, a former representative may state, “John Smith, Florida Bar member, former state representative.”

Further, an accurate representation of one’s judicial, executive, or legislative experience is permitted in reference to background and experience in biographies, curriculum vitae, and resumes if accompanied by clear modifiers and placed subsequent to the person’s name. For example, the statement “John Jones was governor of the State of Florida from [. . . years of service . . .]” would be permissible.

Also, the rule governs attorney advertising. It does not apply to pleadings filed in a court. A practicing attorney who is a former or retired judge may not use the title in any form in a court pleading. A former or retired judge who uses that former or retired judge's previous title of "Judge" in a pleading could be sanctioned.

Awards, honors, and ratings

Awards, honors, and ratings are not subjective statements characterizing a lawyer's skills, experience, reputation, or record. Instead, they are statements of objectively verifiable facts from which an inference of quality may be drawn. It is therefore permissible under the rule for a lawyer to list bona fide awards, honors, and recognitions using the name or title of the actual award and the date it was given. If the award was given in the same year that the advertisement is disseminated or the advertisement references a rating that is current at the time the advertisement is disseminated, the year of the award or rating is not required.

For example, the following statements are permissible:

"John Doe is AV rated by Martindale-Hubbell. This rating is Martindale-Hubbell's highest rating."

"Jane Smith was named a 2008 Florida Super Lawyer by Super Lawyers Magazine."

Claims of board certification, specialization or expertise

This rule permits a lawyer or law firm to indicate areas of practice in communications about the lawyer's or law firm's services, provided the advertising lawyer or law firm actually practices in those areas of law at the time the advertisement is disseminated. If a lawyer practices only in certain fields, or will not accept matters except in those fields, the lawyer is permitted to indicate that. A lawyer also may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true. A lawyer who is not certified by The Florida Bar, by another state bar with comparable standards, or an organization accredited by the American Bar Association or The Florida Bar may not be described to the public as "certified" or "board certified" or any variation of similar import. A lawyer may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true.

Certification is specific to individual lawyers; a law firm cannot be certified in an area of practice per subdivision (c) of rule 6-3.4. Therefore, an advertisement may not state that a law firm is certified in any area of practice.

A lawyer can only state or imply that the lawyer is “certified” in the actual area(s) of practice in which the lawyer is certified. A lawyer who is board certified in civil trial law, may state that, but may not state that the lawyer is certified in personal injury.

The criteria set forth in the Florida Certification Plan is designed to establish a reasonable degree of objectivity and uniformity so that the use of the terms “specialization,” “expertise,” or other variations of those terms, conveys some meaningful information to the public and is not misleading. A lawyer who meets the criteria for certification in a particular field automatically qualifies to state that the lawyer is a specialist or expert in the area of certification. However, a lawyer making a claim of specialization or expertise is not required to be certified in the claimed field of specialization or expertise or to have met the specific criterion for certification if the lawyer can demonstrate that the lawyer has the education, training, experience, or substantial involvement in the area of practice commensurate with specialization or expertise.

A law firm claim of specialization or expertise may be based on 1 lawyer who is a member of or employed by the law firm either having the requisite board certification or being able to objectively verify the requisite qualifications enumerated in this rule. For purposes of this rule, a lawyer’s “of counsel” relationship with a law firm is a sufficiently close relationship to permit a law firm to claim specialization or expertise based on the “of counsel” lawyer’s board certification or qualifications only if the “of counsel” practices law solely through the law firm claiming specialization or expertise and provides substantial legal services through the firm as to allow the firm to reasonably rely on the “of counsel” qualifications in making the claim.

Fee and cost information

Every advertisement that contains information about the lawyer’s fee, including a contingent fee, must disclose all fees and costs that the client will be liable for. If the client is, in fact, not responsible for any costs in addition to the fee, then no disclosure is necessary. For example, if a lawyer charges a flat fee to create and execute a will and there are no costs associated with the services, the lawyer’s advertisement may state only the flat fee for that service.

However, if there are costs for which the client is responsible, the advertisement must disclose this fact. For example, if fees are contingent on the outcome of the matter, but the client is responsible for costs regardless of the matter’s outcome, the following statements are permissible: “No Fee if No Recovery, but Client is Responsible for Costs,” “No Fee if No Recovery, Excludes Costs,” “No Recovery, No Fee, but Client is Responsible for Costs” and other similar statements.

On the other hand, if both fees and costs are contingent on the outcome of a personal injury case, the statements “No Fees or Costs

RULE 4-7.3 PAYMENT FOR ADVERTISING AND PROMOTION

(a) Payment by Other Lawyers. No lawyer may, directly or indirectly, pay all or a part of the cost of an advertisement by a lawyer not in the same firm. Rule 4-1.5(f)(4)(D) (regarding the division of contingency fees) is not affected by this provision even though the lawyer covered by subdivision (f)(4)(D)(ii) of rule 4-1.5 advertises.

(b) Payment for Referrals. A lawyer may not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by these rules, may pay the usual charges of a lawyer referral service, lawyer directory, qualifying provider or other legal service organization, and may purchase a law practice in accordance with rule 4-1.17.

(c) Payment by Nonlawyers. A lawyer may not permit a nonlawyer to pay all or a part of the cost of an advertisement by that lawyer.

Comment Paying for the Advertisements of Another Lawyer

A lawyer is not permitted to pay for the advertisements of another lawyer not in the same firm. This rule is not intended to prohibit more than 1 law firm from advertising jointly, but the advertisement must contain all required information as to each advertising law firm.

Paying Others for Recommendations

A lawyer is allowed to pay for advertising permitted by this rule and for the purchase of a law practice in accordance with the provisions of rule 4-1.17, but otherwise is not permitted to pay or provide other tangible benefits to another person for procuring professional work. However, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in lawyer referral programs, qualifying providers, or lawyer directories and pay the usual fees charged by such programs, subject, however, to the limitations imposed by rule 4-7.22. This rule does not prohibit paying regular compensation to an assistant, such as a secretary or advertising consultant, to prepare communications permitted by this rule.

RULE 4-7.4 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

(a) Solicitation. Except as provided in subdivision (b) of this rule, a lawyer may not:

(1) solicit in person, or permit employees or agents of the lawyer to solicit in person on the lawyer's behalf, professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone, by electronic means that include real-time communication face-to-face such as video telephone or video conference,

or by other communication directed to a specific recipient that does not meet the requirements of subdivision (b) of this rule and rules 4-7.1 through 4-7.3 of these rules.

(2) enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule.

(b) Written Communication.

(1) A lawyer may not send, or knowingly permit to be sent, on the lawyer's behalf or on behalf of the lawyer's firm or partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication directly or indirectly to a prospective client for the purpose of obtaining professional employment if:

(A) the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the mailing of the communication;

(B) the written communication concerns a specific matter and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;

(C) it has been made known to the lawyer that the person does not want to receive such communications from the lawyer;

(D) the communication involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;

(E) the communication violates rules 4-7.1 through 4-7.3 of these rules;

(F) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer; or

(G) the communication concerns a request for an injunction for protection against any form of physical violence and is addressed to the respondent in the injunction petition, if the lawyer knows or reasonably should know that the respondent named in the injunction petition has not yet been served with notice of process in the matter.

(2) Written communications to prospective clients for the purpose of obtaining professional employment that are not prohibited by subdivision (b)(1) are subject to the following requirements:

(A) Such communications are subject to the requirements of 4-7.1 through 47.3 of these rules.

(B) Each separate enclosure of the communication and the face of an envelope containing the communication must be reasonably prominently marked “advertisement” in ink that contrasts with both the background it is printed on and other text appearing on the same page. If the written communication is in the form of a self-mailing brochure or pamphlet, the “advertisement” mark must be reasonably prominently marked on the address panel of the brochure or pamphlet, on the inside of the brochure or pamphlet, and on each separate enclosure. If the written communication is sent via electronic mail, the subject line must begin with the word “Advertisement.”

(C) Every written communication must be accompanied by a written statement detailing the background, training and experience of the lawyer or law firm. This statement must include information about the specific experience of the advertising lawyer or law firm in the area or areas of law for which professional employment is sought. Every written communication disseminated by a lawyer referral service must be accompanied by a written statement detailing the background, training, and experience of each lawyer to whom the recipient may be referred.

(D) If a contract for representation is mailed with the written communication, the top of each page of the contract must be marked “SAMPLE” in red ink in a type size one size larger than the largest type used in the contract and the words “DO NOT SIGN” must appear on the client signature line.

(E) The first sentence of any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must be: “If you have already retained a lawyer for this matter, please disregard this letter.”

(F) Written communications must not be made to resemble legal pleadings or other legal documents.

(G) If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, or if the case or matter will be referred to another lawyer or law firm, any written communication concerning a specific matter must include a statement so advising the client.

(H) Any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the lawyer obtained the information prompting the communication. The disclosure required by this rule must be specific enough to

enable the recipient to understand the extent of the lawyer's knowledge regarding the recipient's particular situation.

(I) A written communication seeking employment by a specific prospective client in a specific matter must not reveal on the envelope, or on the outside of a selfmailing brochure or pamphlet, the nature of the client's legal problem.

(3) The requirements in subdivision (b)(2) of this rule do not apply to communications between lawyers, between lawyers and their own current and former clients, or between lawyers and their own family members, or to communications by the lawyer at a prospective client's request.

Comment Prior Professional Relationship

Persons with whom the lawyer has a prior professional relationship are exempted from the general prohibition against direct, in-person solicitation. A prior professional relationship requires that the lawyer personally had a direct and continuing relationship with the person in the lawyer's capacity as a professional. Thus, a lawyer with a continuing relationship as the patient of a doctor, for example, does not have the professional relationship contemplated by the rule because the lawyer is not involved in the relationship in the lawyer's professional capacity. Similarly, a lawyer who is a member of a charitable organization totally unrelated to the practice of law and who has a direct personal relationship with another member of that organization does not fall within the definition.

On the other hand, a lawyer who is the legal advisor to a charitable board and who has direct, continuing relationships with members of that board does have prior professional relationships with those board members as contemplated by the rule. Additionally, a lawyer who has a direct, continuing relationship with another professional where both are members of a trade organization related to both the lawyer's and the nonlawyer's practices would also fall within the definition. A lawyer's relationship with a doctor because of the doctor's role as an expert witness is another example of a prior professional relationship as provided in the rule.

A lawyer who merely shared a membership in an organization in common with another person without any direct, personal contact would not have a prior professional relationship for purposes of this rule. Similarly, a lawyer who speaks at a seminar does not develop a professional relationship within the meaning of the rule with seminar attendees merely by virtue of being a speaker.

Disclosing Where the Lawyer Obtained Information

In addition, the lawyer or law firm should reveal the source of information used to determine that the recipient has a potential legal problem. Disclosure of the information

source will help the recipient to understand the extent of knowledge the lawyer or law firm has regarding the recipient's particular situation and will avoid misleading the recipient into believing that the lawyer has particularized knowledge about the recipient's matter if the lawyer does not. The lawyer or law firm must disclose sufficient information or explanation to allow the recipient to locate the information that prompted the communication from the lawyer.

Alternatively, the direct mail advertisement would comply with this rule if the advertisement discloses how much information the lawyer has about the matter.

For example, a direct mail advertisement for criminal defense matters would comply if it stated that the lawyer's only knowledge about the prospective client's matter is the client's name, contact information, date of arrest and charge. In the context of securities arbitration, a direct mail advertisement would comply with this requirement by stating, if true, that the lawyer obtained information from a list of investors, and the only information on that list is the prospective client's name, address, and the fact that the prospective client invested in a specific company.

Group or Prepaid Legal Services Plans

This rule would not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for its members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of, and details concerning, the plan or arrangement that the lawyer or the lawyer's law firm is willing to offer. This form of communication is not directed to a specific prospective client known to need legal services related to a particular matter. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become clients of the lawyer. Under these circumstances, the activity that the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under other rules in this subchapter.

RULE 4-7.5 EVALUATION OF ADVERTISEMENTS

(a) Voluntary Filing Safe Harbor. Filing of advertisements is voluntary. Any lawyer may obtain an opinion from The Florida Bar regarding an advertisement's compliance with these rules by filing with The Florida Bar a copy of each advertisement at least 20 days prior to the lawyer's first dissemination of the advertisement. The advertisement must be filed at The Florida Bar headquarters address in Tallahassee. A lawyer who seeks an opinion from The Florida Bar regarding compliance with these rules will not be subject to discipline for dissemination of an advertisement deemed to be compliant. Dissemination of an advertisement deemed to be noncompliant may subject the lawyer to discipline.

(b) Evaluation by The Florida Bar. The Florida Bar will evaluate all advertisements voluntarily filed with it pursuant to this rule for compliance with the applicable provisions set forth in this subchapter. If The Florida Bar does not send any communication to the filer within 15 days of receipt by The Florida Bar of a complete filing, or within 15 days of receipt by The Florida Bar of additional information when requested within the initial 15 days, the lawyer will not be subject to discipline by The Florida Bar, except if The Florida Bar subsequently notifies the lawyer of noncompliance, the lawyer may be subject to discipline for dissemination of the advertisement after the notice of noncompliance.

(c) Opinions on Websites. A lawyer who wishes to obtain an opinion regarding the lawyer's website may not file an entire website for review. Instead, a lawyer may obtain an advisory opinion concerning the compliance of a specific page, provision, statement, illustration, or photograph on a website.

(d) Facial Compliance. Evaluation of advertisements is limited to determination of facial compliance with rules 4-7.1, 4-7.2 4-7.4(b)(2), and notice of compliance does not relieve the lawyer of responsibility for the accuracy of factual statements.

(e) Notice of Compliance and Disciplinary Action. A finding of compliance by The Florida Bar will be binding on The Florida Bar in a grievance proceeding unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement. The Florida Bar has a right to change its finding of compliance and in such circumstances must notify the lawyer of the finding of noncompliance, after which the lawyer may be subject to discipline for continuing to disseminate the advertisement, including dissemination of portions of a lawyer's Internet website(s).

(f) Notice of Noncompliance. If The Florida Bar determines that an advertisement is not in compliance with the applicable rules, The Florida Bar will advise the lawyer that dissemination or continued dissemination of the advertisement may result in professional discipline.

(g) Contents of Filing. A filing with The Florida Bar as permitted by subdivision (a) must include:

(1) a copy of the advertisement in the form or forms in which it is to be disseminated, which is readily capable of duplication by The Florida Bar (e.g., video, audio, print media, photographs of outdoor advertising);

(2) a transcript, if the advertisement is in electronic format;

(3) a printed copy of all text used in the advertisement, including both spoken language and on-screen text;

(4) an accurate English translation of any portion of the advertisement that is in a language other than English;

(5) a sample envelope in which the written advertisement will be enclosed, if the advertisement is to be mailed;

(6) a statement listing all media in which the advertisement will appear, the anticipated frequency of use of the advertisement in each medium in which it will appear, and the anticipated time period during which the advertisement will be used;

(7) the name of at least 1 lawyer who is responsible for the content of the advertisement;

(8) a fee paid to The Florida Bar, in an amount of $150 for each advertisement timely filed as provided in subdivision (a), or $250 for each advertisement not timely filed. This fee will be used to offset the cost of evaluation and review of advertisements submitted under these rules and the cost of enforcing these rules; and

(9) additional information as necessary to substantiate representations made or implied in an advertisement if requested by The Florida Bar.

(h) Change of Circumstances; Refiling Requirement. If a change of circumstances occurs subsequent to The Florida Bar's evaluation of an advertisement that raises a substantial possibility that the advertisement has become deceptive, false or misleading as a result of the change in circumstances, the lawyer must promptly re-file the advertisement or a modified advertisement with The Florida Bar at its headquarters address in Tallahassee along with an explanation of the change in circumstances and an additional fee set by the Board of Governors, which will not exceed $100 if the lawyer wishes to obtain an opinion regarding compliance which will be binding in disciplinary proceedings as provided elsewhere in this rule .

(i) Maintaining Copies of Advertisements. A lawyer who voluntarily files an advertisement with The Florida Bar must retain a copy or recording for 3 years after its last dissemination along with a record of when and where it was used. If identical advertisements are sent to 2 or more prospective clients, the lawyer may comply with this requirement by filing 1 of the identical advertisements and retaining for 3 years a single copy together with a list of the names and addresses of persons to whom the advertisement was sent.

Comment

Filing of advertisements prior to dissemination is voluntary. A lawyer who wishes to obtain a safe harbor from discipline can submit the lawyer's advertisement and obtain The Florida Bar's opinion prior to disseminating the advertisement. A lawyer who files an advertisement and obtains a notice of compliance is therefore immune from grievance liability unless the advertisement contains a misrepresentation that is not

apparent from the face of the advertisement. Subdivision (c) of this rule precludes a lawyer from filing an entire website as an advertising submission, but a lawyer may submit a specific page, provision, statement, illustration, or photograph on a website. A lawyer who wishes to be able to rely on The Florida Bar's opinion as demonstrating the lawyer's good faith effort to comply with these rules has the responsibility of supplying The Florida Bar with all information material to a determination of whether an advertisement is deceptive, false or misleading.

RULE 4-7.6 FIRM NAMES AND LETTERHEAD

(a) False, Misleading, or Deceptive Firm Names. A lawyer may not use a firm name, letterhead, or other professional designation that violates rule 4-7.2.

(b) Trade Names. A lawyer may practice under a trade name if the name is not deceptive and does not imply a connection with a government agency or with a public or charitable legal services organization, does not imply that the firm is something other than a private law firm, and is not otherwise in violation of rule 4-7.2. A lawyer in private practice may use the term "legal clinic" or "legal services" in conjunction with the lawyer's own name if the lawyer's practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.

(c) Advertising Under Trade Names. A lawyer may not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name is in violation of this rule unless the same name is the law firm name that appears on the lawyer's letterhead, business cards, office sign, and fee contracts, and appears with the lawyer's signature on pleadings and other legal documents.

(d) Law Firm with Offices in Multiple Jurisdictions. A law firm with offices in more than 1 jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm must indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(e) Name of Public Officer in Firm Name. The name of a lawyer holding a public office may not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(f) Partnerships and Business Entities. A name, letterhead, business card or advertisement may not imply that lawyers practice in a partnership or authorized business entity when they do not.

(g) Insurance Staff Attorneys. Where otherwise consistent with these rules, lawyers who practice law as employees within a separate unit of a liability insurer

representing others pursuant to policies of liability insurance may practice under a name that does not constitute a material misrepresentation. In order for the use of a name other than the name of the insurer not to constitute a material misrepresentation, all lawyers in the unit must comply with all of the following:

(1) the firm name must include the name of a lawyer who has supervisory responsibility for all lawyers in the unit;

(2) the office entry signs, letterhead, business cards, websites, announcements, advertising, and listings or entries in a law list or bar publication bearing the name must disclose that the lawyers in the unit are employees of the insurer;

(3) the name of the insurer and the employment relationship must be disclosed to all insured clients and prospective clients of the lawyers, and must be disclosed in the official file at the lawyers' first appearance in the tribunal in which the lawyers appear under such name;

(4) the offices, personnel, and records of the unit must be functionally and physically separate from other operations of the insurer to the extent that would be required by these rules if the lawyers were private practitioners sharing space with the insurer; and

(5) additional disclosure should occur whenever the lawyer knows or reasonably should know that the lawyer's role is misunderstood by the insured client or prospective clients.

Comment Misleading Firm Name

A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity, or by a trade name such as "Family Legal Clinic." Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in a law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

A sole practitioner may not use the term "and Associates" as part of the firm name, because it is misleading where the law firm employs no associates in violation of rule 4-7.13. *See Fla.*

Bar v. Fetterman, 439 So. 2d 835 (Fla. 1983). Similarly, a sole practitioner's use of "group" or
"team" implies that more than one lawyer is employed in the advertised firm and is therefore misleading.

Subdivision (a) precludes use in a law firm name of terms that imply that the firm is something other than a private law firm. Three examples of such terms are "academy," "institute" and "center." Subdivision (b) precludes use of a trade or fictitious name suggesting that the firm is named for a person when in fact such a person does not exist or is not associated with the firm. An example of such an improper name is "A. Aaron Able." Although not prohibited per se, the terms "legal clinic" and "legal services" would be misleading if used by a law firm that did not devote its practice to providing routine legal services at prices below those prevailing in the community for like services.

Trade Names

Subdivision (c) of this rule precludes a lawyer from advertising under a nonsense name designed to obtain an advantageous position for the lawyer in alphabetical directory listings unless the lawyer actually practices under that nonsense name. Advertising under a law firm name that differs from the firm name under which the lawyer actually practices violates both this rule and the prohibition against false, misleading, or deceptive communications as set forth in these rules.

With regard to subdivision (f), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, "Smith and Jones," for that title suggests partnership in the practice of law.

All lawyers who practice under trade or firm names are required to observe and comply with the requirements of the Rules Regulating the Florida Bar, including but not limited to, rules regarding conflicts of interest, imputation of conflicts, firm names and letterhead, and candor toward tribunals and third parties.

Insurance Staff Lawyers

Some liability insurers employ lawyers on a full-time basis to represent their insured clients in defense of claims covered by the contract of insurance. Use of a name to identify these lawyers is permissible if there is such physical and functional separation as to constitute a separate law firm. In the absence of such separation, it would be a misrepresentation to use a name implying that a firm exists. Practicing under the name of a lawyer inherently represents that the identified person has supervisory responsibility. Practicing under a name prohibited by subdivision (f) is not permitted. Candor requires disclosure of the employment relationship on letterhead, business cards, and in certain other communications that are not presented to a jury. The legislature of the State of Florida has enacted, as public policy, laws prohibiting the joinder of a liability insurer in most such litigation, and Florida courts have recognized

the public policy of not disclosing the existence of insurance coverage to juries. Requiring lawyers who are so employed to disclose to juries the employment relationship would negate Florida public policy. For this reason, the rule does not require the disclosure of the employment relationship on all pleadings and papers filed in court proceedings. The general duty of candor of all lawyers may be implicated in other circumstances, but does not require disclosure on all pleadings.

RULE 4-7.7 REFERRALS, DIRECTORIES AND POOLED ADVERTISING

(a) Applicability of Rule. A lawyer is prohibited from participation with any qualifying provider that does not meet the requirements of this rule and any other applicable Rule Regulating the Florida Bar.

(b) Qualifying Providers. A qualifying provider is any person, group of persons, association, organization, or entity that receives any benefit or consideration, monetary or otherwise, for the direct or indirect referral of prospective clients to lawyers or law firms, including but not limited to:

(1) matching or other connecting of a prospective client to a lawyer drawn from a specific group or panel of lawyers or who matches a prospective client with lawyers or law firms;

(2) a group or pooled advertising program, offering to refer, match or otherwise connect prospective legal clients with lawyers or law firms, in which the advertisements for the program use a common telephone number or website address and prospective clients are then matched or referred only to lawyers or law firms participating in the group or pooled advertising program;

(3) publishing in any media a listing of lawyers or law firms together in one place; or

(4) providing tips or leads for prospective clients to lawyers or law firms.

(c) Entities that are not Qualifying Providers. The following are not qualifying providers under this rule:

(1) a pro bono referral program, in which the participating lawyers do not pay a fee or charge of any kind to receive referrals or to belong to the referral panel, and are undertaking the referred matters without expectation of remuneration; and

(2) a local or voluntary bar association solely for listing its members on its website or in its publications.

(d) When Lawyers May Participate with Qualifying Providers. A lawyer may participate with a qualifying provider as defined in this rule only if the qualifying provider:

(1) engages in no communication with the public and in no direct contact with prospective clients in a manner that would violate the Rules of Professional Conduct if the communication or contact were made by the lawyer;

(2) receives no fee or charge that is a division or sharing of fees, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(3) refers, matches or otherwise connects prospective clients only to persons lawfully permitted to practice law in Florida when the services to be rendered constitute the practice of law in Florida;

(4) does not directly or indirectly require the lawyer to refer, match or otherwise connect prospective clients to any other person or entity for other services or does not place any economic pressure or incentive on the lawyer to make such referrals, matches or other connections;

(5) provides The Florida Bar, on no less than an annual basis, with the names and Florida bar membership numbers of all lawyers participating in the service unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(6) provides the participating lawyer with documentation that the qualifying provider is in compliance with this rule unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(7) responds in writing, within 15 days, to any official inquiry by bar counsel when bar counsel is seeking information described in this subdivision or conducting an investigation into the conduct of the qualifying provider or a lawyer who participates with the qualifying provider;

(8) neither represents nor implies to the public that the qualifying provider is endorsed or approved by The Florida Bar, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(9) uses its actual legal name or a registered fictitious name in all communications with the public;

(10) affirmatively discloses to the prospective client at the time a referral, match or other connection is made of the location of a bona fide office by city, town or

county of the lawyer to whom the referral, match or other connection is being made; and

(11) does not use a name or engage in any communication with the public that could lead prospective clients to reasonably conclude that the qualifying provider is a law firm or directly provides legal services to the public.

(e) Responsibility of Lawyer. A lawyer who participates with a qualifying provider:

(1) must report to The Florida Bar within 15 days of agreeing to participate or ceasing participation with a qualifying provider unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules; and

(2) is responsible for the qualifying provider's compliance with this rule if:

(A) the lawyer does not engage in due diligence in determining the qualifying provider's compliance with this rule before beginning participation with the qualifying provider; or

(B) The Florida Bar notifies the lawyer that the qualifying provider is not in compliance and the lawyer does not cease participation with the qualifying provider and provide documentation to The Florida Bar that the lawyer has ceased participation with the qualifying provider within 30 days of The Florida Bar's notice.

Comment

Every citizen of the state should have access to the legal system. A person's access to the legal system is enhanced by the assistance of a qualified lawyer. Citizens often encounter difficulty in identifying and locating lawyers who are willing and qualified to consult with them about their legal needs. It is the policy of The Florida Bar to encourage qualifying providers to: (a) make legal services readily available to the general public through a referral method that considers the client's financial circumstances, spoken language, geographical convenience, and the type and complexity of the client's legal problem; (b) provide information about lawyers and the availability of legal services that will aid in the selection of a lawyer; and (c) inform the public where to seek legal services.

Subdivision (b)(3) addresses the publication of a listing of lawyers or law firms together in any media. Any media includes but is not limited to print, Internet, or other electronic media.

A lawyer may not participate with a qualifying provider that receives any fee that constitutes a division of legal fees with the lawyer, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules. A fee calculated as a percentage of the fee received by a lawyer, or based on the success or perceived value of the case, would be an improper division of fees. Additionally, a fee that constitutes an improper division of fees occurs when the qualifying provider directs, regulates, or influences the lawyer's professional judgment in rendering legal services to the client. See e.g. rules 4-5.4 and 4-1.7(a)(2). Examples of direction, regulation or influence include when the qualifying provider places limits on a lawyer's representation of a client, requires or prohibits the performance of particular legal services or tasks, or requires the use of particular forms or the use of particular third party providers, whether participation with a particular qualifying provider would violate this rule requires a case-by-case determination.

Division of fees between lawyers in different firms, as opposed to any monetary or other consideration or benefit to a qualifying provider, is governed by rule 4-1.5(g) and 4-1.5(f)(4)(D).

If a qualifying provider has more than 1 advertising or other program that the lawyer may participate in, the lawyer is responsible for the qualifying provider's compliance with this rule solely for the program or programs that the lawyer agrees to participate in. For example, there are qualifying providers that provide a directory service and a matching service. If the lawyer agrees to participate in only one of those programs, the lawyer is responsible for the qualifying provider's compliance with this rule solely for that program.

A lawyer who participates with a qualifying provider should engage in due diligence regarding compliance with this rule before beginning participation. For example, the lawyer should ask The Florida Bar whether the qualifying provider has filed any annual reports of participating lawyers, whether the qualifying provider has filed any advertisements for evaluation, and whether The Florida Bar has ever made inquiry of the qualifying provider to which the qualifying provider has failed to respond. If the qualifying provider has filed advertisements, the lawyer should ask either The Florida Bar or the qualifying provider for copies of the advertisement(s) and The Florida Bar's written opinion(s). The lawyer should ask the qualifying provider to provide documentation that the provider is in full compliance with this rule, including copies of filings with the state in which the qualifying provider is incorporated to establish that the provider is using either its actual legal name or a registered fictitious name. The lawyer should also have a written agreement with the qualifying provider that includes a clause allowing immediate termination of the agreement if the qualifying provider does not comply with this rule.

A lawyer participating with a qualifying provider continues to be responsible for the lawyer's compliance with all Rules Regulating the Florida Bar. For example, a lawyer may not make an agreement with a qualifying provider that the lawyer must refer clients

to the qualifying provider or another person or entity designated by the qualifying provider in order to receive referrals or leads from the qualifying provider. See rule 4-7.17(b). A lawyer may not accept referrals or leads from a qualifying provider if the provider interferes with the lawyer's professional judgment in representing clients, for example, by requiring the referral of the lawyer's clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider. See rule 4-1.7(a)(2). A lawyer also may not refer clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider, unless the requirements of rules 4-1.7 and 4-1.8 are met and the lawyer provides written disclosure of the relationship to the client and obtains the client's informed consent confirmed in writing. A lawyer participating with a qualifying provider may not pass on to the client the lawyer's costs of doing business with the qualifying provider. See rules 4-1.7(a)(2) and 4-1.5(a).

APPENDIX
D

OUTLINE FOR LIMITED ASSISTANCE PARALEGAL PILOT PROGRAM

Applicability/Perimeters

The specific applicability/perimeters of the pilot program will need to be determined. The pilot program may be part of the Law Practice Innovation Lab or a pilot program within a legal aid organization.

Qualifications

To qualify as a paralegal to provide services under the pilot program the candidate must be a Florida Registered Paralegal with X [1] years of work experience.

The Florida Bar's Florida Registered Paralegal Program will evaluate the qualifications of the Florida Registered Pilot Paralegal although the ultimate decision of whether to hire the Florida Registered Pilot Paralegal will rest with the law firm or legal aid organization.

Definitions

Form. A form is a document with blank spaces to be filled in with information unique to the limited representation client's facts and circumstances and must be a Supreme Court Approved Form as defined in chapter 10 of the Rules Regulating The Florida Bar, a form prepared by the supervising lawyer, or a form customarily used in the supervising lawyer's practice. A form may include a letter or other document that is not a pleading or will not be filed in a court.

Limited Representation Client. A limited representation client is a person who agrees in writing to receive authorized services from a paralegal providing services as part of the pilot program and acting under the authority of a supervising lawyer.

Authorized Area of Law. An authorized area of law for an paralegal providing services as part of the pilot program is family law, residential landlord tenant law on behalf of the tenant, guardianship law, wills, advance directives, Baker Act, Marchman Act, guardian advocate of the person only, or debt collection defense. For purposes of the pilot program, family law does not include adoption by individuals other than a step-parent, dependency, juvenile proceedings, or the preparation of a Qualified Domestic Relations Order or other order utilized in the division of retirement benefits.

Responsibilities of Supervising Lawyer

The supervising lawyer of the paralegal providing services under the pilot program must ensure that the paralegal is aware of the lawyer's ethical obligations for the

[1] In order to register as an FRP, the applicant must have education and work experience or be certified as a Certified Legal Assistant or Certified Paralegal. One issue to consider is whether both of these options should be available to a paralegal providing services as part of the pilot program or should the eligibility criteria be more limited.

performance of services authorized by the pilot program and must provide guidance to the paralegal relating to the performance of authorized services and ensure that the paralegal does not undertake services that are not authorized. The supervising lawyer for the paralegal remains professionally responsible for all services provided on behalf of a limited representation client and assumes full professional responsibility for the work product, including any actions taken or not taken by the paralegal in connection with the services. The services performed by the paralegal supplement, merge with, and become the lawyer's work product.

Permissible Activities

The paralegal providing services under the pilot program may perform the following services when assisting a limited representation client in matter involving an authorized area of law:

(1) *Selection, Completion, and Filing Forms***.** The paralegal may assist a limited representation client in selecting a form and assist a limited representation client in completing, filing and serving the form. This includes conducting intake to obtain relevant information from a limited representation client. The form must include the name, firm, address and telephone number of the paralegal who assisted in preparing the form. If other documents are necessary to the matter and ancillary to the form, the paralegal may assist a limited representation client in obtaining, preparing, gathering, and organizing those documents, as well as filing and serving those documents.

(2) *Providing Information*. When assisting a limited representation client with selecting and completing a form the paralegal may:

(A) give general information about how to complete the form;

(B) explain the form and supporting documents and provide information on how to gather or find the documents;

(C) give general information about the anticipated course of the proceedings and legal process, deadlines, documents that must be filed, and the applicable procedure for filing and service;

(D) explain the other party's documents;

(E) advise a limited representation client as to other documents that may be necessary to the limited represented client's case, and explain how such additional documents or pleadings may affect the limited represented client's case;

(F) obtain relevant facts, and explain the relevancy of such information to a limited representation client;

(G) explain how a court order affects a limited representation client's rights and obligations; and

(H) provide general information about legal rights, procedures or legal options.

(3) *Assistance with Court Proceedings.* The paralegal may accompany a limited representation client to court appearances to provide administrative support and reassurance. This support is limited to:

(A) assisting in scheduling court proceedings;

(B) informing a limited representation client about and assisting in obtaining available court services such as interpreter services and court reporters;

(C) informing a limited representation client what to expect at the hearing, how to dress and act, and how to organize paperwork to present to the court;

(D) taking notes for a limited representation client; and

(E) assisting a limited representation client in locating documents or information the court requests.

The paralegal may only provide the services in an authorized area of law. If a limited representation client has a legal issue outside of an authorized area of law, the paralegal may not provide the services.

Limited Services Disclosures

When the paralegal provides any of the services as part of the pilot program, a limited representation client must give informed consent to the provision of legal services by the paralegal in a written agreement that discloses the limited scope of services the paralegal may provide and meets any other requirement of rule 4-1.2(c) of the Rules Regulating The Florida Bar. The agreement must be signed by the limited representation client, the paralegal, and the supervising lawyer. If the paralegal knows or reasonably should know that a limited representation client requires services outside of those permitted by the pilot program, the paralegal must advise the limited representation client to seek legal advice from a lawyer and may refer the limited representation client to the paralegal's supervising lawyer.

Prohibited Activities

When providing services pursuant to the pilot program, the paralegal may not hold out as representing, speaking for, or advocating on behalf of a limited representation client and may not represent a limited representation client in court, in depositions, or in appeals. This prohibition includes addressing the court or judge as the representative of a limited representation client or on behalf of a limited representation client.

APPENDIX
E

LAW PRACTICE INNOVATION LABORATORY PROGRAM

The Committee's proposal for Florida's Law Practice Innovation Laboratory (the Lab) Program is outlined below. The proposal designs a data driven approach beginning with an initial three year term that will be one of research, development and data collection to determine the structure and framework which best accomplishes the regulatory objective and whether the Lab should be recommended as a permanent program. The regulatory objective is to ensure that

- the Rules Regulating The Florida Bar improve, not impede, the delivery of legal services to Florida's consumers,
- Florida lawyers play a proper and prominent, though not exclusive, role in the provision of these services and
- any regulation protects the public against misconduct and maintains the highest ethical standards of all of those who are authorized by the Supreme Court of Florida to provide legal services.

It is anticipated that prior to the conclusion of the initial three-year term the Lab's purpose, structure and framework will be evaluated with data from Lab participants, consumers receiving services and other inputs. After this evaluation a recommendation will be made to the Court as to whether the Lab should be recommended as a permanent program and if any changes to the Lab are recommended. It is envisioned that the initial 3-year term will operate through a Commission or Council of the Court (the Commission) created by Administrative Order, as described more fully below. If recommended by the Commission and approved by the Court, the Commission will be formally and permanently established as a standing Supreme Court Commission or Council pursuant to the Florida Rules of General Practice and Judicial Administration.

Purpose

The Lab is a controlled environment, defined by regulatory policies and desired legal services outcomes, where new consumer-centered innovations, which may be impermissible under current regulations, can be piloted and evaluated. The goal is to allow aspiring innovators to develop new ways of offering legal services intended to benefit the public. These services will be validated in the Lab under the strict supervision of the Commission always with the goal of ensuring that the regulatory objective is met.

The Lab will allow the following:

1. Testing what innovations are possible. The Lab can allow the supervisory body to selectively modify current rules or regulations to see how much and what kinds of innovation might be possible within the legal services market to benefit the public. Modified regulatory enforcement in the Lab can allow alternate business structures, existing law firms, technology platforms and individuals etc. to experiment with offering new legal services in a way that may not otherwise be permitted because of regulatory obstacles or uncertainty as to how the current rules may apply to proposed new models. The supervisory body can use the Lab to understand how much innovation potential

actually exists beyond mere speculation; whether emerging innovations have promise in the legal services market all while evaluating risk of harm to the consumer balanced against increased consumer access to legal services.

2. Tailored evaluation plans focused on risk. The Lab model puts the burden on applicants to define how their services should be measured regarding benefits, harms, and risks. They must propose not only what innovation is possible, but also how it can be assessed by identifying outcomes and metrics which are ascertainable and measurable in terms of success, risk of harm and increased access of legal services to the public.

3. Controlled innovation. The Lab provides an insulated environment to encourage innovative practices while maintaining consumer protection. The Lab allows controlled tests to be run as to what changes to regulation might be possible, both in terms of what rules apply and how regulation is administered. Safeguards can be installed to protect approved ventures from spilling over into the general market for the provision of legal services. These safeguards should include limitations on scope of work performed so that those in the Lab cannot expand to legal services not initially contemplated as part of their application unless a new or amended application is submitted and approved. Ventures accepted into the Lab will do so with the understanding that the project may be terminated at any time if evidence indicates unacceptable levels of harm to consumers or the profession.

4. New sources of data on what regulation works best. The Lab will allow for data-driven, evidence-based policymaking and regulation. Because Lab participants gather and share data about their services' performance, the Lab can help develop standards and metrics around data-driven regulation. It can incentivize more companies to evaluate their services through rigorous understanding of benefits and harms to the public, and it can help the development of protocols to conduct this kind of data-driven evaluation.

Structure and Funding

Supreme Court of Florida

The Lab falls under the regulatory authority of the Supreme Court of Florida. The Court appoints a Commission who will oversee the Lab and the supervisory body. It is preliminarily envisioned that the Commission will have a Chair and sufficient members to achieve its purpose. The Commission's members will be appointed by the Chief Justice after consultation with the Court. The membership will include judges, clerks of

court, members of The Florida Bar including one member of the Board of Governors, members of the public, a data scientist, and an IT professional/legal technologist. To the extent possible the members should come from different judicial circuits, different sized firms and different practice areas. All members must represent the interests of the public and access to legal services and the courts generally.

Commission

The Commission appoints the supervisory body. The Commission members have the following responsibilities:

Chair -- The Chair will be responsible for strategy, meetings of the Commission, budget, operation of the Lab and quarterly reporting to the Court.

Data Scientist -- The data scientist will be responsible for developing the quantitative analytical tools used by the Commission and supervisory body in determining the approval of any application and assessing the risk of benefit or harm to the public.

IT Professional/Legal Technologist -- The IT professional/legal technologist will be responsible for reviewing, assessing, and explaining the technological aspects of any proposed products or services.

Support Staff -- The support staff will be responsible for scheduling of meetings, developing agendas, recording of minutes, assisting in the budgeting process, and assisting in operations, development, and communications.

Consultant – The Commission may retain a consultant in legal technologies when such expertise in evaluating and implementing technology platforms is required.

No member of the Commission or any consultant will be permitted to make recommendations as to any matter under consideration which would be viewed as a conflict of interest.

Supervisory Body

The supervisory body is responsible for the day-to-day operation of the Lab. The supervisory body evaluates applications and makes recommendations regarding approval, responds to applicant's questions and demands quickly and efficiently, monitor and assess the market's development and respond to such appropriately and strategically. For budgetary and staffing purposes, it is recommended that the Court delegate the regulatory objective and authority to both the Commission and the supervisory body to The Florida Bar with the Court always maintaining supervision and ultimate authority much in the way lawyer regulation and discipline is structured.

It is the supervisory body's responsibility to develop a system that works to achieve the regulatory objective. Identifying, quantifying, understanding, and responding to risk of consumer harm using an empirical approach is a priority. There are two major aspects to this priority: (1) assessing risk of consumer harm in the market as a whole (both now and over time); and (2) assessing risk of consumer harm in a particular applicant's legal service offering.

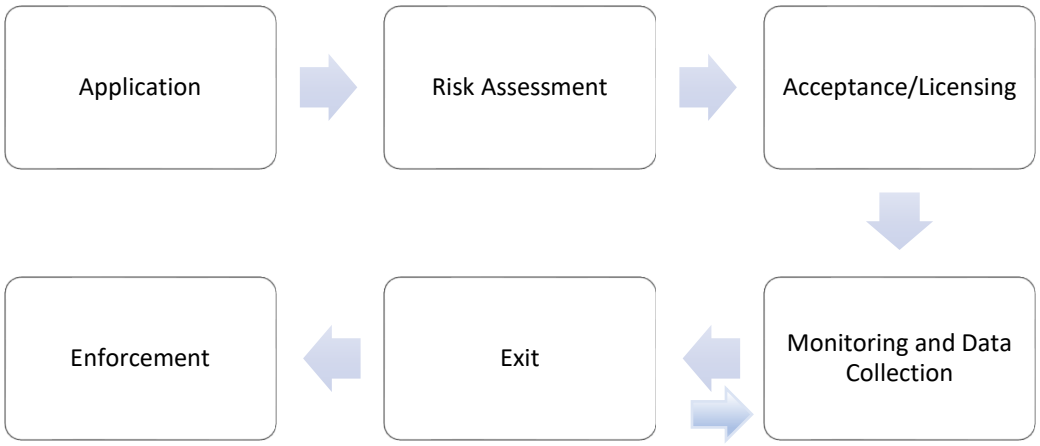
The Commission and supervisory body will work together to establish metrics by which those risks might be measured and identify the data entities will be required to submit to permit the supervisory body to assess risk on an ongoing basis. The participants will be required to submit data on these risks to be considered for participation in the market. The supervisory body should consider what level of risk self-assessment should be required from applicants in addition to any key risks identified by the supervisory body.

The supervisory body may have other duties that advance the regulatory objective. These would include its reporting duties to the Commission which will report to both the Court and the public. Reports would detail the overall state of the market, risks across the market, prioritized risk areas, and specific market sectors (by consumer, by area of law, etc.). The supervisory body may also have the authority to recommend initiatives, including public information and education campaigns to the Commission.

Funding

The Committee proposes that the program be funded primarily from fees collected from participants with the option to waive a fee for not-for-profit entities. Unless the applicant is a not-for-profit entity whose fee has been waived, the applicant would be required to submit an application fee at the outset of the approval process and a licensing fee annually to maintain an active license. At the outset, however, it is envisioned that the program be funded by The Florida Bar.

Program Overview and Regulatory Process



The key to the Lab lies in identifying and assessing risk and developing data to inform the regulatory approach. The key points of the regulatory process are: (1) licensing; (2) monitoring; and (3) enforcement. Each of the three points defines a key interaction between the supervisory body, the Commission and the regulated entity. The Lab Program will perform as follows:

Application

The applicant initiates the process by filing an application. The applicant describes the service/product/business model offered and risks and benefits of the legal service to the public. At a minimum, applicants must detail exactly what the new offering is (e.g., what the innovation is, what it intends to accomplish, and how it functions); how they expect it to benefit the public; what risks or harms they expect might arise; how they will deploy and measure this offering (the method of monitoring and assessing the project for unforeseen impacts on consumers such as surveys, case studies or fiscal impact); and which rules or regulations need to be revised in order for this offering to be allowed. The applicant should submit supplemental materials (visuals, etc.) as necessary. Any type of organization or individual can propose a new venture to be included in the Lab. [1]

The supervisory body should develop a mechanism for sealing documents upon request of the applicant if the documents include information such as trade secrets. However, any decision to seal documents will be limited and in no event will it include the confidential reporting of such documents to the Commission and the Court as part of the defined reporting requirements.

Risk Assessment

Based on the description provided in the initial application, supplemented as necessary with information requests to the applicant, the supervisory body initiates the risk assessment process.

The applicant will do a self-assessment and will be expected to identify any risks to consumers. These may be risks specific to the type of project proposed, the business model, the area of law, or the target consumer population.

The supervisory body assesses the applicant's proposal. Does the proposed service implicate one of the key risks (potential for consumer harm, severity of harm, potential for consumer legal need going unmet and potential for consumer purchasing unnecessary legal services), and what is the likelihood and impact of those risks being realized? The applicant must submit required data on these risks and any information on the mitigation of these risks and the response to risk realization built into its model.

The risk level will guide the supervisory body in its regulatory approach going forward, i.e., how frequently to audit, what kind of ongoing monitoring or reporting to employ, and what kinds of enforcement tools need to be considered.

If the supervisory body finds that significant risks have been identified, but it is not clear how the applicant plans to address and mitigate those risks, the supervisory body can impose probationary requirements on the applicant targeted to address those risks or refuse licensure.

[1] Nothing in this proposal is intended to permit a lawyer admitted in another jurisdiction to open a law office in Florida or to be admitted to the practice of law in Florida.

Acceptance into Lab

After review of the application and risk assessment, the supervisory body recommends acceptance to the Commission of only those applicants that have demonstrated an innovative new offering, a strong assessment plan, and a strong potential for public benefit as weighed against any identifiable risk of public harm. The Commission approves appropriate participants to enter the Lab and establishes how the data-sharing, auditing, and evaluation will proceed. If the participants agree to these arrangements, they receive a letter of non-enforcement from the Commission that gives them permission to develop and launch the agreed upon offering, within the confines of the Lab, without being subject to the identified regulations.

Participants accepted into the Lab must conspicuously disclose that they are part of the Lab and refer consumers to the supervisory body where they can learn more about the participant and give feedback or complaints. Participants in the Lab must also agree to submit to the jurisdiction of the Florida courts for resolution of disputes with Florida consumers.

Monitoring and Data Collection

Once an entity or individual or platform is approved, the regulatory relationship moves on to the monitoring and data collection phase. The purpose of monitoring is continual improvement of the regulatory system with respect to the regulatory objective. Monitoring enables the supervisory body to understand risks in the market and identify trends and to observe, measure, and adjust any regulatory initiatives to drive progress toward the regulatory objective.

In monitoring, the supervisory body can use several different strategies/approaches. The supervisory body should develop requirements such that participants periodically and routinely provide data on the following four key risks: 1) consumer achieves a poor legal result (consumer harm); 2) severity of the harm; 3) consumer fails to exercise their legal rights because they did not know they possessed those rights; or 4) consumer purchases a legal service that is unnecessary or inappropriate for resolution of their legal issue. The supervisory body should have the flexibility to reduce or eliminate specific reporting requirements if the data consistently shows no harm to consumers. The supervisory body should also conduct unannounced testing or evaluation of participants' performance through audits or expert audits of random samples of services or products.

The participants have an affirmative duty to monitor for and disclose any unforeseen impacts on consumers. The participants work on developing their services, instituting them in the legal services market, and collecting data on their performance. The supervisory body observes the performance of the participant to see if the public uses it, if the intended benefits result, if any expected or unexpected harms result, and receives consumer feedback and complaints. The supervisory body can recommend that the Commission suspend or cancel the non-enforcement letter at any time if the participant is not performing according to the agreement, if its services do not engage an audience, or if the services result in harms above what the supervisory body has deemed

acceptable. Whether the services help increase access to justice or the availability of legal services may also be considered.

The supervisory body should conduct consumer surveys across the market and consider how to engage with courts and other agencies to gather performance data. The supervisory body should use the data gathered to issue regular market reports and issue guidance to the public, participants and the Commission.

Exiting the Lab

Once the participant's designated period operating within the Lab finishes, the participant may be granted a license by the Court in which case the participant can continue with its approved services with the non-enforcement authorization still intact. The supervisory body can take stock of the participants, their services, and data, and it can use this information to shape the evaluation of future applications—perhaps changing the terms of the safeguards; the protocols for evaluation of risks, harms, and benefits; or what types of innovation it authorizes. The supervisory body might also use the data to recommend to the Commission permanent changes to the existing regulations for the entire market.

A condition of the Lab is that participants which successfully exit the Lab may continue providing their services as long as the risks of harm were demonstrably within appropriate levels even if the Lab is formally concluded. Periodic review and data will still be required by the supervisory body. If the review or data shows that consumers are being harmed or that services are being provided beyond what was authorized, the supervisory body may recommend to the Court that regulatory action be taken including loss of licensure and cessation of services.

Enforcement [2]

Enforcement is necessary if the activities of participants are harming consumers. The supervisory body will act when evidence of consumer harm exceeds the applicable level of acceptable harm thresholds outlined in the individualized risk assessment. The supervisory body should strive to make the enforcement process as transparent, specifically targeted, and responsive as possible.

The supervisory body should develop a process for enforcement: intake (a process by which members of the public can approach the supervisory body with complaints about the services received), investigation, and redress. Evidence of consumer harm can come before the supervisory body through multiple avenues:

1. Supervisory body finds evidence of consumer harm through the course of its monitoring, auditing, or testing of participants.

2. Supervisory body finds evidence of consumer harm through its monitoring of the legal services market.

[2] This outline discusses regulatory enforcement only and does not discuss civil remedies the consumer may have as that is beyond the scope of the program.

3. Consumer complaints.

4. Referrals from courts or other agencies.

5. Whistleblower reports.

6. Media or other public interest reports.

The supervisory body should consider establishing a role or office to focus on consumer questions or complaints about poor legal services (issues such as poor communication, inefficient service, trouble following client direction, costs etc.). This role could be contained within the supervisory body but requires proper structural independence and authority to address complaints, require remedial action, and issue clear guidelines on what kinds of information should be referred to the enforcement authority of the supervisory body. Many of these consumer interventions are already well-established programs and processes within The Florida Bar structure.

If the supervisory body makes a finding of consumer harm that exceeds the applicable threshold, then penalties are triggered. The penalty system should be clear, simple, and driven by the regulatory objective. The supervisory body should strive to address harm in the market without unnecessarily interfering with the market.

There should be a process to appeal enforcement decisions, both within the supervisory body, to the Commission and to the Supreme Court of Florida. The quarterly report made by the Chair to the Court should include enforcement data and actions.

Final Thoughts

The Committee believes that there is a need to prioritize access to legal services in the Lab. The Lab should be designed to incentivize benefits to extend not only to people with less money to spend on services but to all consumers of legal services who currently struggle to access the same. Some specific ideas include:

1. Obligation to distribute innovations to low-income communities. As more services succeed in the Lab, there might be obligations for the companies to give free licenses, software, or other access to people who cannot afford them.

2. Matchmaking between technologists, legal aid, and social services groups. The Commission should explore whether a supervisory body, or associated group, can help encourage more access-oriented entrants by bringing together experts with new technologies and business models with professionals who work closely with low-income communities. In this way, the supervisory body could help legal aid lawyers and social service providers better understand how they might harness emerging technologies and “innovation” (when most of them do not have the resources to do this on their own). The supervisory body might also offer incentives and training to possible entrants who are focused on low-income consumers.

3. Including lawyers in the legal services delivery model to the greatest extent possible. Providing consumers greater access to legal services also includes assisting lawyers in learning how to meet these growing needs. The greatest consumer harm may in fact be no access to legal services. Just as lawyers or the legal profession cannot solve this

problem alone neither can technological innovations. The solution lies in providing the largest numbers of members of the public the greatest access to a variety of legal services with lawyers playing a prominent, though not exclusive, role.

Utah Supreme Court Standing Order No. 15 (Amended)

(Amended June 3, 2021)

This Standing Order establishes a pilot legal regulatory sandbox and an Office of Legal Services Innovation to assist the Utah Supreme Court with overseeing and regulating the practice of law by nontraditional legal service providers or by traditional providers offering nontraditional legal services. Unless otherwise provided, this Order shall expire on the second anniversary of its effective date.

The Standing Order is effective as of August 14, 2020 (Amended June 3, 2021).

Background

The access-to-justice crisis across the globe, the United States, and Utah has reached the breaking point.[1] As to how affordable and accessible civil justice is to people, the 2020 World Justice Project Rules of Law Index ranks the United States 109th of 128 countries.[2] As to that same factor, out of the thirty-seven high-income countries, the United States ranks dead last.[3]

To put it into perspective, a recent study by the Legal Services Corporation found that 86 percent "of the civil legal problems reported by low-income Americans in [2016–17] received

---

[1] Access to justice means the ability of citizens to meaningfully access solutions to their justice problems, which includes access to legal information, advice, and resources, as well as access to the courts. *See* Rebecca L. Sandefur, *Access to What?*, DAEDALUS, Winter 2019, 49.

[2] WORLD JUSTICE PROJECT, WORLD JUSTICE PROJECT RULE OF LAW INDEX 2020 14, https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf.

[3] *Id.*

(continued . . .)

inadequate or no legal help."[4] Similarly, a recently published study out of California "[m]odeled on the Legal Services" study, concluded that 60 percent of that state's low-income citizens and 55 percent of its citizens "*regardless of income* experience at least one civil legal problem in their household each year." The study also found that 85 percent of these legal problems "received no or inadequate legal help."[5] Closer to home, an in-depth April 2020 analysis of the legal needs of Utahns living at 200 percent or less of the federal poverty guidelines found that their unmet legal needs stood at 82 percent.[6]

For years, the Utah Supreme Court has made combating the access-to-justice crisis confronting Utahns of all socioeconomic levels a top priority. To date, the Supreme Court, along with the Judicial Council and the Utah Bar Association, have worked ceaselessly to improve access to justice through many initiatives: the Utah Courts Self-Help Center, the Licensed Paralegal Practitioner Program, form reform, and the Online Dispute Resolution Program, to name but a few. What has become clear during this time is that real change in Utahns' access to legal services requires recognition that we will never volunteer ourselves across the access-to-justice divide and that what is needed is market-based, far-reaching reform focused on opening up the legal market to new providers, business models, and service options.

In its boldest step toward bridging the access-to-justice gap, the Supreme Court has undertaken an effort to reevaluate and amend several of the regulations it has historically relied upon in governing the practice of law. This Standing Order and accompanying rule changes implement that effort. The Supreme

---

[4] LEGAL SERVICES CORPORATION, THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2017).

[5] STATE BAR OF CALIFORNIA TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES, FINAL REPORT AND RECOMMENDATION 11–12 (2020) (emphasis added).

[6] UTAH FOUNDATION, THE JUSTICE GAP: ADDRESSING THE UNMET LEGAL NEEDS OF LOWER-INCOME UTAHNS 23 (2020).

(continued . . .)

Court believes that the regulatory reform set out in this Standing Order will shrink the access-to-justice gap by fostering innovation and harnessing market forces, all while protecting consumers of legal services from harm.[7]

1. General Provisions

In accordance with its plenary and exclusive authority and responsibility under article VIII, section 4 of the Utah Constitution to govern the practice of law, the Utah Supreme Court establishes the *Office of Legal Services Innovation* (Innovation Office). The Innovation Office will operate under the direct auspices of the Supreme Court and its purpose will be to assist the Supreme Court in overseeing and regulating nontraditional legal services providers and the delivery of nontraditional legal services.[8] To this end, and subject to Supreme Court oversight, the Innovation Office will establish and administer a pilot legal regulatory sandbox (Sandbox)[9] through which individuals and entities may be approved to offer nontraditional legal services to the public through nontraditional providers or traditional providers using novel approaches and means, including options not permitted by the Rules of Professional Conduct and other applicable rules. The

---

[7] The Supreme Court's decision to pursue changes regarding its governance of the practice of law is in keeping with (1) the Resolution of the Conference of Chief Justices and (2) the Resolution of the American Bar Association's House of Delegates "to consider regulatory innovations that have the potential to improve the accessibility, affordability, and quality of civil legal services, while also ensuring necessary and appropriate protections that best serve clients and the public . . . ."

[8] In Utah, the practice of law is defined by Utah Supreme Court Rule of Professional Practice 14-802. This Standing Order incorporates that definition. For an understanding of "nontraditional legal services providers" and "nontraditional legal services," please refer to Section 3.3 (Regulatory Scope).

[9] A regulatory sandbox is a policy tool through which a government or regulatory body permits limited relaxation of applicable rules to facilitate the development and testing of innovative business models, products, or services by sandbox participants.

(continued . . .)

Supreme Court establishes the Innovation Office and the Sandbox for a pilot phase of seven years from the original effective date of this Standing Order (August 14, 2020). At the end of that period, the Supreme Court will carefully evaluate the program as a whole, including the Sandbox, to determine if it should continue. Indeed, unless expressly authorized by the Supreme Court, the program will expire at the conclusion of the seven-year study period.

2. Innovation Office

In carrying out the responsibilities designated to it by the Utah Supreme Court, the Innovation Office, at all times, will be subject to the Supreme Court's direction and control. Furthermore, the Innovation Office will have no authority to regulate any individuals, entities, or activities that are beyond the Supreme Court's constitutional scope and mandate to govern the practice of law.[10] With these overarching restrictions firmly in mind, the Innovation Office will have responsibility with respect to the regulation of non-traditional legal services provided by traditional legal providers and non-traditional and traditional legal services provided by non-traditional legal providers, including those services offered within the Sandbox and those that have been approved for the general legal market ("exit or exited the Sandbox"). The Innovation Office will be responsible for (1) evaluating potential entrants to the Sandbox and recommending to the Supreme Court which entrants should to be admitted; (2) developing, overseeing, and regulating the Sandbox, including establishing protocols and monitoring nontraditional

---

[10] By way of illustration, the Supreme Court has authorized real estate agents to advise their customers with respect to, and to complete, state-approved forms directly related to the sale of real estate. *See* Rule of the Utah Supreme Court Rules of Professional Practice 14-802(c)(12)(A). Outside of this grant, and the ability to modify it, the Supreme Court has no authority with respect to regulating real estate agents. That authority rests with the legislative and executive branches. By way of further illustration, some attorneys hold both J.D.s and M.D.s. The Supreme Court only governs the ability of these individuals to practice law. It has never interfered with their ability to practice medicine.

(continued . . .)

legal providers and services therein, as well as terminating an entrant's participation in the Sandbox where deemed appropriate and in keeping with the regulatory principles set forth below; and (3) recommending to the Supreme Court which entrants be permitted to exit the Sandbox and enter the general legal market.[11]

The Innovation Office will be funded initially by a grant from the State Justice Institute and in-kind contributions from the National Center for State Courts and the Institute for the Advancement of the American Legal System. The Innovation Office will have the authority to seek additional grant funding and may also be supported through licensing fees as noted in Section 4.9.

The Innovation Office will meet regularly and at least monthly, on a day and at a time and place of its convenience. It will also report monthly to the Supreme Court during one of the Court's regularly scheduled meetings.

2.1 Office Composition

The Utah Supreme Court will appoint the members of the Innovation Office.[12] The Innovation Office will consist of a Chair, Vice-Chair, and nine additional members, all serving on a volunteer basis. Five of the members shall serve as the Executive Committee of the Innovation Office. The Executive Committee shall be composed of the Chair and Vice-Chair and three additional members appointed by the Court. The Executive Committee will be responsible for setting the Agenda for each meeting of the Innovation Office and for making initial recommendations to the Innovation Office regarding applicants.

In the event of a vacancy, or on its own motion, the Supreme Court will appoint, depending on the vacancy, a new Chair, Vice-Chair, or member. The Court will strive to appoint nonlawyers (pubic

[11] Innovation Office resources may limit the number of Sandbox entrants.

[12] The Supreme Court Task Force on Regulatory Reform shall continue to operate pending the appointment of the members of the Innovation Office. Upon appointment of the members of the Innovation Office, Utah Supreme Court Standing Order 14 shall be vacated in accordance with the terms of that Standing Order.

members) as at least five of the members and will prioritize a membership body diverse across gender, race, ethnicity, sexual orientation, socioeconomic background, and professional expertise.

Innovation Office actions will be taken by majority vote by a quorum of the members.

2.2 Conflicts of Interests

The Utah Supreme Court acknowledges that instances may arise in which Innovation Office members may face conflicts of interest between their business or personal affairs and their member duties. A conflict of interest arises when members—or a member of their immediate family—have a financial interest in a Sandbox applicant or participant or in an entity that has successfully exited the Sandbox. For example, a member's firm may apply to offer services as part of the Sandbox. Recognizing that transparency and public confidence are paramount concerns, the Supreme Court requires that in cases of conflict, the implicated member(s) disclose the conflict to the Innovation Office in writing and recuse from any involvement regarding that particular Sandbox applicant or participant. The Innovation Office will maintain a record of all conflicts and recusals and make all records related to conflicts and recusals publicly available.

2.3 Office Authority

Subject to the limitations set forth in the Standing Order and the ultimate authority and control of the Utah Supreme Court, the Innovation Office will have the authority to oversee the nontraditional provision of legal services (*see* Section 3.3.2 on Regulatory Scope) using an objectives-based and risk-based approach to regulation.

Objectives-based regulation specifically and clearly articulates regulatory objectives to guide development and implementation. Both the Innovation Office and the Sandbox participants will be guided in their actions by specific objectives.

Risk-based regulation uses data-driven assessments of market activities to target regulatory resources to those entities and

activities presenting the highest risk to the regulatory objectives and consumer well-being. Using risk-based regulation enables the Innovation Office to better prioritize its resources and manage risks in the Utah legal services market.

The Supreme Court grants the Innovation Office the authority to develop and propose processes and procedures around licensing, monitoring, and enforcement to carry out its mission in light of the Regulatory Objective and Regulatory Principles outlined in Section 3.[13]

The Innovation Office must submit proposed processes, procedures, and fee schedules to the Supreme Court for approval as they are developed and before they take effect.

3. Regulatory Objective, Principles, and Scope

3.1 Regulatory Objective

The overarching goal of this reform is to improve access to justice. With this goal firmly in mind, the Innovation Office will be guided by a single regulatory objective: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services. The Utah Supreme Court's view is that adherence to this objective will improve access to justice by improving the ability of Utahns to meaningfully access solutions to their justice problems, including access to legal information, advice, and other resources, as well as access to the courts.

---

[13] The Implementation Task Force on Regulatory Reform has already established an Innovation Office Manual. A copy of that manual may be viewed at sandbox.utcourt.gov.

(continued . . .)

3.2 Regulatory Principles

The Innovation Office will be guided by the following regulatory principles:

1. Regulation should be based on the evaluation of risk to the consumer.[14]
2. Risk to the consumer should be evaluated relative to the current legal services options available.[15]
3. Regulation should establish probabilistic thresholds for acceptable levels of harm.[16]
4. Regulation should be empirically driven.[17]
5. Regulation should be guided by a market-based approach.[18]

---

[14] The phrase "based on the evaluation of risk" means that regulatory intervention should be proportional and responsive to the actual risk of harm posed to the consumer, as supported by the evidence.

[15] The phrase "relative to the current legal service options available" means that risk should not be evaluated as against an ideal of perfect legal representation by a lawyer. Risk should rather be measured as against the reality of current market options for consumers. In many cases, that means no access to legal representation or legal resources at all.

[16] The phrase "probabilistic thresholds for acceptable levels of harm" (the chance a consumer is harmed) means the probability of a risk occurring and the magnitude of the harm should the risk occur. Based on this assessment, the Innovation Office will determine thresholds of acceptable risks for identified harms. Regulatory resources should be focused on areas in which, on balance, there is a high probability of harm or a significant impact from that harm on the consumer or the market.

[17] The phrase "empirically driven" means that the regulatory approach and actions must be supported, whenever possible, by data from the legal services market.

[18] The phrase "market-based approach" means that regulatory tactics should seek to align regulatory incentives with increased revenue or decreased costs for market participants in order to encourage desired behavior or outcomes.

(continued . . .)

3.3 Regulatory Scope

As noted, under the auspices of the Utah Supreme Court, the Innovation Office will be responsible for developing, overseeing, and regulating the Sandbox, including the oversight of nontraditional legal providers and services therein. The Supreme Court offers the following examples to help individuals and entities, lawyers and nonlawyers alike, understand the Innovation Office's regulatory scope. These examples are just that and the list is not intended to be exhaustive.

3.3.1 Outside the Regulatory Scope

Individuals and entities that carry out the following activities are outside the Innovation Office's regulatory scope, remain under the Utah Bar's authority, and need not notify the Innovation Office:

Partnerships, corporations, and companies entirely owned and controlled by lawyers in good standing; individual lawyers with an active Utah Bar license; and legal services nonprofits:

(i) offering traditional legal services as permitted under the Rules of Professional Conduct; or

(**ii**) using new advertising, solicitation, fee-sharing, or fee-splitting approaches as contemplated by the Rules of Professional Conduct.[19]

[19] Partnerships, corporations, and companies entirely owned and controlled by lawyers; individual lawyers with an active Utah Bar license; and legal services nonprofits may not, however, engage in fee-splitting or fee-sharing in an effort to avoid the prohibition against outside ownership set forth in rule 5.4A of the Utah Rules of Professional Conduct.

(continued . . .)

3.3.2 Within the Innovation Office's Regulatory Scope

Individuals and entities that carry out the following activities are within the scope of the Innovation Office's regulatory authority and are subject to this Standing Order's requirements:[20]

(a) Partnerships, corporations, and companies entirely owned and controlled by lawyers; individual lawyers with an active Utah Bar license; and legal services nonprofits partnering with a nonlawyer-owned entity to offer legal services as contemplated by Rule 5.4B;

(b) Nonlawyer owned entities, or legal entities in which nonlawyers are partial owners (for profit or nonprofit):

(i) offering legal practice options whether directly or by partnership, joint venture, subsidiary, franchise, or other corporate structure or business arrangement, not authorized under the Rules of Professional Conduct in effect prior to [Month] [Date], 2020, or under Utah Supreme Court Rule of Professional Practice 14-802; or

(ii) practicing law through technology platforms, or lawyer or nonlawyer staff, or through an acquired law firm.

3.3.3 Disbarred Lawyers and Individuals with Criminal History

Disbarred Lawyers. The Utah Supreme Court has determined that lawyers who have been disbarred[21] present a significant risk of harm to consumers if in the position of ownership or control of an entity or individual providing legal services. Therefore, disbarred

---

[20] This list is not meant to be exclusive or exhaustive. There may be business arrangements, models, products, or services not contemplated in Section 3.3.2, which are welcome and should come through the Sandbox. The Sandbox is not, however, meant to enable lawyers not licensed in Utah to practice in Utah without authorization from the Utah State Bar.

[21] For purposes of this Standing Order, a lawyer whose license has been suspended qualifies as a disbarred lawyer during the period of suspension.

lawyers are not permitted to gain or hold an ownership interest of greater than 10 percent in any entity authorized to practice law under Rule 5.4B or this Standing Order.

In addition, any entity applying for authorization to offer services in the Sandbox must disclose the following:

(a) whether the entity has any material corporate relationship and/or business partnership with a disbarred lawyer, and

(b) whether a disbarred lawyer works with or within the entity, in either an employment or contractual relationship, and is in a managerial role in the direct provision of legal services to consumers.

Criminal History. The Supreme Court has determined that individuals with certain serious criminal histories may present an increased risk of harm to consumers if in the position of ownership or control of a legal service entity.

Any entity applying for authorization to offer services in the Sandbox must disclose the following:

(a) whether any individual holding an ownership interest of greater than 10 percent in the entity has a felony criminal history,

(b) whether the entity has any material corporate relationship or business partnership with an individual with a felony criminal history, and

(c) whether an individual with a felony criminal history works with or within the entity, in either an employment or contractual relationship, and is in a managerial role in the direct provision of legal services to consumers.

The Innovation Office, on receipt of any disclosures required above, will incorporate the information into the risk assessment of the entity as appropriate. To the extent permitted by law, the Innovation Office may also conduct independent criminal history checks.

Falsifying any information, including lawyer status and individual criminal history, is a basis for dismissal from the Sandbox and in

the event the entity or individual has exited the Sandbox, a basis for loss of licensure. Other criminal and civil sanctions may also apply.

4. The Sandbox

The Sandbox is a policy tool by which the Utah Supreme Court, through the Innovation Office, can permit innovative legal services to be offered to the public in a controlled environment. The Innovation Office will develop, oversee, and regulate the Sandbox according to the guidance outlined in this Standing Order. Individuals and entities wanting to offer the public nontraditional legal business models, services, or products must notify the Innovation Office. Individuals and entities in the Sandbox will be subject to such data reporting requirements and ongoing supervision as the Innovation Office determines, so long as the requirements fall within its regulatory authority.

4.1 Application

All individuals and entities that fall within the Regulatory Scope (Section 3.3.2) must apply to the Innovation Office for authorization to enter the Sandbox.

4.2 Application Process

The objective of the application process is for the Innovation Office to determine that the legal service proposed by the applicant furthers the Regulatory Objective and does not present unacceptable levels of risk of consumer harm. The Innovation Office will develop an efficient and responsive process for intake, review, assessment, and response to applications.

The Utah Supreme Court contemplates that the application process will be iterative and will include communications between the Innovation Office and the various applicants, as necessary.

The Innovation Office will make a determination as to whether an applicant's proposed legal service furthers the Regulatory Objective and does not present an unacceptable risk of consumer harm. The Innovation Office will make recommendations to the Supreme Court regarding whether an applicant should be authorized and the associated requirements for the applicant (e.g., reporting, disclosure, risk mitigation, insurance requirements). In

developing these requirements, the Innovation Office will consider the Regulatory Objective and Regulatory Principles.

If the Innovation Office does not find that an applicant's proposed legal service furthers the Regulatory Objective or finds that it presents an unacceptable risk of consumer harm, the Innovation Office will deny the proposed authorization, and will include a brief written explanation supporting the finding. The Innovation Office will develop a process for appeal of a denial of a proposed authorization to the Supreme Court.

4.3 Authorization

As with the licensing of lawyers and Licensed Paralegal Practitioners, the Utah Supreme Court will ultimately be responsible for approving or denying authorization to nontraditional legal service providers.

An approved application means permission to offer the proposed legal service in the Sandbox as outlined in the approval and under the Innovation Office's authority. Authorized participants and services are deemed authorized to practice law in Utah, albeit on a limited and temporary basis, under Utah Supreme Court Rule of Professional Practice 14-802.

Denial of authorization by the Supreme Court has the effect of returning the application to the Innovation Office. The Supreme Court may include a brief written explanation of the reasons for its decision not to authorize the applicant. This information may guide the applicant in how to potentially resolve concerns and revise its application for reconsideration for authorization. However, to be clear, some (perhaps many) applicants may not be approved to enter or exit the Sandbox.

Additionally, and to be clear, authorization to practice law does not impact any of the other requirements that may be imposed upon an entity (*e.g.*, business license, tax commission registration, etc.).

4.4 Licensing (Exiting the Sandbox)

Sandbox participants that are able to demonstrate that their legal services are safe—i.e., that they do not cause levels of consumer harm above threshold levels established by the Innovation Office—

may be approved to exit the Sandbox and may be granted the appropriate license to practice law by the Utah Supreme Court pursuant to Utah Supreme Court Rule of Professional Practice 14-802. Such providers and services will remain under the regulatory authority of the Supreme Court, through the Innovation Office and subject to such monitoring and reporting requirements as the terms of the license indicate and subject to the enforcement authority of the Innovation Office.

The Innovation Office will develop the process (subject to Supreme Court approval) by which providers and services exit the Sandbox. It is anticipated that this process will generally follow that outlined for application approval, including an assessment of the provider or service, a finding on the consumer safety of the provider or service, and a recommendation to the Supreme Court as to the scope of the license and associated requirements (e.g., reporting). The Innovation Office is authorized to make the licensing assessment, findings, and recommendations at both the individual or entity level and a more categorical level—i.e., to recommend that a category of legal service providers be licensed to practice law in Utah.

If the Innovation Office does not find that a participant's proposed legal service furthers the Regulatory Objective or finds that it presents an unacceptable risk of consumer harm, the Innovation Office will deny the proposed licensure, and will include a brief written explanation supporting the finding. The Innovation Office will develop and propose the process for appeal of a denial of Sandbox exit to the Supreme Court.

4.5 Fees

The Innovation Office will have the authority to propose a fee schedule to the Utah Supreme Court. Unless otherwise required, fees paid will be used to fund the Innovation Office.

4.6 Monitoring and Measuring Risk

The Innovation Office will have the authority to develop the measurements by which it assesses and manages risk. The Innovation Office will identify specific harms presenting the most significant risk to the Regulatory Objective. All regulated

providers, whether in the Sandbox or after exiting, have a proactive duty to report any unforeseen risks or harms of which they become aware.

As noted, the Innovation Office will have the authority to develop specific data reporting requirements to monitor consumer risk of harm as part of both Sandbox authorization and general licensing of proposed legal services. The Innovation Office will develop processes and procedures for intake, review, and assessment of incoming data at an individual provider level, across different market sectors, and across the market as a whole. The Innovation Office will have the authority to increase or decrease reporting requirements as indicated by the provider's performance in the market and compliance with the Innovation Office's requirements.

The Innovation Office will have the authority to take proactive actions to effect monitoring of providers and the market as a whole, including but not limited to market surveys, expert audits, anonymous testing, and "secret shopper" tests. The Innovation Office will also develop processes and procedures for intake, review, and assessment of information coming from sources such as media, other governmental or nongovernmental institutions, whistleblowers, and academia.

The Utah Supreme Court acknowledges that this regulatory approach does not remove all possibility of harm from the market and, in fact, contemplates that sometimes there may be no regulatory enforcement action even though some consumers may experience harm. Nevertheless, aggrieved consumers may seek relief and remedy through traditional channels of civil litigation or, if applicable, the criminal justice system.

4.7 Consumer Complaints

The Innovation Office will develop a process by which consumers may directly complain to the Office. The Innovation Office will develop a process by which individual complaint information is fed into the larger data reporting system to contribute to the assessment of risk.

4.8 Enforcement

The Innovation Office will develop standards for enforcement authority upon regulated providers in line with the Regulatory Objective and Regulatory Principles. Enforcement will generally be triggered when the evidence of consumer harm exceeds the applicable acceptable consumer harm threshold. The Innovation Office will also develop the range of enforcement mechanisms it deems appropriate, including but not limited to education, increased reporting requirements, fines, and suspension or termination of authorization or license. Last, the Innovation Office will develop a process for appealing enforcement decisions to the Innovation Office, and then to the Utah Supreme Court.

Once the Innovation Office has developed these various processes and procedures, they will be submitted to the Supreme Court for review and, if appropriate, approval. Both the Supreme Court and the Innovation Office will strive to make the enforcement process as transparent, targeted, and responsive as possible.

4.9 Standards of Conduct

As stated in Rule 5.4(B), lawyers engaging with the nontraditional provision of legal services, as owners, employees, contractors, or business partners with Sandbox participants or licensed providers are required to uphold their duties as required by the Rules of Professional Conduct.

4.10 Confidentiality

The Innovation Office shall maintain a commitment to transparency in the execution of its mission. Identities of applicants to the Sandbox and the applications themselves are presumed to be public information and will be shared via the Innovation Office website.

Applicants may designate appropriate, specific information in the application and/or in any data reported as required by the Innovation Office as confidential business information under the Government Records and Access Management Act (GRAMA). *See* UTAH CODE § 63G-2-305(1)–(2). The Innovation Office will maintain the confidentiality of such designated information and it

will be redacted from the publicly released documents. Nothing, however, in this paragraph limits the ability of the Innovation Office to provide aggregate and anonymized data sets to outside researchers, subject to a duly executed data sharing agreement with the Court.

4.11 Reporting Requirements

The Innovation Office will be responsible for regular reporting to the Utah Supreme Court and the public on the status of the Sandbox, the Sandbox participants, licensed providers, and consumers.

The reports to the Supreme Court must be monthly. Reports to the Supreme Court must include the following:

- The number of applicants
- General information about applicants (e.g., type of legal entity, ownership makeup, target market, proposed type of service, legal need to be addressed, subject matter served)
- Numbers of (along with general information)
    - Applicants recommended for Sandbox entry
    - Applicants denied Sandbox entry
    - Sandbox applicants on hold
    - Applicants recommended to exit Sandbox
    - Applicants not recommended to exit Sandbox
- Numbers and demographic data (as available) on consumers served by the Sandbox and licensed providers
- Identification of risk trends and responses

The Innovation Office will, subject to existing law, have the authority to determine the nature and frequency of its reports to the public, but must, at a minimum, report the information identified above on an annual basis (keeping anonymity and confidentiality as required).

4.12 Jurisdiction

Entities authorized to practice law within the Sandbox and licensed to practice law on exiting the Sandbox are subject to the jurisdiction of this Court. Any false or misleading statements made by entities or their members throughout the regulatory relationship, whether

during application, authorization, reporting, monitoring, or enforcement, whether discovered at the time or at any time afterward, will be independent grounds for enforcement and an aggravating factor in any enforcement proceeding based on other conduct. Any fraudulent or materially misleading statements made by an entity or its members to the Innovation Office or the Court may result in revocation of the entity's authorization to practice law.

4.13 Termination of Pilot Phase

The Sandbox is a policy tool, adopted by the Utah Supreme Court to develop a new regulatory approach to nontraditional legal services and to inform the Supreme Court's decision-making on rule changes necessary to support the expanded legal services market. The Supreme Court has set out a seven-year period of operation for this pilot phase of the Innovation Office and Sandbox.

At the end of the pilot phase, the Supreme Court will determine if and in what form the Innovation Office will continue. Sandbox participants authorized and in good standing at the end of the seven-year period and for whom there appears to be little risk of consumer harm will be able to continue operations under the authority of the Innovation Office or other appropriate entity should the Innovation Office cease to exist. Entities that have successfully exited the Sandbox will be able to continue operations under the authority of the Innovation Office or other appropriate entity should the Innovation Office cease to exist.

July 20, 2021
Date

Matthew B. Durrant
Chief Justice

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

Innovation Office Manual

Published March 22, 2021

Contents

Contents 2

Introduction 1

Decision Making Principles and Process 1

Applying to the Sandbox 2

Additional Waivers 3

Innovation Office Review Process 3

Qualifiers 4

Risk Assessment 4

Denial of Recommendation and Appeal 6

Recommendation of Authorization and Parameters 6

Service Models 7

Service Categories 8

Waivers 8

Consumer Disclosure Requirements 9

Annual Entity Reporting 10

Data reporting requirements 10

Authorization Term 15

Recommendation to the Court 15

Authorization 15

Authorization and launch process 15

Data Reporting and Monitoring 16

Changing Authorization Scope 18

Extending Authorization Term 18

Withdrawal from the Sandbox 18

Enforcement 18

Exiting the Sandbox 20

Appendix A: Application Materials 21

Appendix B: Data Reporting Protocol and Templates 29

Appendix C: Participant Request Forms 42

Appendix D: Repeating Risk Definitions 56

Introduction

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

I. Decision Making Principles and Process

The regulatory actions of the Office will be limited to those that advance the Regulatory Objective: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

Ensuring consumer access as described in the Regulatory Objective is the primary criteria around which Innovation Office decision making takes place. In striving to answer the question of whether a given action furthers the Regulatory Objective, the Office balances the incremental costs of improved information and the benefits of efficient action.

As dictated by the Regulatory Objective and Regulatory Principles, the Office bases its decisions on empirical evidence whenever possible, using data and numbers to identify and understand the potential harm that consumers currently experience and are likely to be exposed to with new services.

Every risk of harm to consumers cannot currently be quantified. Assessments of risk are inherently imprecise, as knowledge of all the relevant variables is incomplete and any given outcome depends on multiple and complex considerations. The reliance on empirical evidence should not imply a false precision. Judgement must be used where relevant and reliable data are absent.

Decision Process Objective: Ensuring that any decisions made by the Office are unbiased and based on a proper and objective consideration of all facts, the Regulatory Objective, and the Regulatory Principles.

Decision Process Principles:

- Equal Access: All parties have the same opportunity to access decision makers.
- Coherent: Decisions and the reasons therefore are reasonably and clearly explained.
- Transparent: All parties know what information and arguments the Office is considering in rendering a decision.
- Efficient: Decisions will be made in a timely manner.

Standard for sufficiency of data

The data considered alongside all associated information (about company, ownership, management, target population) must be of sufficient quality to inspire confidence in the regulatory action (authorization, licensing, enforcement).

Operational Decision Criteria:

For each identified risk of harm:

1. Consumer achieves an inaccurate or inappropriate legal result.
2. Consumer fails to exercise legal rights through ignorance or bad advice.
3. Consumer purchases an unnecessary or inappropriate legal service.

An applicant must show that:

The likelihood that the average person will experience a harm using the applicant's service ***is not greater*** than the likelihood that the average person who might use their service will experience harm without the service.

II. Applying to the Sandbox

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;[1]
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or
- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form;

[1] Please note: as of the Court's December 10, 2020 statement on referral fees, the Innovation Office will not consider applications setting forth bare referral fee arrangements between lawyers and nonlawyers. Bare referral fees are compensation paid to nonlawyers for the sole purpose of ensuring the referral of legal work. The Innovation Office will continue to consider applications in which fee sharing is one component in a more comprehensive innovative proposal.

2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties; and
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

These materials may be found at Appendix A. Applicants may also submit any other relevant supplemental materials.

As per Standing Order No. 15, any false or misleading statements made by entities or their members in the application materials, whether discovered at the time or at any time afterward, will be independent grounds for regulatory enforcement, including termination of authorization, and an aggravating factor in any enforcement proceeding based on other conduct.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

A. Additional Waivers

The Sandbox is a mechanism to permit innovative legal business and service models that would not have been possible under the broad traditional proscriptions on nonlawyer ownership and investment and nonlawyer legal practice. In the Sandbox, these entities are permitted to practice and Utah lawyers are permitted to own, be employed by, or partner with these entities. As a general rule, Utah lawyers working with or for Sandbox entities must maintain their compliance with the Utah Rules of Professional Conduct and remain subject to disciplinary action should they fail to comply.

The Court and the Innovation Office, however, recognize that there may be instances in which an entity might seek additional rule waivers to facilitate lawyers' participation with the business model. The Sandbox offers the opportunity to permit increased experimentation in a controlled environment. Entities may propose additional rule waivers in their application and the Office will consider them and whether the proposed waiver merits an adjustment to the risk categorization and make the appropriate recommendation to the Court.

III. Innovation Office Review Process

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section includes:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments

- Sets out and explains the core categories of:
    - Service model
    - Service area
    - Disclosure requirements
    - Data reporting requirements

A. Qualifiers

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s):	What aspects of the proposed entity / service qualify for participation in the sandbox.
Utah Qualifier:	Each entity must affirm that its service conforms to any applicable requirements of Utah law.
Implementation Qualifier:	Each entity must affirm that it is ready or very close to ready to implement its proposed service.
Regulatory Objective Qualifier:	Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. Risk Assessment

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

(1) inaccurate or inappropriate legal result,

(2) failure to exercise legal rights through ignorance or bad advice, and

(3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

Service Model Risk Category

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
Intermediary platform[2]	Low / Moderate
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers	Moderate
Nonlawyer provider[3] with lawyer involvement[4]	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement[5]	High
Software provider without lawyer involvement	High

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. As a proposed model gets further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

[2] "Intermediary platform" means an entity offering a software- or online-based platform to connect Utah lawyers with interested consumers. The platform may also offer other legal practice support services such as timekeeping, billing, video-conferencing, etc.

[3] Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

[4] "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

[5] "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

Additional Risk Detail

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail at Appendix D but referred to by a shorthand designation in Office's recommendations to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

C. Denial of Recommendation and Appeal

The Innovation Office may decline to recommend an application to the Court for authorization. Reasons for denial may include (list is not exclusive and may be expanded):

- Insufficiently clear proposal of business or service model
- Inability to report data as required by the Office
- Proposal not ready to implement
- Proposed model or service is already permitted under the traditional rules (Sandbox authorization is not needed)
- Disbarred lawyer owning more than 10% of entity
- Entity is merely a vehicle for an out of state lawyer to practice within Utah

The Office will send a Denial of Recommendation form to the entity.

Entities denied authorization may always reapply. Entities denied a recommendation for authorization may also appeal the denial by submitting an Request for Reconsideration form. The entity has 30 days from the date of the denial to submit the Request for Reconsideration form. Requests submitted past the 30 day window will not be considered.

If the Office denies the reconsideration (by issuing a Denial of Reconsideration form), the entity may appeal to the Court. The entity has 30 days from the date of the denial of reconsideration to submit an Appeal of Denial. On receipt of the Appeal of Denial, the Innovation Office will present the entity's appeal, including the entire application file, to the Court at the next scheduled Court conference.

The relevant forms may be found at Appendix C.

D. Recommendation of Authorization and Parameters

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), waivers, authorization term, and any additional requirements.

1. Service Models

The Office will determine which service models it will recommend for Court review and approval. Entities will be authorized as one or multiple service model categories; entities may not offer services through a model for which they are not authorized. For example, if an entity is authorized as a "nonlawyer provider with lawyer involvement," that entity may not offer a software platform or tool that practices law. If after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
Intermediary platform	Low / Moderate
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. Service Categories

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal (Expungement)[6]
- Criminal (Other)
- Discrimination
- Domestic Violence
- Education

[6] Please note: Nonlawyer providers, whether software or human, are currently limited to providing expungement services only in the criminal field. Lawyers, in accordance with their law license and Rule 1.6, may offer all criminal services.

- Employment
- End of Life Planning
- Consumer Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations / Misdemeanors

3. Waivers

The Innovation Office will consider any additional rule waivers requested by the applicant entity. The Office may seek input from an ethics advisor to ensure adequate consideration of waiver implications. Any waiver will be carefully construed to permit Utah lawyers' participation in the proposed business or service model. Utah lawyers remain subject to all rules not explicitly waived.

4. Consumer Disclosure Requirements

Required for All Authorized Entities

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. Failure to display the badge will be considered evidence of noncompliance and consumer harm.

This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.

Required as Applicable[7]

The following disclosures are required depending on the category of service model authorized. These disclosures must be communicated to each consumer in, for example, the terms of service or engagement letter. Failure to provide these disclosures will be considered noncompliance and considered evidence of consumer harm.

- This is not a law firm. / This law firm is owned by nonlawyers. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
    - If you have questions, please contact us at _____.
- This service is not a lawyer. The product / service you have selected is not a lawyer. This means:
    - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
    - We could be required to disclose your communications (such as questions and information submissions) to third parties.
      If you have questions, please contact us at _____.

5. Annual Entity Reporting

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake

[7] The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

6. Data reporting requirements

The Innovation Office will assign a risk categorization for each authorized entity according to the framework described above. For each approved service area, the entity will submit case level data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions (see Appendix B).

Low Risk

1. Nonlawyer investment / ownership: Less than 50%
2. Software Provider with Lawyer Involvement - Legal document completion - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info (requested)	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

Low to Moderate Risk

1. Nonlawyer investment / ownership: More than 50%
2. Intermediary Platform

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info (requested)	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

Moderate Risk

1. Fee sharing with nonlawyers[8]

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info (requested)	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result. Consumer fails to exercise legal rights through ignorance or bad advice. Consumer purchases an unnecessary or inappropriate legal service.	All services under the fee sharing model	Nonfinancial (legal) outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

[8] This category addresses fee-sharing proposals other than intermediary platforms.

2. Nonlawyer provider with lawyer involvement
3. Software provider with lawyer involvement

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result. Consumer fails to exercise legal rights through ignorance or bad advice. Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer services. Office may require additional reporting on review of n interactions selected at random.
		Nonlawyer	Nonfinancial (legal) outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g.,was divorce achieved)	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

High Risk

1. Nonlawyer provider without lawyer involvement
2. Software provider without lawyer involvement

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result. Consumer fails to exercise legal rights through ignorance or bad advice. Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: first 20 consumer services to be reviewed by legal experts for accuracy and quality. Additional monthly reporting on *n* consumer services (to be determined by Office).
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g.,was divorce achieved)	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

7. Authorization Term

An entity's initial authorization term will usually be set at 24 months from date of service launch.

IV. Recommendation to the Court

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the Court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the recommendation and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

Should the Court deny authorization, the Court will issue an Order denying recommendation. The entity may reapply.

V. AUTHORIZATION

A. AUTHORIZATION AND LAUNCH PROCESS

Once the Court issues an Order authorizing an entity to offer legal services in the Sandbox, the Innovation Office will notify the entity and provide them the following materials:

1. Order of authorization
2. Innovation Office recommendation
3. Innovation Office Manual
4. Applicable data reporting template and protocol
5. External researcher contact consent form
6. Any additional necessary materials

The Office will also set up an authorization meeting with the entity. Entities are not permitted to offer services to the public until this meeting is completed.

As noted above, entities are usually authorized for a period of 24 months from the date of service launch. Entities have six months from the date of the Authorization Order to begin implementation of the services for which they have been authorized. This means that the specific launch date can be no more than 180 days from the date of the Authorization Order. At the launch date, entities should be implementing legal services using methods and a scope that were described in the authorized application. During the period between the issuance of the authorization order and the launch of the provision of service by the entity, the entity will be considered in a Pending Period. This means that the entity is not cleared to offer legal services to the public and is not required to begin reporting data to the Office. An entity's clearance to offer services and duty to begin reporting data will start at its launch date. Entities must submit a specific launch date to the Office before the 180 day Pending Period has completed.

An entity may make a Request for Extension of the Pending Period (see Appendix C) if it is unable to launch within 180 days from authorization. The request must include an explanation of the circumstances leading to the need for an extension and a proposed implementation plan, which includes but is not limited to a revised launch date. The Office retains complete discretion to grant or deny that request. If the entity's request for extension is denied, the entity's authorization will be terminated by the Office or the entity may withdraw from the Sandbox. The entity is welcome to reapply to the Sandbox at a later date.

At launch, the entity must implement approved services that reasonably meet the scope authorized by the Court Order and the entity must collect and report data as required by the Office. -Note that low risk entities report on a quarterly basis, and all other entities submit monthly reports.

If 180 days after the date of authorization an entity has not been able to implement approved services and has not received an extension of the pending period or an entity cannot sufficiently provide required risk data to the Office by their first reporting period, the entity's authorization will be terminated for failure to launch and/or failure to report.

B. Data Reporting and Monitoring

Entities authorized to offer services in the Sandbox are subject to regular data reporting requirements. Continued authorization to offer services in the Sandbox is contingent upon compliance with the applicable data reporting requirements as prescribed by the Office. As per Standing Order No. 15, any false or misleading statements made by entities or their members in interactions with the Office, including reporting of data, whether discovered at the time or at any time afterward, will be independent grounds for regulatory enforcement, including termination of authorization, and an aggravating factor in any enforcement proceeding based on other conduct.

This reporting includes the following fields (subject to updating):

- ❏ Sandbox Participant Code
- ❏ Customer Number
- ❏ Service Provider
- ❏ Consumer Service Category
- ❏ Legal Problem / Matter
- ❏ Start Date
- ❏ Scope of Service Sought
- ❏ Scope of Service Received
- ❏ End Date
- ❏ Legal Outcome(s)
- ❏ Financial Outcome(s)
- ❏ Amount Customer Paid
- ❏ Customer Complaint
- ❏ Customer Geographical Data

The data reported to the Office are classified as "protected records" under the Utah Government Records and Management Act ("GRAMA") Section 63G-2-305 (1) and (2). These data will not be released publicly although the Innovation Office will release reports including aggregated data as required by Standing Order No. 15.

Reports are due to the Office between the 5th and the 10th of the applicable month. Entities failing to report by the 10th of the month will be considered out of compliance (see Enforcement below).

The Innovation Office has developed detailed data reporting templates and protocols to facilitate entity reporting (see Appendix B). There is one template/protocol for LOW and LOW / MODERATE risk entities and one template/protocol for MODERATE and HIGH risk entities. Those templates include required codes for data entry across the above-listed fields. Entities must use the codes supplied by the Innovation Office to describe the legal services provided. Entities will report data at the level of legal services. Entities are not permitted to provide their own descriptions of the services provided. Failure to comply with the coding requirements is considered an indicator of increased risk of consumer harm and could result in suspension or termination of authorization.

These data will be reviewed and analyzed by the Office's data analyst who will submit a risk analysis report to the Executive Committee and Innovation Office. The goal of the risk analysis report is to identify areas of actualized risk of consumer harm associated with Sandbox provision of legal services

within and across authorized entities. The Office has developed a threshold-based framework for rating the actualized risk (evidence of consumer harm) of each entity based on the analysis of the relevant reported data. As research/evaluation evidence emerges within or beyond the Sandbox, thresholds could be adjusted across time to better protect consumers from harm. This framework is discussed in more detail in the following Enforcement section.

1. Audits

Moderate and high risk entities are required to submit to auditing by the Innovation Office as follows:

- Moderate (nonlawyer or software providers only)
    - First 20 completed services in each authorized service area
    - The Office may require additional service audits to better understand potential harms, if original audits findings indicate a possible harm.
- High
    - First 20 completed services in each authorized service area
    - The Office may require additional service audits to better understand potential harms, if original audits findings indicate a possible harm.

The purpose of the audits is to test for the legal quality and accuracy of services provided by nonlawyer humans or software. The audit data will be incorporated into the overall actualized risk assessment conducted by the data analyst. The audit protocols and data are classified as "protected records" under the Utah Government Records and Management Act ("GRAMA") Section 63G-2-305 (1), (2), and (10).

The Office will create an Audit Panel of Utah lawyers who are trained in using the audit protocol developed by the Office. Lawyer members of the Audit Panel will be compensated for the audit services. Each service file will be reviewed by two independent members of the Audit Panel. Auditors will not be informed of the identity of the entity for which they are conducting the audit and are required to maintain confidentiality of the audit protocol and data.

C. Changing Authorization Scope

An entity authorized in the Sandbox may seek to change the scope of its authorization to offer services. This could include changes to service models or changes to consumer services areas. In either case, the entity may move forward without first seeking authorization from the Office. The entity may submit a Request for Change of Authorization Scope (see Appendix C) for the consideration of the Office. If the change of scope increases the risk categorization of the entity, the Request will be submitted to the Court for approval.

D. Extending Authorization Term

The Office may decide to extend the authorization term of an entity in the Sandbox beyond the initial term of authorization.[9] An extension will have the effect of continuing the entity's authorization within

[9] The initial term of authorization is usually 24 months from the date of service launch.

the Sandbox framework without effectuating either exit or termination. An entity may also seek an extension of the authorization term by submitting a Request to Extend Authorization Term (see Appendix C).

E. Withdrawal from the Sandbox

An entity may decide to withdraw from the Sandbox. Withdrawal may be necessary if an entity decides to stop offering the services for which it sought entry into the Sandbox. Withdrawal will terminate the entity's authorization to offer those services. An entity may request withdrawal by submitting a Request to Withdraw form (see Appendix C). The Innovation Office will submit a proposed order to the Court terminating the entity's authorization.

VI. ENFORCEMENT

The regulatory framework developed by the Innovation Office functions on evidence of consumer harm. Our approach is to be risk-based, proportionate and targeted in any enforcement action we take. Each report submitted by the authorized entities is analyzed to assess whether and to what extent the following three consumer harms are occurring through the services provided by each entity:

- Consumer receives an inaccurate or inappropriate legal result,
- Consumer fails to exercise legal rights through ignorance or bad advice, and
- Consumer purchases an unnecessary or inappropriate legal service.

The Office has developed a threshold-based framework for assessment and categorization of authorized entities based on the evidence of these three harms in the data reported to the Office. Evidence of consumer harm may be found in the actual data reported (inappropriate outcomes, for example).

The Office will also consider failure to comply with the required data reporting requirements as evidence of consumer harm. Where non-compliance represents a risk to the public or consumers or where the entity fails to cooperate effectively with the Office, the Office may take formal enforcement action (e.g., suspension or termination). Failure to comply includes failure to submit data reports in a timely manner, failure to report the data fields as required by the Office, or failure to correct data coding as required by the Office. The Office will also consider misrepresentations to the Office as evidence of consumer harm and grounds for enforcement action, including potentially suspension or termination of authorization.

The following is a general description of the consumer harm threshold framework:[10]

GREEN (Satisfactory) - Each entity is initially categorized as GREEN indicating little or no evidence of consumer harm.

YELLOW (Under Watch) - An entity will be moved into YELLOW on moderate evidence of consumer harm (including, as noted above, failure to comply with reporting requirements). The Office will engage with entities moved into YELLOW to discuss the evidence of consumer harm driving the assessment and determine a remediation plan. Entities in YELLOW do not have to stop offering services.

RED (Suspended) - An entity will be moved into the RED on substantial evidence of consumer harm or on failure to remediate previously discussed evidence. Entities in RED must suspend services in the consumer service area (s) affected or as otherwise required by the Office.

BLACK (Terminated) - An entity will be moved into BLACK for continued failure to remediate past evidence of consumer harm or for evidence of intentional bad acts (fraud, theft, etc.). When the Office determines that an entity must be moved into BLACK, the Office will present a recommendation to the

[10] The Office's more detailed framework, including actual quantified threshold levels, will not be released publicly.

Court that the entity's authorization be terminated immediately. The recommendation will include a detailed description of the evidence supporting it.

The Office will determine an entity's status after reviewing its submitted data reports. The Office will communicate the entity's status to the entity itself. The status will also be reported to the Court in the Office's monthly activity report.

VII. Exiting the Sandbox

Entities may apply to exit the Sandbox after a period of time showing no material consumer harm and strong compliance with all reporting and other regulatory requirements:

- For entities categorized as low or low-moderate risk, entities may apply to exit after they have remained in GREEN for 9 consecutive months and provided a minimum of 50 instances of legal service provision.
- For entities categorized as moderate risk, entities may apply to exit after they have remained in GREEN for 12 consecutive months and provided a minimum of 100 instances of legal service provision
- For entities categorized as high risk, entities may apply to exit after they have remained in GREEN for 24 consecutive months and provided a minimum of 250 instances of legal service provision.

To initiate the process for exiting the Sandbox, an entity must complete an Application to Exit the Sandbox (see Appendix C). The Innovation Office will review that application, the entity's history of reported data and compliance, and prepare a Recommendation on Application to Exit the Sandbox. If the Office is recommending exit, the Office will present that Recommendation, the entity's historical data, and compliance record to the Court.

If the Office denies the Application to Exit the Sandbox, the denial has the effect of keeping the entity in the Sandbox. The Office will issue a Denial of Application to Exit the Sandbox which will include the reasons for denial and a timeline for which the entity must remain in the Sandbox before it may resubmit its Application to Exit the Sandbox (i.e. 3 additional months in GREEN). Reasons for denial may include (list is not exclusive and may be expanded):

- Inadequate record on consumer harm
- Poor record of compliance with Innovation Office requirements

Entities denied exit may appeal the denial by submitting an Request for Reconsideration (Exit) form (see Appendix C). The entity has 30 days from the date of the denial to submit the Request for Reconsideration (Exit) form. Requests submitted past the 30 day window will not be considered.

If the Office denies the reconsideration, the entity may appeal to the Court. The entity has 30 days from the date of the denial of reconsideration to submit an Appeal of Denial (Sandbox Exit) (see Appendix C). On receipt of the Appeal of Denial (Sandbox Exit), the Innovation Office will present the entity's appeal, including all relevant data, to the Court at the next scheduled Court conference.

The Court retains complete discretion to approve or deny the entity's Application to Exit the Sandbox. Denial by the Court will return the entity to the Sandbox. The entity may reapply to exit at a later date.

Entities which have exited the Sandbox remain under the regulatory authority of the Innovation Office and will be titled Licensed Legal Service Entity. The entities' scope of authorization remains controlled by the Authorization Order. Entities will be required to submit quarterly reports on consumer complaints and updated annual disclosures on financial and controlling ownership. Entities may also be subject to licensing fees.

Appendix A: Application Materials

Sandbox Participant Application

The Sandbox is for innovative services models that cannot otherwise be offered under the present Rules of Professional Conduct or are considered the unauthorized practice of law. There are a few qualifications to this mandate:

1. The Sandbox is for all business and service models falling under Utah Rule of Professional Conduct 5.4 and Utah Supreme Court Standing Order No. 15. **PLEASE NOTE: As of December 10, 2020, the Court has halted consideration of "bare referral fee arrangements" within the Sandbox. "Bare referral fee arrangements" are defined as "those in which payment is made by the lawyer to the nonlawyer solely to compensate the nonlawyer for referring a potential client to the lawyer; there is no other business relationship between the lawyer and nonlawyer." Proposals other than bare referral fee arrangements will continue to be considered for authorization in the Sandbox.

2. Suspended or disbarred lawyers are barred from holding an ownership interest of greater than 10% in any Sandbox entity.

3. The Sandbox is not meant to be a mechanism by which out-of-state lawyers can practice in Utah without otherwise completing the requirements imposed by the Utah State Bar.

4. The Sandbox does not and cannot impact requirements imposed by other applicable Utah or federal laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory bodies. Authorization to practice law in Utah through the Sandbox does not release any entity or individual therein from conforming to all other applicable laws and regulations.

5. As made clear in Rule 5.4 and Standing Order No. 15, lawyers working with or in entities participating in the Sandbox are required to maintain their duties under the Rules of Professional Conduct.

Your application will be made publicly available. You will have the opportunity to make a claim of business confidentiality for specific information that would qualify for protection under GRAMA Section 63G-2-305. Making false or materially misleading statements in this application is a basis for loss of authorization to practice within the Sandbox. Other criminal and civil sanctions may also apply.

Should your answers to any of the application questions change, you are responsible for updating the information with the Innovation Office. Failure to promptly update information will be considered relevant to your regulatory status.
If you have any questions, please contact the Innovation Office at sandbox@utcourts.gov.

1. Applicant Info

1.1. Entity Name
1.2. Proposed Entity Website
1.3. Business Email
1.4. Business Phone Number
1.5. Business Address
1.6. Mailing Address
1.7. Sandbox Application Contact Name
1.8. Contact Title
1.9. Contact Phone Number
1.10. Additional Application Contact Name
1.11. Additional Contact Title
1.12. Additional Contact Phone Number
1.13. Additional Contact Email Address
1.14. Bar License No. (if applicable)

2. Proposed Services

2.1. Describe your proposed legal services offering in detail.

Please include (i) who provides the legal services, (ii) how consumers will access/receive these services, and (iii) what your service will do for your customers.

2.2. Describe the entity business model you want authorized in the Sandbox, including the management structure which will oversee direct legal service providers.

2.3. Why is your proposal eligible to enter the Sandbox?

Identify the specific model, service or product innovations that are not permitted under the traditional rules governing the practice of law.

2.4. Describe your target consumer(s).

For example: single parents making <$50,000 in a custody dispute, first generation college students in a landlord-tenant dispute; renters 40+ years planning for retirement; college educated entrepreneurs seeking legal advice in starting a business.

2.5. Which service models are you seeking to use? Select all that apply.

- ❑ Lawyers employed or managed by a nonlawyer
- ❑ Less than 50% nonlawyer ownership
- ❑ More than 50% nonlawyer ownership
- ❑ Lawyers sharing fees with non lawyers
- ❑ Legal Services Platform
- ❑ Nonlawyer provider[11] with lawyer involvement[12]
- ❑ Nonlawyer provider without lawyer involvement[13]
- ❑ Software provider with lawyer involvement
- ❑ Software provider without lawyer involvement
- ❑ Other

2.6. Which legal service categories are you seeking to offer?

- ❑ Accident/Injury
- ❑ Adult Care
- ❑ Business
- ❑ Criminal[14] - Expungement ONLY
- ❑ Discrimination
- ❑ Domestic Violence
- ❑ Education
- ❑ Employment
- ❑ End of Life Planning
- ❑ Financial Issues
- ❑ Immigration
- ❑ Healthcare
- ❑ Housing - Rental
- ❑ Marriage and Family
- ❑ Military
- ❑ Native American + Tribal Issues
- ❑ Public Benefits
- ❑ Real Estate
- ❑ Traffic - civil actions / citations

2.7. If your proposed model includes either nonlawyer or software providers of legal services, please provide detail on

2.7.1. what legal services those providers will be offering consumers (e.g. legal information, legal process assistance, basic legal advice, etc.)

2.7.2. (b) how you plan to ensure the competency and quality of those legal services (e.g. education, types and duration of training, testing, lawyer review of services, auditing, etc.).

[11] Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.
[12] Involvement denotes a range of activities, including guidance on initial development of forms, scripts, processes, software. It could mean a lawyer does sample reviews of product/service performance. It could mean a lawyer is available to advise the nonlawyer provider as needed - including via red flag trap doors in software.
[13] "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.
[14] **Please note** At this time nontraditional service providers (nonlawyers or software providers) will only be authorized to provide expungement-related services. Lawyer employees can provide general criminal legal services.

3. Risk Assessment

The Innovation Office must assess whether new legal service models cause consumers to get inappropriate or otherwise flawed legal results, fail to exercise legal rights through ignorance or bad advice, or purchase an unnecessary or inappropriate legal service.

3.1. Fully and candidly discuss the risks your customers might face if they use your proposed model, including each of the risks described above.

3.2. Describe the specific ways you will identify, track, and mitigate the risks to consumers in your proposed model.
These efforts could include quality control measures, training, provider testing.

3.3. Please describe your consumer complaint process.

4. Benefits to Utah Consumers

The Innovation Office is assessing potential benefits of proposed offerings to the Utah legal market.

4.1. Describe how your model will provide higher quality, more cost effective, and more accessible legal services for your target consumers.

4.2. Does your proposal comply with applicable Utah legal requirements?
For example: staffed by UT licensed attorneys, built to complete state legal forms.

4.3. Identify which of your service models are ready to immediately implement.
The Office of Innovation is only authorized to consider proposals which are ready to begin offering legal services not currently authorized in Utah at the time of authorization.

5. Confirmation of Eligibility

5.1. List all persons and entities who wholly or partially direct the management or policies of your proposed entity and/or the direct provision of legal services to consumers, whether through ownership of securities, by contract, or otherwise ("controlling persons").

5.2. List all persons and entities who will wholly or partially (greater than 10%) finance the business of your proposed entity ("financing persons").

5.3. Please note that no financing person may be a disbarred or suspended lawyer. List all controlling persons who are disbarred or suspended lawyers.

5.4. List all controlling persons or financing persons of your proposed entity who have a felony criminal history.

5.5. List all persons who will be in a managerial role over the direct provision of legal services to consumers who are disbarred lawyers.

5.6. List all persons who will be in a managerial role over the direct provision of legal services to consumers who have a felony criminal history.

5.7. Please select the most accurate description: My proposed entity has a material corporate relationship and/or business partnership with:

- ❏ A disbarred or suspended lawyer
- ❏ An individual with a felony criminal history
- ❏ Neither a disbarred / suspended lawyer nor an individual with a felony criminal history

5.8. Disclose any history of state or federal criminal (misdemeanor or felony) conviction, state or federal consent decree, or state or federal enforcement action resulting in sanctions (disgorgement, civil penalties, and/or injunction) for the entity and, if applicable, its parent and other affiliated companies.

5.9. Disclose whether the entity, parent, and other affiliated companies are, to their knowledge, currently subject to a state or federal criminal investigation or state or federal enforcement action.

I confirm that no financing persons listed in this application are disbarred or suspended lawyers.

Signature: _____

Printed Name: _____

Title: _____ Date:_____

Selling of Consumer Data Disclosure

Please indicate whether your business model includes the sharing or selling of consumer data in any form to third parties.

- ❑ Yes
- ❑ No

Public Application

Your application could be made publicly available. You will have the opportunity to make a claim of business confidentiality for specific information that would qualify for protection under GRAMA Section 63G-2-305. Making false or materially misleading statements in this application is a basis for loss of authorization to practice within the Sandbox. Other criminal and civil sanctions may also apply.

- ❑ I understand.

Signature: _____

Printed Name: _____

Title: _____ Date:_____

Sandbox Participant GRAMA Claim of Business Confidentiality

Pursuant to Utah Code Section 63G-2-305(1) and (2), and in accordance with Section 63G-2-309, _____ (company name) asserts a claim of business confidentiality to protect the following information submitted as part of an Application for authorization to offer legal services in the Sandbox.

- ❏ non-public financial statements
- ❏ specific employee name and contact information
- ❏ specific customer information, client lists, or subscription lists
- ❏ other (specify):

This claim is asserted because this information requires protection as it includes:

- ❏ trade secrets as defined in Utah Code Section 13-24-2 ("Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.)

- ❏ commercial information or non-individual financial information obtained from a person if:
  (a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future; [and]
  (b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access.

Following is a concise statement of reasons supporting the claim of business confidentiality:

Signed: _____

On behalf of (company): _____

Date: _____

Appendix B:
Data Reporting Protocol and Templates

Risk Reporting Protocol: Low and Low/Moderate Risk

(as of January 30, 2021)

Data Reporting Template: Low and Low/Moderate Risk HERE

Overview and Reporting Timeline

Timing:

- Low risk Utah Sandbox approved entities will report on a quarterly basis. Low/moderate risk Utah Sandbox approved entities will report on a monthly basis.
- Data reports must be submitted by the 5th of each applicable reporting month as an Excel file (.xlsx or .xls) via email.

Reporting Method:

- Data elements are described in the Office of Innovation's "Data Submission Template" Excel Workbook. An example of data reporting (3 clients and 5 services) can be found in the "Data Report Template" worksheet in the Data Submission Template Excel Workbook.
    - This template is emailed to each Sandbox entity on or around the time of approval. It is also available upon email request from the Office of Legal Services Innovation.
- Each Sandbox entity data report submission will cover active and completed services.

- Data elements are found in the columns of the Data Submission Template Excel Workbook.
    - Data elements are what entities must put in the Excel cells for each distinct service addressing a distinct legal matter. The Innovation Office has set these data elements, and they are listed in the Data Submission Template. Entities must select the appropriate value to reflect the consumer interaction from the prescribed values in the Data Submission Template.
    - Unless permitted (i.e., Column G describing complaints, which are open-ended response values), entities cannot create their own values when reporting data.

- Reporting is based on services used to address a legal problem and a client can seek/receive multiple legal services to address legal problems/matters across time.
    - Rows represent a distinct legal service to address a distinct legal problem/matter of a client, and columns represent required data elements per row.
    - Each row of the Data Report represents a distinct legal service to address a distinct legal problem/matter. This should be reflected in the entity reports – a new service is a new line for that customer ID.

- Some services to address legal problems/matters will open and "complete" (close, loss to follow-up, or abandon) within the same reporting time period (i.e. during one month). However, some services will close in a subsequent time period (i.e. a service is started in September but not completed until December). To capture service progression across time, data submissions will include newly opened and previously opened services as described below.

Reported Data Elements for Each Distinct Legal Service

Columns A-H are reported every reporting period for all open, closed, abandoned, and lost to follow-up services. Note that most of the information will remain static after first reporting (columns A-F and columns I-P).

Column G is reported on an ongoing basis from service start date through end date as well as after the service completes (to capture lagged complaints). Column H is reported between service start date and end date.

Columns I-P are only reported after a service completed (closed, lost to follow-up, or abandoned--after the service end date).

Table 1. Data collection timing for low and low/moderate risk entities.

	Collected at Service Start Date (orange columns)	Collected on an Ongoing Basis (and update as applicable) (blue columns)	Collected at the Service End Date (pink columns)
Column of Data	Columns A-F	Columns G-H	Columns I-M

Data Elements Established at Service Start Date

- Columns A through F will be established and recorded at the time of service start date, after reasonable legal intake or triage. Entities must report Columns A through E for all services initiated during the relevant reporting month.
- Column A will be the "Provider Number." The four-digit provider number is assigned by the Office of Legal Services Innovation at or around the time of Sandbox entity approval.
- Column B is the "Customer ID." The Customer ID is a de-identified "client ID" that is uniquely associated with a specific client and does not change across time. It must be deidentified when reporting to the Office of Legal Services Innovation but also meaningful to the legal services provider. The legal provider should be able to re-link the deidentified Customer ID with client identifiable data to enable reporting on the provision of services to address legal problems/matters across time for the same client.

- Column C is the "Service ID." The service ID is a de-identified alphanumeric field that is uniquely associated with a distinct service provided to resolve a distinct legal matter of a client. This ID remains attached to a service and does not change across time. The service ID is unique to a distinct service instance. No rows should have a duplicate Service ID. The legal provider/entity should create this de-identified value for each service. The deidentified service ID should be able to be reconnected to the identifiable data for monitoring and reporting across time. The unique value distinguishes instances of service and therefore each row. For example, a client could seek a service of legal advice regarding a will. However, later, a client could seek a distinct legal service of document preparation for the will. These would be two distinct services addressing a legal problem and therefore should be two distinct rows of data. Additionally, since a row represents a service, if a complaint is communicated regarding document preparation that complaint would be linked to the service of document preparation row but not the legal advice service row.
- Column D is the "Legal Category." Legal category is defined under the "Office Defined Values" worksheet of the Data Submission Template Excel Workbook. The linkages of the legal category and subordinate legal problems/matters are also found in the "Legal Problem Category Outcome" worksheet. For each service, a valid legal category will be selected.
    - A pull-down menu of valid Legal Categories is found in Column D in the Data Report Template Excel Worksheet. The service category should also match a Sandbox category of legal practice approved for the entity through the Office of Legal Services Innovation.
    - There are currently 21 valid legal service category codes. 19 of the 21 service categories are permissible within the Sandbox as performed by a lawyer/lawyer employee, nonlawyer provider, or software provider of legal services.[15] Legal services provided for the remaining two legal service categories[16] can only be performed by a lawyer /lawyer employee, when Sandbox entity designation is based on nonlawyer entity ownership or fee sharing arrangements.
    - Note in the data template that column D should be selected before column E to limit legal problem/matter options.
- Column E is the Legal Problem/Matter. Legal problems/matters are those listed under the "Legal Problem Category Outcome" worksheet found in the "Data Submission Template" Excel Workbook. The Legal Problem/Matter valid codes are prescribed by the Office of Legal Services Innovation and may be altered in the future by the office if an unanticipated matter/problem type increases in prevalence thereby justifying a specific code being developed or the permissible types of legal problems/matters allowable within the Sandbox expand. Each row in the data report must include an approved associated legal problem/matter code. The legal problem/matter must link to an applicable service category.
    - A pull-down menu of valid Legal Problems/Matters is found in Column E in the Data Report Template Excel Worksheet.
    - Columns D and E should be reported after the service start date (i.e., after legal triage/intake identified a client service).

[15] viz., Accident/Injury; Adult Care; Business; Criminal - Expungement Only; Discrimination; Domestic Violence; Education; Employment; End of Life Planning; Financial Issues; Healthcare; Housing [Rental]; Immigration; Marriage and Family; Military; Native American and Tribal Issues; Public Benefits; Real Estate; Traffic Citation

[16] (Criminal – All Other [in this case all criminal beyond expungements] and Other [all other categories not covered in the other 20 categories])

- Column F is the legal service Start Date. The start date should be the day (in the format of month/day/year) that legal triage/intake identified a distinct client service to address a legal problem/matter.
    - Note that some legal services or legal problems/matters may emerge after the originating service(s)/problem(s). The start date of a legal service should be the point in time of discovering a distinct service to address a distinct legal problem/matter), even if there is a pre-existing service/problem. For example, if legal advice to address a special education (IEP) problem begins on September 1, 2021 as an originating service for a new client, and, later, on November 18, 2021 an additional service (limited assistance-legal communication) related to a 504-accommodation problem emerges for this client, these would be two separate rows in the data report with different service start dates for the same client.

Data Elements Established on an Ongoing Basis

- Column G is Complaints Between Start Date and Present and covers complaints beginning with the start of the legal service through present (including pertinent complaints after service completion).
    - Complaints linked to a service to resolve a legal matter should be logged on an ongoing basis. Column G should include all accumulated complaints linked to a service across time. This column is intended to log complaints from service start date to present. Complaints related to a service can be made and must be logged if the complaint occurs during an open service (active) or after completion (closed, lost to follow-up, or abandoned).
    - If no complaints have been made related to the service to resolve a legal matter, then note complaints as "none" for the complaints (column G) column.
    - If a complaint has been made by a client related to a service, the complaint should be described in a manner that covers the substance of the complaint while not identifying a client with the content of the complaint. Note that a client could have a general complaint that applies to all or some of the client's services to address legal matters. Attach general complaints to all pertinent legal services provided to a complainant. A client could also have a specific complaint that only applies to a single service or matter, even if multiple services or matters were addressed. In the case of specific complaints, only attach those complaints to the pertinent service of a client.
- Column H is the Service Status. The Office defined service status options are Open, Closed, Abandoned, and Lost to Follow-up. Open services are those within a reporting period that are ongoing (active).
    - Closed, abandoned, and lost to follow-up service status are options related to "completed" (no longer active) services.
        - Abandoned is a status in which the client service is no longer ongoing due to the legal provider intentionally relinquishing interest in a service due to issues such as conflicts, inadequate resources to provide a reasonable level of service, or generally giving up on the pursuit of the service due to legal provider prioritization.

- A service lost to follow-up is no longer ongoing due to the client's lack of engagement in a service regardless of reasonable outreach efforts by the legal provider.
- A closed service is one that is no longer ongoing for a reason other than abandonment or lost to follow-up, such as completion of legal advice, referral, document/form, court filing, settlement/negotiation, or service (brief or extensive).

Data Elements Established at Service End Date

- Column I is the End Date, which is the day (in the format of day/month/year) that the service was designated as completed (abandoned, lost to follow-up, or closed).

- Columns J through K cover the Method of Service Delivery. Columns J through K are designed to capture if a particular method of service delivery was utilized to deliver the service to address a legal matter. There are six types of methods of service delivery within the Utah Sandbox.[17]
    - Note that a client could experience multiple methods of service delivery for one legal service addressing a legal problem/matter. When a method was used to deliver a service, select Yes to each applicable method of service delivery column and No for not applicable type(s) of legal service. If only one type of method of service delivery was used to resolve a legal problem/matter, add Yes to only the applicable column (Column J through K) and No to the remaining five columns.

- Column L describes the Amount Paid by a client for a distinct service. If a client paid for services to address a bundle of legal problems/matters, please reasonably spread that payment proportionally across applicable matters in a manner that, when summed, it would total to the amount paid by a client for services across all legal matters. Report the amount paid by a client from start to end of service (closed, abandoned, or lost to follow-up). If a client only has one service to address one legal problem/matter, then all of the amounts paid should be linked to the singular service. Column L should be the best estimate for the amount paid for the service to address a legal problem/matter. If a case is still open, then leave blank until the service completes (closes, abandons, or is lost to follow-up).

- Column M is the Geographic Location of the client that best represents the client's location while experiencing legal services. Geographic location should be noted as the representative city and state (in the format of city, state abbreviation) of the client. If a client has multiple distinct legal services across time, note the city, state most reasonably representative of the pertinent service.

In the data report, each row represents a distinct service to resolve a legal matter/problem and should include pertinent information for Columns A-M. Content of the report must follow the Risk Reporting Protocol and the supporting Data Submission Template Excel Workbook. Clients with multiple services

[17] J) Lawyer/Lawyer Employee; K) Software Provider with Lawyer Involvement (legal document/ form completion only)

or legal problems/matters should have multiple rows documenting the unique progression of each distinct service. Note the service should be distinct in service offering, legal problem/matter addressed by a service, and/or distinct in time (meaning that a client with a previously completed service type could re-engage with the same service in the future for a different level of service, further assistance under the previous scope of service, or a different legal problem/matter).

Risk Reporting Protocol: Moderate and High Risk

(as of January 30, 2021)

Data Reporting Template: Moderate and High Risk HERE

Overview and Reporting Timeline

Timing:

- Moderate and high risk Utah Sandbox approved entities will report on a monthly basis.
- Data reports must be submitted by the 5th of each applicable reporting month as an Excel file (.xlsx or .xls) via email.

Reporting Method:

- Data elements are described in the Office of Innovation's "Data Submission Template" Excel Workbook. An example of data reporting (3 clients and 5 services) can be found in the "Data Report Template" worksheet in the Data Submission Template Excel Workbook.
    - This template is emailed to each Sandbox entity on or around the time of approval. It is also available upon email request from the Office of Legal Services Innovation.
- Each Sandbox entity data report submission will cover active and completed services.

- Data elements are found in the columns of the Data Submission Template Excel Workbook.
    - Data elements are what entities must put in the Excel cells for each distinct service addressing a distinct legal matter. The Innovation Office has set these data elements, and they are listed in the Data Submission Template. Entities must select the appropriate value to reflect the consumer interaction from the prescribed values in the Data Submission Template.
    - Unless permitted (i.e., Column H describing complaints, which are open-ended response values), entities cannot create their own values when reporting data.

- Reporting is based on services used to address a legal problem and a client can seek/receive multiple legal services to address legal problems/matters across time.
    - Rows represent a distinct legal service to address a distinct legal problem/matter of a client, and columns represent required data elements per row.
    - Each row of the Data Report represents a distinct legal service to address a distinct legal problem/matter. This should be reflected in the entity reports – a new service is a new line for that customer ID.
    - Some services to address legal problems/matters will open and "complete" (close, loss to follow-up, or abandon) within the same reporting time period (i.e. during one month). However, some services will close in a subsequent time period (i.e. a service is started in September but not completed until December). To capture service progression across time, data submissions will include newly opened and previously opened services as described below.

Reported Data Elements for Each Distinct Legal Service

Columns A-I are reported every reporting period for all open, closed, abandoned, and lost to follow-up services. Note that most of the information will remain static after first reporting (columns A-G and columns J-U).

Column H is reported on an ongoing basis from service start date through end date as well as after the service completes (to capture lagged complaints). Column I is reported between service start date and end date.

Columns J-U are only reported after a service completed (closed, lost to follow-up, or abandoned--after the service end date).

Table 1. Data collection timing for moderate and high risk entities.

	Collected at Service Start Date (orange columns)	Collected on an Ongoing Basis (and update as applicable) (blue columns)	Collected at the Service End Date (pink columns)
Column of Data	Columns A-G	Columns H-I	Columns J-U

Data Elements Established at Service Start Date

- Columns A through G will be established and recorded at the time of service start date, after reasonable legal intake or triage. Entities must report Columns A through G for all services initiated during the relevant reporting month.
- Column A will be the "Provider Number." The four-digit provider number is assigned by the Office of Legal Services Innovation at or around the time of Sandbox entity approval.
- Column B is the "Customer ID." The Customer ID is a de-identified "client ID" that is uniquely associated with a specific client and does not change across time. It must be deidentified when reporting to the Office of Legal Services Innovation but also meaningful to the legal services provider. The legal provider should be able to re-link the deidentified Customer ID with client identifiable data to enable reporting on the provision of services to address legal problems/matters across time for the same client.
- Column C is the "Service ID." The service ID is a de-identified alphanumeric field that is uniquely associated with a distinct service provided to resolve a distinct legal matter of a client. This ID remains attached to a service and does not change across time. The service ID is unique to a distinct service instance. No rows should have a duplicate Service ID. The legal provider/entity should create this de-identified value for each service. The deidentified service ID should be able to be reconnected to the identifiable data for monitoring and reporting across time. The unique value distinguishes instances of service and therefore each row. For example, a client could seek a service of legal advice regarding a will. However, later, a client could seek a distinct legal service of document preparation for the will. These would be two

distinct services addressing a legal problem and therefore should be two distinct rows of data. Additionally, since a row represents a service, if a complaint is communicated regarding document preparation that complaint would be linked to the service of document preparation row but not the legal advice service row. Corresponding service fees or charges would also be linked to the specific applicable service row. For instance, if advice is a client charge of $10 and document preparation is $120, then related service charges paid should be reported in service ID related rows (i.e., legal advice=$10; document preparation=$130). If another client is only charged one time for document preparation at $130, then the legal advice row would be $0 and document preparation would be $130 for the corresponding service ID row for that client. Similarly, outcomes would be linked to the most appropriate service ID row. In the will example, the outcome of legal advice could be "significant outcome not on this list," whereas document preparation would be the outcome of "end of life documented drafted."

- Column D is the Scope of Service Sought by a client to resolve a legal problem/matter. The identification of scope of service sought should occur after reasonable legal triage/intake of the legal matter and the start of a legal service. Column D (scope of service sought) should be captured and reported at the time of the start of a service.
    - There are 14 valid values of services sought.[18] There is a pull- down menu in the Data Report Template worksheet's cells under column D to identify valid value.
- Column E is the "Legal Category." Legal category is defined under the "Office Defined Values" worksheet of the Data Submission Template Excel Workbook. The linkages of the legal category and subordinate legal problems/matters are also found in the "Legal Problem Category Outcome" worksheet. For each service, a valid legal category will be selected.
    - A pull-down menu of valid Legal Categories is found in Column E in the Data Report Template Excel Worksheet. The service category should also match a Sandbox category of legal practice approved for the entity through the Office of Legal Services Innovation.
    - There are currently 21 valid legal service category codes. 19 of the 21 service categories are permissible within the Sandbox as performed by a lawyer/lawyer employee, nonlawyer provider, or software provider of legal services.[19] Legal services provided for the remaining two legal service categories[20] can only be performed by a lawyer /lawyer employee, when Sandbox entity designation is based on nonlawyer entity ownership or fee sharing arrangements.
    - Note in the data template that column E should be selected before column F to limit legal problem/matter options.
- Column F is the Legal Problem/Matter. Legal problems/matters are those listed under the "Legal Problem Category Outcome" worksheet found in the "Data Submission Template" Excel Workbook. The Legal Problem/Matter valid codes are prescribed by the Office of Legal

[18] Question answered – not legal advice nor legal assistance (legal information); Limited assistance - legal advice; Limited assistance – document/form completion; Limited assistance – legal communication; Limited assistance - filing court documents; Limited assistance – Client preparation; Limited assistance—Supported negotiation or transaction; Extensive assistance—Negotiated transaction; Extensive assistance – Negotiation of a settlement without litigation; Extensive assistance – Negotiating of a settlement with litigation; Extensive assistance – representation in an administrative or court decision; Extensive assistance – Other than settlement negotiation, litigation, or court/administrative decision; Full representation; Referral.

[19] viz., Accident/Injury; Adult Care; Business; Criminal - Expungement Only; Discrimination; Domestic Violence; Education; Employment; End of Life Planning; Financial Issues; Healthcare; Housing [Rental]; Immigration; Marriage and Family; Military; Native American and Tribal Issues; Public Benefits; Real Estate; Traffic Citation

[20] (Criminal – All Other [in this case all criminal beyond expungements] and Other [all other categories not covered in the other 20 categories])

Services Innovation and may be altered in the future by the office if an unanticipated matter/problem type increases in prevalence thereby justifying a specific code being developed or the permissible types of legal problems/matters allowable within the Sandbox expand. Each row in the data report must include an approved associated legal problem/matter code. The legal problem/matter must link to an applicable service category.
    - A pull-down menu of valid Legal Problems/Matters is found in Column F in the Data Report Template Excel Worksheet.
    - Columns E and F should be reported after the service start date (i.e., after legal triage/intake identified a client service). Note that selection of a legal problem/matter in column F will limit legal outcomes (column T) to those pertinent to the legal category.
- Column G is the legal service Start Date. The start date should be the day (in the format of month/day/year) that legal triage/intake identified a distinct client service to address a legal problem/matter.
    - Note that some legal services or legal problems/matters may emerge after the originating service(s)/problem(s). The start date of a legal service should be the point in time of discovering a distinct service to address a distinct legal problem/matter), even if there is a pre-existing service/problem. For example, if legal advice to address a special education (IEP) problem begins on September 1, 2021 as an originating service for a new client, and, later, on November 18, 2021 an additional service (limited assistance-legal communication) related to a 504-accommodation problem emerges for this client, these would be two separate rows in the data report with different service start dates for the same client.

Data Elements Established on an Ongoing Basis

- Column H is Complaints Between Start Date and Present and covers complaints beginning with the start of the legal service through present (including pertinent complaints after service completion).
    - Complaints linked to a service to resolve a legal matter should be logged on an ongoing basis. Column H should include all accumulated complaints linked to a service across time. This column is intended to log complaints from service start date to present. Complaints related to a service can be made and must be logged if the complaint occurs during an open service (active) or after completion (closed, lost to follow-up, or abandoned).
    - If no complaints have been made related to the service to resolve a legal matter, then note complaints as "none" for the complaints (column H) column.
    - If a complaint has been made by a client related to a service, the complaint should be described in a manner that covers the substance of the complaint while not identifying a client with the content of the complaint. Note that a client could have a general complaint that applies to all or some of the client's services to address legal matters. Attach general complaints to all pertinent legal services provided to a complainant. A client could also have a specific complaint that only applies to a single service or matter, even if multiple services or matters were addressed. In the case of specific complaints, only attach those complaints to the pertinent service of a client.

- Column I is the Service Status. The Office defined service status options are Open, Closed, Abandoned, and Lost to Follow-up. Open services are those within a reporting period that are ongoing (active).
    - Closed, abandoned, and lost to follow-up service status are options related to "completed" (no longer active) services.
        - Abandoned is a status in which the client service is no longer ongoing due to the legal provider intentionally relinquishing interest in a service due to issues such as conflicts, inadequate resources to provide a reasonable level of service, or generally giving up on the pursuit of the service due to legal provider prioritization.
        - A service lost to follow-up is no longer ongoing due to the client's lack of engagement in a service regardless of reasonable outreach efforts by the legal provider.
        - A closed service is one that is no longer ongoing for a reason other than abandonment or lost to follow-up, such as completion of legal advice, referral, document/form, court filing, settlement/negotiation, or service (brief or extensive).

Data Elements Established at Service End Date

- Column J is the End Date, which is the day (in the format of day/month/year) that the service was designated as completed (abandoned, lost to follow-up, or closed).
- Column K covers Scope of Service Received. The scope of service received selected should be the one used to complete the scope of service to address a legal problem/matter. Scope of service received is recorded at the end date of legal service (the date of service closure, abandonment, or lost to follow-up). If the service is still open (not completed), leave services received blank until the service completes (closes, abandons, or loss to follow-up).
    - There is a pull-down menu in the Data Report Template worksheet's cells under column K to identify valid value. The valid values for services received are similar to those used to respond to column D, services sought.
        - Services received further breaks out referral as: Referral – self-help; Referral - legal aid/pro bono; and Referral – lawyer.
        - Services received also adds: No service received due to abandonment or lost to follow-up.
        - Note that the "no service" code should only be used when no service was provided to a client for a legal problem between the start and end date. Please select the most applicable scope of service provided.
- Columns L through Q cover the Method of Service Delivery. Columns L through Q are designed to capture if a particular method of service delivery was utilized to deliver the service to address a legal matter. There are six types of methods of service delivery within the Utah Sandbox.[21]

[21] L) Lawyer/Lawyer Employee; M) Software Provider with Lawyer Involvement (legal document/ form completion only); N) Software Provider with Lawyer Involvement; O) Nonlawyer Provider with Lawyer Involvement; P) Software Provider without Lawyer Involvement; and Q) Nonlawyer Provider without Lawyer Involvement

    - Note that a client could experience multiple methods of service delivery for one legal service addressing a legal problem/matter. When a method was used to deliver a service, select Yes to each applicable method of service delivery column and No for not applicable type(s) of legal service. If only one type of method of service delivery was used to resolve a legal problem/matter, add Yes to only the applicable column (Column L through Q) and No to the remaining five columns.
- Column R describes the Amount Paid by a client for a distinct service. If a client paid for services to address a bundle of legal problems/matters, please reasonably spread that payment proportionally across applicable matters in a manner that, when summed, it would total to the amount paid by a client for services across all legal matters. Report the amount paid by a client from start to end of service (closed, abandoned, or lost to follow-up). If a client only has one service to address one legal problem/matter, then all of the amounts paid should be linked to the singular service. Column S should be the best estimate for the amount paid for the service to address a legal problem/matter. If a case is still open, then leave blank until the service completes (closes, abandons, or is lost to follow-up).
- Column S describes the Legal Outcome of a service. Valid legal outcomes are located in the "Legal Problem Category Outcome" worksheet in the Data Submission Template Excel Workbook. The valid Legal Outcome codes are prescribed by the Office of Legal Services Innovation but may be altered in the future by the Office if an accurate, useful, and meaningful legal outcome emerges and is justified.
    - Legal outcomes vary by legal service category. Note that the data template also limits to valid value of legal outcomes after selecting Column F (legal problem/matter).
    - When a service closes, use an applicable outcome code from column S of the Data Report Template (also found under column C of the Legal Problem Category Outcomes worksheet in the Data Submission Template Excel Workbook).
        - If a service completes/closes but an outcome is still ongoing/pending, use the code "outcome pending." Outcome pending assumes that a service has closed/completed, and an outcome is potentially knowable but is not known at the end date.
            - If the outcome becomes known at some time after the end date, replace 'outcome pending' with an applicable outcome and notify the Office of Legal Services Innovation of the change to the outcome that replaces outcome pending.
        - If a service closes and the outcome is not known and is reasonably unknowable, then select "outcome unknown". If a service ends in abandonment or loss to follow-up, then select "outcome unknown".
- Column T reports any applicable Financial Outcome on a monetary scale. The financial outcome should be the direct sum of monetary losses or gains by a client linked to the provision of legal services.
    - If a financial outcome was a result of a bundle of legal service or matters for a client, attach the monetary value to the most applicable service only one time. Do not count the same financial outcome multiple times across related services. For example, if a client received legal services for three legal problems (protective order, divorce, and support) and a client was awarded $1,000 per month in child support, the $1,000 per month gain would be linked to "support" even if the legal outcomes of support, divorce, and protective order resulted in outcomes sought by the client.

    - If a service is still open, then leave this cell blank until the service completes.
    - If a service is abandoned or lost to follow-up, then add "outcome unknown".
    - If a service closes but the financial outcome is currently unknown but is potentially knowable in the future, then add "outcome pending". If a financial outcome becomes known, the amount should be reported to the Office of Legal Services Innovation.
    - If a service closes but the legal matter type is not applicable to a financial outcome, then add "not applicable" (see Column F of the Office Defined Values Worksheet).
- Column U is the Geographic Location of the client that best represents the client's location while experiencing legal services. Geographic location should be noted as the representative city and state (in the format of city, state abbreviation) of the client. If a client has multiple distinct legal services across time, note the city, state most reasonably representative of the pertinent service.

In the data report, each row represents a distinct service to resolve a legal matter/problem and should include pertinent information for Columns A-U. Content of the report must follow the Risk Reporting Protocol and the supporting Data Submission Template Excel Workbook. Clients with multiple services or legal problems/matters should have multiple rows documenting the unique progression of each distinct service. Note the service should be distinct in service offering, legal problem/matter addressed by a service, and/or distinct in time (meaning that a client with a previously completed service type could re-engage with the same service in the future for a different level of service, further assistance under the previous scope of service, or a different legal problem/matter).

Appendix C: Participant Request Forms

Contents

Request for Reconsideration

Appeal of Denial

Request for Extension of the Pending Period

Request for Extension of Sandbox Authorization Period

Request to Change Authorization Scope

Application to Exit the Sandbox

Request for Reconsideration (Sandbox Exit)

Appeal of Denial (Sandbox Exit)

Request to Withdraw

Request for Reconsideration

I. Provider Information

Entity Name	
Date of Application to Exit the Sandbox[22]:	
Date of Denial of Application to Exit the Sandbox by Innovation Office	
Stated Reason for Denial	❑ Inadequate record on consumer harm ❑ Poor record of compliance with Innovation Office requirements ❑ Other:

II. Reason for Request for Reconsideration

Describe your reason for requesting the Innovation Office to reconsider its denial of your Application to Exit the Sandbox. Please directly address the reasons given by the Office for Denial.

[22] Please note: As per the Innovation Office Manual, an entity has 30 days from the date of a Denial of Application to Exit the Sandbox issued by the Innovation Office to submit a Request for Reconsideration (Sandbox Exit) by the Office. Requests submitted past this 30 day window will not be considered.

Appeal of Denial

I. Provider Information

Entity Name	
Date of Initial Application	
Date of Initial Denial	
Date of Request for Reconsideration	
Date of Denial of Reconsideration[23]	
Reason(s) for Denial of Reconsideration	❑ Insufficiently clear proposal of business or service model ❑ Inability to report data as required by the Office ❑ Proposal not ready to implement ❑ Proposed model or service is already permitted under the traditional rules (Sandbox authorization is not needed) ❑ Disbarred lawyer owning more than 10% of entity ❑ Entity is merely a vehicle for an out of state lawyer to practice within Utah ❑ Request for Reconsideration submitted after 30 day window for submission ❑ Other:

[23] Please note: As per the Innovation Office Manual, an entity has 30 days from the date of a Denial of Reconsideration by the Innovation Office to submit an Appeal of Denial. Appeals submitted outside this 30 day window will not be considered.

II. Reason for Appeal

Describe your reason for appealing the Innovation Office's Denial of Reconsideration. Please directly address the reasons given by the Office for Denial.

Request for Extension of Authorization Term

Provider Information

Entity Name	
Request Date[24]	
Date of Authorization Order	
Launch Date	
Original Authorization Termination Date	
Length of Extension Request	

I. Reason for Request for Extension Authorization Period

1. Please explain why you need the Office to extend the Authorization Period for your entity.

[24] Please note: As per the Innovation Office Manual, entities are usually authorized for an initial term of 24 months in the Sandbox.

Request for Extension of Pending Period

I. Provider Information

Entity Name	
Date of Authorization Order	
Original Date of Termination of Pending Period (180 days from Date of Authorization Order)	
Proposed New Launch Date	

II. Reason for Request for Extension of the Pending Period

1. Please explain why you need the Office to extend the Pending Period for your entity.

2. Please describe your implementation plan to launch services by the proposed launch date stated above.

Request to Change Authorization Scope

I. Provider Information

Entity Name	
Date of Authorization Order	
Current Service Model Authorization (Please mark those service models for which you currently have Sandbox authorization)	❑ Lawyer employed or managed by a nonlawyer ❑ Less than 50% nonlawyer ownership ❑ Software provider with lawyer involvement - legal document completion ❑ Intermediary platform ❑ 50% or more nonlawyer ownership ❑ Fee sharing with nonlawyers ❑ Nonlawyer provider with lawyer involvement ❑ Software provider with lawyer involvement ❑ Nonlawyer provider without lawyer involvement ❑ Software provider without lawyer involvement
Proposed Additional Service Model Authorization Sought (Please mark which additional service models for which you seek authorization. If none, then do not mark any.)	❑ Lawyer employed or managed by a nonlawyer ❑ Less than 50% nonlawyer ownership ❑ Software provider with lawyer involvement - legal document completion ❑ Intermediary platform ❑ 50% or more nonlawyer ownership ❑ Fee sharing with nonlawyers ❑ Nonlawyer provider with lawyer involvement ❑ Software provider with lawyer involvement ❑ Nonlawyer provider without lawyer involvement ❑ Software provider without lawyer involvement
Current Service Area Authorization (Please mark those service areas for which you currently have Sandbox authorization)	❑ Accident / Injury ❑ Adult Care ❑ Business ❑ Criminal (Expungement)[25] ❑ Criminal (Other) ❑ Discrimination ❑ Domestic Violence ❑ Education ❑ Employment ❑ End of Life Planning

[25] Please note: Nonlawyer providers, whether software or human, are currently limited to providing expungement services only in the criminal field. Lawyers, in accordance with their law license and Rule 1.6, may offer all criminal services.

	❑ Consumer Financial Issues ❑ Healthcare ❑ Housing (Rental) ❑ Immigration ❑ Marriage and Family ❑ Military ❑ Native American / Tribal Issues ❑ Public Benefits ❑ Real Estate ❑ Traffic - Civil Actions / Citations / Misdemeanors
Proposed Additional Service Area Authorization Sought (Please mark which additional service areas for which you seek authorization. If none, then do not mark any.)	❑ Accident / Injury ❑ Adult Care ❑ Business ❑ Criminal (Expungement) ❑ Criminal (Other) ❑ Discrimination ❑ Domestic Violence ❑ Education ❑ Employment ❑ End of Life Planning ❑ Consumer Financial Issues ❑ Healthcare ❑ Housing (Rental) ❑ Immigration ❑ Marriage and Family ❑ Military ❑ Native American / Tribal Issues ❑ Public Benefits ❑ Real Estate ❑ Traffic - Civil Actions / Citations / Misdemeanors
Proposed launch date for new service model(s) and/or service area(s)	

II. Additional Service Model Authorization

1. Please explain why you seek authorization to offer an additional service model(s). Please clearly explain what you are proposing to do.

2. If you are proposing to introduce nonlawyer service providers, please address the following:

    a. Human nonlawyer providers (if applicable):
        i. How will you ensure minimum competence of human nonlawyer providers on the front end (i.e. how will human nonlawyer providers be trained, tested, and launched)?

        ii. How will you ensure ongoing quality and accuracy of service provided by human nonlawyer providers (i.e. how will you check to ensure that the services provided are legally accurate on an ongoing basis)?

    b. Software nonlawyer providers (if applicable):

        i. How will you ensure minimum competence of the software provider on the front end (i.e. how will the algorithm be taught and trained and how will you test it on the front end)?

        ii. How will you ensure ongoing quality and accuracy of service provided by the software (i.e. how will you check that the legal services provided by the software are accurate on an ongoing basis)?

3. Please describe your implementation plan to launch services by the proposed launch date stated above.

Application to Exit the Sandbox

Please note: As per Standing Order No. 15 and the Innovation Office Manual, entities may seek to exit the Sandbox after a period of time evidencing little or no material consumer harm. The required time periods are outlined below:

- For entities categorized as low or low-moderate risk, entities may apply to exit after they have remained in GREEN for 9 consecutive months.
- For entities categorized as moderate risk, entities may apply to exit after they have remained in GREEN for 12 consecutive months.
- For entities categorized as high risk, entities may apply to exit after they have remained in GREEN for 24 consecutive months.

In considering an Application to Exit the Sandbox, the Innovation Office will review this application, the entity's history of reported data and compliance, and prepare a Recommendation on Application to Exit the Sandbox. If the Office is recommending exit, the Office will present that Recommendation, the entity's historical data, and compliance record to the Court.

If the Office denies the Application to Exit the Sandbox, the denial has the effect of keeping the entity in the Sandbox. The Office will issue a Denial of Application to Exit the Sandbox which will include the reasons for denial and a timeline for which the entity must remain in the Sandbox before it may resubmit its Application to Exit the Sandbox (i.e. 3 additional months). Reasons for denial may include (list is not exclusive and may be expanded):

- Inadequate record on consumer harm
- Poor record of compliance with Innovation Office requirements

Entities denied exit may appeal the denial by submitting an Request for Reconsideration (Exit) form. The entity has 30 days from the date of the denial to submit the Request for Reconsideration (Exit) form. Requests submitted past the 30 day window will not be considered.

If the Office denies the reconsideration, the entity may appeal to the Court. The entity has 30 days from the date of the denial of reconsideration to submit an Appeal of Denial. On receipt of the Appeal of Denial, the Innovation Office will present the entity's appeal, including all relevant data, to the Court at the next scheduled Court conference.

The Court retains complete discretion to approve or deny the entity's Application to Exit the Sandbox. Denial by the Court will return the entity to the Sandbox. The entity may reapply to exit at a later date.

Entities which have exited the Sandbox remain under the regulatory authority of the Innovation Office and will be titled Licensed Legal Service Entity. The entities' scope of authorization remains controlled by the Authorization Order. Entities will be required to submit quarterly reports on consumer complaints and updated annual disclosures on financial and controlling ownership. Entities may also be subject to licensing fees.

All relevant forms may be found at Appendix C to the Innovation Office Manual.

I. Provider Information

Entity Name	
Date of Authorization Order	
Launch Date	
Risk Category	
Number of consecutive months in GREEN before seeking exit	

II. Supplemental Information

Please provide any additional information you wish the office to consider with your application to exit the Sandbox.

Request for Reconsideration

Sandbox Exit

I. Provider Information

Entity Name	
Date of Application to Exit the Sandbox	
Date of Denial of Application to Exit the Sandbox by Innovation Office	
Stated Reason for Denial	❑ Inadequate record on consumer harm ❑ Poor record of compliance with Innovation Office requirements ❑ Other:

II. Reason for Request for Reconsideration

Describe your reason for requesting the Innovation Office to reconsider its denial of your Application to Exit the Sandbox. Please directly address the reasons given by the Office for Denial.

Appeal of Denial (Sandbox Exit)

I. Provider Information

Entity Name	
Date of Initial Application to Exit the Sandbox	
Date of Initial Denial to Exit the Sandbox	
Date of Request for Reconsideration (Sandbox Exit)	
Date of Denial of Reconsideration (Sandbox Exit)[26]	
Reason(s) for Denial of Reconsideration (Sandbox Exit)	❑ Inadequate record on consumer harm ❑ Poor record of compliance with Innovation Office requirements ❑ Request for Reconsideration (Sandbox Exit) submitted after 30 day window for submission ❑ Other:

II. Reason for Appeal

Describe your reason for appealing the Innovation Office's Denial of Reconsideration (Sandbox Exit). Please directly address the reasons given by the Office for Denial.

[26] Please note: As per the Innovation Office Manual, an entity has 30 days from the date of a Denial of Reconsideration (Sandbox Exit) by the Innovation Office to submit an Appeal of Denial (Sandbox Exit). Appeals submitted outside this 30 day window will not be considered.

Request to Withdraw

I. Provider Information

Entity Name	
Date of Authorization Order	

I. Reason for Request to Withdraw

Briefly state your reason for withdrawing from the Sandbox.

Please note: Upon receipt of this Request, the Innovation Office will submit a proposed Order to the Utah Supreme Court. The Order will terminate your authorization to offer the services for which you are authorized in the Sandbox and you must stop offering those services immediately.

Appendix D: Repeating Risk Definitions

The following repeating risks are described in detail below:

(1) nonlawyer investment / ownership;

(2) intermediary platforms;

(2) lawyers sharing fees with nonlawyers;

(3) technology and nonlawyer providers;

(4) user communication; and

(4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate
Intermediary platform	Low / Moderate

There are several ways to address this risk:

- Rules of Professional Conduct: All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.

- Identification and Confirmation: During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.

- Disclosure Requirements: The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
    - For nonlawyer-owned companies or firms with nonlawyer ownership or investment, including intermediary platforms:
        - This is not a law firm. / This law firm is owned by nonlawyers. Some of the people who own / manage this entity are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a traditional law firm.

If you have questions, please contact us at _____.

- Data Reporting:
    - For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
    - For more than 50% nonlawyer investment / ownership and intermediary platforms (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. Intermediary Platforms

Intermediary platforms are corporate entities, usually for-profit and owned and managed by nonlawyers, offering a software based platform through which clients and individual lawyers can find each other and enter into engagements. They are widely available throughout the legal services market, targeting individual consumers, corporations and small businesses, and lawyers and law firms. They are not regulated. Lawyers are able to work with these platforms as long as the financial arrangements are structured so as to avoid the ban on lawyers sharing fees with nonlawyers. Generally these arrangements are structured as purchasing advertising or marketing services and/or other support services. Any payments to the intermediary platform tied to the amount of the lawyer's fee has come under scrutiny and often led to cease and desist letters, if not more, from the applicable state bar association.[27] Therefore, what is permitted in the unregulated legal services market today is a software platform connecting lawyers and consumers of legal services, including providing legal support services such as billing and communications through the platform, where the lawyer pays a set service or marketing fee to the platform. The platform can facilitate payments between client and lawyer but generally cannot hold any of those funds in the course of facilitating the transaction because Rule 1.15 requires lawyers to hold client property in client trust accounts with certain requirements and fees have been considered client property.

What is generally not permitted in the legal services market are intermediary platforms using the following kinds of business models:

- Sharing fees with the lawyers (i.e. taking a percentage of the fee paid by the consumer to the lawyer for legal work found through the platform).
- Fee schedules set by the intermediary platform.
- Billing systems run and managed by the intermediary platform which accept and hold client retainer fees or funds for legal expenses.

Intermediary platforms with innovative models (entering the Sandbox)

Intermediary platforms will apply to the Innovation Office seeking authorization to offer one or more innovations to the basic model through the Sandbox. There are likely to be many other nuances presented by intermediary proposals not addressed in the above list. Each nuance may require a waiver of the Rules of Professional Conduct beyond that contemplated by the Standing Order and revised Rule 5.4 to permit Utah lawyers to participate with the platform.

[27] Benjamin H. Barton and Deborah L. Rhode, Access to Justice and Routine Legal Services: New Technologies Meet Bar Regulators," 70 Hastings L. J. 955, 974 (2019).

Given the general and arm's length nature of the relationship between "lawyer partners" of the intermediary and the entity itself and the fact that the use of an intermediary platform changes very little about who provides the legal services or how they are provided, the intermediary platform model itself does not seem to present increased risk of consumer harm. The Office has categorized sandbox intermediary proposals as low - moderate risk and will tailor any necessary rule waivers carefully to enable the Office to track service innovations. This categorization also reflects the reality of the business model in which the platforms themselves are not the actual service provider and, therefore, are limited in their ability to report data such as legal or financial outcomes.

Intermediary Platforms Sandbox Known Models Risk Assessment

1. Fee sharing
    - Unlike other 1:1 or "close" fee sharing relationships, including referral fees, the intermediary platform fee sharing model is simply an up front, generally established percentage to be paid by the lawyer for the networking, marketing, and other applicable services provided by the platform. It is difficult to see how this arrangement could increase the risk that a consumer receives poor quality legal services or overpays for legal services. Particularly because the lawyer participant remains, as always, subject to the duties of competency and reasonable fees and revised Rule 5.4 maintains the lawyer's independence of professional judgement.
    - When an intermediary platform seeks to enter the sandbox with a proposal limited to the sharing of fees with lawyers through generally established percentages or shares (as distinguished from individually negotiated referral fees), the risk categorization will be LOW - MODERATE.
2. Fee schedule set by intermediary platform
    - There is little risk in this model beyond that already presented by the use of flat fees by lawyers, i.e. that the flat fee schedule inadequately prices the cost of providing the legal work leading to lawyers cutting corners in serving their clients. Lawyers participating with these platforms remain subject to the Rules of Professional Conduct. The risk categorization will be LOW - MODERATE.
3. Financial conduit (including holding funds and transferring funds between clients and lawyers)
    - The Office is likely to see variation across this model however the basic version would include use of the platform to facilitate the payment of legal fees, including up front deposits of retainer fees and client expenses.
    - There is the potential for a consumer to deposit money through the platform and then not receive the service for which they paid. This harm is one of the three harms identified by the Office.
    - Given the structure of an intermediary platform, in which the platform itself is not the actual service provider, these kinds of risks are best monitored through consumer complaints rather than legal or financial outcomes. Therefore, if an intermediary platform proposal includes a client deposit feature the Office will consider it LOW - MODERATE enabling us to have monthly insight into client complaints.
    - Note: Client deposit features likely require the authorization to be accompanied by a waiver of Rule 1.15 for those lawyers participating with the entity and potentially impacts the IOLTA qualification of those fees. The Office therefore recommends that

when a platform seeks authorization for a client deposit feature and requires waiver of Rule 1.15, the Order impose the requirement that the entity hold the relevant funds in an account generating interest or dividends and remit the interest or dividends to the Utah Bar Foundation on at least a quarterly basis. Along with the remittance, these entities must provide the Foundation with a report stating the name of the entity, the amount of the remittance, the rate and type of interest or dividend applied, and the average monthly balance on the account or accounts.

Sandbox authorization

Another issue raised by intermediary platforms is the nature of the authorization in the sandbox. Generally, we are authorizing entities in the sandbox with the language (in the Order) that they are authorized to practice law. However, intermediary platforms are not, in fact, practicing law but rather facilitating the practice of law by lawyers. To be clear on this point, the Office's recommended authorization language will read "authorized to operate in the Sandbox" to reflect that the entity has sandbox authorization and the model is permitted but not authorizing the practice of law.

3. Lawyers sharing fees with nonlawyers[28]

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing non-meritorious claims. Intermediary platforms often include a fee sharing component and this characteristic might be present across other business models in the Sandbox. There are several mechanisms to address these risks of consumer harm:

- Rules of Professional Conduct: All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- Disclosure Requirements: Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.
- Data Reporting: The Innovation Office has categorized fee sharing models as MODERATE risk but created distinct reporting requirements focused on the particular harms presenting in these arrangements. Entities will be required to submit the following categories of case level data for those clients coming to the entity through a referral fee arrangement:
    - Number of consumers
    - Revenue / receipt
    - Geographic data (requested)
    - Consumer complaints
    - Nonfinancial (legal) outcome
    - Financial outcome

The Innovation Office has the discretion to require an external review of anonymized client files.

[28] Please note this section is subject to the Court's December 10, 2020 statement on referral fees.

4. Legal practice through technology and nonlawyer providers

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of thes services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- This service is not a lawyer. The product / service you have selected is not a lawyer. This means:
    - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
    - We could be required to disclose your communications (such as questions and information submissions) to third parties.

  If you have questions, please contact us at _____.

5. User communications

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure. This concern also potentially applies to communications between consumers and nonlawyer service providers with referral fee relationships to lawyers.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- This is not a law firm. / This law firm is owned by nonlawyers. Some of the people who own / manage this entity are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a traditional law firm.

  If you have questions, please contact us at _____.

- This service is not a lawyer. The product / service you have selected is not a lawyer. This means:
    - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.

- We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

The Innovation Office also notes that lawyers involved in fee sharing ventures or working with or for nonlawyer-owned entities have distinct disclosure requirements under Rule 5.4.

6. Ownership, Investment, or Management by Disbarred Lawyers or Individuals with Felony Criminal Histories.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers owners or controls more than 10% interest in the entity.
- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

As per Standing Order No. 15, any false or misleading statements made by entities or their members in the application materials, whether discovered at the time or at any time afterward, will be independent grounds for regulatory enforcement, including termination of authorization, and an aggravating factor in any enforcement proceeding based on other conduct.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

Participant and Sandbox Authorization Packet	About	Risk Level	Service Models	Service Categories
Gregory Hawkins		Low-Moderate	Lawyers sharing fees with nonlawyers	End of Life Planning
AAA Fair Credit Foundation with Peoples Legal Aid	Partnership AAA Fair Credit and People's Legal Aid to offer legal assistance related to medical debt through nonlawyer subject matter experts assisting in debt negotiation, advising, and form completion.	High	Software provider without lawyer involvement	Consumer Financial Issues, Healthcare, Public Benefits
Holy Cross Ministries	Offering assistance to consumers facing medical debt through nonlawyer subject matter experts assisting in debt advising and form completion.	Moderate	Nonlawyer provider with lawyer involvement	Consumer Financial Issues, Healthcare, Immigration, Public Benefits
Jordanelle Block	Company offering software and lawyer-provided legal services for real estate transactions.	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Lawyers sharing fees with nonlawyers, Nonlawyer provider with lawyer involvement,	Business, Housing (Rental), Real Estate
Law Geex	Company owned by nonlawyers offering AI-enabled contract drafting, negotiation, and management services via technology platform and lawyer employees.	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Software provider with lawyer involvement	Business, Healthcare
Robert DeBry and Associates	Withdrawn from the Sandbox.	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer	Accident / Injury
Legal Claims Benefits	Company employing lawyers to offer legal services related to veterans' benefits.	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer	Accident / Injury, Education, Healthcare, Military, Public Benefits
FOCL Law	Company offering software provided legal document completion services for family law	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Software provider with lawyer involvement - legal document completion	Marriage and Family
Hello Divorce	Company majority-owned by a lawyer offering dissolution of marriage services through tech platform and lawyer employees.	Low	Lawyer employed or managed by a nonlawyer, Less than 50% nonlawyer ownership	Marriage and Family
Mountain West Legal Protective	Company offering legal benefits plan related to real estate purchase and staffed by lawyer employees.	Low-Moderate	50% or more nonlawyer ownership, Lawyers sharing fees with nonlawyers	Housing (Rental), Real Estate
Davis and Sanchez	Nonlawyer-owned law firm offering workers' compensation services	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer	Accident / Injury
Xira Connect	Software-based platform connecting Utah lawyers and LPPs with consumers.	Low-Moderate	Intermediary platform	Accident / Injury, Adult Care, Business, Consumer Financial Issues, Criminal (Expungement), Criminal (Other), Discrimination, Domestic Violence,
Pearson Butler	Full-service law firm partnering with sister financial services companies to offer holistic legal and financial services; also using nonlawyer providers for limited lower-cost services.	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Lawyers sharing fees with nonlawyers, Nonlawyer provider with lawyer involvement	Accident / Injury, Adult Care, Business, Consumer Financial Issues, Criminal (Expungement), Criminal (Other), Discrimination, Domestic Violence,
Timp Legal Certified Advocate Partner Program	Nonprofit employing nonlawyer domestic advocates offering limited legal services, including legal advice and assistance with protection orders	Moderate	Nonlawyer provider with lawyer involvement	Discrimination, Marriage and Family
DSD Solutions	Legal services company offering legal document completion assistance, nonlawyer provider, and lawyer provided legal services	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Nonlawyer provider with lawyer involvement, Software provider with lawyer involvement -	Accident / Injury, Business, Criminal (Expungement), Discrimination, Employment, End of Life Planning, Housing (Rental), Immigration, Marriage

Off the Record Inc.	Company offering software-based platform connecting Utah lawyers with consumers fighting traffic infractions	Low-Moderate	50% or more nonlawyer ownership, Software provider with lawyer involvement	Traffic - Civil Actions / Citations / Misdemeanors
Tanner LLC	Withdrawn from Sandbox	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer	Business
Law on Call	Company offering nonlawyer provider and lawyer provided corporate legal services.	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Nonlawyer provider with lawyer involvement	Business, Consumer Financial Issues, End of Life Planning, Housing (Rental), Real Estate
Sudbury Consulting and Code for America	Joint venture offering software-based platform helping consumers to identify whether they are eligible for Clean Slate Law expungement	Moderate	Software provider with lawyer involvement	Criminal (Expungement), Employment
Firmly, LLC	Assists emerging companies, small businesses, and corporations in corporate and transactional work	Low	Less than 50% nonlawyer ownership	Business
Estate Guru	Software and lawyer provided legal services for end of life planning	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Lawyers sharing fees with nonlawyers, Nonlawyer provider with lawyer involvement,	Business, Consumer Financial Issues, End of Life Planning, Healthcare, Real Estate
Lawpal	Software-facilitated legal document assistance in family and housing law.	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Software provider with lawyer involvement - legal document completion	Consumer Financial Issues, End of Life Planning, Housing (Rental), Marriage and Family
R and R Legal Services	Full-service law firm	Low-Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer	Accident / Injury, Adult Care, Business, Consumer Financial Issues, Domestic Violence, End of Life Planning, Healthcare, Marriage and Family, Public
AGS Law	Assists small businesses in launching or winding down the business	Low	Less than 50% nonlawyer ownership	Business, End of Life Planning, Real Estate
Nuttall, Brown and Coutts	Personal injury law firm offering low-cost legal subscription plans in partnership with insurance companies as well as a self-help software application for injured consumers pursuing a claim	Moderate	Lawyer employed or managed by a nonlawyer, Lawyers sharing fees with nonlawyers, Less than 50% nonlawyer ownership, Software provider with lawyer	Accident / Injury, Business, Discrimination, Employment, Marriage and Family
Blue Bee Bankruptcy Law	Consumer and corporate bankruptcy services	Low	Lawyer employed or managed by a nonlawyer, Less than 50% nonlawyer ownership	Consumer Financial Issues
Rocket Lawyer	Lawyer-provided legal services to supplement software-provided legal document completion	Low-Moderate	Lawyer employed or managed by a nonlawyer, Lawyers sharing fees with nonlawyers	Business, Consumer Financial Issues, Criminal (Expungement), Criminal (Other)
LawHQ	Software application facilitating consumer identification of telephone spammers and participation in mass tort litigation	Moderate	Lawyer employed or managed by a nonlawyer, Less than 50% nonlawyer ownership, Software provider with lawyer involvement	Accident / Injury
1Law	Law firm with nonlawyer investment offering services via chatbot, nonlawyer assistants, and lawyer employees across a range of consumer services	Moderate	50% or more nonlawyer ownership, Lawyer employed or managed by a nonlawyer, Nonlawyer provider with lawyer involvement, Software provider with lawyer involvement	Accident / Injury, Adult Care, Business, Consumer Financial Issues, Criminal (Expungement), Criminal (Other), Discrimination, Domestic Violence,

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE INTERIM UPDATE REPORT

NOVEMBER 20, 2020

SUMMARY

This Report is an interim update to the Innovation Office Report "Launch - October 2020."

The Office has received 33 applications to the Sandbox. The Office has recommended 18 of those applications to the Court for admission to the Sandbox. The Court has authorized 12 entities (in whole or in part) to offer services in the Sandbox. 6 applicants withdrew their applications; 1 has withdrawn but will resubmit its application; 1 applicant was denied by the Office. There are 6 entities currently under active review by the Innovation Office. Applications come in at a rate of approximately 2 per week.

The following entities are currently operational and offering legal services: Blue Bee Bankruptcy, AGS Law, Rocket Lawyer, 1LAW, LawPal, FOCL Law, Law HQ, and Estate Guru. Rocket Lawyer and 1LAW have submitted their first data reports (see Actualized Risk Report below). The remaining entities have upcoming reporting dates as indicated in Table 2.

Overall Metrics

Total Applications Received	33
Applicants Recommended for Admission	18
Applicants Admitted to the Sandbox	12
Applicants Denied, Postponed, or Withdrawn	8
Applicants Recommended to Exit the Sandbox	0

TABLE 1: AUTHORIZED ENTITIES[1]

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury		
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Moderate	Moderate	Moderate	Moderate	Moderate		
Total Categories		1	3	1	4	15	9	1	17	1	5	5	2		
		2	1	1	2	2	2	3	4	3	4	6	1	**Total Models**	
Accident/Injury	4						X		1	X	X			9	Lawyers employed / managed by nonlawyers
Adult Care	3					X	X		X					4	<50% nonlawyer ownership
Business	8		X	X		**17**	X		**10**	X	X	X		6	50% + nonlawyer ownership
Criminal Expungement	3					X			X				X	3	Fee sharing
Discrimination	2					X			X					2	Software provider /w lawyer - doc completion
Domestic Violence	3					X	X		**2**					5	Software provider w/ lawyer involvement
Education	2					X			X					-	Software provider w/out lawyer involvement
Employment	5					**1**			2	X	X		X	2	Non-lawyer provider w/ lawyer involvement
End of Life Planning	6		X		X	**3**	X		X			X		-	Nonlawyer provider w/out lawyer involvement
Financial Issues	6	X			X	X	X		3			X		-	
Healthcare	4					X	X		X			X			
Housing (Rental)	3				X	**16**			X						
Immigration	2					X			2						
Marriage and Family	6				X	**3**	X	X	9		X				
Military	1					X									
Native American/ Tribal Issues	-														
Public Benefits	3					X	X		X						
Real Estate	4		X			X			X			X			
Traffic Citations	1								3						

[1] Entity case counts reflect reporting through October 31, 2020.

TABLE 2: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	10/1/20	1/5/21	Quarterly
AGS Law	Low	10/1/20	1/5/21	Quarterly
Firmly LLC	Low	12/1/20	1/5/20	Quarterly
Rocket Lawyer	Low-Moderate	10/1/20	11/5/20	Monthly
R&R Legal Services	Low-Moderate	11/1/20	12/5/20	Monthly
LawPal	Low-Moderate	11/1/20	12/5/20	Monthly
FOCL Law	Low-Moderate	11/1/20	12/5/20	Monthly
1Law	Moderate	10/1/20	11/5/20	Monthly
LawHQ	Moderate	11/1/20	12/5/20	Monthly
Nuttal Brown	Moderate + Fee Sharing	1/1/21	2/5/21	Monthly
Estate Guru	Moderate	11/1/20	12/5/20	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE ACTIVITY REPORT

NOVEMBER 2020

SUMMARY

This Report covers the month of November 2020.

The Office has received 34 applications to the Sandbox. The Office has recommended 20 of those applications to the Court for admission to the Sandbox. The Court has authorized 16 entities (in whole or in part) to offer services in the Sandbox. 6 applicants withdrew their applications; 1 has withdrawn but will resubmit its application; 1 applicant was denied by the Office. The Innovation Office has tabled 5 applications based on the Court's statement on referral fees issued December 10, 2020. There are 2 entities currently under active review by the Innovation Office.

The following entities are operational and offered legal services to the public during the month of November: Blue Bee Bankruptcy, AGS Law, Rocket Lawyer, 1LAW. In the Office's Interim report dated November 24, 2020, it was reported that the following additional entities were operational and offering services: R&R Legal, FOCL Law, Law Pal, LawHQ, and Estate Guru. However, additional communications with those entities clarified that they were not, in fact, launched as authorized by the Court and therefore not prepared to report data for November 2020. The Office expects those entities to come online and begin reporting as indicated in Table 2. Rocket Lawyer and 1LAW continue to report as required. There are no indications of material consumer harm. Blue Bee and AGS Law will submit their first quarterly reports in January 2021.

Overall Metrics

Total Applications Received	34
Applicants Recommended to Court for Authorization	20
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Authorized Entities	16
Entities Reporting Data (this month)	2
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There are no reported consumer complaints from reporting entities.

TABLE 1: AUTHORIZED ENTITIES[1]

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner		
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate		
Total Categories		1	3	1	4	15	9	1	1		
		2	1	1	2	2	2	3	2	**Total Models**	
Accident/Injury	5						X			12	Lawyers employed / managed by nonlawyers
Adult Care	3					X	X			4	<50% nonlawyer ownership
Business	11		X	X		X	X		X	10	50% + nonlawyer ownership
Criminal Expungement	4					X				4	Fee sharing
Discrimination	2					X				3	Software provider /w lawyer - doc completion
Domestic Violence	4					X	X			5	Software provider w/ lawyer involvement
Education	2					X				-	Software provider w/out lawyer involvement
Employment	6					X				2	Non-lawyer provider w/ lawyer involvement
End of Life Planning	8		X		X	X	X			-	Nonlawyer provider w/out lawyer involvement
Consumer Financial Issues	7	X			X	X	X			-	
Healthcare	4					X	X				
Housing (Rental)	5				X	X					
Immigration	3					X					
Marriage and Family	7				X	X	X	X			
Military	1					X					
Native American/ Tribal Issues	-										
Public Benefits	4					X	X				
Real Estate	6		X			X					
Traffic Citations	3										

[1] Entity case counts reflect reporting through November 30, 2020.

TABLE 1 (CON'T): AUTHORIZED ENTITIES

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions		
Risk Level		Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate		
Total Categories		17	1	5	5	2	1	5	12		
		4	3	4	6	1	3	3	4	**Total Models**	
Accident/Injury	5	X	X	X					X	12	Lawyers employed / managed by nonlawyers
Adult Care	3	X								4	<50% nonlawyer ownership
Business	11	X	X	X	X			X	X	10	50% + nonlawyer ownership
Criminal Expungement	4	X				X			X	4	Fee sharing
Discrimination	2	X								3	Software provider /w lawyer - doc completion
Domestic Violence	4	X							X	6	Software provider w/ lawyer involvement
Education	2	X								-	Software provider w/out lawyer involvement
Employment	6	X	X	X		X			X	4	Non-lawyer provider w/ lawyer involvement
End of Life Planning	8	X			X			X	X	-	Nonlawyer provider w/out lawyer involvement
Consumer Financial Issues	7	X			X			X		-	
Healthcare	4	X			X						
Housing (Rental)	5	X						X	X		
Immigration	3	X							X		
Marriage and Family	7	X		X					X		
Military	1	X									
Native American/ Tribal Issues	-										
Public Benefits	4	X							X		
Real Estate	6	X			X			X	X		
Traffic Citations	3	X					X		X		

TABLE 2: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	10/1/20	1/5/21	Quarterly
AGS Law	Low	10/1/20	1/5/21	Quarterly
Firmly LLC	Low	12/1/20	1/5/20	Quarterly
Rocket Lawyer	Low-Moderate	10/1/20	11/5/20	Monthly
R&R Legal Services	Low-Moderate	12/1/20	1/5/21	Monthly
LawPal	Low-Moderate	12/1/20	1/5/21	Monthly
FOCL Law	Low-Moderate	1/1/21	2/5/21	Monthly
Tanner	Low-Moderate	TBD	TBD	Monthly
1Law	Moderate	10/1/20	11/5/20	Monthly
LawHQ	Moderate	1/1/21	2/5/21	Monthly
Nuttal Brown	Moderate	1/1/21	2/5/21	Monthly
Estate Guru	Moderate	12/1/20	1/5/20	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	2/1/21	3/5/21	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE ACTIVITY REPORT

DECEMBER 2020

SUMMARY

This Report covers the month of December 2020.

The Office has received 37 applications to the Sandbox. The Office has recommended 20 of those applications to the Court for admission to the Sandbox. The Court has authorized 16 entities (in whole or in part) to offer services in the Sandbox. 6 applicants withdrew their applications; 1 has withdrawn but will resubmit its application; 1 applicant was denied by the Office. The Innovation Office has tabled 8 applications based on the Court's statement on referral fees issued December 10, 2020. There are 5 entities currently under active review by the Innovation Office.

The following entities are operational and offered legal services to the public during the month of December: Blue Bee Bankruptcy, AGS Law, Rocket Lawyer, 1LAW, and Estate Guru. There are no indications of material consumer harm.

Overall Metrics

Total Applications Received	37
Applicants Recommended to Court for Authorization	20
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Authorized Entities	16
Entities Reporting Data (this month)	5
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There are no reported consumer complaints from reporting entities.

Table 1: Authorized Entities by Service Category

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner
Risk Level		**Low**	**Low**	**Low**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**
Total Categories		**1**	**3**	**1**	**4**	**15**	**9**	**1**	**1**
Accident/Injury	1						X		
Adult Care	2					X	X		
Business	5		X	X		X	X		X
Criminal Expungement	1					X			
Discrimination	1					X			
Domestic Violence	2					X	X		
Education	1					X			
Employment	1					X			
End of Life Planning	4		X		X	X	X		
Consumer Financial Issues	4	X			X	X	X		
Healthcare	2					X	X		
Housing (Rental)	2				X	X			
Immigration	1					X			
Marriage and Family	4				X	X	X	X	
Military	1					X			
Native American/ Tribal Issues	-								
Public Benefits	2					X	X		
Real Estate	2		X			X			
Traffic Citations	1								

TABLE 1 (CON'T): AUTHORIZED ENTITIES BY SERVICE CATEGORY

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions
Risk Level		**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**
Total Categories		**18**	**1**	**5**	**5**	**2**	**1**	**5**	**12**
Accident/Injury	4	X	X	X					X
Adult Care	1	X							
Business	6	X	X	X	X			X	X
Criminal Expungement	3	X				X			X
Criminal - Other)	1	X							
Discrimination	1	X		X					
Domestic Violence	2	X							X
Education	1	X							
Employment	5	X	X	X		X			X
End of Life Planning	4	X			X			X	X
Consumer Financial Issues	3	X			X			X	
Healthcare	2	X			X				
Housing (Rental)	3	2						X	X
Immigration	2	X							X
Marriage and Family	2	X		X					X
Military	-								
Native American/ Tribal Issues	-								
Public Benefits	2	X							X
Real Estate	4	X			X			X	X
Traffic Citations	3	X					X		X

TABLE 2: AUTHORIZED ENTITIES BY SERVICE MODEL

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner
Risk Level		**Low**	**Low**	**Low**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**	**Low / Moderate**
Total Models		**2**	**1**	**1**	**2**	**2**	**2**	**3**	**2**
Lawyers employed / managed by nonlawyers	6	X			X	X	X	X	X
<50% nonlawyer ownership	2	X	X						
50% + nonlawyer ownership	15								
Fee sharing	1								
Software provider /w lawyer - doc completion	1								
Software provider w/ lawyer involvement	-								
Software provider w/out lawyer involvement	-								
Non-lawyer provider w/ lawyer involvement	-								
Nonlawyer provider w/out lawyer involvement	-								

Table 2 (con't): Authorized Entities by Service Model

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions
Risk Level		**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**	**Moderate**
Total Models		**4**	**3**	**4**	**6**	**1**	**3**	**3**	**4**
Lawyers employed / managed by nonlawyers	6	X	X	X	X			X	X
<50% nonlawyer ownership	2		X	X					
50% + nonlawyer ownership	4	X			X		X	X	X
Fee sharing	3			X	X		X		
Software provider /w lawyer - doc completion	2				X				X
Software provider w/ lawyer involvement	6	X	X	X	X	X	X		
Software provider w/out lawyer involvement	-								
Non-lawyer provider w/ lawyer involvement	4	X			X			X	X
Nonlawyer provider w/out lawyer involvement	-								

TABLE 3: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Tanner	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Nuttal Brown	Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2020	March 5, 2021	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

Innovation Office Activity Report

PUBLIC

January 2021

Table of Contents

Summary 2

Overall Metrics 3

Authorized Entities by Service Category 4

Authorized Entities by Service Model 6

Authorized Entities Reporting Statuses 8

Summary

This Report covers the month of January 2020.

The Office has received 37 applications to the Sandbox. The Office has recommended 20 of those applications to the Court for admission to the Sandbox. The Court has authorized 18 entities (in whole or in part) to offer services in the Sandbox. 6 applicants withdrew their applications; 1 has withdrawn but will resubmit its application; 1 applicant was denied by the Office. The Innovation Office has tabled 8 applications based on the Court's statement on referral fees issued December 10, 2020. There are 2 entities currently under active review by the Innovation Office.

The following entities are operational and offering legal services to the public: Blue Bee Bankruptcy, AGS Law, Rocket Lawyer, 1LAW, Tanner LLC, R & R Group's Fiduciary Law Firm, and Estate Guru. There are no indications of material consumer harm.

Overall Metrics

Total Applications Received	37
Applicants Recommended to Court for Authorization	20
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Authorized Entities	18
Entities Reporting Data (this month)	5
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There are no reported consumer complaints from reporting entities.

Table 1: Authorized Entities by Service Category[1]

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate
Total Categories		1	3	1	4	15	9	1	1
Accident/Injury	1						X		
Adult Care	2					X	X		
Business	5		X	X		X	X		X
Criminal Expungement	1					X			
Discrimination	1					X			
Domestic Violence	2					X	X		
Education	1	X				X			
Employment	1					X			
End of Life Planning	4		X		X	X	X		
Consumer Financial Issues	4	X			X	X	X		
Healthcare	2					X	X		
Housing (Rental)	2				X	X			
Immigration	1					X			
Marriage and Family	4				X	X	X	X	
Military	1					X			
Native American/ Tribal Issues	-								
Public Benefits	2					X	X		
Real Estate	2		X			X			
Traffic Citations	1								

[1] Entity case counts reflect reporting cumulative between October , 1 2020 - January 31, 2021, based on the entity's most recent report.

TABLE 1 (CON'T): AUTHORIZED ENTITIES BY SERVICE CATEGORY

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions	28 - Pearson Butler	36 - Timp Cert. Advocates
Risk Level		Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
Total Categories		18	1	5	5	2	1	5	12	14	2
Accident/Injury	5	X	X	X					X	X	
Adult Care	1	X								X	
Business	7	X	X	X	X			X	X	X	
Criminal Expungement	3	X				X			X		
Criminal - Other)	2	X								X	
Discrimination	1	X		X						X	
Domestic Violence	3	X							X		X
Education	2	X								X	
Employment	6	X	X	X		X			X	X	
End of Life Planning	5	X			X			X	X	X	
Consumer Financial Issues	4	X			X			X		X	
Healthcare	2	X			X						
Housing (Rental)	4	X						X	X	X	
Immigration	3	X							X	X	
Marriage and Family	3	X		X					X		X
Military	1									X	
Native American/ Tribal Issues	1									X	
Public Benefits	3	X							X	X	
Real Estate	5	X			X			X	X	X	
Traffic Citations	3	X					X		X		

Table 2: Authorized Entities by Service Model

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate
Total Models		2	1	1	2	2	2	3	2
Lawyers employed / managed by nonlawyers	6	X			X	X	X	X	X
<50% nonlawyer ownership	2	X	X						
50% + nonlawyer ownership	5				X	X	X	X	X
Fee sharing	-								
Software provider /w lawyer - doc completion	1				X				
Software provider w/ lawyer involvement	-								
Software provider w/out lawyer involvement	-								
Non-lawyer provider w/ lawyer involvement	-								
Nonlawyer provider w/out lawyer involvement	-								
Intermediary Platform									

Table 2 (con't): Authorized Entities by Service Model

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions	28 - Pearson Butler	36 - Timp Cert. Advocates
Risk Level		Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
Total Models		4	3	4	6	1	3	3	4	3	1
Lawyers employed / managed by nonlawyers	6	X	X	X	X			X	X		
<50% nonlawyer ownership	2		X	X							
50% + nonlawyer ownership	6	X			X		X	X	X	X	
Fee sharing	4			X	X		X			X	
Software provider /w lawyer - doc completion	2				X				X		
Software provider w/ lawyer involvement	6	X	X	X	X	X	X				
Software provider w/out lawyer involvement	-										
Non-lawyer provider w/ lawyer involvement	5	X			X			X	X	X	
Nonlawyer provider w/out lawyer involvement	1										X
Intermediary Platform	0										

Table 3: Authorized Entities Reporting Statuses

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Tanner	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	TBD	TBD	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly
Pearson Butler	Moderate	Mar. 1, 2021	Apr. 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	TBD	TBD	Monthly

Office of Legal Services Innovation

An Office of the Utah Supreme Court

Innovation Office Activity Report

March 20, 2021

Table of Contents

Overall Metrics	1
Summary	2
Authorized Entities by Service Category	4
Authorized Entities by Service Model	6
Authorized Entities Reporting Statuses	8
Pending Submitted Applicants	9
Denied, Postponed, and Withdrawn Applicants	10
February 2021 Activity Risk Report - Harm Assessment	12
Rocket Lawyer	13
1Law	14
Blue Bee Bankruptcy Law	16
AGS Law	17
Estate Guru	18
FOCL Law	20
R & R Group / The Fiduciary Law Group	21
Tanner, LLC	22
DBA LawPal	23

Overall Metrics

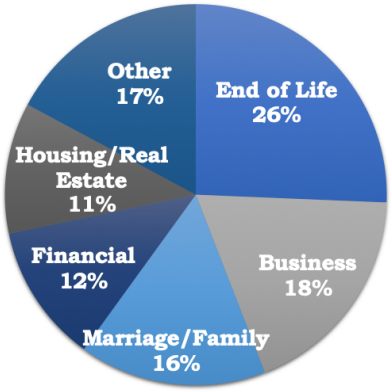
Total Applications Received	42
Applicants Recommended to Court for Authorization	20
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Authorized Entities	18
Entities Reporting Data (this month)	7
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There are no reported consumer complaints from reporting entities.

Summary

This report summarizes activities and actualized risk assessment of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through the close of February 2021.

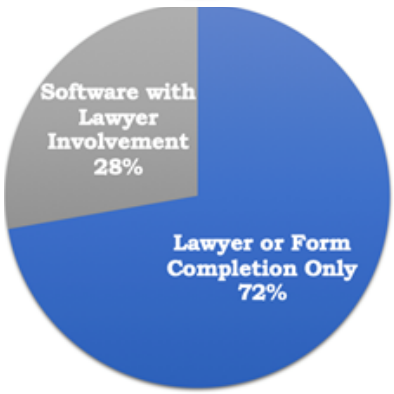
Sandbox Activity (October 2020 - February 2021)

- 20 entities approved to offer services
  - Low Risk=3 (AGS Law, Blue Bee, Firmly)
  - Low/Moderate=6 (FOCL Law, LawPal, R&R, Rocket Lawyer, Tanner, Xira)
  - Moderate=11 (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
  - High=0

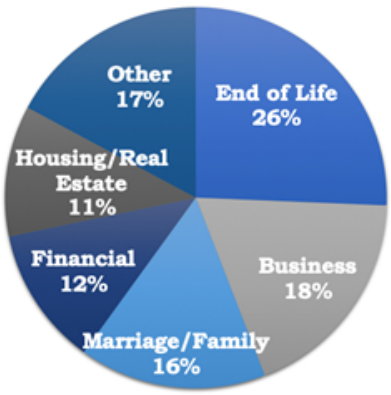


- 9 entities reporting at least one data report to date.

- 612 legal services sought from approximately 500 unduplicated clients
  - Low=51 legal services sought
    - Moderate=359 legal services sought
  - 442 legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
  - 170 legal services have been delivered by software with lawyer involvement



  - The rank of legal category addressed has been 1) End of Planning; 2) Business; 3) Marriage/Family; 4) Financial; 5) Housing Rental; and 6) Real Estate. Six legal categories accounted for 83% of legal services. The remaining 15 possible legal categories accounted for 17%.



  - To date no complaints have been communicated by entities nor by consumers directly to the Office that would indicate harm.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	0	0%
Consumer fails to exercise legal rights through ignorance or bad advice.	0	0%
Consumer purchases an unnecessary or inappropriate legal service.	0	0%

- Based on reviewing mismatches of services sought and received given fees paid, there was no evidence supporting unnecessary or inappropriate purchases of legal services. In communicating with entities regarding the amount paid for services, the amount paid reasonably fit their respective business models.
- Applicable mismatches between services sought and received were linked to quality control of legal service intake coding (improving service sought identification methods) and error in the process of linking life events to appropriate legal needs. The Office concluded that mismatches were not harms.
- Legal results were appropriate given legal matters and scope of service.
- Services will continue to be monitored for complaints and results.
- A pilot of the vanguard service audit of a moderate risk entity is ongoing.

Table 1: Authorized Entities by Service Category

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner	33 - Xira Connect	39 - Davis & Sanchez
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate
Total Categories		2	3	1	4	17	10	1	1	19	2
Accident/Injury	4					X	X			X	X
Adult Care	3					X	X			X	
Business	6		X	X		X	X		X	X	
Criminal Expungement	2					X				X	
Discrimination	2					X				X	
Domestic Violence	3					X	X			X	
Education	4	X				X				X	X
Employment	2					X				X	
End of Life Planning	5		X		X	X	X			X	
Consumer Financial Issues	5	X			X	X	X			X	
Healthcare	3					X	X			X	
Housing (Rental)	3				X	X				X	
Immigration	2					X				X	
Marriage and Family	5				X	X	X	X		X	
Military	2					X				X	
Native American/ Tribal Issues	1									X	
Public Benefits	3					X	X			X	
Real Estate	3		X			X				X	
Traffic Citations	1									X	

Table 1 (con't): Authorized Entities by Service Category

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions	28 - Pearson Butler	36 - Timp Cert. Advocates
Risk Level		Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
Total Categories		18	3	5	5	2	1	5	12	14	2
Accident/Injury	5	x	X	X					X	X	
Adult Care	2	x								X	
Business	7	x	X	X	X			X	X	X	
Criminal Expungement	3	x				X			X		
Criminal - Other	2	x								X	
Discrimination	3	x		X						X	
Domestic Violence	3	x							X		X
Education	2	x								X	
Employment	6	x	X	X		X			X	X	
End of Life Planning	5	x			x			X	X	X	
Consumer Financial Issues	4	x			x			X		X	
Healthcare	1	x			x						
Housing (Rental)	4	x						X	X	X	
Immigration	3	x							X	X	
Marriage and Family	4	x		X					X		X
Military	1									X	
Native American/ Tribal Issues	1									X	
Public Benefits	3	X							X	X	
Real Estate	5	X			X			X	X	X	
Traffic Citations	3	X					X		X		

Table 2: Authorized Entities by Service Model

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	32 - Tanner	33 - Xira Connect	39 - Davis & Sanchez
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate
Total Models		2	1	1	2	2	2	3	2	3	2
Lawyers employed / managed by nonlawyers	7	X			X	X	X	X	X		X
<50% nonlawyer ownership	2	X	X								
50% + nonlawyer ownership	7				X	X	X	X	X	X	X
Fee sharing	1									X	
Software provider /w lawyer - doc completion	1				X						
Intermediary Platform	1									X	

Table 2 (con't): Authorized Entities by Service Model

		02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru	27 - Sudbury	23 - Off the Record	30 - Law on Call	31 - DSD Solutions	28 - Pearson Butler	36 - Timp Cert. Advocates
Risk Level		Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
Total Models		4	3	4	6	1	3	3	4	3	1
Lawyers employed / managed by nonlawyers	6	X	X	X	X			X	X		
<50% nonlawyer ownership	2		X	X							
50% + nonlawyer ownership	6	X			X		X	X	X	X	
Fee sharing	4			X	X		X			X	
Software provider /w lawyer - doc completion	2				X				X		
Software provider w/ lawyer involvement	6	X	X	X	X	X	X				
Software provider w/out lawyer involvement	-										
Non-lawyer provider w/ lawyer involvement	5	X			X			X	X	X	
Nonlawyer provider w/out lawyer involvement	1										X
Intermediary Platform	-										

Table 3: Authorized Entities Reporting Statuses

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Tanner	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Xira Connect	Low- Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Davis & Sanchez	Low-Moderate	TBD	TBD	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	TBD	TBD	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly
Pearson Butler	Moderate	Mar. 1, 2021	Apr. 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	TBD	TBD	Monthly

Office of Legal Services Innovation

An Office of the Utah Supreme Court

INNOVATION OFFICE MARCH ACTIVITY REPORT

APRIL 20, 2021

Table of Contents

Overall Metrics 1

Summary 2

Sandbox Activity (October 2020 - March 2021) 2

Authorized Entities 4

Authorized Entities Reporting Statuses 12

OVERALL METRICS

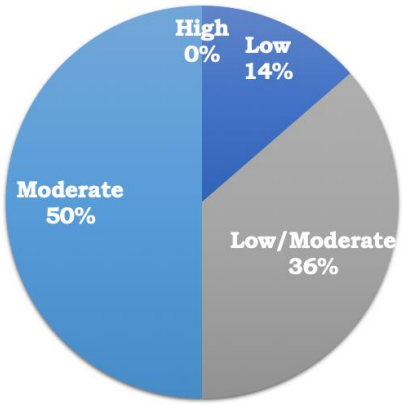
Total Applications Received	47
Applicants Recommended to Court for Authorization	24
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Inactive or Withdrawn Applicants Before Recommendation	7
Currently Under Office Review	6
Recommended to Court for Authorization Decision	4
Authorized Entities	22
Entities Reporting Data (this month)	8
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There are no reported consumer complaints from reporting entities.

SUMMARY

This report summarizes activities and negative risk assessment of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through March 2021.

SANDBOX ACTIVITY (OCTOBER 2020 - MARCH 2021)

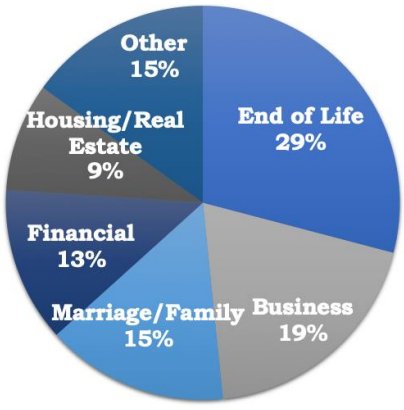
- **22 entities approved to offer services**
  - **Low Risk=3** (AGS Law, Blue Bee, Firmly)
  - **Low/Moderate=8** (FOCL Law, LawPal, Legal Claims, Inc., R&R, Robert Debry & Associates, Rocket Lawyer, Tanner, Xira)
  - **Moderate=11** (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
  - **High=0**



- **9 entities reporting** at least one data report to date.

- **856 legal services sought** from approximately **700 unduplicated clients**
  - Low=97; Low/Moderate=279 legal services sought
  - Moderate=480 legal services sought
  - **575** legal services have been delivered by a **lawyer** (or lawyer employee) or **software for form or document completion only** with lawyer involvement
  - **281** legal services have been delivered by **software with lawyer involvement**

  - The rank of legal category addressed has been 1) End of Planning; 2) Business; 3) Marriage/Family; 4) Financial; 5) Housing Rental; and 6) Real Estate. **Six legal categories** accounted for **85% of legal services**. The remaining 15 possible legal categories accounted for 15%.



  - To date no complaints have been communicated by entities nor by consumers directly to the Office that would indicate harm.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

- Based on reviewing mismatches of services sought and received given fees paid, there was no evidence supporting unnecessary or inappropriate purchases of legal services. In communicating with entities regarding the amount paid for services, the amount paid reasonably fit their respective business models.
- Applicable mismatches between services sought and received were linked to quality control of legal service intake coding (improving service sought identification methods) and error in the process of linking life events to appropriate legal needs. The Office concluded that mismatches were not harms.
- Other identified data reporting issues were linked to entities having difficulty pulling data from internal systems to align with Sandbox prescribed coding. These issues were resolved through follow-up communications and/or data clarification requests.
- Legal results were appropriate given legal matters and scope of service.
- Services will continue to be monitored for complaints and results.
- A pilot of the vanguard service audit of a moderate risk entity is ongoing.

TABLE 1: AUTHORIZED ENTITIES

Entity Name	Risk Level	Service Models	Service Categories
10 - Blue Bee Bankruptcy	Low	Lawyers employed / managed by nonlawyers	Education
		<50% nonlawyer ownership	Consumer Financial Issues
15 - AGS Law	Low	<50% nonlawyer ownership	Business
			End of Life Planning
			Real Estate
19 - Firmly, LLC	Low	<50% nonlawyer ownership	Business
04 - Lawpal	Low / Moderate	Lawyers employed / managed by nonlawyers	End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
		Software provider /w lawyer - doc completion	Housing (Rental)
			Marriage and Family
05 - Rocket Lawyer	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
			Discrimination
			Domestic Violence
			Education
			Employment

Entity Name	Risk Level	Service Models	Service Categories
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
			Marriage and Family
			Military
			Public Benefits
			Real Estate
07 - R & R Legal Services	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Domestic Violence
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Healthcare
			Marriage and Family
			Public Benefits
14 - FOCL Law	Low / Moderate	Lawyers employed / managed by nonlawyers	Marriage and Family
		50+% nonlawyer ownership	

Entity Name	Risk Level	Service Models	Service Categories
		Software provider /w lawyer - doc completion	
32 - Tanner LLC (Withdrawn from Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	
33 - Xira Connect	Low / Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Discrimination
			Domestic Violence
		Fee Sharing	Education
			Employment
			End of Life Planning
			Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Intermediary Platform	Marriage and Family
			Military
			Native American / Tribal

Entity Name	Risk Level	Service Models	Service Categories
			Public Benefits
			Real Estate
			Traffic Citations
37 - Robert DeBry	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	
38 - Davis & Sanchez	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Education
39 - Legal Claims Benefits	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Education
		50+% nonlawyer ownership	Healthcare
			Military
			Public Benefits
02 - 1Law	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
		50+% nonlawyer ownership	Discrimination
			Domestic Violence

Entity Name	Risk Level	Service Models	Service Categories
			Education
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Public Benefits
			Real Estate
			Traffic Citations
03 - Law HQ	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Employment
12 - Nuttall Brown	Moderate	Lawyers employed / managed by nonlawyers	Accident Injury
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Discrimination
		Non-lawyer provider w/ lawyer involvement	Employment
			Marriage and Family

Entity Name	Risk Level	Service Models	Service Categories
13 - Estate Guru	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	End of Life Planning
		Fee Sharing	Consumer Financial Planning
		Software provider /w lawyer - doc completion	Healthcare
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
23 - Off the Record	Moderate	50+% nonlawyer ownership	Traffic Citations
		Fee Sharing	
		Software provider w/ lawyer involvement	
27 - Sudbury Consulting	Moderate	Software provider w/ lawyer involvement	Criminal Expungement
			Employment
28 - Pearson Butler	Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business
			Discrimination
			Education
		Fee Sharing	Employment
			End of Life Planning
			Consumer Financial Issues

Entity Name	Risk Level	Service Models	Service Categories
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Military
			Native American / Tribal
			Public Benefits
			Real Estate
30 - Law on Call	Moderate	Lawyers employed / managed by nonlawyers	Business
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Housing (Rental)
		Non-lawyer provider w/ lawyer involvement	Real Estate
31 - DSD Solutions	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Business
			Criminal Expungement
		50+% nonlawyer ownership	Domestic Violence
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Housing (Rental)
			Immigration

Entity Name	Risk Level	Service Models	Service Categories
			Marriage and Family
		Non-lawyer provider w/ lawyer involvement	Public Benefits
			Real Estate
			Traffic Citations
36 - Timp. Cert. Advocates	Moderate	Nonlawyer provider w/out lawyer involvement	Domestic Violence
			Marriage and Family

TABLE 2: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Tanner (Withdrawn)	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Xira Connect	Low- Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Davis & Sanchez	Low-Moderate	TBD	TBD	Monthly
Legal Claims Benefits	Low-Moderate	TBD	TBD	Monthly
Robert Debry	Low-Moderate	April 15, 2021	May 5, 2021	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	TBD	TBD	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly
Pearson Butler	Moderate	Mar. 1, 2021	Apr. 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	TBD	TBD	Monthly

Office of Legal Services Innovation

An Office of the Utah Supreme Court

INNOVATION OFFICE ACTIVITY REPORT

APRIL 2021

DRAFT AS OF MAY 21, 2021

Table of Contents

Overall Metrics 1

Summary 2

Sandbox Activity (October 2020 - April 2021) 2

Authorized Entities 4

Authorized Entities Reporting Statuses 11

Pending Submitted Applicants 12

Denied, Postponed, and Withdrawn Applicants 13

April 2021 Activity Risk Report - Harm Assessment 14

Rocket Lawyer 15

1Law 17

Blue Bee Bankruptcy Law 20

AGS Law 22

Estate Guru 23

FOCL Law 25

R & R Group / The Fiduciary Law Group 26

Tanner, LLC 27

DBA LawPal 28

Law On Call 29

Robert DeBry & Associates 30

Pearson & Butler 31

OVERALL METRICS

Total Applications Received	47
Applicants Recommended to Court for Authorization	28
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Inactive or Withdrawn Applicants Before Recommendation	7
Currently Under Office Review	3
Recommended to Court for Authorization Decision	2
Authorized Entities	26
Entities Reporting Data (this month)	10
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There was one reported consumer complaints from reporting entities.

SUMMARY

This report summarizes activities and negative risk assessment of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through April 2021.

SANDBOX ACTIVITY (OCTOBER 2020 - APRIL 2021)

- **26 entities approved to offer services**
  - **Low Risk=4** (AGS Law, Blue Bee, Firmly, Hello Divorce)
  - **Low/Moderate=10** (FOCL Law, Jordanelle Blocks, LawPal, Legal Claims, Inc., Mountain West Legal Protective, R&R, Robert Debry & Associates, Rocket Lawyer, Tanner, Xira)
  - **Moderate=12** (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, LawGeex, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
  - **High=0**
  - **46% of authorized entities were moderate risk; 39% low/moderate risk; 15% low risk**

- **12 entities reporting** data to date.
  - 2 low risk entities; 6 low/moderate risk entities; 4 moderate entities

- **1195 legal services sought** from approximately **1000 unduplicated clients**
  - Low=113 legal services sought
  - Low/Moderate=413 legal services sought
  - Moderate=669 legal services sought
  - 56% of legal services produced via moderate risk entities
  - **826** legal services have been delivered by a **lawyer** (or lawyer employee) or **software for form or document completion only** with lawyer involvement
  - **326** legal services have been delivered by **software with lawyer involvement**

  - The rank of legal category addressed has been 1) End of Planning; 2) Business; 3) Marriage/Family; 4) Financial; 5) Accident/Injury. **Five legal categories** accounted for **81% of legal services**. The remaining 15 possible legal categories accounted for 19%. The top three categories accounted for 60% of legal service.

  - To date, one complaint has been communicated by entities to the Office that would indicate potential for consumer harm. After follow-up by the Office during May 2021, it was concluded that the potential for consumer harm was appropriately responded to and mitigated by the entity.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**1**	**<1%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

- Based on reviewing mismatches of services sought and received given fees paid, there was no evidence supporting unnecessary or inappropriate purchases of legal services. In communicating with entities regarding the amount paid for services, the amount paid reasonably fit their respective business models.
- Applicable mismatches between services sought and received were linked to quality control of legal service intake coding (improving service sought identification methods) and error in the process of linking life events to appropriate legal needs. The Office concluded that mismatches were not harms.
- Other identified data reporting issues were linked to entities having difficulty pulling data from internal systems to align with Sandbox prescribed coding. These issues were resolved through follow-up communications and/or data clarification requests.
- Legal results were appropriate given legal matters and scope of service.
- Services will continue to be monitored for complaints and outcomes.
- The Office is developing a harm framework that describes the harm assessment framework in plain language.
- The pilot of the vanguard service audit of a moderate risk entity is ongoing. Two entities are preparing to each submit data on 20 services selected by the Office. The Office is working through mechanisms to pay auditors and may use volunteers to pilot the audit method during May/June.

TABLE 1: AUTHORIZED ENTITIES

Entity Name	Risk Level	Service Models	Service Categories
10 - Blue Bee Bankruptcy	Low	Lawyers employed / managed by nonlawyers	Education
		<50% nonlawyer ownership	Consumer Financial Issues
15 - AGS Law	Low	<50% nonlawyer ownership	Business
			End of Life Planning
			Real Estate
19 - Firmly, LLC	Low	<50% nonlawyer ownership	Business
44 - Hello Divorce	Low	Lawyers employed / managed by nonlawyers	Marriage and Family
		<50% nonlawyer ownership	
04 - Lawpal	Low / Moderate	Lawyers employed / managed by nonlawyers	End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
		Software provider /w lawyer - doc completion	Housing (Rental)
			Marriage and Family
05 - Rocket Lawyer	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
			Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues

Entity Name	Risk Level	Service Models	Service Categories
			Healthcare
			Housing (Rental)
			Immigration
			Marriage and Family
			Military
			Public Benefits
			Real Estate
07 - R & R Legal Services	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Domestic Violence
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Healthcare
			Marriage and Family
			Public Benefits
14 - FOCL Law	Low / Moderate	Lawyers employed / managed by nonlawyers	Marriage and Family
		50+% nonlawyer ownership	
		Software provider /w lawyer - doc completion	
32 - Tanner LLC (Withdrawn from Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	
33 - Xira Connect	Low / Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business

Entity Name	Risk Level	Service Models	Service Categories
			Criminal Expungement
			Discrimination
			Domestic Violence
		Fee Sharing	Education
			Employment
			End of Life Planning
			Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Intermediary Platform	Marriage and Family
			Military
			Native American / Tribal
			Public Benefits
			Real Estate
			Traffic Citations
37 - Robert DeBry	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	
38 - Davis & Sanchez	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Education
39 - Legal Claims Benefits	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Education
		50+% nonlawyer ownership	Healthcare
			Military
			Public Benefits

Entity Name	Risk Level	Service Models	Service Categories
41 - Mountain West Legal Protective	Low / Moderate	Lawyers employed / managed by nonlawyers	Housing - Rental
		50+% nonlawyer ownership	Real Estate
02 - 1Law	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
		50+% nonlawyer ownership	Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Public Benefits
			Real Estate
			Traffic Citations
03 - Law HQ	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Employment
12 - Nuttall Brown	Moderate	Lawyers employed / managed by nonlawyers	Accident Injury

Entity Name	Risk Level	Service Models	Service Categories
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Discrimination
		Non-lawyer provider w/ lawyer involvement	Employment
			Marriage and Family
13 - Estate Guru	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	End of Life Planning
		Fee Sharing	Consumer Financial Planning
		Software provider /w lawyer - doc completion	Healthcare
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
23 - Off the Record	Moderate	50+% nonlawyer ownership	Traffic Citations
		Fee Sharing	
		Software provider w/ lawyer involvement	
27 - Sudbury Consulting	Moderate	Software provider w/ lawyer involvement	Criminal Expungement
			Employment
28 - Pearson Butler	Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business
			Discrimination
			Education
		Fee Sharing	Employment
			End of Life Planning
			Consumer Financial Issues

Entity Name	Risk Level	Service Models	Service Categories
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Military
			Native American / Tribal
			Public Benefits
			Real Estate
30 - Law on Call	Moderate	Lawyers employed / managed by nonlawyers	Business
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Housing (Rental)
		Non-lawyer provider w/ lawyer involvement	Real Estate
31 - DSD Solutions	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Business
			Criminal Expungement
		50+% nonlawyer ownership	Domestic Violence
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Housing (Rental)
			Immigration
			Marriage and Family
		Non-lawyer provider w/ lawyer involvement	Public Benefits
			Real Estate
			Traffic Citations
36 - Timp. Cert. Advocates	Moderate	Nonlawyer provider w/out lawyer involvement	Domestic Violence
			Marriage and Family

Entity Name	Risk Level	Service Models	Service Categories
42 - Jordanelle Blocks	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	
		Fee Sharing	Housing - Rental
		Software provider /w lawyer - doc completion	
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
43 - LawGeex	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	Healthcare
		Software provider w/ lawyer involvement	
45 - Holy Cross Ministries	Moderate	Non-lawyer provider w/ lawyer involvement	Financial Issues
			Immigration
			Health Care
			Public Benefits
47 - AAA Fair Credit	High	Non-lawyer provider w/out lawyer involvement	Financial Issues
			Healthcare
			Public Benefits

TABLE 2: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Hello Divorce	Low	TBD	TBD	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Tanner (Withdrawn)	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Xira Connect	Low- Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Davis & Sanchez	Low-Moderate	TBD	TBD	Monthly
Legal Claims Benefits	Low-Moderate	TBD	TBD	Monthly
Robert Debry	Low-Moderate	April 15, 2021	May 5, 2021	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	TBD	TBD	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly
Pearson Butler	Moderate	Mar. 1, 2021	Apr. 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	TBD	TBD	Monthly
Mountain West Legal Protective	Moderate	TBD	TBD	Monthly
Jordanelle Blocks	Moderate	TBD	TBD	Monthly
Law Geex	Moderate	TBD	TBD	Monthly
Holy Cross Ministries	Moderate	TBD	TBD	Monthly
AAA Fair Credit	High	TBD	TBD	Monthly

TABLE 3: PENDING SUBMITTED APPLICANTS

		35 - SoloSuit	40 - UT Legal Advocates	46 - Gregory Hawkins		
Risk Level		**Moderate**	**Moderate**	**Moderate**		
Total Categories		**1**	**8**	**2**		
		3	**2**	**3**		**Total Models**
Accident/Injury	-				1	Lawyers employed / managed by nonlawyers
Adult Care	-				-	<50% nonlawyer ownership
Business	1		X		-	50% + nonlawyer ownership
Criminal Expungement	1		X		2	Fee sharing
Discrimination	1		X		-	Software provider w/ lawyer - doc completion
Domestic Violence	1		X		2	Software provider w/ lawyer
Education	-	X			-	Software provider w/out lawyer
Employment	1		X		2	Non-lawyer provider w/ lawyer
End of Life Planning	1			X	-	Nonlawyer provider w/ out lawyer
Financial Issues	-				-	Intermediary Platform
Healthcare	1			X		
Housing (Rental)	1		X			
Immigration	-					
Marriage and Family	1		X			
Military	-					
Native American / Tribal Issues	-					
Public Benefits	-					
Real Estate	-					
Traffic Citations	1		X			

TABLE 4: DENIED, POSTPONED, AND WITHDRAWN APPLICANTS[1]

		01 - PainWorth	06 - Fluent Worlds	09 - Legal Different	11 - Louis Hansen	17 - CBLP	18 - Smith Gold	20 - US Arb	21 - Arch Media		
Status		Withdrawn - Unresponsive	Withdrawn - Unresponsive	Withdrawn - Not Qualified	Withdrawn	Resubmit	Withdrawn	Withdrawn	Denied		
Total Categories		**1**	**-**	**3**	**3**	**7**	**13**	**4**	**4**		
		3	**1**	**-**	**-**	**5**	**3**	**4**	**1**	**Total Models**	
Accident/Injury	2	X					X			3	Lawyers employed/ managed by nonlawyers
Adult Care	3						X	X		2	<50% nonlawyer ownership
Business	5			X		X	X	X	X	2	50% + nonlawyer ownership
Criminal Expungement	1					X				-	Fee sharing
Discrimination	1			X						4	Software provider /w lawyer - doc completion
Domestic Violence	1						X			2	Software provider w/ lawyer
Education	1						X			1	Software provider w/out lawyer
Employment	3			X		X	X			3	Nonlawyer provider w/ lawyer
End of Life Planning	3				X	X			X	1	Nonlawyer provider w/out lawyer
Financial Issues	4				X	X	X	X			
Healthcare	3						X	X	X		
Housing (Rental)	-										
Immigration	1						X				
Marriage and Family	2						X		X		
Military	2					X	X				
Native American / Tribal Issues	1						X				
Public Benefits	-										
Real Estate	3				X	X	X				
Traffic Citations	-										

[1] This table does not include those applicants tabled under the Court's Dec. 10, 2020 statement on referral fees. Those 8 applicants are: 08-Shumway Van, 16-Efficient Attorneys, 22-Nelson Jones, 24-Legal Services Link, 25-Michael Loveridge, 26-First Professional Services, 29-RMPIC, and 34-Woodbury.

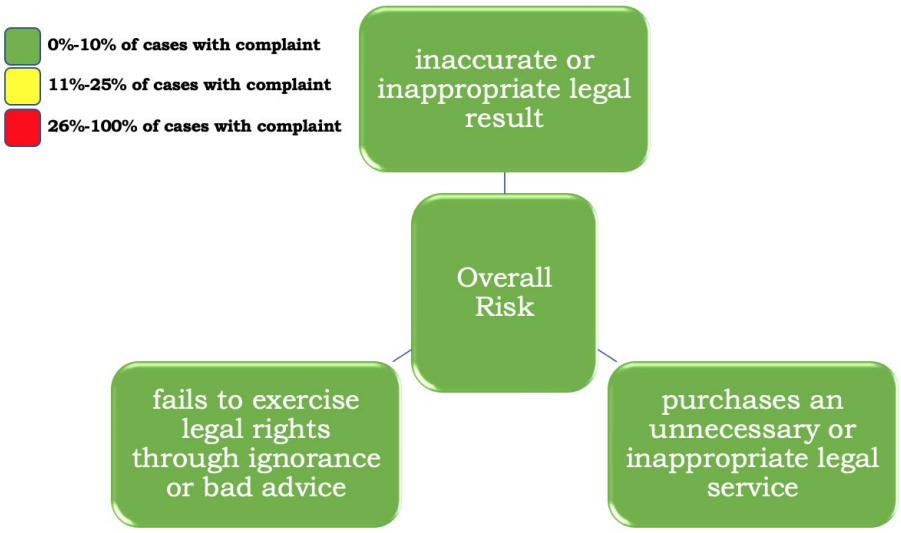
APRIL 2021 ACTIVITY RISK REPORT - HARM ASSESSMENT

Depending on an entity's assessed risk level (the risk level assigned at authorization), OLSI collects a range of measures from the entity designed to assess the occurrence of three harms to consumers (this can also be understood as "actualized risk"):

- Consumer achieves an inaccurate or inappropriate legal result.
- Consumer fails to exercise legal rights through ignorance or bad advice.
- Consumer purchases an unnecessary or inappropriate legal service.

As service activity increases among sandbox participants, the Office will receive more kinds of information. For entities assigned higher risk levels, this will include information about legal outcomes, financial outcomes, and expert audits of a sample of work product. As these data accumulate, harm assessments will be based on a review of all applicable measures.

In these early stages of service provision and reporting, the assessment of consumer harm is based on the prevalence of consumer complaints indicating the occurrence of one or more of the three harms. Social scientific studies grounded in expert peer review of lawyers' work product typically find that lawyers commit errors in one fifth to one quarter of the cases reviewed. Taking this finding as a baseline, the harm assessment classifies receipt of harm-related complaints from more than 25% of customers as a significant warning of harm (red), which would indicate an immediate need for the entity to work with OLSI to develop and implement quality improvement plans to prevent harms and might also lead the Office to recommend that the Court suspend the entity's operations in the sandbox. Receipt of harm-related complaints from 11-25% of consumers would trigger a watch (yellow) to better understand and prevent potential harms and would likely include the requirement of additional information from entities so classified. Receipt of harm-related complaints from 10% or fewer of an entity's consumers is considered reasonable risk (green) and does not trigger the need for any additional risk assessment.



ROCKET LAWYER

APRIL ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

During April 2021, Rocket Lawyer reported participation in 57 consumer legal services. These consumer engagements were completed by a lawyer employee in a nonlawyer-owned entity. 42 of the legal services opened in April were closed during the month. Regarding consumer risk, 0 consumer complaints were reported. Rocket Lawyer is a low/moderate risk project and is assessed for actualized risk by monitoring consumer complaints across three risk categories (Table 5). Rocket Lawyer was categorized as green (satisfactory; no to minimal negative actualized risk) for the month of April 2021 based on consumer complaints.

Table 5. Consumer Risk Assessment: Rocket Lawyer, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

OCTOBER 2020-APRIL 2021CUMULATIVE ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Cumulatively across October 2020 through April 2021, Rocket Lawyer reported participation in 284 legal matters. These consumer engagements were completed by a lawyer employee in an entity with nonlawyer ownership. Two previous services from March were also captured in this report after further reporting reconciliation. 213 of the 284 consumer legal services were closed during the month the service was opened. 265 of the 284 consumer legal services are now complete, with 264 closed (due to an expected conclusion linked to the practice of law) and 1 lost to follow-up (meaning the client/customer was unresponsive). Of those services not opened and closed within the same month, most closed by the subsequent month. 19 legal services currently remain open. One service sought has been reported as lost to follow-up. Regarding consumer risk year-to-date, 0 consumer complaints were reported overall. Rocket Lawyer was categorized as green (satisfactory) for the months of October 2020 through April 2021 based on consumer complaints (Table 6).

Table 6. Consumer Risk Assessment: Rocket Lawyer, October 2020 - April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

1LAW

APRIL ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

During April 2021, 1Law reported 54 inquiries for consumer legal services. 16 of the 54 inquiries remained open during the month of April. Thirty-eight services were completed due to loss to follow-up. All 54 services sought were noted as limited assistance, legal advice. All of the lost to follow-up completed services received a question answered, not legal advice. All the completed services lost to follow-up received a question answered by software with lawyer involvement. The open services were currently receiving services from a lawyer/lawyer employee and were reportedly receiving limited assistance, legal advice. After clarifying with 1Law, the open services were receiving assistance from a lawyer and lawyer employee as well as software with lawyer involvement; in these services, software assists with intake and as a platform for legal services (i.e., telelaw). Regarding services sought and received during April, among closed services, services sought were solely legal advice, which resulted in questions answered, not legal advice, among completed services. The open services of legal advice were being addressed by a lawyer. The amount paid for services was $0 for the month. Despite the mismatch of service sought and received, there was no evidence of upselling or over-payment. Based on conversations with the entity, one of the functions of the software is to answer questions related to customer reported life events that may or may not be legal needs. The software is in part serving a customer intake and legal matter identification function (similar to an intermediary platform), which explains the shift from legal advice sought and question answered. Additionally, when an intake progresses from web-based and app-based intake to legal services, a lawyer uses technology to assist customers using a "telelaw" approach. Additionally, $0 was paid for services during April, which further diminishes potential negative risk for the mismatch of services sought and received. There is no evidence of inappropriate or unnecessary purchase of services related to the mismatch. There were also no complaints for inadequate results or failure to identify/exercise rights. During the month of April, zero financial and legal outcomes were reported, though open services included a pending outcome note among those services initiated during the month. Consumers paid $0 for services during April thereby setting the outcome to paid service ratio to 0:0 further decreasing risk of unknowable/pending outcomes at this time. 1Law was green (satisfactory; no to low risk) in all three categories of consumer risk-related complaints (Table 7) for the month. 1Law performed in the green (satisfactory) for complaints and amount paid ($0) for April specifically. Legal/financial outcomes will be monitored on a monthly basis to evaluate service outcomes, due to lack of applicable data at this time.

Table 7. Consumer Risk Assessment: 1LAW, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

OCTOBER 2020-APRIL 2021 CUMULATIVE ACTUALIZED RISK ASSESSMENT: **GREEN - SATISFACTORY**

Cumulatively across October 2020 through April of 2021, 1Law reported 337 inquiries for consumer legal matters. Note that, beyond the 337 inquiries noted in this report, 13 services were excluded due to limited information at intake meaning that consumers discontinued very early in the intake process. 62 legal matters remained open during April, if including the excluded services noted as open. The open services approached 50 when adjusting for excluded services meaning that these services are still noted as open but are likely lost to follow-up. To date, 213 of the consumer engagements for legal services were completed primarily by a lawyer/lawyer employee. During the months of October-December 2020, legal service delivery was only applicable to the Utah Sandbox under the less than 100% lawyer owner condition. January was the first month when services were offered by software with lawyer involvement (during January through April of 2021 a total of 124 services were provided primarily by software with lawyer involvement). Almost all services sought (~99%) were limited assistance legal advice, and a similar percentage received limited assistance-legal advice (60%) or a question answered-not legal advice (36%). Two of the legal services received limited assistance for document completion, and three legal services involved full representation assistance. Approximately 2% of the services received were noted as not service due to loss to follow-up. During the months of October 2020 through April 2021, zero financial and legal outcomes were reported since applicable services remained open or have not reached a known outcome. Consumers paid $0 for services during October 2020 through April 2021 thereby setting the outcome to paid service ratio to 0:0 further decreasing risk of unknowable outcomes at this time. Additionally, 0 consumer complaints were reported. 1Law was green (satisfactory) in all three categories of consumer risk-related complaints (Table 8). 1Law is a moderate risk project and will be assessed for risk by monitoring consumer complaints across three risk categories as well as legal/financial outcomes and amount paid for services. 1Law performed in the green for complaints and amount paid ($0). Legal/financial outcomes will be monitored on a monthly basis to evaluate service outcomes. The mismatch between services sought and received will also be reviewed on a monthly basis. The services sought and received mismatch is in part due to the legal service intake function performed by the software that attempts to link reported life events to types of legal matters. Additionally, based on additional conversations during May 2021, it was learned that mismatch of services sought and received from March through April is also in part a result due to method legal service progression. All participants begin with a web-based interaction. Some progress to an app (software application). From the app or website intake, a subset progress to technologically mediated interactions with the lawyer employee. Due to payments totalling $0 to date, there is no evidence of inappropriate purchases. There were also no complaints related to inadequate results nor lack of identification/exercising rights. During May 2021, 1Law progressed to a point of service delivery to begin the audit process. 1Law was categorized as green (satisfactory) overall regarding risk for the months of October 2020 through December 2020 and February through April of 2021. Due to data quality and service delivery questions, 1Law was moved to yellow (watch) for the month of January 2021. The Office followed up with the entity to resolve data reporting and method of service delivery questions, which were reasonably resolved by the entity.

Table 8. Consumer Risk Assessment: 1LAW, October 2020-April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

BLUE BEE BANKRUPTCY LAW

JANUARY 2021-MARCH 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Blue Bee Law was approved by the court on August 30, 2020. Note that these service estimates were updated between the March and April data report, after follow-up and clarification in the interim during April. Blue Bee is a low-risk entity that reports quarterly. This is Blue Bee's second reporting period. Blue Bee reported 29 inquiries for legal matters (adjusted from 32 in the March report). 17 of the 29 services have progressed beyond triage and preliminary advice. 1 of the 29 legal matters has closed. The other 28 remain open. All of the matters fell under the Financial legal category. All consumer engagements were completed by a lawyer non-employee or lawyer employee during the reporting period. Blue Bee was green (no to low risk) in all three categories of consumer risk-related complaints (Table 9). Blue Bee Law is a low-risk project, due to ownership, and will be assessed for risk by monitoring consumer complaints across three risk categories on a quarterly basis. Blue Bee was categorized as green (no to low risk) overall regarding risk for this reporting period.

Table 9. Consumer Risk Assessment: Blue Bee, January 2021 - March 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

SEPTEMBER 2020 - MARCH 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Blue Bee Law was approved by the court on August 30, 2020. Blue Bee is a low-risk entity that reports quarterly. Note that these service estimates were updated between the March and April data report, after follow-up and clarification in the interim during April. Blue Bee reported approximately 95 inquiries for consumer legal matters. 69 of the 95 services have progressed beyond triage and preliminary advice as estimated for payment for services. 28 of the legal matters have closed. 99% of the cases fell under the Financial legal category, and the remaining percentage involved debt related to the Education legal category. All consumer engagements were completed by a lawyer non-employee or lawyer employee during the reporting period. Blue Bee was green (no to low risk) in all three categories of consumer risk-related complaints (Table 10). Blue Bee Law is a low-risk project, due to ownership, and will be assessed for risk by monitoring consumer complaints across three risk categories on a quarterly basis. Blue Bee was categorized as green (no to low risk) overall regarding risk for this reporting period. This will not, however, impact complaints, which is the primary measure of potential harm.

Table 10. Consumer Risk Assessment: Blue Bee, September 2020 - March 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

AGS Law

January 2021 - March 2021 Actualized Risk Assessment: Green - Satisfactory

AGS Law was approved by the court on September 22, 2020. AGS Law is a low-risk entity that reports quarterly. AGS Law reported initiating 15 consumer legal services from January 2021 through March 2021. Seven of the 15 services sought remained open during the month of March 2021. All of the legal services fell under the category of business. All consumer engagements were completed by a lawyer or lawyer employee during the reporting period. AGS was green (satisfactory; no to low risk) in all three categories of consumer risk-related complaints (Table 11). AGS Law is a low-risk entity, due to non-lawyer ownership, and will be assessed for risk by monitoring consumer complaints across three risk categories on a quarterly basis. AGS was categorized as green (satisfactory) overall regarding risk for this reporting period.

Table 11. Consumer Risk Assessment: AGS Law, January 2021 - March 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

September 2020 - March 2021 Actualized Risk Assessment: Green - Satisfactory

Since Sandbox approval during September of 2020, AGS Law has reported 18 legal services sought all under the legal category of business. Eleven of the 18 services have closed as of the end of March 2021, and seven of the 18 services remained open as of March 2021. All consumer engagements were completed by a lawyer or lawyer employee during the first two reportable quarters. AGS was green (satisfactory) in all three categories of consumer risk-related complaints (Table 12).

Table 12. Consumer Risk Assessment: AGS Law, September 2020 - March 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

ESTATE GURU

APRIL 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Estate Guru Law began offering Utah Sandbox qualifying services during December 2020. Estate Guru is a moderate-risk entity, due to non-lawyer provision of legal services, that reports monthly. During April 2021, Estate Guru reported 49 consumer legal services. All 49 legal services were opened and closed during the month of reporting and fell under the category of End-of-Life Planning. 30 of the services sought were full representation, and 19 services sought were limited assistance for documentation preparation. There was a 100% match between legal services sought and legal services received. The legal outcome for all closed legal matters was drafting end of life documents. 49 of consumer engagements were completed by a software provider with lawyer involvement. Five of the 49 services were paid services (meaning that 44 services cost $0). The mean average cost across all monthly end of life services was $57 (per closed service including those costing $0). Given paying for service (n=5), the mean average was $560. The most typical payment for a service, assuming payment, was between $500 and $650. The service charge for all limited assistance services was $0. The 5 service charges were for full representation. The amount paid spread across all full representation services provided (n=30) was $93 (mean average). The ratio of the amount paid to end of life legal service was $57:1. The average number of services per unique client was 3.1. All unique clients (n=16) experienced at least one full representation service. The average service cost per unique client was $175. The overall cost per bundle of client end of life document drafting was therefore also $175. With zero risk-related complaints, Estate Guru was green (satisfactory) in all three categories of consumer risk-related complaints (Table 13). There was also a 100% match between services sought and received, which further diminished actualized risk. All services received were linked to an applicable material outcome. The per client and per service cost also seemed reasonable. Estate Guru is a moderate-risk project, due to nonlawyer service provision with lawyer involvement, and will be assessed for risk by monitoring consumer complaints across three risk categories, service sought versus received, outcomes, and cost of services on a monthly basis. Estate Guru was categorized as green (satisfactory) overall regarding risk for this reporting period. During May, the preliminary audit process with Estate Guru will also begin.

Table 13. Consumer Risk Assessment: Estate Guru, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

DECEMBER 2020 - APRIL 2021CUMULATIVE ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Estate Guru Law was approved by the court on October 2, 2020 and began offering Utah Sandbox qualifying services during December 2020. Estate Guru is a moderate-risk entity, due to non-lawyer software provision of legal services, that reports monthly. To date, Estate Guru customers/clients sought 247 legal services from December 2020 to April 2021. All legal services were opened and closed during the month they were opened and fell under the category of End-of-Life Planning. Note that one service opened at the end of March and closed in the beginning of April was not captured in the March data report but was captured here. 158 of the services were delivered by full representation, and 89 services were delivered as limited assistance for documentation preparation. There was a 100% match between legal services sought and legal services received. The legal outcome for all closed legal matters was drafting end of life documents. 245 engagements were completed by a software provider with lawyer involvement, and the remaining two involved software completion of forms/documents only. Thirty-nine of the 247 services were paid services (meaning that 214 services cost $0). The mean average cost across all monthly end of life services was $78 (per closed service including those costing $0). Given paying for service (n=39), the mean average was $494. The most typical payment for a service, assuming payment, was approximately $100 or $650 (bimodal average). The service charge for all limited assistance services was $0. The 39 service charges were for full representation. The amount paid spread across all full representation services provided (n=108) was $178 (mean average). The ratio of the amount paid to end of life document preparation service was $78:1. The average number of services per unique client was 3.7. All of the unique clients (n=69) experienced at least one full representation service. The average service cost per unique client was $279. The overall cost per bundle of client end of life document drafting was therefore also $279. With zero risk-related complaints, Estate Guru was green (satisfactory) in all three categories of consumer risk-related complaints (Table 14). There was also a 100% match between services sought and received, which further diminishes actualized risk. All services received were linked to an applicable material outcome. The per client and per service cost also seemed reasonable, and the amounts charged (most charges fell within the range of $350 to $650). Estate Guru is a moderate-risk project, due to nonlawyer service provision with lawyer involvement, and will be assessed for risk by monitoring consumer complaints across three risk categories, service sought versus received, outcomes, and cost of services on a monthly basis. Estate Guru was categorized as green (satisfactory; no to low risk) overall regarding risk for this reporting period.

Table 14. Consumer Risk Assessment: Estate Guru, December 2020 and April 2021.

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

FOCL Law

April 2021 Actualized Risk Assessment: Not Applicable (No Service)

FOCL Law was approved by the court on September 20, 2020 and was approved as a low/moderate risk entity. FOCL Law will primarily be assessed for consumer harm by monitoring complaints, which includes reasonable data quality and timely response. FOCL Law reported no services offered during April 2021 and therefore the month of April was noted as not applicable.

February - April 2021 Actualized Risk Assessment: Green (February) - Satisfactory

FOCL Law was approved by the court on September 20, 2020 and was approved as a low/moderate risk entity. FOCL Law will primarily be assessed for consumer harm by monitoring complaints, which includes reasonable data quality and timely response. FOCL Law reported on services offered during February 2021. FOCL Law provided one service for a fee of $100 for software document/form completion related to marriage/family law. It is assumed that this service is still open as of April. There have been no risk-related complaints (Table 15). However, FOCL Law offered no services during March and April of 2021 and was not given a risk rating for the months of March and April.

Table 15. Consumer Risk Assessment: FOCL Law, February - April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

R & R Group / The Fiduciary Law Group

April 2021 Actualized Risk Assessment: Green - Satisfactory

R&R Group was approved by the court on September 21, 2020 and began offering Utah Sandbox qualifying services during January 2021. R&R Group is a low/moderate-risk entity due to >50% non-lawyer ownership and being employed/managed by a non-lawyer. As pertinent to the April data report, 2 new services initiated in April. All legal services were delivered by a lawyer/lawyer employee. Both of the services initiated during April fell under the category of end of life planning. With zero risk-related complaints, R&R Group was green (satisfactory) in all three categories of consumer risk-related complaints. R&R Group was categorized as green (satisfactory) overall regarding risk for this reporting period.

January 2021-April 2021 Actualized Risk Assessment: Green - Satisfactory

R&R Group has delivered 15 services in the area of end of life planning and 1 in the area of business. R&R Group is a low/moderate-risk entity due to >50% non-lawyer ownership and being employed/managed by a non-lawyer. During the first two reporting periods, R&R Group reported 4 services (January=1; February=3). However, subsequent follow-up in the March and April reporting periods supported that services initiated during February should be updated to 9. Previously unreported services that initiated in late February were reported during March and substantiated in this reporting period. 14 of the 16 services remained open as of the April reporting window. R&R Group reported one service during January, nine services during February, four services during March, and two services during April. 14 of the 16 services remained open during the April reporting period and the remaining two services were abandoned-- both of the abandoned services fell under End of Life Planning. All of the legal services for January through April were completed by a lawyer/lawyer employee. With zero risk-related complaints, R&R Group was green (satisfactory) in all three categories of consumer risk-related complaints (Table 15). R&R Group was categorized as green (satisfactory) overall.

Table 16. Consumer Risk Assessment: The Fiduciary Law Group, January 2021 to April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

TANNER, LLC

JANUARY-MARCH 2021 ACTUALIZED RISK ASSESSMENT: WITHDRAW - EXITED SANDBOX

Tanner LLC was approved by the court on December 9, 2020 and began offering Utah Sandbox qualifying services during January 2021. Tanner, LLC is a low/moderate-risk entity due to >50% non-lawyer ownership and being employed/managed by a non-lawyer. Tanner, LLC., reported 5 legal services during January and 1 during February. Three of the five legal services were opened and closed during the month that they opened. All legal services fell under the legal category of business. As of February reporting, one service remained open. All legal services were completed by a lawyer/lawyer employee. With zero risk-related complaints, Tanner LLC was green (satisfactory) in all three categories of consumer risk-related complaints during January and February (Table 17). During March 2021, Tanner, LLC., requested to withdraw (exit) the Sandbox due to losing the entity's attorney and lacking intent to replace the attorney.

Table 17. Consumer Risk Assessment: Tanner LLC, January 2021 to February 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

DBA LawPal

April 2021 Actualized Risk Assessment: Green - Satisfactory

DBA LawPal was approved by the court on September 22, 2020 and began offering Utah Sandbox qualifying services late January 2021. LawPal is a low/moderate-risk entity due to >50% non-lawyer ownership. LawPal reported 1 legal services starting during April 2021. The services remained open during April. The legal services fell under the legal category of Marriage and Family and were completed by a software provider with lawyer involvement for legal document/ form completion only. $0 were paid for services during the April reporting period. During the April reporting period a complaint was reported for a service initiated during April 2021 (Table 18). The cost of the disputed service was noted as $199 during the March report but was reduced to $0 during the April reporting period. The consumer submitted a complaint that the purchased product was not received. LawPal attempted to follow-up to resolve the disputed result, and LawPal refunded the $199 paid amount after the consumer was unresponsive to follow-up. This complaint will be noted in the cumulative complaints. LawPal was categorized as green (satisfactory) overall regarding risk for this reporting period, due to no risk-related complaints.

January/February 2021-April 2021 Actualized Risk Assessment: Green - Satisfactory

DBA LawPal reported 34 legal services sought during January/February-April of 2021 (two services from late January were linked to the February data report). 33 of the 34 services remained open as of the April reporting period. All legal services fell under the legal category of Marriage and Family. All legal services were completed by a software provider with lawyer involvement for legal document/form completion only. One complaint linked to results was made for service initiated during March (as noted above). The Office addressed the complaint with LawPal and found that the company had addressed the complaint through outreach and refunding of money paid by the consumer. The Office notes that one complaint represents 2.9% of LawPal's services and does not, on its own, reach the threshold level of harm requiring regulatory action.

Table 18. Consumer Risk Assessment: DBA LawPal, January/February 2021 to April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**1**	**2.9%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

LAW ON CALL

APRIL 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Law On Call was approved by the court on December 9, 2020 and began offering Utah Sandbox qualifying services during April of 2021. Law On Call is a moderate-risk entity due to >50% non-lawyer ownership, lawyer employed/managed by a nonlawyer, and nonlawyer service provision with lawyer involvement. LawPal reported 7 legal services starting during April 2021. Five of the 7 services closed during April-- two services remained open. Five of the legal services fell under the legal category of Business, and two were categorized as End of Life Planning. All services completed by a lawyer/lawyer employee. $198 were paid for services during the April reporting period; the cost of both services was $99. Both services with payments were under the legal category of Business for the service sought of form/document completion. Three of the five services sought matched. The two mismatches shifted from legal advice sought to question answered not legal advice received. Neither of the mismatches included a paid amount. During the April reporting period, zero complaints were reported for a service initiated during April 2021 (Table 19). Law On Call was categorized as green (satisfactory) overall regarding risk for this reporting period, due to no risk-related complaints. Additionally, there was no evidence that supported inaccurate or inappropriate rights, results, or payments.

Table 19. Consumer Risk Assessment: Law On Call, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

ROBERT DEBRY & ASSOCIATES

APRIL 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Robert DeBry & Associates was approved by the court on March 22, 2021 and began offering Utah Sandbox qualifying services during April of 2021. Robert DeBry & Associates is a low/moderate-risk entity due to >50% non-lawyer ownership and lawyer employed/managed by a nonlawyer. Robert DeBry & Associate reported 72 legal services initiating during April 2021. All of those services remained open during the month of April. The 72 services were categorized as Accident/Injury. All services completed by a lawyer/lawyer employee. During the April reporting period, zero complaints were reported (Table 19). Robert DeBry & Associates was categorized as green (satisfactory) overall regarding risk for this reporting period, due to no risk-related complaints. Robert DeBry began the process to withdraw from the Sandbox in early May due to the law firm's sale to a lawyer and therefore shifting out of Sandbox qualifying alternative business structures.

Table 19. Consumer Risk Assessment: Robert DeBry & Associates, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

PEARSON & BUTLER

APRIL 2021 ACTUALIZED RISK ASSESSMENT: GREEN - SATISFACTORY

Pearson & Butler was approved by the court on March 22, 2021 and began offering Utah Sandbox qualifying services during April of 2021. Pearson & Butler is a moderate-risk entity due to >50% non-lawyer ownership, fee sharing, lawyer employed/managed by a nonlawyer, and nonlawyer provider with lawyer involvement. Pearson & Butler reported 78 legal services initiating during April 2021. 73 of the 78 services remained open during the month of April; the 5 completed services were closed. The services were categorized as: Accident/Injury=12; Business=20; Criminal=2; Employment=1; End of Life=10; Financial=11; Immigration=9; Marriage/Family=7; and Other=6 (other was noted as civil litigation; it was recommended, prior to the next reporting period, to re-categorize services currently categorized as Other). $19,488 was paid for services. Three of the services cost <$500 and two of the services cost >$7800. The high cost services were linked to Marriage and Family or Business. Currently, Pearson & Butler is reporting as a low/moderate risk entity since they are only providing services through an alternative business structure and not unconventional providers of service. When services are being offered by nonlawyer providers with lawyer oversight, those higher risk services will include information of services sought/received as well as outcomes. All services to date have been completed by a lawyer/lawyer employee. During the April reporting period, zero complaints were reported for a service initiated during the month (Table 20). Pearson & Butler was categorized as green (satisfactory) overall regarding risk for this reporting period, due to no risk-related complaints.

Table 20. Consumer Risk Assessment: Pearson & Butler, April 2021

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	**0**	**0%**
Consumer fails to exercise legal rights through ignorance or bad advice.	**0**	**0%**
Consumer purchases an unnecessary or inappropriate legal service.	**0**	**0%**

Office of Legal Services Innovation

An Office of the Utah Supreme Court

Innovation Office Activity Report

May 2021

Drafted June 18, 2021

Table of Contents

Overall Metrics 1

Summary 2

Sandbox Activity (October 2020 - May 2021) 2

Authorized Entities 4

Overall Metrics

Total Applications Received	47
Applicants Recommended to Court for Authorization	28
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Inactive or Withdrawn Applicants Before Recommendation	7
Currently Under Office Review	2
Recommended to Court for Authorization Decision	1
Authorized Entities	28
Entities Reporting Data (this month)	7
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There was one reported consumer-related complaint from reporting entities.

Summary

This report summarizes activities and negative risk assessment of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through May 2021.

Sandbox Activity (October 2020 - May 2021)

- 28 entities approved to offer services
  - Low Risk=4 (AGS Law, Blue Bee, Firmly, Hello Divorce)
  - Low/Moderate=10 (FOCL Law, Jordanelle Blocks, LawPal, Legal Claims, Inc., Mountain West Legal Protective, R&R, Robert Debry & Associates, Rocket Lawyer, Tanner, Xira)
  - Moderate=13 (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, Holy Cross Ministries, LawGeex, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
  - High=1 (AAA Fair Credit)
  - 4% high risk; 46% moderate risk; 36% low/moderate risk; 14% low risk
- 12 entities reporting data to date; 8 reporting this period
  - 2 low risk entities; 6 low/moderate risk entities; 4 moderate entities
- 1896 legal services sought from over 1500 unduplicated clients
  - Low=113 legal services sought (2 entities)
  - Low/Moderate=491 legal services sought (6 entities)
  - Moderate=1292 legal services sought (4 entities)
  - 68% of legal services produced via moderate risk entities
  - 1459 legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
  - 437 legal services have been delivered by software with lawyer involvement
  - The rank of legal category addressed has been 1) End of Planning; 2) Business; 3) Marriage/Family; 4) Financial; 5) Accident/Injury. Five legal categories accounted for 77% of legal services. The remaining 15 possible legal categories accounted for 23%. The top three categories accounted for 58% of legal service.

- To date, entities have reported two complaints to the Office. The first complaint was reported on in the previous report and received an appropriate response. The second complaint was found to fall outside of the three consumer harms.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Risk Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	1	<1%
Consumer fails to exercise legal rights through ignorance or bad advice.	0	0%
Consumer purchases an unnecessary or inappropriate legal service.	0	0%

- Audit materials have begun to be collected from two moderate risk entities that have delivered sufficient moderate risk services.
- Applicable mismatches between services sought and received were linked to quality control of legal service intake coding (improving service sought identification methods) and error in the process of linking life events to appropriate legal needs. The Office concluded that mismatches were not harms. Audits of moderate risk services will further inform the mismatch issue as applicable to two entities.
- Other identified data reporting issues were linked to entities having difficulty pulling data from internal systems to align with Sandbox prescribed coding. These issues were resolved through follow-up communications and/or data clarification requests.
- Legal results were appropriate given legal matters and scope of service. Some distal legal outcomes will not be knowable by reasonable means.
- The pilot of the vanguard service audits of moderate risk entities is ongoing. One entity has submitted audit materials, and the second entity is preparing to submit data on a subset of moderate risk services as selected by the Office. The Office is working through mechanisms to recruit and pay auditors but may use volunteers to pilot the audit method during June/July to expedite the process.

Table 1: Authorized Entities

Entity Name	Risk Level	Service Models	Service Categories
10 - Blue Bee Bankruptcy	Low	Lawyers employed / managed by nonlawyers	Education
		<50% nonlawyer ownership	Consumer Financial Issues
15 - AGS Law	Low	<50% nonlawyer ownership	Business
			End of Life Planning
			Real Estate
19 - Firmly, LLC	Low	<50% nonlawyer ownership	Business
44 - Hello Divorce	Low	Lawyers employed / managed by nonlawyers	Marriage and Family
		<50% nonlawyer ownership	
04 - Lawpal	Low / Moderate	Lawyers employed / managed by nonlawyers	End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
		Software provider /w lawyer - doc completion	Housing (Rental)
			Marriage and Family
05 - Rocket Lawyer	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
			Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues

			Healthcare
			Housing (Rental)
			Immigration
			Marriage and Family
			Military
			Public Benefits
			Real Estate
07 - R & R Legal Services	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Domestic Violence
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Healthcare
			Marriage and Family
			Public Benefits
14 - FOCL Law	Low / Moderate	Lawyers employed / managed by nonlawyers	Marriage and Family
		50+% nonlawyer ownership	
		Software provider /w lawyer - doc completion	
32 - Tanner LLC (Withdrawn from Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	
33 - Xira Connect	Low / Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Discrimination

			Domestic Violence
		Fee Sharing	Education
			Employment
			End of Life Planning
			Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Intermediary Platform	Marriage and Family
			Military
			Native American / Tribal
			Public Benefits
			Real Estate
			Traffic Citations
37 - Robert DeBry (Withdrawn form Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	
38 - Davis & Sanchez	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Education
39 - Legal Claims Benefits	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Education
		50+% nonlawyer ownership	Healthcare
			Military
			Public Benefits
41 - Mountain West Legal Protective	Low / Moderate	Lawyers employed / managed by nonlawyers	Housing - Rental
		50+% nonlawyer ownership	Real Estate

02 - 1Law	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
		50+% nonlawyer ownership	Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Public Benefits
			Real Estate
			Traffic Citations
03 - Law HQ	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Employment
12 - Nuttall Brown	Moderate	Lawyers employed / managed by nonlawyers	Accident Injury
		50+% nonlawyer ownership	Business
		Software provider w/ lawyer involvement	Discrimination
		Non-lawyer provider w/ lawyer involvement	Employment

			Marriage and Family
13 - Estate Guru	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	End of Life Planning
		Fee Sharing	Consumer Financial Planning
		Software provider /w lawyer - doc completion	Healthcare
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
23 - Off the Record	Moderate	50+% nonlawyer ownership	Traffic Citations
		Fee Sharing	
		Software provider w/ lawyer involvement	
27 - Sudbury Consulting	Moderate	Software provider w/ lawyer involvement	Criminal Expungement
			Employment
28 - Pearson Butler	Moderate	50+% nonlawyer ownership	Accident / Injury
			Adult Care
			Business
			Discrimination
			Education
		Fee Sharing	Employment
			End of Life Planning
			Consumer Financial Issues
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Military

			Native American / Tribal
			Public Benefits
			Real Estate
30 - Law on Call	Moderate	Lawyers employed / managed by nonlawyers	Business
			End of Life Planning
		50+% nonlawyer ownership	Consumer Financial Issues
			Housing (Rental)
		Non-lawyer provider w/ lawyer involvement	Real Estate
31 - DSD Solutions	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Business
			Criminal Expungement
		50+% nonlawyer ownership	Domestic Violence
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Housing (Rental)
			Immigration
			Marriage and Family
		Non-lawyer provider w/ lawyer involvement	Public Benefits
			Real Estate
			Traffic Citations
36 - Timp. Cert. Advocates	Moderate	Nonlawyer provider w/out lawyer involvement	Domestic Violence
			Marriage and Family
42 - Jordanelle Blocks	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	
		Fee Sharing	Housing - Rental
		Software provider /w lawyer - doc completion	

		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
43 - LawGeex	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% nonlawyer ownership	Healthcare
		Software provider w/ lawyer involvement	
45 - Holy Cross Ministries	Moderate	Non-lawyer provider w/ lawyer involvement	Financial Issues
			Immigration
			Health Care
			Public Benefits
46 - Gregory Hawkins	Moderate	Lawyer sharing fees with nonlawyers	End of life planning
47 - AAA Fair Credit	High	Non-lawyer provider w/out lawyer involvement	Financial Issues
			Healthcare
			Public Benefits

Table 2: Authorized Entities Reporting Statuses

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Hello Divorce	Low	Aug. 1, 2021	Oct. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
Xira Connect	Low- Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Davis & Sanchez	Low-Moderate	TBD	TBD	Monthly
Legal Claims Benefits	Low-Moderate	TBD	TBD	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	TBD	TBD	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
DSD Solutions	Moderate	Aug. 1, 2021	Sept. 5, 2021	Monthly
Pearson Butler	Moderate	Mar. 1, 2021	Apr. 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	TBD	TBD	Monthly
Mountain West Legal Protective	Moderate	Jul. 1, 2021	Aug. 5, 2021	Monthly
Jordanelle Blocks	Moderate	TBD	TBD	Monthly
Law Geex	Moderate	Aug. 2, 2021	Sept. 1, 2021	Monthly
Holy Cross Ministries	Moderate	TBD	TBD	Monthly
Gregory Hawkins	Moderate	TBD	TBD	Monthly
AAA Fair Credit	High	TBD	TBD	Monthly

Office of Legal Services Innovation

An Office of the Utah Supreme Court

Innovation Office Activity Report

Executive Summary

June 2021

Drafted July 20, 2021

Overall Metrics

Total Applications Received	48
Applicants Recommended to Court for Authorization	29
Applicants Denied Recommendation from Innovation Office	1
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	8
Inactive or Withdrawn Applicants Before Recommendation	7
Currently Under Office Review	3
Recommended to Court for Authorization Decision	2
Authorized Entities	29
Entities Reporting Data (this month)	9
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	There was one reported consumer-related complaint from reporting entities.

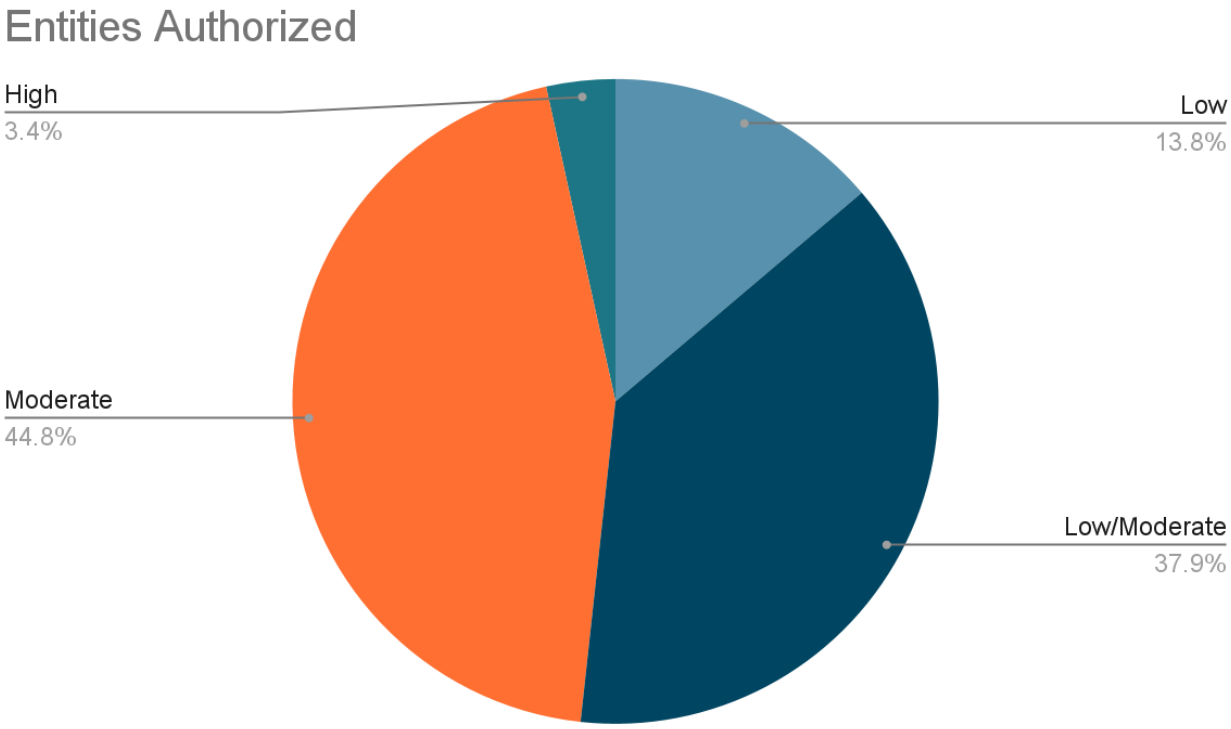
Executive Summary

This report summarizes activities and negative risk assessment of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through June 2021.

Sandbox Activity (October 2020 - June 2021)

Entities Authorized to Offer Sandbox Legal Services

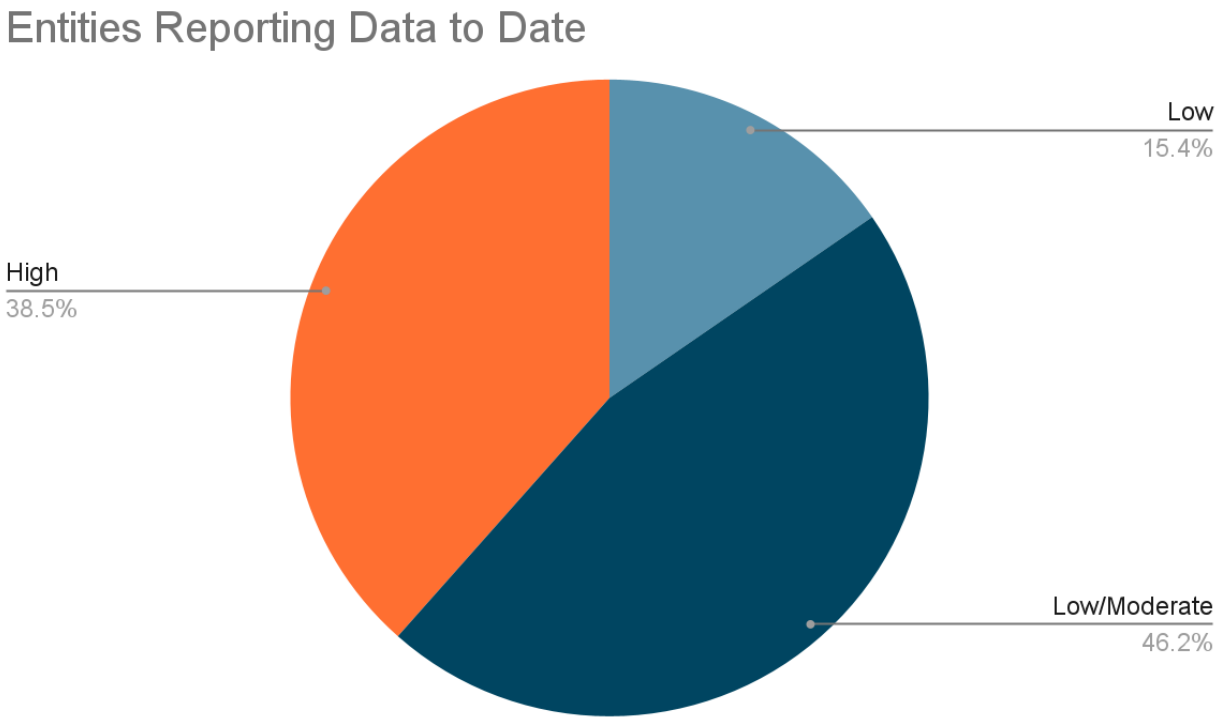
- 29 entities approved to offer services



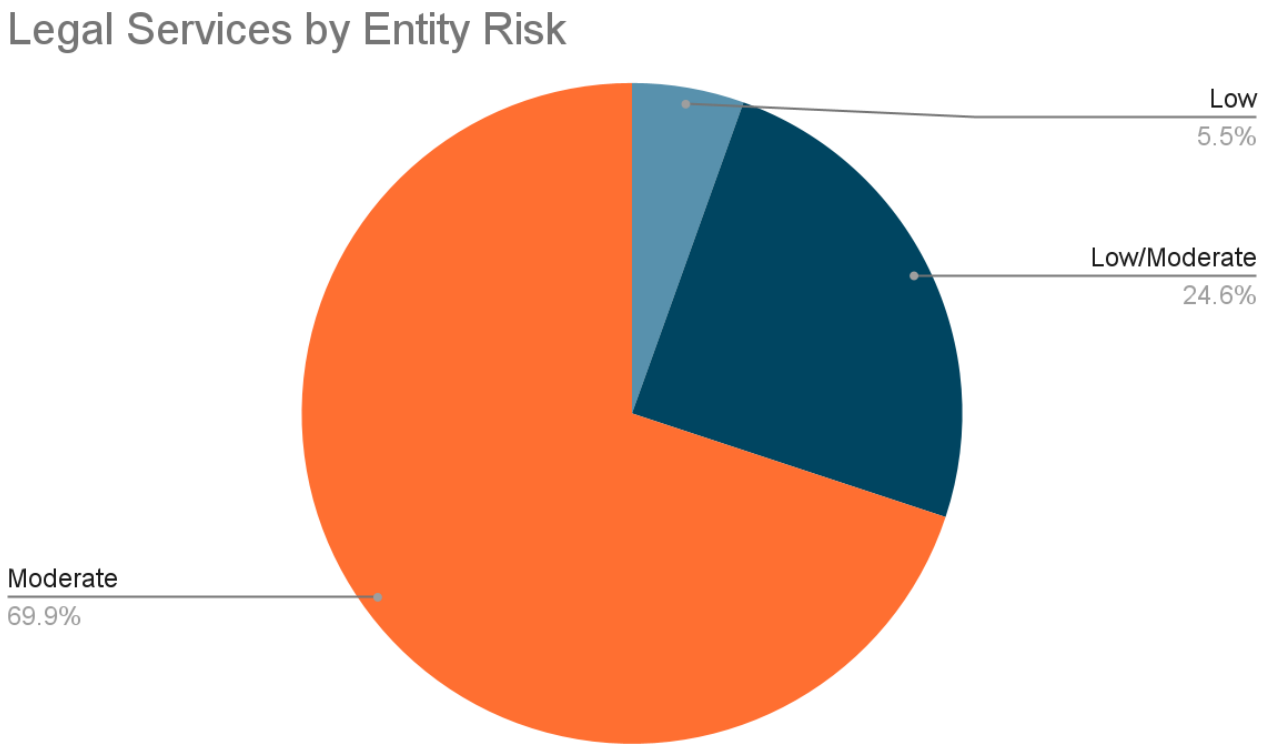
-
  - Low Risk=4 (AGS Law, Blue Bee, Firmly, Hello Divorce)
  - Low/Moderate=11 (Gregory Hawkins, FOCL Law, Jordanelle Blocks, LawPal, Legal Claims, Inc., Mountain West Legal Protective, R&R, Robert Debry & Associates, Rocket Lawyer, Tanner, Xira)
  - Moderate=13 (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, Holy Cross Ministries, LawGeex, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
  - High=1 (AAA Fair Credit)

Authorized Entities Reporting Data through June 2021

- 13 entities reporting data to date; 9 reporting this period
    - 2 low risk entities; 6 low/moderate risk entities; 5 moderate entities

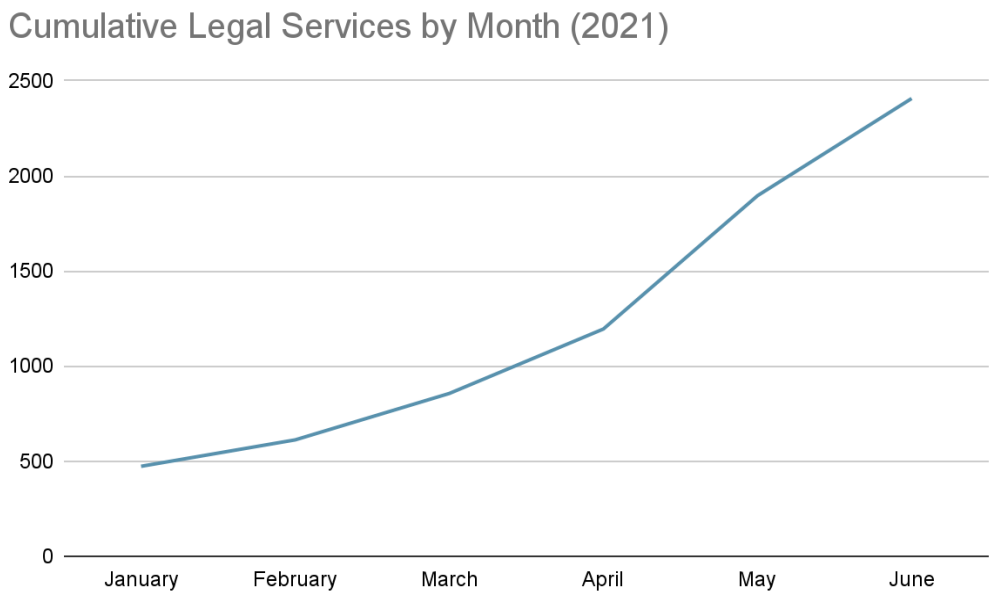


Proportion of Services by Entity and Legal Categories Addressed



- 2407 legal services sought from over 2000 unduplicated clients
  - Low=132 legal services sought (2 entities); Low/Moderate=592 legal services sought (6 entities); Moderate=1683 legal services sought (5 entities)
  - 70% of legal services produced via moderate risk entities
  - 1892 legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
  - 515 legal services have been delivered by software with lawyer involvement
- *Legal Categories Addressed by Service*
  - The rank of legal category addressed has been 1) End of Planning [22.2%]; 2) Business [e.g., intellectual property, contracts/warranties, and entity incorporation; 21%]; 3) Marriage/Family [14.9%]; 4) Financial [e.g., individual bankruptcy and collections practices; 9.3%]; 5) Accident/Injury [8.7%]. Five legal categories accounted for 76% of legal services. The remaining 15 possible legal categories accounted for 24%. The top three categories accounted for 58% of legal service.

Growth of Services Across Time



Complaints and Audits

- To date, entities have reported three complaints to the Office, approximately 1 complaint per 800 services delivered. The first complaint was reported in the April report and was linked to the harm of an inappropriate/inaccurate legal result. The second complaint was reported in the May report and was not linked to any of the three harms. The third complaint was linked to exercising legal rights and was reported in this report (June 2021). The ratio of harm-related complaints to services was approximately 1 complaint per 1200 services.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Harm Category	# Consumer Complaints	% Consumer Complaints
Consumer achieves an inaccurate or inappropriate legal result.	1	<0.05%
Consumer fails to exercise legal rights through ignorance or bad advice.	1	<0.05%
Consumer purchases an unnecessary or inappropriate legal service.	0	0%

  - Audit materials have been collected from one moderate risk entity and preliminary audit data has been collected from a second moderate risk entity.

Table 1: Authorized Entity Services

Entity Name	Risk Level	Service Models	Service Categories
10 - Blue Bee Bankruptcy	Low	Lawyers employed / managed by nonlawyers	Education
		<50% non lawyer ownership	Consumer Financial Issues
15 - AGS Law	Low	<50% non lawyer ownership	Business
			End of Life Planning
			Real Estate
19 - Firmly, LLC	Low	<50% non lawyer ownership	Business
44 - Hello Divorce	Low	Lawyers employed / managed by nonlawyers	Marriage and Family
		<50% non lawyer ownership	
04 - Lawpal	Low / Moderate	Lawyers employed / managed by nonlawyers	End of Life Planning
		50+% non lawyer ownership	Consumer Financial Issues
		Software provider /w lawyer - doc completion	Housing (Rental)
			Marriage and Family
05 - Rocket Lawyer	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
			Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning

		50+% non lawyer ownership	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
			Marriage and Family
			Military
			Public Benefits
			Real Estate
07 - R & R Legal Services	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Domestic Violence
			End of Life Planning
		50+% non lawyer ownership	Consumer Financial Issues
			Healthcare
			Marriage and Family
			Public Benefits
14 - FOCAL Law	Low / Moderate	Lawyers employed / managed by nonlawyers	Marriage and Family
		50+% non lawyer ownership	
		Software provider /w lawyer - doc completion	
32 - Tanner LLC (Withdrew from Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	
33 - Xira Connect	Low / Moderate	50+% non lawyer ownership	Accident / Injury
			Adult Care
			Business
			Criminal Expungement

			Discrimination
			Domestic Violence
		Fee Sharing	Education
			Employment
			End of Life Planning
			Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Intermediary Platform	Marriage and Family
			Military
			Native American / Tribal
			Public Benefits
			Real Estate
			Traffic Citations
37 - Robert DeBry (Withdrawn form Sandbox)	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% non lawyer ownership	
38 - Davis & Sanchez	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% non lawyer ownership	Education
39 - Legal Claims Benefits (Trajector Legal)	Low / Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Education
		50+% non lawyer ownership	Healthcare
			Military
			Public Benefits
41 - Mountain West Legal Protective	Low / Moderate	Lawyers employed / managed by nonlawyers	Housing - Rental

		50+% non lawyer ownership	Real Estate
02 - 1Law	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
		50+% non lawyer ownership	Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Public Benefits
			Real Estate
			Traffic Citations
03 - Law HQ	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% non lawyer ownership	Business
		Software provider w/ lawyer involvement	Employment
12 - Nuttall Brown	Moderate	Lawyers employed / managed by nonlawyers	Accident Injury
		50+% non lawyer ownership	Business
		Software provider w/ lawyer involvement	Discrimination

		Non-lawyer provider w/ lawyer involvement	Employment
			Marriage and Family
13 - Estate Guru	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	End of Life Planning
		Fee Sharing	Consumer Financial Planning
		Software provider /w lawyer - doc completion	Healthcare
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
23 - Off the Record	Moderate	50+% non lawyer ownership	Traffic Citations
		Fee Sharing	
		Software provider w/ lawyer involvement	
27 - Sudbury Consulting	Moderate	Software provider w/ lawyer involvement	Criminal Expungement
			Employment
28 - Pearson Butler	Moderate	50+% non lawyer ownership	Accident / Injury
			Adult Care
			Business
			Discrimination
			Education
		Fee Sharing	Employment
			End of Life Planning
			Consumer Financial Issues
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Military

			Native American / Tribal
			Public Benefits
			Real Estate
30 - Law on Call	Moderate	Lawyers employed / managed by nonlawyers	Business
			End of Life Planning
		50+% non lawyer ownership	Consumer Financial Issues
			Housing (Rental)
		Non-lawyer provider w/ lawyer involvement	Real Estate
31 - DSD Solutions	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Business
			Criminal Expungement
		50+% non lawyer ownership	Domestic Violence
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Housing (Rental)
			Immigration
			Marriage and Family
		Non-lawyer provider w/ lawyer involvement	Public Benefits
			Real Estate
			Traffic Citations
36 - Timp. Cert. Advocates	Moderate	Nonlawyer provider w/out lawyer involvement	Domestic Violence
			Marriage and Family
42 - Jordanelle Blocks	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	
		Fee Sharing	Housing - Rental
		Software provider /w lawyer - doc completion	

		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
43 - LawGeex	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	Healthcare
		Software provider w/ lawyer involvement	
45 - Holy Cross Ministries	Moderate	Non-lawyer provider w/ lawyer involvement	Financial Issues
			Immigration
			Health Care
			Public Benefits
46 - Gregory Hawkins	Moderate	Lawyer sharing fees with nonlawyers	End of life planning
47 - AAA Fair Credit	High	Non-lawyer provider w/out lawyer involvement	Financial Issues
			Healthcare
			Public Benefits

Table 2: Authorized Entities Reporting Statuses

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Firmly LLC	Low	Jan. 1, 2021	Apr. 5, 2021	Quarterly
Hello Divorce	Low	Aug. 1, 2021	Oct. 5, 2021	Quarterly
Rocket Lawyer	Low-Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
R&R Legal Services	Low-Moderate	Jan. 1, 2021	Feb. 5, 2021	Monthly
LawPal	Low-Moderate	Jan. 15, 2021	Jan. 5, 2021	Monthly
FOCL Law	Low-Moderate	Jan. 1, 2021 Oct. 1, 2021 (relaunch)	Feb. 5, 2021	Monthly
Xira Connect	Low- Moderate	Sept. 1, 2021	Oct. 5, 2021	Monthly
Davis & Sanchez	Low-Moderate	TBD	TBD	Monthly
Legal Claims Benefits	Low-Moderate	TBD	TBD	Monthly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
LawHQ	Moderate	July 15, 2021	Aug. 5, 2021	Monthly
Nuttal Brown	Moderate	Feb. 1, 2021	Mar. 5, 2021	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2020	Monthly
Sudbury Consulting / Code for America	Moderate	TBD	TBD	Monthly
Off the Record	Moderate	TBD	TBD	Monthly
Law on Call	Moderate	Apr. 1, 2021	May. 5, 2021	Monthly
DSD Solutions	Moderate	Aug. 1, 2021	Sept. 5, 2021	Monthly
Pearson Butler	Moderate	Apr. 1, 2021	May 5, 2021	Monthly
Timp Cert. Legal Advocates	Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Mountain West Legal Protective	Moderate	Jul. 1, 2021	Aug. 5, 2021	Monthly
Jordanelle Blocks	Moderate	TBD	TBD	Monthly
Law Geex	Moderate	Aug. 2, 2021	Sept. 1, 2021	Monthly
Holy Cross Ministries	Moderate	TBD	TBD	Monthly
Gregory Hawkins	Moderate	TBD	TBD	Monthly
AAA Fair Credit	High	TBD	TBD	Monthly

OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MONTHLY REPORT

LAUNCH - OCTOBER 28, 2020

SUMMARY

On August 12, 2020, the Utah Supreme Court approved Standing Order No. 15 and the proposed reforms to Rule 5.4 to authorize the launch of the new Office of Legal Services Innovation and the legal regulatory Sandbox. Through late August and the beginning of September 2020, the Court appointed the ten volunteer members of the Office and the Executive Director (also a member). The Office is currently staffed by three part-time positions. In addition to the Executive Director, Lucy Ricca, the Office staff includes Dr. James Teufel as Data Analyst and Helen Lindamood as Project Manager.

The Office began its regulatory operations as soon as the Court completed appointment of its members, including accepting applications to the Sandbox and moving forward with recommendations to the Court. This Report covers the time period from the establishment of the Office through the end of October 2020. This includes several applicants that were accepted and considered by the Implementation Task Force (the entity tasked with developing and executing the regulatory reform project from August 2019 until the launch of the Office) during the period leading up to the approval of Standing Order No. 15 and revised Rule 5.4.

During the period covered by this Report, the Office has received 28 applications to the Sandbox. The Office has recommended 15 of those applications to the Court for admission to the Sandbox. The Court has authorized 11 entities (in whole or in part) to offer services in the Sandbox. 6 applicants withdrew their applications; 1 has withdrawn but will resubmit its application. There are 11 entities currently under active review by the Innovation Office. Applications come in at a rate of approximately 2 per week.

Four of the 6 authorized entities have started offering services to the public: Blue Bee Bankruptcy, AGS Law, RocketLawyer, and 1LAW. Blue Bee Bankruptcy and AGS Law are designated low risk entities with quarterly reporting requirements; their first data reports will be submitted by January 5, 2021. RocketLawyer is designated a low-moderate risk entity with monthly reporting requirements and will submit its first report by November 5, 2020. 1LAW is designated a moderate risk entity with monthly reporting requirements and will submit its first report by November 5, 2020.

The below tables present visual models of the current status of the Sandbox.

Overall Metrics

Total Applications Received	31
Applicants Recommended for Admission	16
Applicants Admitted to the Sandbox	11
Applicants Recommended to Deny Admission	0
Applicants Recommended to Exit the Sandbox	0

Authorized Entities

		10 - Blue Bee	15 - AGS Law	19 - Firmly	04 - Lawpal	05 - Rocket Lawyer	07 - R&R	14 - FOCL	02 - 1Law	03 - LawHQ	12 - Nuttall	13 - Estate Guru		
Risk Level		Low	Low	Low	Low / Moderate	Low / Moderate	Low / Moderate	Low / Moderate	Moderate	Moderate	Moderate	Moderate		
Total Categories		1	3	1	4	15	9	1	16	1	5	5		
		2	1	1	2	2	2	3	4	3	4	6	**Total Models**	
Accident/Injury	4						X		X	X	X		9	Lawyers employed / managed by nonlawyers
Adult Care	3					X	X		X				4	<50% nonlawyer ownership
Business	6		X	X			X		X	X	X	X	6	50% + nonlawyer ownership
Criminal Expungement	2					X			X				3	Fee sharing
Discrimination	2					X			X				2	Software provider /w lawyer involvement - doc completion
Domestic Violence	3					X	X		X				4	Software provider w/ lawyer involvement
Education	2					X			X				-	Software provider w/out lawyer involvement
Employment	4					X			X	X	X		2	Non-lawyer provider w/ lawyer involvement
End of Life Planning	6		X		X	X	X		X			X	-	Nonlawyer provider w/out lawyer involvement
Financial Issues	6	X			X	X	X		X			X	-	
Healthcare	4					X	X		X			X		
Housing (Rental)	3				X	X			X					
Immigration	2					X			X					
Marriage and Family	6				X	X	X	X	X		X			
Military	1					X								
Native American/ Tribal Issues	-													
Public Benefits	3					X	X		X					
Real Estate	4		X			X			X			X		
Traffic Citations	-													

Authorized Entities Reporting Statuses

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
Blue Bee Bankruptcy	Low	10/1/20	1/5/21	Quarterly
AGS Law	Low	10/1/20	1/5/21	Quarterly
Firmly LLC	Low	TBD	TBD	Quarterly
Rocket Lawyer	Low-Moderate	10/1/20	11/5/20	Monthly
R&R Legal Services	Low-Moderate	11/1/20 - Tentative	12/5/20	Monthly
LawPal	Low-Moderate	11/1/20 - Tentative	12/5/20	Monthly
FOCL Law	Low-Moderate	11/1/20	12/5/20	Monthly
1Law	Moderate	10/1/20	11/5/20	Monthly
LawHQ	Moderate	11/1/20	12/5/20	Monthly
Nuttal Brown	Moderate + Fee Sharing	1/1/21	2/5/21	Monthly
Estate Guru	Moderate	11/1/20	12/5/20	Monthly

Blueprint for a Legal Regulatory Sandbox in Washington State

Washington Courts
Practice of Law Board

Version 1.7

June 2021

Table of Contents

1.0 Executive Summary 3
2.0 Regulatory Sandboxes 4
3.0 A Legal Regulatory Sandbox for Washington State 5
3.1 Goals of the Legal Regulatory Sandbox 5
3.2 Safeguards of the Legal Regulatory Sandbox 6
3.3 The Overall Legal Regulatory Sandbox Model 6
3.4 Management and Operation of a Legal Regulatory Sandbox 8
3.5 A Model for Assessing Legal Regulatory Sandbox Admission and Participation 10
3.6 Admission to the Legal Regulatory Sandbox 12
3.7 Legal Regulatory Sandbox Application 13
3.8 Legal Regulatory Sandbox Approval Order 15
3.9 Operating in the Legal Regulatory Sandbox 16
3.10 Termination from the Legal Regulatory Sandbox 17
3.11 Licensure (Exiting the Legal Regulatory Sandbox) 18
3.12 Duration of the Legal Regulatory Sandbox 19
3.13 Funding the Legal Regulatory Sandbox 19
4.0 Next Steps 21
5.0 Appendix A: Problem Statement 22
6.0 Appendix B: Mockup Washington Legal Regulatory Sandbox Application 26
6.1 General Legal Regulatory Sandbox Information for Applicants 26
6.2 Description of the Proposed Non-traditional Legal Service 27
6.3 How the Non-traditional Legal Service Reduces the ATJ Gap 31
6.4 Risk of Harm to Consumers 32
6.5 Entity Information 33
6.6 Other Material Information 34
7.0 Appendix C: Mockup of Supreme Court Order Sandbox Participation 34

Table of Abbreviations

Abbreviation	Meaning
ATJ	Access to justice
ATJB	Access to Justice Board
POLB	Practice of Law Board
RPC	Rules of Professional Conduct
RCW	Revised Code of Washington
UAPL	Unauthorized practice of law (RPC 5.5(C))
UPL	Unlawful practice of law (RCW 2.48.180)
WSBA	Washington State Bar Association

1.0 Executive Summary

This proposal outlines a blueprint to create a legal regulatory sandbox in Washington State. Such a legal regulatory sandbox may help address the access to justice (ATJ) gap while protecting consumers from harm and helping to determine the appropriate regulation required to authorize non-traditional legal service providers to provide non-traditional legal services in Washington State. It will also allow for the collection of data about a non-traditional legal service so data-driven decisions about regulatory reform can be made. The Washington Supreme Court's Practice of Law Board (POLB) is proposing that Washington Supreme Court's Legal Regulatory Sandbox follow Utah Supreme Court's Legal Regulatory Sandbox model.

Therefore, the legal regulatory sandbox proposed by this blueprint would be created by a Washington Supreme Court order defining the regulation and monitoring of a non-traditional legal service providers in the legal regulatory sandbox for a defined period. As any non-traditional legal service providers will be operating in the legal regulatory sandbox under an explicit Supreme Court order, the non-traditional legal service providers would be authorized, and therefore, not be liable for Unlawful Practice of Law (UPL). Similarly, a legal professional[1] working for the entity providing the non-traditional legal service would also be authorized by the Supreme Court to provide legal advice in the legal regulatory sandbox, and therefore, would not be disciplined for violation of those Rules of Professional Conduct (RPC) authorized for testing in the legal regulatory sandbox by the Supreme Court order. In all other respects, the entity and its employees would still be required to follow all statutes, regulations, and court rules.

A non-traditional legal service provider operating in the legal regulatory sandbox could provide an online legal service (OLS), offer legal services through an alternative business structure (ABS), or both.

An OLS typically offers legal services from the internet. Such services may assist a consumer in filling out forms that the consumer may file with the court or may analyze the consumer's problem (perform the client intake), and then refer the consumer to a legal professional for a referral fee. Most OLS are moving beyond mere scrivener services to using machine learning or artificial intelligence to assist the consumer in making choices that affect the consumer's legal rights or responsibilities.

An ABS typically changes the traditional form of a legal firm. For example, an ABS may allow a virtual law firm where several lawyers, each with their own firm, work collaboratively to provide a range of legal services to consumers. Another ABS might allow equity ownership in a legal firm by a professional not licensed to practice law.

[1] This blueprint uses the term 'legal professional,' rather than lawyer, to acknowledge that Washington Courts already authorize lawyers, limited practice officers (LPOs), and limited legal license technicians (LLLTs) to practice law.

This legal regulatory sandbox blueprint is a work in progress. Just as a blueprint shows a property owner what a building might look like before construction begins, this blueprint attempts to paint a picture of the legal regulatory sandbox for the Supreme Court and other stakeholders.

With a building, an engineer must take the blueprint and determine if the plan is feasible. For example, the engineer will determine if the materials can sustain the loads. Similarly, this blueprint needs additional 'engineering' work. A brief list of the next steps is outlined in Section 5.0 of this blueprint but putting the blueprint into final form—building the legal regulatory sandbox—will require input from many parties. And even when built and operational, ongoing maintenance of the legal regulatory sandbox, which may modify its structure, will be required.

Although this blueprint for a legal regulatory sandbox borrows heavily from the work being done in Utah it was drafted with consideration and inputs from other jurisdictions and experts. The POLB wants to acknowledge the contributions of the Access to Justice Board (ATJB) Technology Committee, John Lund and Lucy Ricca from the Utah Office of Legal Innovation, Crispen Passmore, who is active in legal regulatory reform in the UK, and Andrew Perlman, Dean of the Suffolk School of Law.

2.0 Regulatory Sandboxes

Regulatory sandboxes are not new, nor are they unique to legal services.

In software development, a sandbox is "an isolated testing environment that enables users to run programs or execute files without affecting the application, system, or platform on which they run."[2] "In financial markets, regulatory authorities have set up several initiatives, including regulatory sandboxes and innovation hubs, to engage and support financial technology (FinTech) startups."[3]

Similarly, a legal regulatory sandbox allows for a non-traditional legal service provider to offer a non-traditional legal service while collecting data about the effect of the service on the ATJ gap and evaluate whether there is any potential consumer harm. It is a safe environment to test a new non-traditional legal service.

For example, the Utah Supreme Court has created an Office of Legal Innovation, which is running a legal regulatory sandbox where "any entity that wants to offer non-traditional legal services must seek approval."[4]

[2] Linda Rosencrance, "Sandbox (Software Testing and Security), TechTarget.com, available at https://searchsecurity.techtarget.com/definition/sandbox.

[3] Ahmad Alaassar, Anne-Laure Mention, Tor Helge Aas, "Exploring A New Incubation Model for FinTechs: Regulatory Sandboxes," Technovation, May 2021, available at https://www.sciencedirect.com/science/article/pii/S0166497221000183#bib15.

[4] Rebecca Love Kourlis and Neil M. Gorsuch, "Legal Advice is Often Unaffordable. Here's How More People Can Get Help: Kourlis and Gorsuch, USA Today, Sept. 17, 2020, available at https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/.

The regulatory sandbox can also be thought of as a laboratory. Experiments that test a hypothesis for modifying regulations for entities practicing law can be run to see if such proposed changes reduce the ATJ gap, while creating minimal risk to consumers.

3.0 A Legal Regulatory Sandbox for Washington State

A legal regulatory sandbox would allow legal professionals and entrepreneurs to offer a non-traditional legal service to consumers in Washington State. Such a legal regulatory sandbox has both goals and safeguards designed to ensure consumers get competent legal services.

3.1 Goals of the Legal Regulatory Sandbox

The goals of the legal regulatory sandbox are:

3.1.1 Create Regulatory Relationships

Create regulatory relationships between a non-traditional legal service provider and courts and regulatory agencies to provide the appropriate oversight of legal services and ensure the public is not harmed by a non-traditional legal service.

In using the legal regulatory andbox to think about regulatory reform, some RPCs are not appropriate for experimentation or change. For example, RPC 1.1 Competence, 1.3 Diligence, and 1.4 Communications are so important to the practice of law they are required for both traditional and non-traditional legal services.

Other RPCs may need to be modified to allow for a legal regulatory sandbox. For example, 5.4 Professional Independence may require limited modification to allow legal professionals to work with non-legal professionals in the provision of a non-traditional legal service in the legal regulatory sandbox.

The RPCs most open to testing in the legal regulatory sandbox include, 1.5 Fees, 1.7 Conflicts, 5.4(b) and (d) Professional Independence, and 5.5 Unauthorized Practice of Law.

3.1.2 Encourage Innovation

Encourage legal professionals and entrepreneurs to experiment with innovative business models and non-traditional legal services to reduce the ATJ gap.

3.1.3 Enable In-Depth Data Collection

Enable in-depth data collection about any reduction of the ATJ gap and the benefits and harms to consumers through the provision of a non-traditional legal service, which will allow the Supreme Court to make data-driven decisions about the future of regulating legal services in Washington.

3.1.4 Timely Regulatory Reform

Enable timely regulatory reform. The legal regulatory sandbox may cut down the time to enable regulatory reform by several years. For example, recent changes to advertising RPCs took over 60 months from the start of rewriting to the final approval by the Supreme Court. Testing rule changes in a legal regulatory sandbox might be completed in 24-30 months because regulation testing is focused on specific regulations with supporting data be collected and analyzed for the change.

The possibility exists that some changes may become obvious based on less than 24-months' worth of data, but generally, participants would operate in the legal regulatory sandbox for two years.[5]

3.2 Safeguards of the Legal Regulatory Sandbox

Safeguards of a legal regulatory sandbox are:

3.2.1 No Skirting of Regulations

There is no intent to allow people or entities to operate in an unregulated environment. Rather, the intent is to determine the appropriate regulations to balance reducing the ATJ gap while protecting consumers of legal services from harm. The data collected during operation in the legal regulatory sandbox may generate regulatory changes for both licensed legal professionals and non-traditional legal service providers.

3.2.2 No UPL or Unauthorize Practice of Law

There is no intent to remove the restriction against UPL or unauthorized practice of law (UAPL). The intent provides pathways for legal professionals and entrepreneurs to provide non-traditional legal service under the authorization and active supervision of the Washington Supreme Court or its delegate.

3.3 The Overall Legal Regulatory Sandbox Model

An entity wanting to offer a non-traditional legal service in the Washington State Legal Regulatory Sandbox will apply by detailing:

- The entity's structure and key personnel;
- The services the entity wants to provide in Washington State;
- How the non-traditional legal service reduces the ATJ gap;
- The risk of harm to consumers;

[5] Utah has already modified its legal regulatory sandbox based on early data. For example, as of the Utah Supreme Court's December 10, 2020, statement on referral fees, the Innovation Office will not consider applications setting forth bare referral fee arrangements between lawyers and nonlawyers. Bare referral fees are compensation paid to nonlawyers for the sole purpose of ensuring the referral of legal work. The Innovation Office will continue to consider applications in which fee sharing is one component in a more comprehensive innovative proposal. See: https://utahinnovationoffice.org/about/what-we-do/.

- How such harm will be mitigated;
- How these factors will be measured and reported while operating in the Legal Regulatory Sandbox.

If the application appears to meet the goals of the legal regulatory sandbox, then a Supreme Court order will be prepared to allow the operation of the non-traditional legal service in the legal regulatory sandbox. After approval of the Supreme Court, the entity may provide the defined and approved services and only the defined and approved services under the order.

While operating in the legal regulatory sandbox, the entity will provide quarterly reports measuring performance against goals. Based on these reports, the entity may continue to operate in the legal regulatory sandbox, or it may be necessary to request a modification to the Supreme Court order based on new knowledge gained from operating in the legal regulatory sandbox. Sometimes, it may also be necessary to terminate operation of the non-traditional legal service because the non-traditional legal service does not reduce the ATJ gap or is causing consumer harm.

Consumer harm could include factors such as loss of money, poor or incomplete legal service, untimely legal service, failing to exercise a legal right, or failure to meet a legal obligation.

If at the end of the legal regulatory sandbox term the entity is continuing to operate in compliance with the Supreme Court order and to meet ATJ goals without causing consumer harm, then a final Supreme Court order that defines the non-traditional legal service's ongoing operation in Washington State will be drafted and approved by the Supreme Court. Then the non-traditional legal service providers may continue to operate within the boundaries of that Supreme Court order. Such a Supreme Court order could also include specifics on any disciplinary action that would apply if the service deviates from the order, and any fee or other responsibilities that apply to the non-traditional legal service provider as it continues to operate.

This overall model for a legal regulatory sandbox is shown in Figure 1.

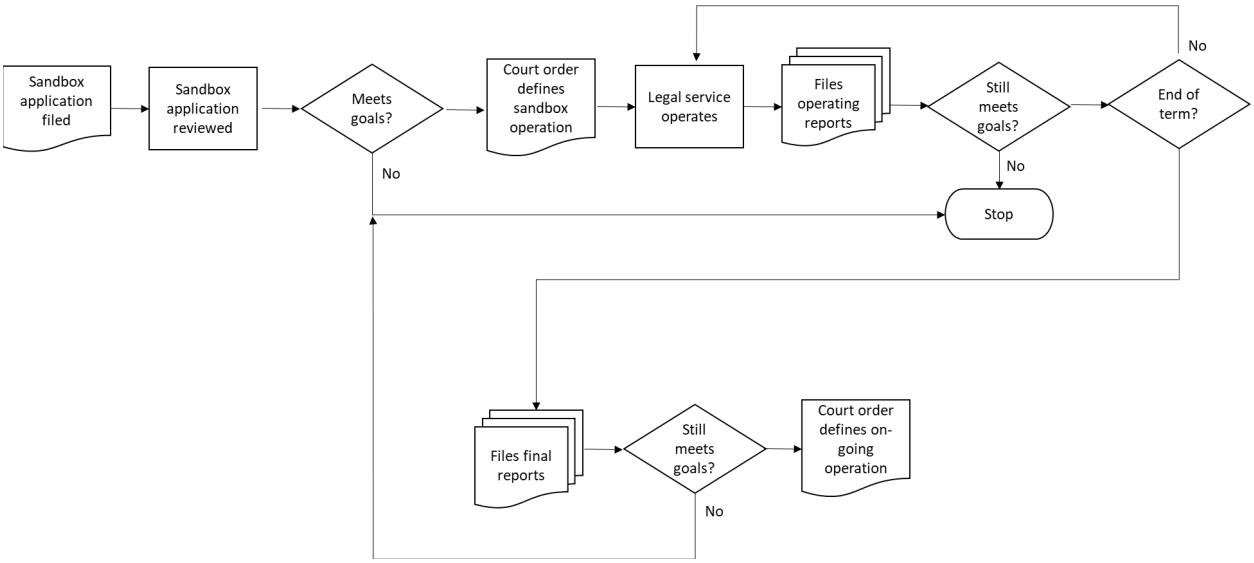


Figure 1. Overall Legal Regulatory Sandbox Model

While operating in the legal regulatory sandbox, entities are still subject to all statutes, regulations, court rules, and court orders. For example, operating in the legal regulatory sandbox does not protect the entity from prosecution for violations of the Consumer Protection Act. A legal professional working for the non-traditional legal service providers is not automatically protected from discipline for violation of an RPC. The only protections or safe harbor provided by the legal regulatory sandbox is for statutes and court rules relating to UPL and to specific RPCs as defined in the Supreme Court order.

Similarly, entities approved for operation after successfully completing a term in the legal regulatory sandbox remain subject all other applicable statutes, regulations, and court rules and to the Supreme Court order, including business, licensing, and financial regulations.

To prevent consumer harm, the legal regulatory sandbox model must be transparent. It must be obvious to consumers which non-traditional legal service providers may operate in the legal regulatory sandbox, and which are authorized after operating successfully in the legal regulatory sandbox to continue to operate.

3.4 Management and Operation of a Legal Regulatory Sandbox

An entity—for the purpose of this blueprint, a Legal Regulatory Sandbox Board—will be required to manage and operate a legal regulatory sandbox for the Supreme Court. Several entities could provide such management and operational oversight, including the Washington State Bar Association (WSBA), the POLB, or a new Legal Regulatory Sandbox Board. Membership of such a Legal Regulatory Sandbox Board will need legal, corporate structure and management, and technical expertise.

The responsibilities of the Legal Regulatory Sandbox Board would be to:

- Evaluate and recommend to the Court applicants for participation in the Legal Regulatory Sandbox;

- Monitor performance of the non-traditional legal service providers providing the non-traditional legal service;
- Monitor performance of the non-traditional legal service itself;
- Take corrective action including suspension of operations in the Legal Regulatory Sandbox in cases of consumer harm.

3.4.1 WSBA as the Legal Regulatory Sandbox Managing Entity

The advantage of WSBA operating as the Legal Regulatory Sandbox Board is that such work could be viewed as within the duties already delegated to the bar by the Supreme Court to administer legal professionals admitted to practice law in Washington State. In addition, WSBA has many of the personnel capable of and needed to operate such a Legal Regulatory Sandbox Board.

The disadvantage of WSBA operating the Legal Regulatory Sandbox Board is that WSBA could have an inherent conflict of interest between existing licensed legal professional members and the entities wanting to provide the new non-traditional legal service. Such a conflict could complicate WSBA operations per recent litigation such as *North Carolina State Board of Dental Examiners v. Federal Trade Commission*[6], and *Janus v. American Federation of State, County, and Municipal Employees*[7].

Putting WSBA in this role could also have a chilling effect on entities' willingness to apply for the legal regulatory sandbox for similar conflict reasons.

However, even if WSBA does not manage the legal regulatory sandbox or act as the Legal Regulatory Sandbox Board, WSBA could under delegation and supervision by the Supreme Court, ensure compliance of entities that exit the legal regulatory sandbox and receive a court order allowing continued operation, like its role in administering license renewal of legal professionals today.

3.4.2 An Existing Supreme Court Board as the Legal Regulatory Sandbox Managing Entity

The advantage of an existing Washington Supreme Court Board such as the POLB or the Access to Justice Board (ATJB) operating as the Legal Regulatory Sandbox Board is that the Supreme Court would not have to create a new entity.

The disadvantage of an existing Washington Supreme Court Board operating as the Legal Regulatory Sandbox Board are these boards are staffed with volunteers who are well equipped to study problems and advise on solutions, but rarely have time for extensive document review. As volunteers they have typically agreed to a specific meeting cycle.

[6] State Bd. of Dental Examiners v. FTC, 135 S. Ct. 1101 (2015), available at https://scholar.google.com/scholar_case?case=15100091775350559869.
[7] Janus v. American Federation of State, 138 S. Ct. 2448 (2018), available at https://scholar.google.com/scholar_case?case=10508098745881210548.

The volume of work associated with the position would be greatly increased by taking on the management of a legal regulatory sandbox.

Further, the same conflicts that exist for WSBA may persist if such boards manage the legal regulatory sandbox, as the boards are administered by WSBA; and there is a strong connection between the boards and WSBA.

Finally, with the POLB there could be a conflict if a non-traditional legal service provider strayed from operation defined in its Supreme Court order and because of not following the order committed UPL, for example, by offering services while in the legal regulatory sandbox not authorized by the Supreme Court order. The POLB plays a role in UPL by referring UPL complaints to the Attorney General's Office or county prosecutors.

3.4.3 Create a New Independent Legal Regulatory Sandbox Board

A newly created and independent Legal Regulatory Sandbox Board may be the best alternative. The Legal Regulatory Sandbox Board would have a small nucleus, perhaps made up of a designee from WSBA, the POLB, and the ATJB. There could also be a significant number of public members with an independent Chair. Affirmative actions will be taken to nominate public members with experience:

- Working in underrepresented communities;
- Providing legal aid and pro bono services;
- Working in the technology community.

This core Legal Regulatory Sandbox Board membership could then pull in expertise as needed based on the applicant and the non-traditional legal service, from a variety of sources, including the Washington Supreme Court, WSBA, the WSBA sections (for specific legal subject matter expertise), the law schools in Washington State, and members of the bar and the tech community.

The advantage of such a Legal Regulatory Sandbox Board is that it can be small, flexible, and responsive, and it would be relatively free from conflict.

The disadvantage of such a Legal Regulatory Sandbox Board is that its functioning would have to be funded by either application fees or grants.

The new Legal Regulatory Sandbox Board would work with WSBA and the other Supreme Court Boards while taking an arm's-length approach from the day-to-day operations or administration of WSBA. For example, when the new Board uses the services from WSBA, then the new Legal Regulatory Sandbox Board would be charged the going rate for such services, to ensure WSBA member's fees are not paying for entities to operate in the Legal Regulatory Sandbox.

3.5 A Model for Assessing Legal Regulatory Sandbox Admission and Participation

A model that attempts to measure the reduction in the ATJ gap while also measuring the risk of consumer harm will help evaluate applicants for participation in the legal regulatory sandbox.

This model sets criteria such as reducing the ATJ gap against the risk of harm to consumers. When such harm might occur, this model will assist the Legal Regulatory Sandbox Board in evaluating admission to, operation in, and graduation from the legal regulatory sandbox (see Figure 2).

Legal Regulatory Sandbox Risk Analysis Model

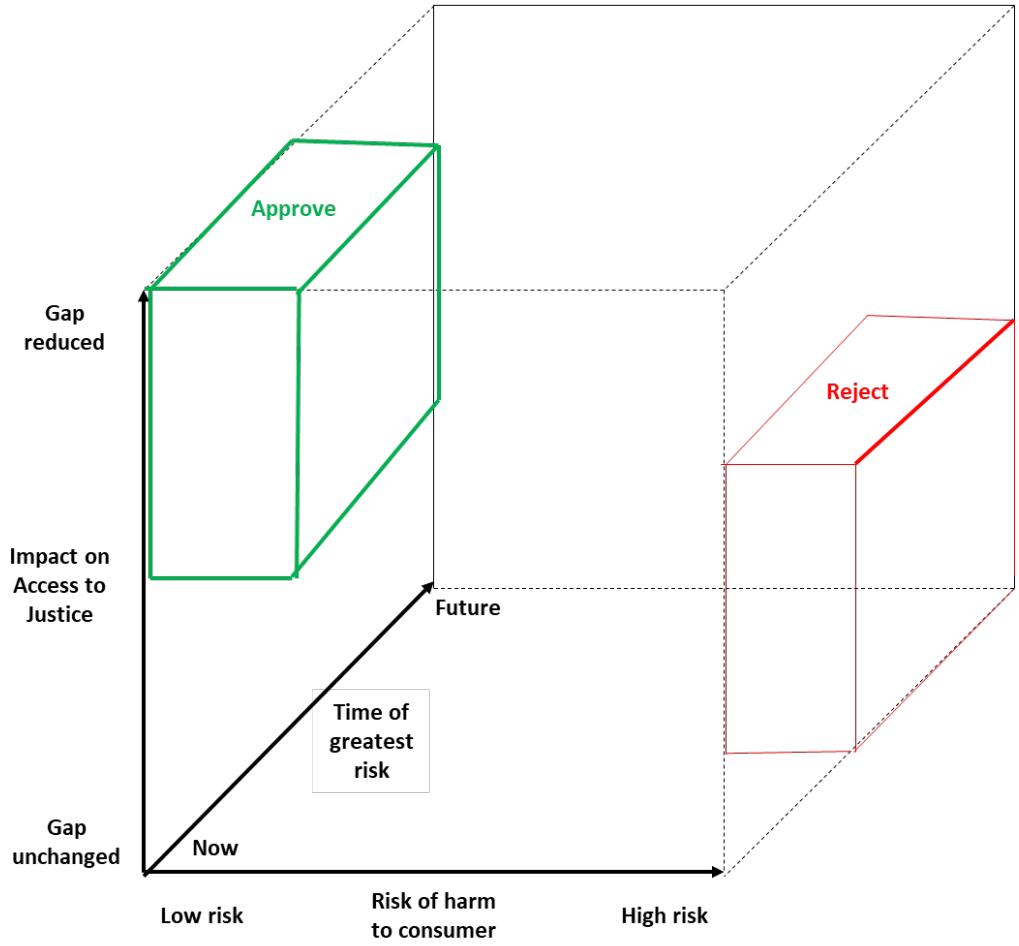


Figure 2. Legal Regulatory Sandbox Risk Analysis Model

3.5.1 Risk of Harm to Consumer

The 'x,' or horizontal, axis of this model (labeled 'Risk of harm to the consumer') shows that applicants for participation in the legal regulatory sandbox will be evaluated based on the estimated risk of consumer harm created by allowing consumers to use the non-traditional legal service.

3.5.2 Reducing the ATJ Gap

The 'y,' or vertical, axis of this model (labeled 'Impact on ATJ') shows that applicants for participation in the legal regulatory sandbox will be evaluated based on how much their proposed non-traditional legal service reduces the ATJ gap.

3.5.3 Other Criteria

The 'z,' or diagonal, axis in this model (labeled 'Time of greatest risk') shows that applicants for participation can also be measured against other criteria, for example whether potential harm to consumers is likely to be noticed or occur in the present (now) or the future (later).

However, this z axis is flexible. It could just as well be used to manage other criteria such as effect on equity (changing versus reinforcing the status quo) created by the non-traditional legal service being evaluated.

3.5.4 Model Usage Examples

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service that appears to reduce the ATJ gap, that is determined to have a low risk of harm, and where harm to consumers—if any—occurs in the present would likely be approved. For example, an OLS designed to assist a person get a temporary protection order might fall in the green area and be easily approved for participation in the legal regulatory sandbox.

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service with a lesser impact on the ATJ gap and a higher risk of harm (especially where harm might not be recognized immediately) will need deeper consideration and may be denied admission to the legal regulatory sandbox. Such applicants may have to submit additional information and be subject to additional data collection requirements while in the legal regulatory sandbox and potentially after successfully leaving the legal regulatory sandbox. For example, an online trust generation application that reduces the ATJ gap but might not show evidence of harm for a several years might not be appropriate for admission to the legal regulatory sandbox.

Between the green and red box in the model may fall proposed non-traditional legal service which may be granted admission to the legal regulatory sandbox if suitable data can be collected and analyzed to determine reduction of the ATJ gap, the benefit to consumers, and the risk of harm to consumers to determine whether admission to the legal regulatory sandbox is appropriate.

Once in the legal regulatory sandbox, ongoing evaluation and review will determine where within the model a particular applicant's non-traditional legal service lies, whether the benefits outweigh any risk of harm to consumers, and whether continued operation in the legal regulatory sandbox or a form of licensure should be allowed.

3.6 Admission to the Legal Regulatory Sandbox

A proposed flowchart for the admission process to the legal regulatory sandbox is shown in Figure 3.

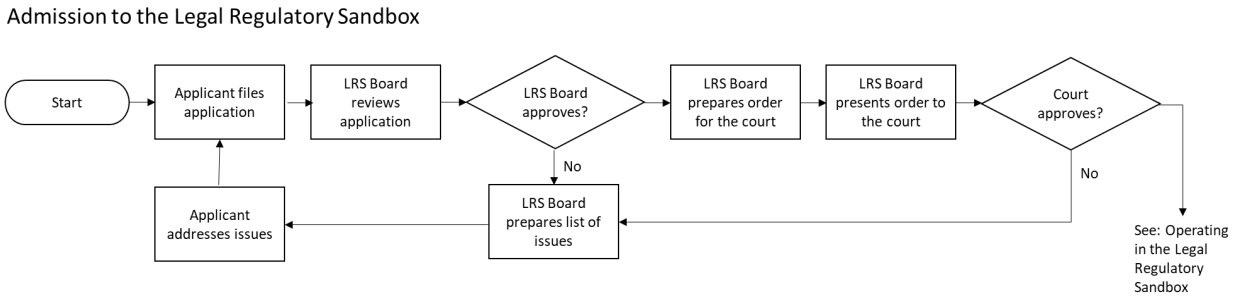


Figure 3. Admission to the Legal Regulatory Sandbox

Admission to the legal regulatory sandbox begins with an applicant applying (see Legal Regulatory Sandbox Application below) with the Legal Regulatory Sandbox Board. (For a sample completed application, see Appendix B.)

The Legal Regulatory Sandbox Board will review the application, using the Legal Regulatory Sandbox Risk Analysis Model and other criteria as warranted.

If the Legal Regulatory Sandbox Board approves the application, it will draft an order for the Supreme Court (see Legal Regulatory Sandbox Approval Order below) that defines the operating rules and operational data to be collected while the applicant is offering non-traditional legal service in the legal regulatory sandbox. (For a sample Supreme Court order, see Appendix C.)

If the Supreme Court approves the order, then the applicant can operate for a maximum of two years in the legal regulatory sandbox and offer the non-traditional legal service in Washington State during the order.

If the Legal Regulatory Sandbox Board has issues with or questions about the application, or the Supreme Court has any concerns about issuing the order, the applicant may address the issues and ask that their application be reviewed again.

3.7 Legal Regulatory Sandbox Application

At a minimum, applicants to the legal regulatory sandbox must provide the following information:

3.7.1 Description of the Proposed Non-traditional Legal Service

A description of the proposed non-traditional legal service, including:

a) The nature and scope of the non-traditional legal service, including the specific legal issue(s) the non-traditional legal service will address;
b) The intended market for the non-traditional legal service and whether they are or intend to operate in another jurisdiction's legal regulatory sandbox;
c) The entity providing the non-traditional legal service, including state of incorporation, and key management;
d) When the provision of non-traditional legal service can begin to be offered;
e) The costs of the non-traditional legal service to consumers.

3.7.2 How the Non-traditional Legal Service Reduces the ATJ Gap

A description of the non-traditional legal service benefits, including:

a) Which specific consumers the non-traditional legal service targets;
b) How the non-traditional legal service provides a high-quality legal service;
c) How the non-traditional legal service is cost-effective;
d) How the non-traditional legal service is more accessible to consumers than available legal services;
e) Other aspects of the non-traditional legal service that help close the ATJ gap.

3.7.3 Risk of Harm to Consumers

A description of the risk of harm to consumers that the non-traditional legal service will create, including:

a) What potential harm could befall a consumer using the non-traditional legal service;
b) Which consumers are at most risk of harm;
c) When the risk is likely to occur (present or future);
d) How any risk of harm can be measured (that is, what data will be collected to show risk and steps to mitigate the risk).

3.7.4 Entity Information

A description of the entity proposing the non-traditional legal service, including:

a) type of entity;
b) state of incorporation;
c) officers;
d) years of operation;
e) financial information;
f) business plan for the non-traditional legal service;
g) number of legal professionals (if any) involved in the creation and management of the non-traditional legal service (and any disciplinary actions against such legal professionals).

3.7.5 Other Material Information

Any other information that will help the Legal Regulatory Sandbox Board and the Supreme Court evaluate admission to the legal regulatory sandbox, such as a description of RPCs or Court Rules which may need to be modified in the legal regulatory sandbox.

3.8 Legal Regulatory Sandbox Approval Order

When the Legal Regulatory Sandbox Board approves an applicant for operation in the legal regulatory sandbox, the Legal Regulatory Sandbox Board will draft an order for the Supreme Court outlining the non-traditional legal service providers duration and the oversight of the Supreme Court via the Legal Regulatory Sandbox Board while the non-traditional legal service is in the legal regulatory sandbox. Elements of the order include:

3.8.1 Approved Non-traditional Legal Service

A description of the non-traditional legal service, including any legal transactions that the non-traditional legal service can perform.

3.8.2 Unapproved Legal Services

A description of the specific legal work that the non-traditional legal service cannot perform.

3.8.3 Appropriate Regulation

A description of regulations, including any RPCs that will apply to the provision of the non-traditional legal service, and any new or proposed modified RPCs which might be needed.

3.8.4 Data Reporting

A description of the data to be reported to the Legal Regulatory Sandbox Board on a quarterly basis, and mandatory data to be provided at the end of the legal regulatory sandbox duration. The data collected will be analyzed to show whether the ATJ gap was reduced, and whether the entity managed risked to consumers.

Required data will differ by the services being provided, but may include:

a) Number of consumers served since last report;
b) Number of completed transactions or services;
c) Number of incomplete transactions or services (and explanation);
d) Average cost per transaction or service;
e) Elapsed time to provide each transaction or service;
f) Number and type of complaint;
g) Number of complaints resolved and manner of resolution;
h) Time to resolve each complaint;
i) Other data based on the transaction or service.

3.8.5 Mitigation Plan

A description of the mitigation plan if harm to consumers occurs.

3.8.6 Legal Regulatory Sandbox Duration

The duration of time the applicant may operate in the legal regulatory sandbox (typically two years for all applicants).

3.9 Operating in the Legal Regulatory Sandbox

A proposed flowchart for operating in the legal regulatory sandbox is shown in Figure 4.

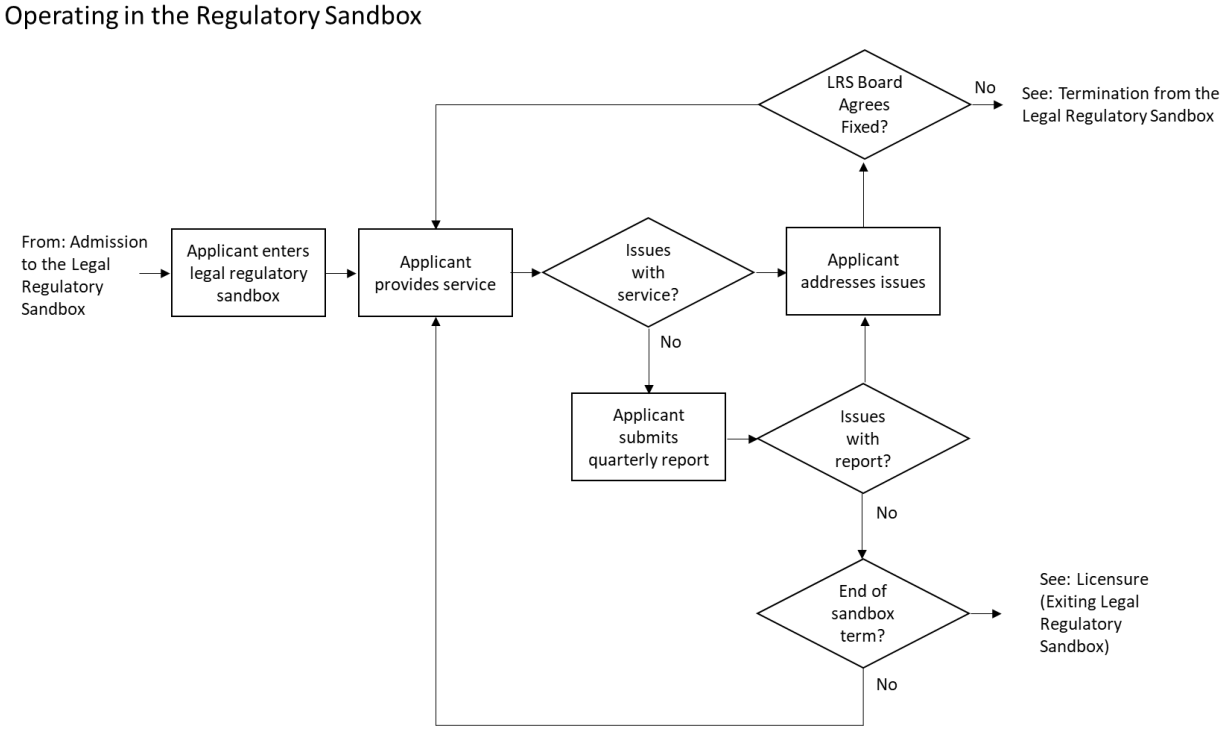


Figure 4. Operating in the Legal Regulatory Sandbox

Operation in the legal regulatory sandbox begins with the applicant getting an order from the Supreme Court defining operation of the non-traditional legal service in the legal regulatory sandbox.

If there are issues reported with the non-traditional legal service, the applicant must address such issues to the satisfaction of the Legal Regulatory Sandbox Board to continue operating in the legal regulatory sandbox.

Even if there are no issues reported with the non-traditional legal service, the applicant must submit quarterly reports to the Legal Regulatory Sandbox Board (see Data Reporting above). If there are issues with the report, the applicant must address the issues to the Legal Regulatory Sandbox Board's satisfaction to continue to provide the legal service.

However, if the applicant does not address the issues and continues to operate, then the protection of the legal regulatory sandbox ends (see Termination from the Legal Regulatory Sandbox, below).

If the applicant operates in the legal regulatory sandbox and continues without issue to the end of the term, then the applicant leaves the legal regulatory sandbox (see Licensure, below).

Operations in the legal regulatory sandbox continue in this manner until the end of the time in the legal regulatory sandbox as defined in the Supreme Court order. If the Supreme Court does not authorize continued operation of the non-traditional legal service after the end of the time in the legal regulatory sandbox, an orderly shutdown will be needed to ensure no consumers are harmed by withdrawal of the non-traditional legal service.

3.10 Termination from the Legal Regulatory Sandbox

A proposed flowchart for termination from the legal regulatory sandbox for cause is shown in Figure 5.

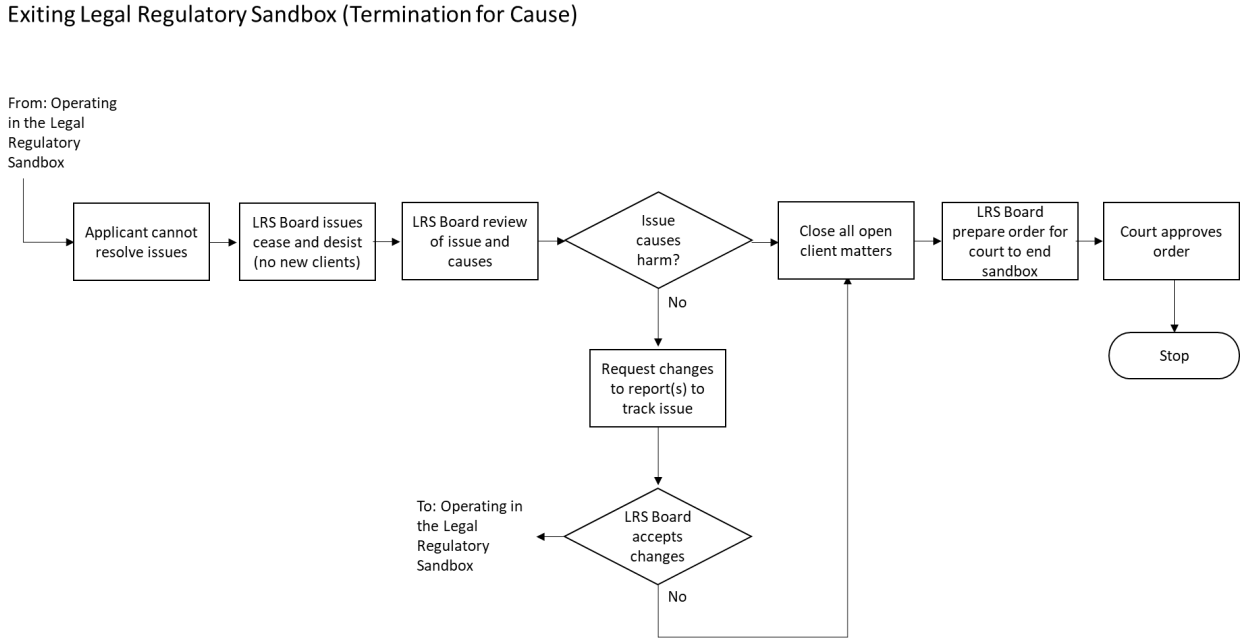


Figure 5. Exiting the Legal Regulatory Sandbox (Termination for Cause)

If an applicant's operation in the legal regulatory sandbox creates issues, such as consumer harm, then the Legal Regulatory Sandbox Board will inform the applicant to discontinue taking on new clients and conclude existing transactions while the Legal Regulatory Sandbox Board reviews the issues and causes.

If the Legal Regulatory Sandbox Board determines the issue is harming consumers, then the applicant will close all pending matters promptly and place the applicant under the review of the Legal Regulatory Sandbox Board. The Legal Regulatory Sandbox Board will review the reported data, and data about the incidents of harm, and may have a hearing with the applicant to review the situation. If the Legal Regulatory Sandbox Board determines the legal service is causing harm, then Legal Regulatory Sandbox Board will prepare a court order to terminate the applicant's authorization to operation in the legal regulatory sandbox.

It will be necessary to decide how to handle non-traditional legal service which do not affect the ATJ gap, and do not harm consumers. The Supreme Court may not want to authorize such services—mere lack of harm may not justify allowing continued operation.

If the issue is not harming consumers, then the Legal Regulatory Sandbox Board will work with the applicant to continue to monitor the issue (which may require additional reporting), and the applicant may resume operation in the legal regulatory sandbox.

If after receiving an order from the Supreme Court withdrawing authorization to provide the non-traditional legal service, and the applicant ignores such an order and continues offering such services in the Washington State legal market, then the applicant would be subject to action under the Consumer Protection Act and UPL statutes, and any other laws that apply.

3.11 Licensure (Exiting the Legal Regulatory Sandbox)

A proposed flowchart for successfully exiting from the legal regulatory sandbox is shown in Figure 6.

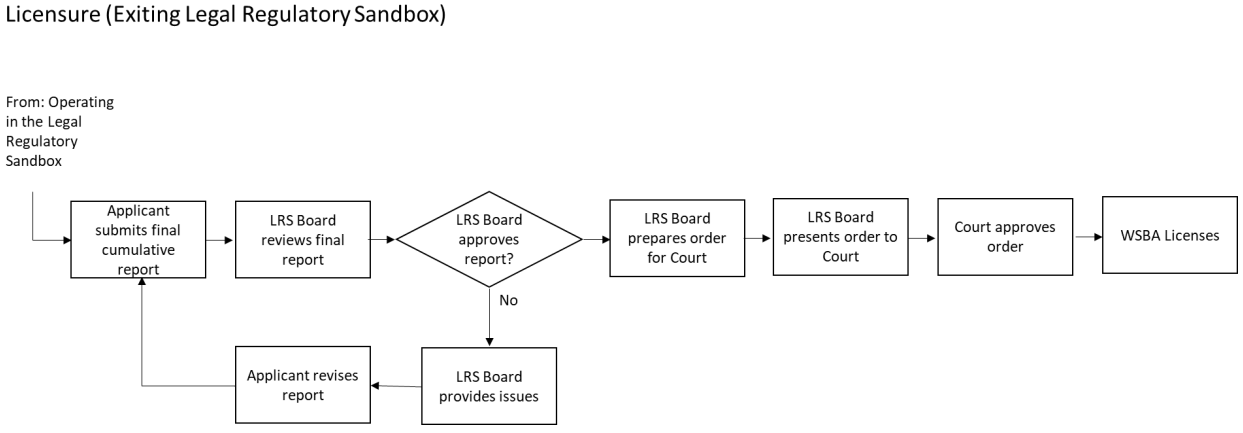


Figure 6. Licensure (Exiting Legal Regulatory Sandbox)

If an applicant completes the duration of the time in the legal regulatory sandbox, and there are no outstanding issues after review of the final report by the Legal Regulatory Sandbox Board, then the Legal Regulatory Sandbox Board will prepare an order for the Supreme Court.

The Supreme Court will have the discretion to approve or not approve the order, particularly if the Supreme Court feels the data does not support the conclusion the non-traditional legal service should be allowed to continue to operate. If the Supreme Court approves the order, then the applicant may provide the non-traditional legal service within the structure defined by that Supreme Court order. The Supreme Court can determine whether the non-traditional legal service addresses ATJ to such a positive degree, that it will allow other non-traditional legal service providers to follow the same order (without going through the legal regulatory sandbox).

This is essentially licensure, and the definition of what this entails, including reporting to the WSBA as an authorized legal service provider, and the licensure fees remains to be determined.

3.12 Duration of the Legal Regulatory Sandbox

There are two ways the legal regulatory sandbox duration could be measured. It could exist for a defined period, such as two years. (Utah started with a two-year fixed term which was recently expanded to seven years.)

Or the legal regulatory sandbox could have a rolling duration. For example, each applicant would be initially authorized by the Supreme Court order to operate in the legal regulatory sandbox under the order for two years. This means that the total duration of the legal regulatory sandbox would be for two years from the date that the last applicant enters the legal regulatory sandbox.

This blueprint proposes the second duration model. This is necessary to ensure that each applicant operates for the same duration and helps to ensure that data for each applicant is collected for a consistent period so analysis of the data will be more accurate. This rolling duration is shown in Figure 7.

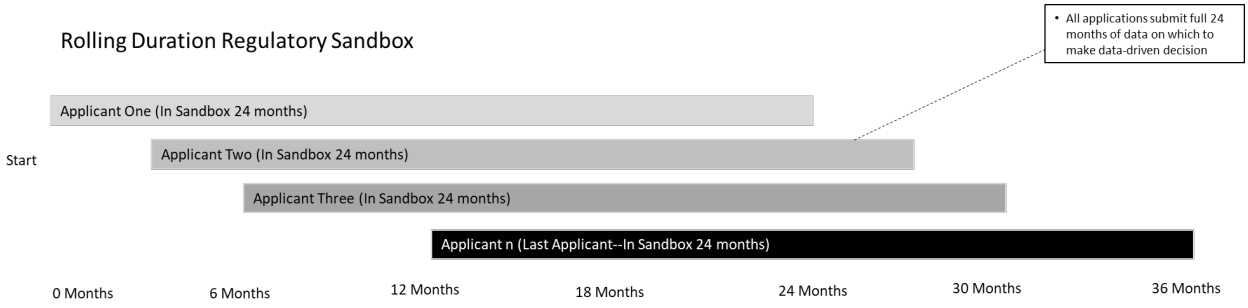


Figure 7. Rolling Duration Legal Regulatory Sandbox

3.13 Funding the Legal Regulatory Sandbox

3.13.1 Estimated Operating Budget per Legal Regulatory Sandbox Applicant

It is estimated that reviewing each application to participate in the legal regulatory sandbox will require approximately four person hours (two legal professional hours at $200/hour, and two administrative hours at $100/hour) for a total cost of $600.00.

Reviewing a report (each quarter) will take the one hour of legal professional time, and one hour of administrative time for $300.00.

Preparing a final report and court order would take two person hours (one professional, one admin) for a cost of $300.00.

Therefore, the cost of completing a two-year term per application in the legal regulatory sandbox would be:

Application fee	$600.00
Quarterly report reviews	$2,100.00
Final report review	$300.00
	$3,000.00

Each non-traditional legal service would require its own application. An entity providing two non-traditional legal service would complete two applications.

Circumstances could change these fees. For example, whether the applicant is a non-profit, a startup, or an existing for-profit entity might affect which fees would be charged. For example, non-profits and qualified legal services providers would not be charged; instead, each for-profit applicant might pay a non-profit support fee to underwrite the costs of non-profits operating in the legal regulatory sandbox.

Utah does not appear to charge fees, relying instead on grants. Utah considers the collection of data as the cost of being in the legal regulatory sandbox. This blueprint assumes that grants would be sought to cover some operation costs, and some costs would be borne by applicants.

3.13.2 Source of Funding

Ideally, the legal regulatory sandbox could initially be bootstrapped to run from the fees collected to operate in the legal regulatory sandbox. Later, ongoing funding could be supplied from licensing fees for those applicants granted a license to operate in the Washington State legal services market, and from grants from organizations that fund legal service alternatives.

4.0 Next Steps

This is a blueprint for the legal regulatory sandbox. The next steps include:

a) Incorporating feedback from the Court and other parties
b) Formalizing the Legal Regulatory Sandbox Board and appointing members
c) Fund-raising (grants)
d) Determining the RPCs and other regulations that can be tested within the legal regulatory sandbox and which cannot be tested within the legal regulatory sandbox
e) Formalizing application processes
f) Formalizing the court orders (templates)
g) Creating a reporting database schema and database for collecting legal regulatory sandbox data (and standardizing with other states)
h) Finding two test organizations to run through the process to determine what changes are needed to improve the legal regulatory sandbox and expand capacity.

5.0 Appendix A: Problem Statement

5.1.1 The Practice of Law in Washington State

Under Washington State statutes and court rules, only an authorized and licensed lawyer, a person supervised by an authorized and licensed lawyer, a Limited License Legal Technician (LLLT), or a Limited Practice Officer (LPO) can lawfully provide legal services to the public.

5.1.2 The ATJ Gap in Washington State

The Civil Legal Needs study update stated: "more than three-quarters of all low-income households in Washington State experience at least one civil (not criminal) legal problem each year. In the aggregate, low-income people experience more than one million important civil legal problems annually."[8]

Additionally, "low-income people face more than 85 percent of their legal problems without help from an attorney. Attorney assistance is most success fully secured in family-related matters, but even here only 30 percent of legal problems reported are addressed with the assistance of an attorney. Removing family-related problems, low-income people receive help from an attorney with respect to less than 10 percent of all civil legal problems."[9]

An update to the study in 2015 found that due to a variety of economic and social factors, "the average number of civil legal problems per low-income household having nearly tripled since 2003."[10]

The Civil Legal Needs Update challenged the courts and the officers of the courts including judges, lawyers, LLLTs, and LPOs to ensure that low-income people in Washington State understand their legal rights and know where to look for legal help when they need it; to squarely address not only problems presented, but the systems that result in disparate experiences depending on one's race, ethnicity, victim status or other identifying characteristics; and to know the costs and consequences of administering a system of justice that denies large segments of the population the ability to assert and effectively defend core legal rights.

It is clear "for decades, the United States has sought to bridge this ATJ gap through incremental improvement, such as volunteerism (i.e., pro bono work)

[8] Washington State Supreme Court, Task Force on Civil Equal Justice Funding, The Washington State Civil Legal Needs Study, September 2003, available at https://www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf.

[9] Id.

[10] Washington State Supreme Court, Civil Legal Needs Study Update Committee, 2015 Washington State Civil Legal Needs Study Update, Oct. 2015, available at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

and legal aid."[11] However, "closing this ATJ gap requires both incremental improvement and breakthrough change."[12]

5.1.3 Online Legal Services

A variety of entities are offering online legal services. Many of these entities are helping people with their civil legal problems. Under the statute and rules, these entities may be unlawfully practicing law.

One such entity, Legal Zoom, assists people by providing form-based legal services, and they may refer a person to an authorized legal practitioner (lawyer, LLLT, or LPO). Today, LegalZoom operates in Washington State under an Assurance of Discontinuance between LegalZoom and the Washington State Attorney General's Office.[13] This agreement essentially requires LegalZoom to follow guidelines outlined in the agreement, such as not "Comparing, directly or by implication, the costs of Respondent's self-help products, i.e., legal forms as contemplated in GR24(b)(8), and clerical services with those provided by an attorney, without, in close proximity to each such comparison, clearly and conspicuously disclosing to Washington consumers that Respondent is not a law firm and is not a substitute for an attorney or law firm."[14]

Although it is not clear whether LegalZoom was the first entity to offer online legal services to people in Washington, many others have followed and online legal services are available covering a wide variety of legal services including family law, immigration, arbitration assistance, traffic infractions, and other civil legal matters. Some of these entities are Washington based (that is, registered with the Washington Secretary of State) and others are foreign entities.

At its annual meeting with the Supreme Court on Feb. 4, 2021, the POLB identified there were over 50 OLS providers providing legal services in Washington State. Approximately 20 of these providers, such as WestLaw and CLIO, primarily provide services to legal professionals. Over 14 legal service providers, such as Avvo and LegalZoom, provide services to both legal professionals and the public, including referring people to a legal professional (generally a lawyer). Finally, over 17 legal service providers, such as FairShake and Hello Divorce, target their services to the public.

[11] Robert W. Gordon, Lawyers, the Legal Profession & Access to Justice in the United States, A Brief History, DAEDALUS, Winter 2019, at 177, 178.
[12] Georgetown Law Ctr. On Ethics & the Legal Profession, 2020 Report on the State of the Legal Market, 2-3 (2020)
[13] In Re the Matter of LegalZoom.com, Inc. a Delaware Corporation, Sept. 15, 2010 available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/News/Press_Releases/2010/LegalZoomAOD.pdf.
[14] Id. at 2.1(a).

These OLS providers offer legal services across a wide spectrum of legal matters, including family law, contract disputes, traffic infractions, and immigration. Several service models are in use, including referrals to legal professionals and do-it-yourself services. They are getting positive reviews from both the public and the press and are raising significant venture capital, which means they will continue to offer more services.

To be clear, these services may not be targeting people in Washington specifically; because they are internet services, they are there if people in Washington try to use them.

The advantage of such online legal services is they are addressing the ATJ gap in Washington. People using such services are likely doing better with their legal matter than simply being a pro-se litigant. They provide timely and often simplified advice. Typically, they are also less expense than traditional legal services.

The disadvantage of such online legal services is they are not regulated in a similar manner as traditional legal services and may not be following Washington statutes and court rules. They may not be offering accurate and complete advice. Consumer harm may be going unreported.

5.1.4 UPL Complaints and Online Legal Services

As of April 2021, the POLB has had two UPL complaints brought to its attention. Neither were referred to the Attorney General's Office or a county prosecutor for action because there was no evidence of harm to the consumer in either case. However, this does not mean that the entities were not practicing law.

5.1.1 Addressing ATJ and Online Legal Services

Several jurisdictions in the US and Canada are addressing the ATJ gap by examining the role that online legal services could play. Several alternatives be considered from doing nothing to using a regulatory sandbox to take a risk-based and data-driven approach to regulatory reform, particularly regarding regulating online legal services and ABS.

The danger of doing nothing is that the online legal services are not going away. Again, this is evidenced by the investment of venture capital into the companies offering such services. And there is the danger such services will become accepted by the public and spontaneous deregulation will occur. Some would argue this is already taking place. An example of spontaneous deregulation can be found in what happened to municipalities when ride-share and home-share services entered cities without regard to cab and zoning ordinances.

As various businesses try to create new service delivery models aimed at filling the urgent need for legal advice, they find their ideas and initiatives stifled by certain existing regulatory rules. Many smaller legal service startups can't secure funding because there are questions as to whether their businesses may operate; meanwhile, regulators hesitate to amend the existing rules, citing potential harm to the public because of these new business models and service providers. New business models, innovative partnerships, and creative approaches to new licenses are all shut down by the lack of flexibility under the current rules.

With so many people unable to access meaningful legal assistance, the time has come for us to consider opening the pool of legal service providers and eliminating the limitation that only attorneys and LLLTs may own law firms. Without data, we cannot do so responsibly. There is a simple way to solve both problems: a regulatory sandbox.

6.0 Appendix B: Mockup Washington Legal Regulatory Sandbox Application

This is a sample of how an applicant might supply information to the Legal Regulatory Sandbox Board for consideration to test a non-traditional legal service in the legal regulatory sandbox. The company is fictitious, but much of the data is accurate and might reflect information for an online software based legal service.

6.1 General Legal Regulatory Sandbox Information for Applicants

6.1.1 Purpose of the Legal Regulatory Sandbox

The legal regulatory sandbox tests and evaluates innovative models for providing non-traditional legal service that reduce the ATJ gap, while minimizing the risk of harm to the public. Such innovative services may not be capable of being offered under the Rules of Professional Conduct (RPC) or would be considered the Unlawful Practice of Law under the Revised Code of Washington (RCW) 2.48.180.

6.1.2 Authority for the Legal Regulatory Sandbox

The Washington State Legal Regulatory Sandbox is authorized by Washington Supreme Court order (number), dated (date).

6.1.3 Disbarred or Suspended Legal Professionals

No legal professional disbarred or suspended by any bar or licensing authority can participate in any entity offering non-traditional legal service in the legal regulatory sandbox.

6.1.4 No Temporary Admission to Practice in Washington

The legal regulatory sandbox is not a means by which out-of-state lawyers can practice law in Washington State, without otherwise complying with the WSBA regulations as delegated by the Washington Supreme Court to the WSBA.

6.1.5 No Impact on Washington State or Federal Laws or Regulations

The legal regulatory sandbox does not and cannot impact requirements imposed by other applicable Washington or Federal Laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory agencies. Authorization to provide non-traditional legal service within the legal regulatory sandbox does not release or indemnify any entity or individual from conforming to all other applicable laws, regulations, and court rules.

6.1.6 Legal Professionals Still Bound by RPCs

Except as temporarily modified by the Supreme Court order allowing the entity to provide non-traditional legal service within the legal regulatory sandbox, legal professionals working with entities in the legal regulatory sandbox shall maintain their duties under the RPCs.

6.1.7 Applications and Reports are Public Information

Applications for admission to the legal regulatory sandbox, and reports of operations in the legal regulatory sandbox are public documents to ensure the transparency of the legal regulatory sandbox.

Entities whose non-traditional legal service involve trade secrets as defined by RCW 19.108.010(4) may request such trade secrets be handled by the Legal Regulatory Sandbox Board under RCW 19.108.050.

6.1.8 Penalties for False or Misleading Application Information

Making false or materially misleading statements in this application is the basis for loss of authorization to participate in the Legal Regulatory Sandbox, and other criminal and civil sanctions may apply.

6.1.9 Changing Information

If information supplied as part of this application changes, the entity shall ensure the information is updated promptly.

6.2 Description of the Proposed Non-traditional Legal Service

6.2.1 Legal Service Model

- ❑ Legal professionals employed or managed by non-legal professionals
- ❑ Less than 50% non-legal professional entity ownership
- ❑ Over 51% non-legal professional entity ownership
- ❑ Legal professional sharing fees with non-legal professional
- ❑ Non-legal professional service provider with legal professional involvement
- ❑ Non-legal professional service provider without legal professional involvement
- ❑ Software or internet service provider with legal professional involvement
- ✓ **Software or internet service provider without legal professional involvement**
- ❑ Other: _____

6.2.2 Primary Legal Service Category of Legal Service

Select One

- ❑ Accident/Injury
- ❑ Adult care
- ❑ Business
- ❑ Civil misdemeanor
- ❑ Criminal Expungement
- ❑ Discrimination
- ❑ Domestic Violence
- ❑ Education
- ❑ Employment
- ❑ End-of-life Planning

- ❑ Family law
- ❑ Financial issues
- ❑ Healthcare
- ✓ **Housing (Rental)**
- ❑ Housing (Mortgage)
- ❑ Housing (Manufactured Home)
- ❑ Immigration
- ❑ Military
- ❑ Native American and Tribal Law
- ❑ Public benefits
- ❑ Real estate
- ❑ Traffic

6.2.3 Secondary Legal Service Category of Legal Service

Select all that apply

- ❑ Accident/Injury
- ❑ Adult care
- ❑ Business
- ❑ Civil misdemeanor
- ❑ Criminal Expungement
- ❑ Discrimination
- ❑ Domestic Violence
- ❑ Education
- ❑ Employment
- ❑ End-of-life Planning
- ❑ Family law
- ❑ Financial issues
- ❑ Healthcare
- ❑ Housing (Rental)
- ❑ Housing (Mortgage)
- ✓ **Housing (Manufactured Home)**
- ❑ Immigration
- ❑ Military
- ❑ Native American and Tribal Law
- ❑ Public benefits
- ❑ Real estate
- ❑ Traffic

6.2.4 Nature and Scope of the Non-traditional Legal Service

"Safe Rental Spaces Washington" (SRSWA) is an OLS designed to assist tenants with a smartphone, secure their rights against a landlord renting an unsafe (uninhabitable) premise.

SRSWA helps a tenant secure their rights under the Washington Residential Landlord Tenant Act (RLTA), including the Revised Code of Washington (RCW) 59.18.070(1), 59.18.070(2), 59.18.070(3), 59.18.080, 59.18.090, and common law cases *Apostle v. City of Seattle* (70 Wash. 2d 59), *Javins v. First National Realty Corporation* (428 F.2d 1071), *Foisy v. Wyman* (83 Wash. 2d 27), and *Landis & Landis Const. LLC v. Nation* (286 P. 3d 979).

To use the application, the tenant downloads the SRSWA application from the Apple or Android store to their smartphone. The application is a free download. The tenant enters information about their landlord, property, who notices about the tenancy are to be sent to per the lease, and the issue making their rental unit unsafe (uninhabitable).

Machine learning based artificial intelligence determines whether the issue is an imminent health hazard, such as no heat in the winter or extreme rodent infestation, a minor problem, such as a refrigerator or stove not working, or some other matter making their residence unsafe.

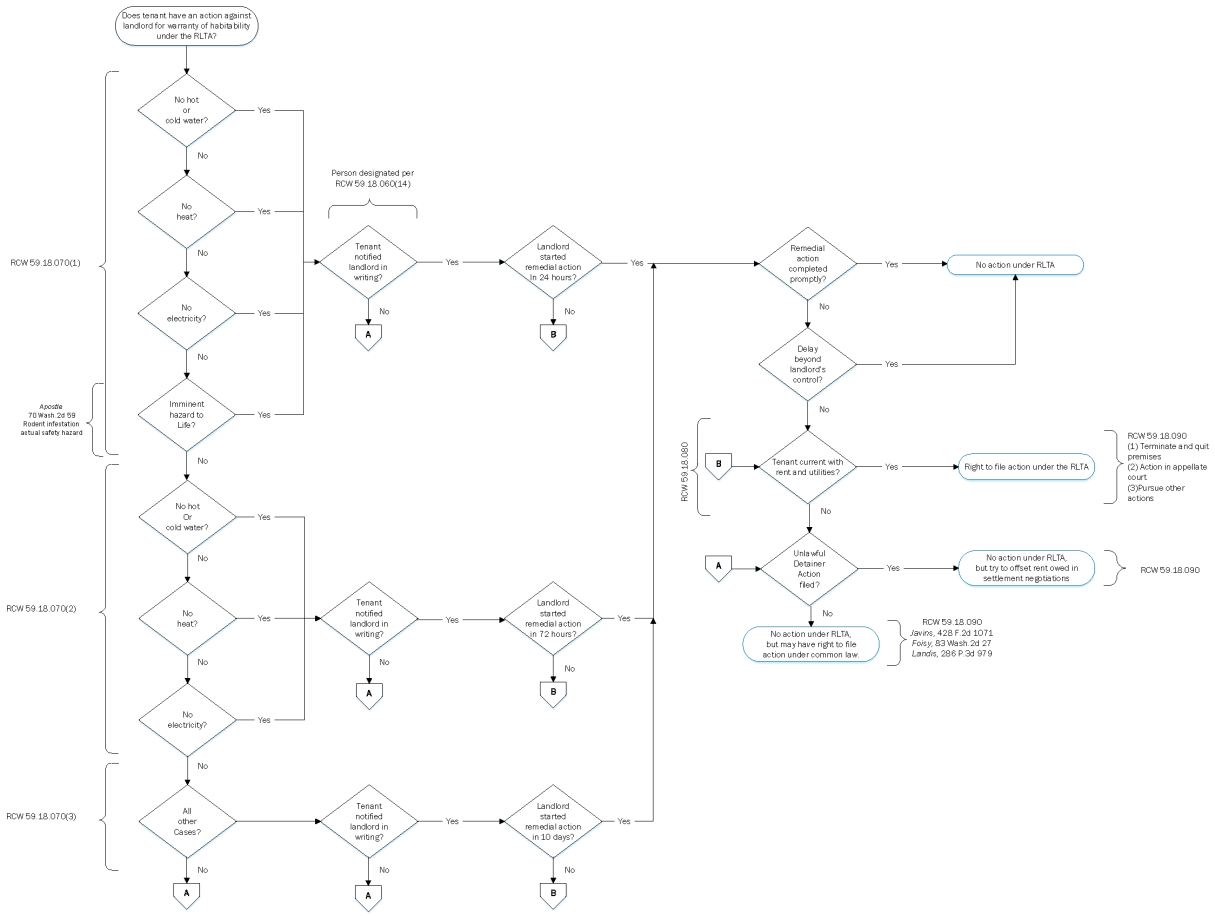
Based on the specific uninhabitable condition, the SRSWA application will generate and send a notice requiring that the landlord commence repairs in the statutorily defined period. Such notice will be sent so it proves service, such as certified mail.

If the landlord does not commence remedial action in the statutorily defined period, and the delay is the landlord's fault (landlord could rectify issue if they chose to but have not yet acted), then the SRSWA application will guide the tenant through exercising their statutory rights including terminating the lease and quitting the premises, suing the landlord for damages in small-claims court, or effecting repairs and charging the landlord for the cost of repairs and damages.

If available, the lease can be scanned, including documents on the status of the mechanical systems in the rental unit, and the mold, smoke detector, and tenant's obligations under the lease will be scanned and machine learning analyze the data to modify the algorithm.

Application is doing more than merely functioning as a scrivener to fill-in forms but is deciding about the tenant's legal rights such as determining which part of the statute applies in each scenario, delivering notices in manner which assures proof of service, and commencing a legal action including potential starting a civil case in small claims or other court.

In complex cases, the SRSWA application will assist the client in finding lawyers willing to sue the landlord.



6.2.5 The Intended Market for the Non-traditional Legal Service

The population of Washington State in July 2019 was 7,614,893.[15] The Census Bureau estimated there were 3,195,004 housing units. A housing unit is a house, an apartment, a group of rooms, or a single room. 63% of the housing units are owner occupied, so 37% are rented. With about 2.55 people per housing unit, the calculated number of people renting would be (3,195,004 * 0.37) *2.55 or 3,014,486.27.

The number of households in Seattle are 323,446.[16] Using the same estimates as for the state, the number of rental households would be (323,446 * 0.37) or 119,675 units. Looking at City of Seattle Code complaints for 2019[17], the number of complaints about power, heat, plumbing, mold, and bugs was about 25% of the total code complaints. This means that approximately (119,675 * 0.25) or 29,918 rental units in Seattle had a potential safety or habitability issue.

[15] https://www.census.gov/quickfacts/WA.
[16] http://www.seattle.gov/opcd/population-and-demographics/about-seattle
[17] https://data.seattle.gov/Community/Code-Complaints-and-Violations-Map/rsmq-5vwm

Using this number statewide, (3,195,004 * 0.25) or 798,751 rental units per year in Washington had a habitability issue.

The SRSWA application is not designed for any other jurisdiction at this time, as each state has different landlord-tenant law statutes.

6.2.6 When the Provision of Non-traditional Legal Service can Begin

The SRSWA application is in beta testing and will be ready for initial distribution to consumers in January 2022.

6.3 How the Non-traditional Legal Service Reduces the ATJ Gap

6.3.1 Which Specific Consumers the Non-traditional Legal Service Targets

The SRSWA application targets tenants in Washington State.

6.3.2 How the Non-traditional Legal Service Provides High-quality

The SRSWA algorithms, machine learning training, and test data has been reviewed by lawyers who advise tenants in the RLTA for a variety of agencies, including the King County Bar Association Housing Justice Project, and the Tenants Union. It follows the statutory definition of what constitutes or makes a rental unit uninhabitable, and the rights of tenants and the obligations of landlords. A professor at Seattle University who teaches a Landlord-Tenant class has also reviewed the application's logic and algorithms and helped to create test data.

Anonymized data about each transaction, and the status of the transaction over time, and source documents are used with machine learning to better train the algorithm and ensure it is working correctly and protecting tenant's rights.

Consumers can report a problem through the application, and a chat interface assists them with most issues. Consumers with complex problems outside the scope of the application will be referred to an attorney who provides legal services to tenants.

6.3.3 How the Non-traditional Legal Service is Cost-effective

The SRSWA application is free to download. Tenants will be charged only all costs associated with their transaction, such as the costs of sending certified mail or other notices.

Washington Tenant Software makes money by selling information about bad rental units, and bad landlords (those continually failing to repair rental units) to companies such as Zillow and Apartments.com who value such data. No tenant data is sold or traded to pay for SRSWA costs.

6.3.4 How the Non-traditional Legal Service is Consumer Accessible

Although a tenant/consumer might figure out how to correctly follow an uninhabitable issue through the legal process correctly, few seem able to do more than report to a county or city code enforcement office which might take timely action.

Most consumers make incorrect assumptions such as they can withhold or stop paying rent, leading to potential eviction (unlawful detainer) actions.

According to the US Census, Washingtonians have a high percentage of computers in their homes (greater than 90%), and most have access to high-speed internet, making the application highly available.

Few attorneys will take on uninhabitability matters for tenants, as few tenants can afford to pay hundreds of dollars per hour for such legal service.

Therefore, the SRSWA application should enable more tenants to exercise their legal rights under the RLTA.

6.3.5 Other Aspects of the Non-traditional Legal Service that Close the ATJ Gap.

Many tenants live with the problem, and incur additional costs because of damage to their health, loss of wages, or harm from attempting repairs on their own.

The lower the income, the less likely the person can make repairs. Many fear retaliation including eviction or non-renewal of the lease. Others worry about being labeled a problem tenant, making it hard to rent another unit.

Few attorneys practice the tenant side of landlord-tenant law.

6.4 Risk of Harm to Consumers

6.4.1 What Potential Harm Could Befall a Consumer

Consumers may be harmed if they overstate the nature of the problem, fail to take subsequent steps in the process promptly, or stop using the application once they initiate a complaint to the landlord.

To mitigate the harm, the SRSWA application will email the consumer with the status of their matter on an ongoing basis, and clearly detailing the next steps and deadlines.

It may not scale across WA because of each court having different court rules (for example, not all Washington county courts support e-filing). However, it may be possible to modify the application to accommodate different statutes, but that is not part of the current plans.

6.4.2 Which Consumers are at Most Risk of Harm

The SRSWA application will be initially released in English and Spanish. Although every attempt has been made to use non-legal language and terms, uninhabitability and unlawful detainer matters can include complex scenarios and fact patterns, therefore, those will low reading skills or literacy may make mistakes using the application.

Those consumers in poorer communities, where affordable housing is at a premium, are at risk of retaliation from the landlord, but such risk may be less than if the tenant tried to act on their own (without assistance of the application or a legal professional).

6.4.3 When the Risk is Likely to Occur (Present or Future)

The greatest risk of consumer harm occurs when the consumer initially uses the application and lessens over time (uninhabitable issues have a relatively short timeline).

6.4.4 How Any Risk of Harm can be Measured

The application collects anonymized data about usage, including started transactions, unfinished or abandoned transactions, and failed transactions.

Consumers can report and track issues with the application through a portal and an issue id for tracking will be assigned to any complaint entered through the application.

Consumer satisfaction will be measured after each transaction.

6.5 Entity Information

6.5.1 Type of Entity

Washington Tenant Software is a Washington State LLC. The LLC is the developer or the SRSWA application.

6.5.2 Officers

John and Jane Doe are the members of Washington Tenant Software LLC. John Doe is the member manager.

6.5.3 Years of Operation

Washington Tenant Software was incorporated in 2019.

6.5.4 Financial Information

Washington Tenant Software has raised $2 million dollars from Angel Investors and is not expected to seek any additional funding until it is in the market. SRSWA is the entity's first application.

6.5.5 Business Plan for the Non-traditional Legal Service

As noted above in 6.5.4, WTS has raised capital to fund the initial release of the application. As noted in 6.3.3 Washington Tenant Software makes money selling information about landlords and rental units, not client or tenant data.

6.6 Other Material Information

SRSWA intends to compensate lawyers advising about the RLTA with monetary payments for work performed and does not intend on having any legal professionals on staff or as members of the corporation.

SRSWA is a software development firm and is not a law firm.

7.0 Appendix C: Mockup of Supreme Court Order Sandbox Participation

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE	)	
APPLICATION OF WASHINGTON TENANT	)	
SOFTWARE – SAFE SPACES WASHINGTON	)	ORDER
PARTICIPATION IN THE WASHINGTON	)	No 00000-A-000
COURTS LEGAL REGULATORY SANDOX	)	

WHEREAS, the Washington State Supreme Court has determined to implement a strategic initiative to evaluate and assess efficacy of non-traditional legal services to provide legal services that lessen the ATJ gap in Washington state while minimizing risk of consumer harm, and to evaluate the correct level of regulation for such non-traditional legal services;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Washington Tenant Software, a Washington State entity, may offer legal services from its Safe Rental Spaces Washington application in Washington State as an entity providing software or internet services provider without legal professional involvement.

Washington Tenant Software shall only offer legal services in Washington State in the Housing—Rental legal services area.

Washington Tenant Software may refer clients with a complex habitability issue, which the Safe Rental Spaces Software cannot process, to a licensed and authorized legal professional in Washington, and to charge a referral fee to such legal professionals.

Washington Tenant Software shall conform to the HIGH risk reporting requirements imposed by the Washington Courts Legal Regulatory Sandbox Board.

Washington Tenant Software shall prominently display disclosure to consumers using the Safe Rental Spaces Washington application it is operating in the Washington Courts Legal Regulatory Sandbox, that it is a non-legal professional ownership company and is not a law firm, and how consumers can report a problem with the application or service.

If Washington Tenant Software desires to change these requirements, it must submit any such change to the Washington Courts Legal Regulatory Sandbox for assessment and a modification to this order.

This authority is granted for 24 months from the date the non-traditional legal service is provided to consumers in Washington State, as reported to the Washington Courts Legal Regulatory Sandbox Board.

This authority and any such extension or permanent authorization is subject to Washington Tenant Software's compliance with the conditions and regulations set forth by the Washington Courts Legal Regulatory Sandbox Board, the Washington Courts Legal Regulatory Sandbox Board's recommendation to the Supreme Court, and verification by the Washington Courts Legal Regulatory Board's verification that Washington Tenant Software has a record of compliance with all requirements, statutes, regulations, and court rules and the non-traditional legal services are not harming consumers.

DATED at Olympia, Washington this <day> day of <month>, <year>.

The Law Society of British Columbia

Licensed Paralegal Task Force Report

Benchers

Trudi Brown, QC (Chair)
Michael Welsh, QC (Vice-Chair)
Jamie Maclaren, QC
Steven McKoen, QC
John-Paul Boyd, QC
Nancy Carter
David Dundee
Joanna Recalma
Michele Ross

Prepared for:	Benchers
Prepared by:	Licensed Paralegal Task Force
Purpose:	Proposal for developing and regulating alternate legal service providers
Date:	September 25, 2020

DM2840684

Background

1. The report proposes an approach that differs both from the Task Force's mandate and from how the topic of alternate legal service providers has been approached to date. The Task Force seeks approval from the Benchers to make the conceptual shift set out in the report. If the Benchers adopt the recommended approach, additional work will be necessary to address some issues that are identified in the report, but not resolved.

2. The Benchers created the Licensed Paralegal Task Force in 2019. Its mandate and terms of reference are to further develop the work of the Alternate Legal Service Provider Working Group that had considered, and consulted on, the possibility of regulation and scope of practice of family law alternate legal service providers in 2018. Specifically, the Task Force was directed to:

   1. Consider and identify opportunities, in consultation with the profession and others, for the delivery of legal services in areas where there is a substantial unmet legal need and the public would benefit from the provision of those services by licensed paralegals; and

   2. If the Task Force identifies areas of legal services where licensed paralegals may meet an unmet legal need:

      a) consider the scope of services that would be appropriate for licensed paralegals to provide in relation to the identified areas of legal services;

      b) consider what education, qualifications, credentials, experience and insurance would be necessary to enable licensed paralegals to deliver legal services in a competent and ethical manner in the identified areas of legal services; and

      c) make recommendations to the Benchers for a regulatory framework that will ensure that licensed paralegals provide legal services in a regulated, competent and ethical manner only in the identified areas of legal services approved by the Law Society.

3. The Task Force has met through the remainder of 2019 and into 2020. It has reviewed the Law Society's prior work on alternate legal service providers, including a consideration of the 2018 consultation report and the commentary the Law Society received. It has also analysed the results of a 2020 IPSOS Reid survey of legal needs that updated the Law Society's 2009 survey.

4. For the reasons set out below, the Task Force recommends an approach that varies from the approach contained in its mandate.

Licensed Paralegal Initiative: Brief Review

5. The licensed paralegal initiative is intended to address, at least in part, the broader access to justice challenge. The Law Society has made a policy decision that licensed paralegals

may help address areas of underserved or unmet legal needs where people are seeking legal services, but are unable to obtain them and has obtained legislative amendments (as yet unproclaimed) through which the policy decision may be implemented.

6. The research and data reviewed by the Task Force, including our 2009 and 2020 Surveys, establish that over any three year period approximately 50% of Canadians will experience a serious, difficult to resolve legal problem.[1] These problems can cluster and cascade into more problems, including economic, social and health problems. For people experiencing these problems, only about 15% get help from lawyers.[2] In 2009 when the Law Society surveyed legal need, approximately 16% of people sought help from someone other than a lawyer, including paid services, and approximately 70% sought no help.[3] In 2020, the number of people seeking help from someone other than a lawyer increased to 27%, the number seeking help from lawyers remained steady at 15%, and the number of people who sought no help declined to 60%.

7. Clearly, therefore, while many people facing a legal problem are getting no legal help, a sizable portion of the population facing a legal problem is getting some legal assistance from someone other than a lawyer (16% in 2009 and 27% in 2020). Some of this may be from persons (like notaries or community legal advocates) who have some ability and qualifications to provide the advice or assistance, but some will undoubtedly be from people who have no demonstrable qualification and who operate under no regulatory structure, which leaves the client vulnerable.

8. The problem faced by the justice system, to which the licensed paralegal initiative directs itself, is that a large portion of the public (a) experience serious, difficult to resolve, legal problems, and want help from a professional, (b) have some money to spend, but (c) are not getting help from lawyers.

Discussion

Setting the Stage: "Top Down" vs. "Grass Roots"

9. British Columbia is not unique when it comes to having an access to justice challenge. Other jurisdictions face the same challenge and have made efforts to examine how legal services may be provided by people who do not have the full training of a lawyer.

---

[1] Ab Currie, "The Legal Problems of Everyday Life – The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians", Department of Justice, 2009-05-12; Ab Currie, "Nudging the Paradigm Shift, Everyday Legal Problems in Canada" 2016 CanLIIDocs 352.

[2] Law Society of BC, IPSOS Reid Surveys 2009 and 2020 confirm these data.

[3] The rounding totals are explained in the reports.

10. The Task Force's examination of other jurisdictions suggests that the consideration of regulation relating to other legal professionals has resulted in two possible approaches: "top down" or "grass roots"

11. The "top down" approach is one in which the regulator defines a category of provider, a scope of practice, and a set of qualifications, credentials and experience in the expectation that there will be an interest in joining that category.

12. An example is Washington State's Limited License Legal Technicians ("LLLT") program. The LLLT initiative was driven by the courts (the body ultimately responsible in that state for professional regulation) particularly in response to self-represented litigants in court. The Supreme Court issued a practice rule, which created LLLTs, and the State Bar worked with local universities and colleges to design the training and credentialing requirements. The program was limited to family law, but was intended to be scaled up for other areas of need.

13. The LLLT requirements for licensing were considerable, including an associate level of post-secondary education, completion of ABA approved programs in family law and other basic legal subjects, 3000 hours of practice experience supervised by a lawyer over a three year period, and successful completion of a core education exam and practice area exam.

14. Over the course of the seven years during which the program was in place, only 45 LLLTs were registered and as of early summer there were only 39 active LLLTs.

15. In June, 2020, at the request of the State Bar, the Washington State Courts announced the LLLT program will end. The Chief Justice's announcement cited the costs of the program and limited participation as the reasons for ending the program.[4] The Task Force is of the view that the Washington State experience illustrates some of the problems with a top down approach.

16. A "grass roots" approach, on the other hand, is one where the regulator looks to revise or recalibrate its regulatory scope to permit the provision of legal services by providers who may already be providing services.

17. An example of the "grass roots" approach is the evolution of licensed paralegals in Ontario.

18. As a result of the definition of the practise of law in the Ontario *Law Society Act* and various court decisions[5], by the year 2000 there had developed a fairly robust community of paralegals acting as "agents," who could represent individuals in court in certain

[4] The board of the LLLT program has recently announced that it will be asking the Court reconsider its decision or at a minimum allow more time for the LLLT candidates to complete the licensing requirements.

[5] The most significant was *R.* v. *Lawrie and Pointts Ltd.* (1987), 59 O.R. (2d) 161 (C.A.)

circumstances. Concerns about the scope of practice which paralegals could undertake led to calls for regulation of paralegals and, on the part of the Law Society of Upper Canada, calls for limitations on what matters paralegals could act on in court.[6]

19. Over the next seven years, there were repeated calls for regulation or limitations on the role of paralegals that eventually resulted, on May 1st, 2007, in the extension of the mandate of the Law Society of Ontario to include the regulation of paralegals. The number of paralegals initially registered following 2007 exceeded the estimates of the Law Society of Ontario and today there are over 9,000 paralegal licensees.[7]

20. While the grass roots development of a viable paralegal community in Ontario was the result of factors peculiar to that province, more recently other jurisdictions have taken to implementing changes to foster a grass roots approach to the development of alternate legal service providers that aim to create an environment for the provision of legal services by persons who are not lawyers.

21. The Law Society of Saskatchewan (LSS) created a task team to explore the issues of access to justice, increased consumer options and regulatory reform. As a result of the task team's 2018 report, the LSS expanded the exemptions to the unauthorized practice rules, including identifying a range of services that currently exist and do not pose a threat to the public and therefore no longer need to be "regulated" by the Law Society. The LSS has adopted an incremental approach that is application-based, guided by a set of principles, and takes a flexible and tailored approach to defining the qualifications, scope of practice, and practice controls that would be applicable to each licensee.

22. Utah, Oregon and California are all now looking at revising their regulation of the legal profession to permit alternatives to the delivery of legal service only by lawyers. They are either considering or implementing what is commonly referred to as a regulatory "sandbox" to permit experimentation in the delivery of legal services within the ambit of the practice authority in those states.

23. The Task Force recognizes that the Law Society's entire engagement with the idea of licensed paralegals to this point has been premised on what we have described here as the "top down" approach. The recommendations from the 2013 Legal Service Providers Task Force and the 2014 Legal Services Regulatory Framework Task Force assumed that the appropriate approach was to seek an amendment to the *Legal Profession Act* to permit the Law Society to establish new classes of legal service providers to engage in the practice of

---

[6] A convenient summary of the evolution can be found in The Cory Report and the Regulation of Paralegals in Ontario

[7] As a further example of the "ground up" approach, it was the existing barristers and solicitors of the day in 1869 who came together to form the Law Society and it was the existing bar that prompted the creation of the *Legal Professions Act* in 1884.

law, set the credentialing requirements for such individuals, and regulate their legal practice. The implementation of that recommendation eventually resulted in the as-yet unproclaimed amendments to the *Legal Profession Act* permitting the regulation of licensed paralegals.

24. The Task Force also recognizes that the predecessor to this Task Force, the Alternate Legal Service Providers Working Group, made an attempt to move forward with a "top down" approach relating to the provision of family law legal services by licenced paralegals. It encountered conceptual issues in relation to determining the scope of practice and regulation as well as objections from the bar regarding the overall proposal.

25. However, the Task Force also recognizes that the Law Society has been engaged with the issue of recognizing paralegals as independent legal service providers for many years and that during that time, no "top down" approach has resulted in the existence of any licensed paralegals. The Task Force believes that such an approach must therefore be recognised as having limitations when trying to *create* a cohort of legal service providers and to determine, in a vacuum, what services that cohort should provide and how they should be regulated.

26. The Task Force therefore suggests that a more fruitful approach is to undertake a "grass roots" approach to the issue and, under some supervision, create a space that will let a marketplace develop that might address the unmet or underserved legal needs of the public. It is more likely that the marketplace will identify what these services are before the Law Society is able to do so.

27. In addition, the approach recommended in this report aligns with the Access to Justice BC Triple Aim, which the Benchers adopted in 2018. The Triple Aim seeks to ensure that the user experience is improved, access to justice is enhanced, and there is overall cost efficiency.

28. The Task Force is therefore recommending the creation of a process that will allow service models to develop under general oversight of the Law Society in a manner that allows for creativity and innovation while determining, based on evidence that will be gathered as the market develops, the level of regulation required relative to the risk to the public. The environment in which this process can unfold is increasingly referred to as a regulatory "sandbox."

A Proposed "Sandbox."

29. The Utah Implementation Task Force on Regulatory Reform described its regulatory sandbox as a well-established policy tool through which regulators permit new models and services to participate in a market under careful oversight to test the interest, viability, and consumer consequence of the model or service and inform policy development. New legal

practice providers and services have to apply to enter the regulatory sandbox before they will be permitted to offer services in the legal market. The application form sets out a series of criteria that must be met in order for people to be granted admission to the sandbox. The Task Force recommends tailoring a similar, yet British Columbia specific, model of intake. Successful applicants will be able to offer services under careful oversight to ensure there is no demonstrable harm to a person or public.

30. As will be obvious from the description of the regulatory sandbox, there is a necessary connection with s.15 of the *Legal Profession Act* and the exercise of the Law Society's ability to restrain the unauthorized practice of law. To that end, the Unauthorized Practice Committee has been working to develop a clear statement of policy as to when the Law Society will and will not take steps to respond to allegations and instances of the provision of legal services that may amount to the unauthorized practice of law. The goal is to publish this policy so that individuals and organizations may be able to assist with providing access to some legal services where there is no demonstrable harm to a person or the public. This work aligns with the recommendations of this Task Force.

Populating the Sandbox

Application

31. It is expected that the application form will require basic information about the applicants, the services they intend to provide, the evidence in support of how those services meet the criteria of unmet or underserved legal need,[8] the skills, experience and knowledge the applicant brings that are relevant to providing those services, as well as certain requirements to adhere the standard ethical obligations that will be developed as part of the regulatory process.

"No action agreements"

32. Individuals who meet the requirements of the application phase will be issued a "no action agreement," which will set out the terms and conditions on the limited scope of legal services the applicant will be permitted to perform. The letter will also set out conditions for oversight, including reporting requirements and the potential requirement for insurance coverage. The letter will explain that the ability to provide the services is revocable by the Law Society. A no action agreement could be provided to a person, or categories of persons, who meet objective identified, approved criteria for providing particular services.

33. This approach will create a controlled environment, within a "sandbox" structure, through which to test the types of services that may be offered, the degree of regulation may be

[8] This evidence could be tested against existing data such as the 2009 and 2020 Law Society IPSOS Reid surveys.

required, and the degree of qualification or background of the provider.

Paralegals

34. The Task Force recognizes that the British Columbia Paralegal Association (BCPA) has, for some time, expressed interest in a more formal recognition of paralegals. A survey by the BCPA prior to the introduction of the amendments to the *Legal Profession Act* indicated that, if paralegals were regulated in a manner similar to Ontario paralegals, a significant majority would choose to practise as a regulated paralegal.

35. There are currently over 800 designated paralegals. Designated paralegals are permitted to provide all legal services, albeit under the supervision of a lawyer. The Law Society assumes that lawyers who have designated a paralegal as a "designated paralegal" have confidence that the paralegal has a significant degree of ability to provide legal services directly to a client. The program proposed in this report might therefore usefully leverage the existence of a group of "designated paralegals" as potential applicants for entry to the regulatory sandbox.

36. One way the Law Society can foster the "grass roots" approach is by providing a pathway for existing paralegals and designated paralegals to engage in providing legal services to the public through inclusion in the regulatory sandbox. The Task Force has come to recognize that this approach is the most viable way to move forward with a licensed paralegal program.

37. A system can eventually be developed by which paralegals who enter the sandbox, and meet identified objectives/criteria for a defined period of time, could eventually apply to the Law Society to become licensed paralegals.

Some further comments on the sandbox

38. Ultimately, the Task Force expects that if paralegals embrace the opportunity to provide legal services within the regulatory sandbox, there will eventually be a qualified cohort of providers within the sandbox that will form the basis for a more structured licensed paralegal regime, based on those actively providing paralegal services. The sandbox could continue to operate with the other individuals who, while not having a path to licensing, will be able to continue to operate under the no action agreement regime.

39. The Task Force recognizes that as the sandbox is developed, discrete matters such as the needed level of regulation will need to be determined. The sandbox will include a spectrum of responses to the access to justice problem, not a single model of service delivery or even potential licence. For some service providers, entry into the sandbox will put them on a path to eventual licensing by the Law Society, while others will operate without a license, but in a limited and discrete area of service. Although the model

recommended below might present as a linear progression, it is not intended to be presented in that fashion, except to the degree that the act of licensing (if it does take place) will be informed by what the Law Society learns from the sandbox.

40. The Task Force also recognizes that even within a relaxed, regulatory sandbox it is important that the people providing legal services adhere to certain essential aspects of the *Code of Conduct for British Columbia*. While not all elements of the *Code* would transfer to people in the sandbox, at a minimum concepts of maintaining client confidences, not acting in a conflict of interest, not providing services in an illegal manner, are all important. The Task Force is of the view that key aspects of the *Code* must be included in the terms of any non-action letter or other contractual document that permits activity within the sandbox, and reinforced in the initial application process. The key will be to identify principles that aim to reduce the risk of harm to the public.

Recommendation

41. The Task Force recommends a "grass roots" approach to advance the licensed paralegal initiative within a regulatory sandbox.

42. The regulatory sandbox would:

    (a) Permit individuals to apply to the Law Society to provide legal advice or services in areas where the Law Society determines it is in the public interest to expand the permitted services, as well as in areas where there the Law Society has assessed that there are no services (or insufficient services) being provided by lawyers;
    (b) Develop a system of no action agreements to cover categories of legal service providers, and individual-based letters for applicants who wish to provide discrete services based on their skills and knowledge in circumstances where the Law Society has assessed that it is in the public interest to permit the services to be provided in the sandbox; and
    (c) Eventually provide the basis for the formal recognition of licensed paralegals within the licensed paralegal regime, by way of amendments to the LPA, providing for the types of paralegals who will be able to provide legal services directly to the public in identified areas of need, either working with lawyers or independently.

43. If this proposal is accepted by the Benchers, additional work will be required to detail the administrative and operational implications of overseeing the sandbox. The Task Force is of the view that it is premature to develop those criteria without the Benchers' endorsement of exploring the framework of a sandbox.

44. In closing, the Task Force observes that the amendments to the *Legal Profession Act* have been in a holding pattern for almost two years, and it is time to move forward with a program of expanded service provision with a path towards licensing. For the reasons

contained in this report, the Task Force recommends the Law Society further develop what we call a grass roots sandbox approach and consult with interested stakeholders for their ideas, comments, and critiques on how best to make that work.

The Law Society of British Columbia

May 26, 2021

Sent via E-mail

Kyle Friesen
Tellalawyer
Email: kfriesen@tellalawyer.com

Dear Mr. Friesen:

RE: Innovation Proposal – AP20200014

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Through Tellalawyer (www.tellalawyer.com), provide an online lawyer referral service that offers a direct link for the public to qualified legal professionals, for initial consultations, through a secure online booking and payment platform.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate

action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *Tellalawyer is not a lawyer or law firm and does not provide legal services directly, although it connects customers with licensed lawyers who do. As a result:*
> *(a) The relationship between you and the lawyer that you consult through our lawyer referral services is a solicitor-client relationship, but we are not a party to that relationship and so may be required to disclose information you provide to us to third parties as required by law;*
> *(b) We are not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that we provide and*
> *(d) The Law Society of British Columbia has not evaluated or verified our competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.*

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct to the extent they are applicable.

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

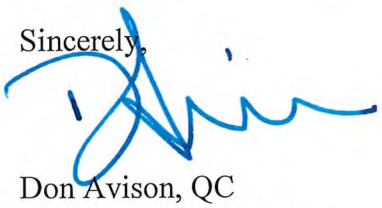
4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC
CEO/Executive Director

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

The Law Society
of British Columbia

July 30, 2021

Sent via e-mail only to: mhaigh@ppslaw.ca

Michelle Haigh
Precision Paralegal Services Inc.
150, 9th Avenue SW – 23rd Floor
Calgary, AB T2P 3H9

Dear Ms. Haigh:

Re: Innovation Sandbox Proposal - AP20200006

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue this "no action" letter to you.

1. Services

You propose to offer the following services (the "Services):

1.1 Small Claims matters:

a) Preparation of court forms;
b) Preparation of pleadings;
c) Filing and serving of court documents;
d) Legal advice;
e) Research on legal matters;
f) Negotiate and facilitate settlements;

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

g) Coaching for self-represented litigants; and
h) Assistance in collection of judgments.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

My/our services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result: (a) I/we could be required to disclose to third parties your communications with me/us and any documents you provide in relation to my/our advice and assistance as such communications will not be subject to solicitor-client privilege; and (b) I/we am/are not required to have professional liability insurance. (c) There is no statutory complaint process in relation to the services that I/we provide and (d) the Law Society of British Columbia has not evaluated or verified my/our competence, character, and/or fitness to provide the services. For more information about the Law Society's innovation sandbox visit https://lawsociety.bc.ca/sandbox.

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Service and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC *(he/him)*
Executive Director/Chief Executive Officer

The Law Society of British Columbia

July 30, 2021

Sent via e-mail only to: tracy.laninga@gmail.com

Tracy Laninga
Vancouver, BC

Dear Ms. Laninga:

Re: Innovation Proposal - AP20210016

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue this "no action" letter to you.

1. Services

You propose to offer a limited scope of services to clients who would maintain control of their own legal matter. Specifically, you propose to provide legal services and coaching services to lay litigants, in the following areas of law (the "Services"):

1.1 Simple small claims disputes;

1.2 Desk order divorces (restricted to uncontested desk orders with no other issues);

1.3 Simple landlord/tenant disputes under the *Residential Tenancy Act*;

1.4 Insurance Corporation of British Columbia disputes under the jurisdiction of the Civil Resolution Tribunal;

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

1.5 Assisting with access to specific government programs;

1.6 Assisting with applying for legal aid; and

1.7 Drafting annual corporate maintenance documents for start-up companies and grant applications.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

My/our services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result: (a) I/we could be required to disclose to third parties your communications with me/us and any documents you provide in relation to my/our advice and assistance as such communications will not be subject to solicitor-client privilege; and (b) I/we am/are not required to have professional liability insurance. (c) There is no statutory complaint process in relation to the services that I/we provide and (d) the Law Society of British Columbia has not evaluated or verified my/our competence, character, and/or fitness to provide the services. For more information about the Law Society's innovation sandbox visit https://lawsociety.bc.ca/sandbox.

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Service and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if:

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC *(he/him)*
Executive Director/Chief Executive Officer

The Law Society
of British Columbia

July 30, 2021

Sent via E-mail

Jeremy Maddock
2536 Forbes Street
Victoria, BC V8R 4B8

Email: jeremymaddock@hotmail.com

Dear Mr. Maddock:

Donald J. Avison, QC
Executive Director/Chief Executive Officer

RE: Innovation Proposals – AP20210005 and AP20210006

Thank you for your proposals to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposals to provide services and has agreed to issue to you this "no action" letter.

1. Services

AP20210005

You propose to offer the following services:

1.1 Research and writing services as a home-based contract employee, under the supervision of practicing lawyers, such services to include:

a) Conducting legal research;

b) Reviewing and summarizing disclosure;

DM3225025

c) Drafting pleadings;

d) Drafting legal arguments; and

e) Submitting any documents prepared by you for the review and approval of the supervising lawyer.

AP20210006

1. 2 You propose to offer the following services to motor vehicle violation ticket disputants:

a) Reviewing violation tickets;

b) Providing information about the dispute process;

c) Obtaining disclosure from ticketing officers;

d) Negotiating possible resolution with ticketing officers; and

e) Drafting legal arguments.

2. No Action

Based on your proposals (copies attached) and any additional information you provided or LSBC obtained in relation to your proposals, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposals is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;*
> *(b) I am not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that I provide; and*
> *(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.*

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this

Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposals that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

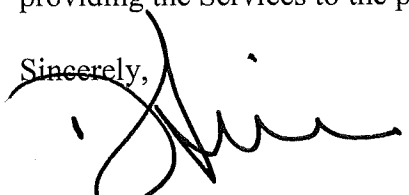
4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or

otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposals and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC
CEO/Executive Director

The Law Society
of British Columbia

July 30, 2021

Sent via E-mail

John Charles Wesley McDonald
7203 25 St SE
Calgary, AB T2C 0Z9

Email: john@albertacourtagent.ca

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Dear Mr. McDonald:

RE: Innovation Proposal – AP20200016

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Acting as the client's advocate throughout the litigation process by providing legal advice, conducting legal research, drafting and filing documents, entering into settlement negotiations and making appearances in each of:

a) the Civil Resolution Tribunal;
b) the Residential Tenancy Branch; and
c) the Employment Standards Tribunal.

1.2 Small Claims Matters:

a) Meeting with clients;
b) Conducting legal research;
c) Preparing and filing documents such as pleadings, statements and affidavits;
d) Assisting with document disclosure;
e) Engaging in settlement negotiation; and
f) Assisting the client with trial preparation.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

My services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result:
(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;
(b) I am not required to have professional liability insurance, and do not carry professional liability insurance (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
(c) There is no statutory complaint process in relation to the services that I provide; and
(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.
For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 If you intend to represent clients before administrative tribunals, you acknowledge that this no-action letter does not grant you audience to appear and that you may require permission from the presiding adjudicator to do so.

2.9 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.10 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this

Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.11 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

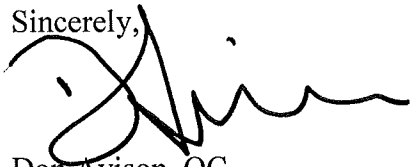
4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or

otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC
CEO/Executive Director

The Law Society of British Columbia

May 26, 2021

Sent via E-mail

Scott Nicol
Nicol Law Office
414 12 Ave NW
Calgary, AB
Email: scott.nicol@nicollaw.ca

Dear Mr. Nicol:

RE: Innovation Proposal – AP20210007

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Through SimpleArb, provide an online platform that allows parties to enter into settlement negotiation and confidentially disclose their offers to settle. A claimant enters the amount they are willing to receive and the respondent enters the amount they are willing to pay. The amount entered by one party is not disclosed to the other party. If the offers match or overlap, the SimpleArb system will declare a match. The system will then disclose the average of the offers to the parties and an agreement can be formed. If the offers do not match or overlap, no information on the offers is shared.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;*
> *(b) I am not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that I provide; and*
> *(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.*

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.9 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.10 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.11 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

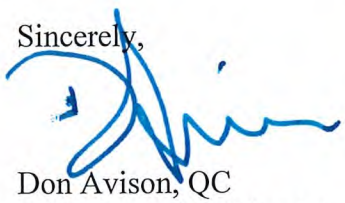
4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC
CEO/Executive Director

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

The Law Society of British Columbia

May 26, 2021

Sent via E-mail

Mayette Ostonal
Email: mayette.ostonal@gmail.com

Dear Ms. Ostonal:

RE: Innovation Proposal – AP20210002

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Legal Coaching, independent of your employment [redacted], which includes:

- coaching clients in civil litigation procedure, with a focus on the Civil Resolution Tribunal and personal injury litigation
  - helping clients understand the process and what is required of them at each step;
  - providing them with information on how to find rules and other relevant legislation, the proper forms to use, serving parties, deadlines and other similar administrative matters;

        - assisting with determining evidence to use in supporting or defending their claim; and
        - providing assistance in how to find case law for arguments;
    - coaching clients when they prepare pleadings, statements, affidavits and submissions by providing explanations for the purpose of each document, general outlines of what should be included and then assisting them in either fleshing out their drafts or paring down the drafts to focus on the issues at hand;
    - providing general information and coaching regarding Small Claims and Supreme Court, including providing explanations on the court process, information on how and where to find rules and other relevant legislation, how to fill out forms, calculating deadlines, what evidence they need to prove or defend their claim, what can be included in their list of documents, the purpose of examinations for discoveries and general procedure, general information on trial preparation, and providing clients with online sources for more detailed information; and
    - helping clients hone or refocus their claims (but not specifically providing advice on what their legal issues are);

1.2 Editing documents that your clients have prepared, such as letters, submissions and chronologies; and

1.3 Assisting clients with case law and quantum research to determine the appropriate damages for their claims.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;*
> *(b) I am not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that I provide; and*
> *(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.*

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.9 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.10 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this

Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.11 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or

otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC
CEO/Executive Director

The Law Society of British Columbia

May 26, 2021

Sent via E-mail

Heather Campbell Pope
Dementia Justice Canada
Email: dementiajustice@outlook.com

Dear Ms. Campbell Pope:

RE: Innovation Proposal – AP20200013

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Legal guidance – Through phone consultations and email exchanges, you will help unrepresented individuals with dementia and their families understand and navigate the criminal justice system and the barriers and issues faced by an accused/offender with dementia. If the accused/offender has representation, any further legal services for the individual is to be coordinated in consultation with the lawyer.

1.2 Advocacy support – You will provide advocacy support to people with dementia who enter the criminal justice system due to responsive behaviours by carrying out actions such as writing letters to the Crown, correctional authorities, care homes/health authorities regarding resident absences and

admission, and writing letters to custodians of health information regarding access to records.

1.3 Legal research – You will carry out legal research and write memos/letters on dementia and criminal offending specific to the individual's case, and prepare documents for use in, or related to, a proceeding. For example: preparing a human rights complaint if the individual has been "evicted" from or denied re-entry to their care home; preparing a submission regarding a deportation order; drafting written submissions for a conviction or sentence appeal; applying for termination or exemption from the sex offender registry; or applying for compassionate release.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;*

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

(b) I am not required to have professional liability insurance, and do not carry professional liability insurance (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
(c) There is no statutory complaint process in relation to the services that I provide; and
(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.
For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox.

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC
CEO/Executive Director

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

The Law Society of British Columbia

July 30, 2021

Sent via e-mail to:
rachel.rabinovitch@spraggslaw.com

Rachel S. Rabinovitch
Spraggs & Co. Law Corporation
202 – 1030 Westwood Street
Coquitlam, BC V3C 4E4

Sent via e-mail to:
thomas.spraggs@spraggslaw.com

Spraggs & Co. Law Corporation
202 – 1030 Westwood Street
Coquitlam, BC V3C 4E4
Attention: Thomas L. Spraggs

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Dear Ms. Rabinovitch and Spraggs & Co. Law Corporation:

Re: Innovation Proposal - AP20200021

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue this "no action" letter to you.

1. Services

You propose to offer the following services (the "Services"):

1.1 Human Resources Consulting services offered through Spraggs & Co. Law Corporation by Rachel Rabinovitch, Human Resources Consultant, as follows:

1.1.1 interpretation of Employment Standards, Human Rights, contractual details/language, termination, and severance provisions; and

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

1.1.2 the Services will be provided under the supervision of a practising lawyer at Spraggs & Co. Law Corporation.

The Services, as described in your proposal, constitute the "practice of law" as defined in s. 1 of the *Legal Profession Act* by a non-lawyer under the supervision of a practising lawyer.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent Rachel Rabinovitch from providing the Services and will not initiate action against Spraggs & Co. Law Corporation under Law Society Rule 2-14 and/or Chapter 6 of the Code of Professional Conduct for facilitating the Services ("no-action"), provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.3 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested.

2.4 You provide any client to which you intend to provide the Services with a retainer letter that outlines the terms of service to the client and includes the following disclosure prior to commencing any engagement:

My/our services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result: (a) I/we could be required to disclose to third parties your communications with me/us and any documents you provide in relation to my/our advice and assistance as such communications will not be subject to solicitor-client privilege; (b) I/we are not bound by a duty of confidentiality; (c) I/we am/are not required to meet a professional standard of care; and (d) I/we am/are not required to have professional liability insurance. There is also no statutory complaint process in relation to the services that I/we provide and the Law Society of British Columbia has not confirmed my/our competence, character, and/or fitness to provide the services.

2.5 You abide by such provisions of the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct that, if you were a member of LSBC, would apply to your provision of the Services.

2.6 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.7 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Service and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.8 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.9 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if:

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.3 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.4 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC *(he/him)*
Executive Director/Chief Executive Officer

The Law Society
of British Columbia

July 30, 2021

Sent via E-mail

Larry Smyth
Email: justicesl@hotmail.com

Dear Mr. Smyth:

RE: Innovation Proposal – AP20210009

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 *Motor Vehicle Act* Matters

a) Reviewing violation tickets;
b) Providing information about the dispute process;
c) Obtaining disclosure from ticketing officers;
d) Negotiating possible resolution with ticketing officers; and
e) Drafting legal arguments.

DM3225033

1.2 *Residential Tenancy Act* Matters

a) Acting as the client's advocate throughout the Residential Tenancy process, including:
   i) Meeting with clients;
   ii) Communicating with opposing parties to settle the matter;
   iii) Conducting legal research;
   iv) Preparing, filing and serving documents;
   v) Gathering, filing and serving evidence; and
   vi) Attending at Residential Tenancy Branch hearings to present evidence, question witnesses, respond to evidence presented by the opposing party and make submissions.

1.3 Small Claims Matters

a) Meeting with clients;
b) Conducting legal research;
c) Preparing and filing documents such as pleadings, statements and affidavits;
d) Assisting with document disclosure;
e) Engaging in settlement negotiation;
f) Assisting the client with trial preparation; and
g) Acting as the client's advocate throughout the Civil Resolution Tribunal process.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You familiarize yourself with the legal processes and procedures in British Columbia related to the *Motor Vehicle Act*, the *Residential Tenancy Act*, the *Small Claims Rules* and the Civil Resolution Tribunal.

2.5 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.6 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and assistance as such communications will not be subject to solicitor-client privilege;*
> *(b) I am not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that I provide; and*
> *(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/.*

2.7 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.8 If you intend to represent clients before administrative tribunals, you acknowledge that this no-action letter does not grant you audience to appear and that you may require permission from the presiding adjudicator to do so.

2.9 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-

action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.10 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.11 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.12 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC
CEO/Executive Director

The Law Society
of British Columbia

May 26, 2021

Sent via E-mail

Hayley Woodin
Email: hayleywoodin@gmail.com

Dear Ms. Woodin:

RE: Innovation Proposal – AP20210010

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 Document creation – You will run an online platform that creates cohabitation, prenuptial and post-nuptial agreements. The platform will include two main components: a guided expert system and a document assembly system.

1.2 Legal information and Education – The platform will provide users with legal information about their rights related to marriage, cohabitation and

relationship breakdown in B.C. Accessible legal information, resources and educational materials will be readily available on your platform and presented throughout the agreement creation process.

1.3 Managing User Risk – Users will also be urged to seek independent legal advice for the agreements that are created and in the event their needs exceed what your platform can meet.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 Once the incorporation of your company is complete, you will provide details of the company to LSBC. After incorporation, you will change the pronouns used in clause 2.6 from I/me to we/our.

2.6 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *My services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) I could be required to disclose to third parties your communications with me and any documents you provide in relation to my advice and*

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

assistance as such communications will not be subject to solicitor-client privilege;
(b) I am not required to have professional liability insurance, and do not carry professional liability insurance (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
(c) There is no statutory complaint process in relation to the services that I provide; and
(d) The Law Society of British Columbia has not evaluated or verified my competence, character, and/or fitness to provide the services.
For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox.

2.7 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.8 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.9 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.10 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.11 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your

Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC
CEO/Executive Director

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

The Law Society of British Columbia

July 30, 2021

Sent via email to:
courtney.burnett@stlawyers.ca

Courtney Burnett
Samfiru Tumarkin LLP
580 Hornby Street, Suite 520
Vancouver, BC V6C 3B6

Sent via email to:
lia.moody@stlawyers.ca

Samfiru Tumarkin LLP
580 Hornby Street, Suite 520
Vancouver, BC V6C 3B6
Attention: Lia Moody

Dear Ms. Burnett and Samfiru Tumarkin LLP:

Re: Innovation Proposal - AP20210011

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue this "no action" letter to you.

1. Services

You propose to offer the following legal services (the "Services"):

1.1 Employment law Services offered through Samfiru Tumarkin LLP by Courtney Burnett, Designated Paralegal, without direct supervision, including:

1.1.1 providing legal advice; conducting negotiations; drafting legal documents, and appearing before administrative tribunals, in matters within the jurisdiction of the following: the Civil Resolution

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

Tribunal; the Human Rights Tribunal; the Employment Standards Branch; and the Worker's Compensation Appeal Tribunal; and

1.1.2 providing legal advice; conducting negotiations; and drafting legal documents, in small claims matters.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent Courtney Burnett, Designated Paralegal, from providing the Services and will not initiate action against Samfiru Tumarkin LLP lawyers under Law Society Rule 2-14 and/or Chapter 6 of the Code of Professional Conduct for British Columbia for facilitating the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.3 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested.

2.4 You provide any client to which you intend to provide the Services with a retainer letter that outlines the terms of service to the client and includes the following disclosure prior to commencing any engagement:

My/our services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result: (a) I/we could be required to disclose to third parties your communications with me/us and any documents you provide in relation to my/our advice and assistance as such communications will not be subject to solicitor-client privilege; and (b) I/we am/are not required to have professional liability insurance. (c) There is no statutory complaint process in relation to the services that I/we provide and (d) the Law Society of British Columbia has not evaluated or verified my/our competence, character, and/or fitness to provide the services. For more information about the Law Society's innovation sandbox visit https://lawsociety.bc.ca/sandbox. .

2.5 You abide by such provisions of the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct that, if you were a member of LSBC, would apply to your provision of the Services.

2.6 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.7 If you intend to represent clients before administrative tribunals, you acknowledge that this no-action letter does not grant you audience to appear and that you may require the permission of the presiding adjudicator to do so.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Service and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if:

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.3 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.4 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,

Don Avison, QC *(he/him)*
Executive Director/Chief Executive Officer

The Law Society
of British Columbia

May 26, 2021

Sent via E-mail

Erin Bury
Willful
Email: erin@willful.co

Dear Ms. Bury:

RE: Innovation Proposal – AP20210003

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue to you this "no action" letter.

1. Services

You propose to offer the following services (the "Services"):

1.1 You will operate an online digital platform, willful.co, to help BC residents create wills and powers of attorney. Currently, users download and sign the completed agreement in front of witnesses. You intend to offer users a 100% end-to-end digital process, whereby users will be able to complete, digitally sign and virtually witness their documents without the need for paper copies. Your platform will provide legal information about wills, estate planning and related topics. Should users require legal advice, they will be told to contact a lawyer.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested. We are in the process of developing a form for reporting, which will be accessible on the LSBC website. Once it is operational, you will be provided with the link to the form.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

> *Our services to you are not provided by a lawyer regulated by the Law Society of British Columbia. As a result:*
> *(a) We could be required to disclose to third parties your communications with us and any documents you provide in relation to our advice and assistance as such communications will not be subject to solicitor-client privilege;*
> *(b) We are not required to have professional liability insurance, and do not carry professional liability insurance* (In the event that you do carry professional liability insurance, the disclosure of this clause is not required);
> *(c) There is no statutory complaint process in relation to the services that we provide; and*
> *(d) The Law Society of British Columbia has not evaluated or verified our competence, character, and/or fitness to provide the services.*
> *For more information about the Law Society's innovation sandbox visit https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox.*

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC *Code of Professional Conduct* to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.9 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Services and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.10 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.11 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

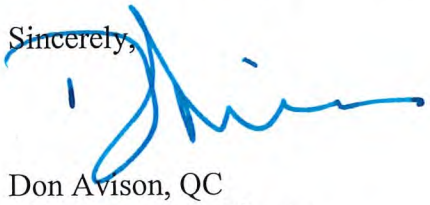
4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC
CEO/Executive Director

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

The Law Society
of British Columbia

July 30, 2021

Sent via e-mail only to: jldepaoli@gmail.com

Jane DePaoli
New Westminster, BC

Dear Ms. DePaoli:

Donald J. Avison, QC
Executive Director/Chief Executive Officer

Re: Innovation Sandbox Proposal - AP20210017

Thank you for your proposal to participate in the Law Society of British Columbia's ("LSBC") Innovation Sandbox.

Through the Innovation Sandbox, LSBC is seeking to expand access to legal services by enabling innovative solutions that address areas of unmet legal need but which would otherwise contravene the *Legal Profession Act*, the Law Society Rules or the Code of Professional Conduct.

The LSBC Executive Committee has reviewed your proposal to provide services and has agreed to issue this "no action" letter to you.

1. Services

You propose to offer the following legal and coaching services in the area of family law (the "Services"):

1.1 Organizational assistance by helping clients to gather appropriate documentation relating to separation agreements, assisting clients with preparing financial statements, and reviewing documentation or correspondence;

845 Cambie Street, Vancouver, BC, Canada V6B 4Z9
t 604.669.2533 | f 604.669.5232
toll free 1.800.903.5300 | TTY 604.443.5700
lawsociety.bc.ca

1.2 Procedural assistance by helping the client understand and navigate the family law system;

1.3 Presentation assistance by explaining what clients can expect to happen when the client appears in a mediation session and/or court;

1.4 Drafting assistance with preparing mediation briefs, and proof reading documents prepared by the client;

1.5 Preparing and setting expectations for clients by explaining a range of possible outcomes;

1.6 Research assistance by using various online resources; and

1.7 Referral assistance by referring clients to lawyers where appropriate.

2. No Action

Based on your proposal (copy attached) and any additional information you provided or LSBC obtained in relation to your proposal, LSBC will not initiate action to prevent you from providing the Services ("no-action") provided the following conditions are met:

2.1 The information you have provided in support of your proposal is accurate and complete in all respects.

2.2 Only you provide the Services.

2.3 Your provision of the Services does not present a risk of harm to the public or undermine the integrity of the administration of justice.

2.4 You provide information to LSBC regarding your provision of the Services on the first business day of each month in the approved form and more frequently if requested.

2.5 You include the following disclosure on any website, social media and other mediums you use to promote the Services and you provide this disclosure in written form to each client prior to commencing any engagement:

My/our services to you are <u>not</u> provided by a lawyer regulated by the Law Society of British Columbia. As a result: (a) I/we could be required to

disclose to third parties your communications with me/us and any documents you provide in relation to my/our advice and assistance as such communications will not be subject to solicitor-client privilege; and (b) I/we am/are not required to have professional liability insurance. (c) There is no statutory complaint process in relation to the services that I/we provide and (d) the Law Society of British Columbia has not evaluated or verified my/our competence, character, and/or fitness to provide the services. For more information about the Law Society's innovation sandbox visit https://lawsociety.bc.ca/sandbox.

2.6 You are expected to deliver the Services in a manner consistent with our expectations of lawyers under the *Legal Profession Act*, the LSBC Rules and the LSBC Code of Professional Conduct to the extent they are applicable.

2.7 You consent to the disclosure by the Law Society of your personal information, including your name and the scope of Services which you may provide, this no-action letter, and the modification or rescission of the no-action letter, generally on its website and in response to inquiries from the public or regulatory bodies and for the purpose of informing the public about you and the Services you may provide in conjunction with your participation in the Innovation Sandbox.

2.8 You cooperate fully with any investigation into any complaint LSBC receives about the Services and/or your conduct in relation to the provision of the Service and you respond promptly to requests from the LSBC for any information and/or documents in relation to the provision of Services.

2.9 You indemnify and save harmless LSBC, its Benchers, officers, agents and employees from all claims, demands, losses, damages, costs, fines, penalties and expenses that LSBC, its Benchers, officers, agents or employees may sustain, incur, suffer, or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission in your provision of the Services.

2.10 You do not assert, imply or otherwise suggest in any way that the no-action letter is an approval, endorsement or certification of the quality of your Services or of your qualifications, competence or fitness to provide the Services.

3. Rescission

The Law Society may rescind this no-action letter at any time on written notice if

3.1 You fail to meet any of the conditions set out in Part 2 of this letter.

3.2 You provide services beyond the scope of your proposal that constitute the practice of law as defined in the *Legal Profession Act*.

3.3 You engage in, or propose to engage in, conduct in relation to the provision of the Services that presents a risk of harm to the public or undermines the integrity of the administration of justice.

3.4 Material information that you failed to disclose comes to our attention or misinformation is discovered.

4. Acknowledgement

By acceptance of this letter, you acknowledge that:

4.1 This no-action letter is not an endorsement of the quality of the Services you provide or of your qualifications, competence or fitness to provide the Services.

4.2 Nothing in this no-action letter makes you a member of LSBC.

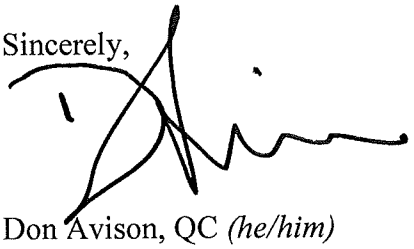
4.3 The issuance of this no-action letter is not an agreement on the part of LSBC, its Benchers, officers, agents and employees, to insure or indemnify you or your clients for any claims, demands, losses, damages, costs, fines, penalties and/or expenses that may arise in relation to your Services and you will remain solely responsible.

4.4 This no-action letter will take effect from the date of this letter and remain in effect until LSBC provides written notice of modification or rescission or otherwise determines that other regulatory measures are appropriate in relation to the Services.

4.5 If the LSBC determines that some or all of your Services require a licence, you agree to submit an application in that licensing process if you wish to continue providing the Services.

Thank you again for your proposal and we trust that you will be successful in providing the Services to the public.

Sincerely,



Don Avison, QC *(he/him)*
Executive Director/Chief Executive Officer

Law Society of Ontario | Barreau de l'Ontario

Tab 1

Technology Task Force

Report on Regulatory Sandbox for Innovative Technological Legal Services

April 22, 2021

Committee Members:

Jacqueline Horvat (Chair)
Jack Braithwaite (Vice-Chair)
Gary Graham (Vice-Chair)
Paul Cooper
Seymour Epstein
Cheryl Lean
Michelle Lomazzo
Brian Prill
Clare Sellers
Andrew Spurgeon
Harvey Strosberg
Nicholas Wright

CONTENTS

Motion **2**
Executive Summary **2**
Background **5**
Momentum for Change **5**
Emergence of and Demand for Legal Tech Tools 5
Tech Innovation during COVID-19 Pandemic 6
Sandboxes and Regulatory Reform in Other Jurisdictions 6
Benefits of Creating a Regulatory Sandbox **8**
Access to Justice 8
Public Protection 8
Informing Regulatory Development 9
Impacts on Licensees 9
Risks and Risk Mitigation **10**
The Public 10
The Law Society 10
Overview of the Sandbox Proposal **11**
Purpose 11
Project Concept 12
Key Features 12
Pathways to Ongoing Delivery 13
Duration 13
Legal Framework 13
Resources **14**
Staffing 14
Advisory Council 14
Program Costs 14
Funding Sources 15
Implementation and Launch **16**
Conclusion **16**
Appendix: Sandbox Operations **17**

Working Title:
Regulatory Sandbox for Innovative Technological Legal Services

Motion

That Convocation:

1. Approve the launch of a regulatory sandbox as a five-year pilot with the following features:
    - Approved participants will receive permission from the Law Society to serve consumers through innovative technological legal services while complying with requirements for risk-based monitoring and reporting.
    - The Law Society will determine whether, and under what conditions, participants may receive a permit to continue providing the services after their participation in the sandbox has ended.
    - Annual reports will be submitted to Convocation to enable consideration of possible regulatory changes.
2. Adopt amendments to the Law Society's By-Laws, as set out at **Tab 1.1.**

Executive Summary

The Law Society's Technology Task Force recommends the creation of a regulatory sandbox for innovative technological legal services ("ITLS") as a five-year pilot.

Advancements in technological capabilities like artificial intelligence have contributed to the rapid rise of ITLS. Through websites, apps and software, ITLS providers offer tools to help people find legal information, answer routine questions, navigate legal processes, analyze contracts, generate legal documents, or predict outcomes. Consumers may see such tools as the only practical option for legal assistance or as a precursor or supplement to a legal professional. There is a growing demand for ITLS due to unmet legal needs, consumer comfort with technologically delivered services, and the convenience of accessing help on demand.

The trend in technological advancement in the legal sector has accelerated during the COVID-19 pandemic with the adoption of digital and online tools by public institutions, private enterprises, and community organizations. Moving more of the justice sector infrastructure online (such as through e-filing portals and video hearings) has opened up new pathways for ITLS tools in Ontario.

Despite the growth of digital innovation, ITLS currently operate in an environment of regulatory uncertainty. Standards for competent and ethical legal tech services have not been established. ITLS provided by persons not licensed as lawyers or paralegals may be subject to prosecution for the unauthorized practice of law. ITLS provided by licensees may be subject to professional conduct rules in ways that have not been

clarified. This uncertainty can both deter the best innovation and deprive ITLS consumers of basic safeguards accorded to clients of licensees.

An “Uber moment” is arriving in the legal sector as it has in other sectors and industries when innovative technologies transform markets and consumer choices. Inaction on the Law Society’s part would risk allowing ITLS providers to proliferate in Ontario outside of an effective regulatory scheme.

In the proposed sandbox pilot, approved participants will receive permission from the Law Society to serve consumers through ITLS while complying with requirements for risk-based monitoring and reporting. Amendments will be required to create a new category of permitted exception from licensure in the Law Society’s By-Laws (See **Tab 1.1**). The Law Society will determine whether, and under what conditions, participants should receive a permit to continue providing the services after their participation in the sandbox has ended. During the pilot the Law Society will gather critical information about the operation of ITLS and will use that information to inform policy and regulatory decisions, including possible changes to professional conduct rules.

The sandbox will help to fulfill the Law Society’s responsibilities as a public interest regulator by:

- Facilitating access to justice: By eliminating regulatory uncertainty, the sandbox will remove barriers to the development of ITLS that could reach new consumers in new ways, especially in areas of high unmet need.
- Protecting the public**:** The sandbox will provide a mechanism to ensure ITLS consumers have the same type of safeguards available to clients of licensees: competent and ethical services, recourse when required, and the provision of relevant details enabling informed choices to be made about the providers of the services.
- Informing future regulatory development: The sandbox will gather evidence to inform longer term decision-making about ITLS regulation. During the pilot period, the sandbox team will report, at a minimum, annually to Convocation, thus enabling Convocation to review and potentially adjust rules, by-laws, or standards that participants have demonstrated can be satisfied in alternative ways.

The sandbox will also enable licensees to better understand how the public is using ITLS and the impact on legal service delivery. With this information, licensees can enhance their practices by using, adapting to, or developing ITLS tools.

The presence in Ontario of leading legal tech entrepreneurs and proponents in legal, academic, government, and judicial circles bodes well for attracting sandbox participants and expert advisors. Several entrepreneurs have already expressed interest in participating. Participation in the sandbox would provide a measure of quality assurance to consumers and reassurance to developers and investors who would

otherwise be wary of investing resources in an enterprise that could be shut down by the regulator.

This report begins by describing developments in Ontario and elsewhere that have created the impetus to move forward in establishing the Law Society's regulatory role for ITLS. It then discusses benefits and risks of proceeding (or inaction) to launch the sandbox pilot. The latter half of the report provides an overview of the sandbox proposal, including the project's purpose, concept, key features, and legal framework. It concludes with a discussion of budgetary considerations along with the need for a small staff team and expert volunteer advisory council. An Appendix provides additional detail on operational issues.

The Task Force recommends the sandbox as an imperative in regulatory advancement. The Law Society is well positioned to assess the potential benefits of innovative legal technologies, minimize risks of harm, and identify new pathways for regulation in the public interest.

Background

The Law Society's Technology Task Force was formed in 2018. Its mandate is to consider the role of technologies in the delivery of legal services, and the Law Society's role as a regulator in this changing environment.

The Task Force submitted an Update Report[1] to Convocation in November 2019. That report discusses the technological landscape for legal services, implications for access to justice and the regulation of legal services, and potential regulatory directions. Building on extensive research and consultation, the Task Force recommends that the Law Society launch a regulatory sandbox to test ITLS in a safe environment.

Momentum for Change

Several factors have created momentum for the Law Society to establish a role in relation to ITLS. Key factors are the proliferation of and demand for legal technological tools, the accelerated adoption of digital and online tools during the pandemic, and the emergence of regulatory sandboxes in the legal sectors of other jurisdictions.

Emergence of and Demand for Legal Tech Tools

There has been a rapid rise of novel legal technological tools and services due to advancements such as artificial intelligence. The new technologies are developing unprecedented capabilities at an unprecedented pace, sparking innovations in the ways that legal services are being delivered. The demand for ITLS has grown stronger due to rising unmet legal needs, constant downward pressure on prices for legal services and increasing consumer expectations for on-demand online services.

Many of the new tools aim to help consumers of legal services make more informed decisions in their own legal matters. Different consumers may see such "direct-to-public" tools as the only practical option for legal assistance or as a precursor or supplement to a legal professional. Such tools may perform a range of legal tasks and functions, assisting people with locating and identifying legal information, answering routine questions, navigating legal processes, analyzing contracts, generating legal documents, and predicting case outcomes. Such services are commonly delivered through websites, apps, or software. As of August 2019, 88 direct-to-public legal tech tools have been identified as operating in Canada.[2]

Direct-to-public legal tech tools are currently subject to regulatory uncertainty or, in many cases, clear prohibition. If the providers are not licensees, they may be engaging in the unauthorized practice of law and may be subject to Law Society prosecution. If

---

1 https://lawsocietyontario.azureedge.net/media/lso/media/about/convocation/2019/technologytaskforce-report-en.pdf

2 Amy Salyzyn, William Burke, and Angela Lee, "Direct-to-Public Legal Digital Tools in Canada: A Draft Inventory" (2019), online: https://techlaw.uottawa.ca/direct-public-legal-digital-tools-canada

licensees are providing the tools, they may be subject to the Law Society's professional conduct rules, by-laws and other rules in ways that have not been clarified.

Tech Innovation during COVID-19 Pandemic

The impacts of the COVID-19 pandemic have accelerated consumer adoption of digital and online tools, as well as the development of innovative tech products. These patterns have been widely observed across many sectors of the economy, and the legal sector is no different. The announcements since March 2020 of tech modernization projects for Ontario's court and tribunal systems illustrate this trend. Most recently, Attorney General Doug Downey announced the Justice Accelerated Strategy, which includes a $28.5 million investment for a digital case management and dispute resolution system for tribunals and a plan for moving more services online.[3]

Moving the infrastructure of the justice system online (such as through e-filing portals and video hearings) opens more pathways for ITLS tools. For example, platforms that help users prepare legal documents for court filings can now build in the added feature of filing the completed document on the user's behalf, through the court's e-filing portal.[4]

For ITLS developers, the economic impacts of the pandemic have also highlighted opportunities for new services.[5] Innovation can thrive in circumstances where established practices and consumer expectations are disrupted. Ontario can expect to see continued growth in the development of disruptive legal services, which has set the stage for the Law Society to consider its regulatory role.

Sandboxes and Regulatory Reform in Other Jurisdictions

Legal services regulators in other jurisdictions have accelerated reforms that support innovation, including through the use of sandboxes that have attracted a significant number of participants. Momentum for these regulatory reforms is particularly building in the United States. As these other jurisdictions progress in their experiments with ITLS providers, this could change conditions in Ontario's legal sector and increase pressure on the Law Society to act.

In August 2020, the Utah Supreme Court approved the implementation of a regulatory sandbox for non-traditional legal services and providers.[6] A new office within the Supreme Court – the Office of Legal Services Innovation – oversees the approval and

---

[3] Ontario's Accelerated Justice Strategy, March 11, 2021, https://news.ontario.ca/en/backgrounder/60642/ontarios-justice-accelerated-strategy; https://www.lawtimesnews.com/resources/professional-regulation/ontarios-justice-accelerated-strategy-includes-new-digital-case-management-system-for-tribunals/354031

[4] https://www.canadianlawyermag.com/resources/legal-technology/legal-tech-company-releases-toolkit-summarizing-e-filing-requirements-across-canada/332994

[5] https://www.ryerson.ca/zone-learning/legal-innovation-zone/news/blogs/2020/07/for-startups-can-crisis-fuel-opportunity/

[6] https://iaals.du.edu/blog/utah-supreme-court-makes-history-vote-establish-regulatory-sandbox

monitoring of sandbox participants.[7] The Utah sandbox had about a dozen applications within a week of announcing its launch.[8] As of April 1, 2021, 22 applications had been approved.[9]

Examples of innovations in the Utah sandbox include a technological solution that provides information about Utah's Clean Slate law and legal advice to people with criminal records,[10] a software platform to guide consumers through the process of completing financial disclosures related to divorce proceedings,[11] and a platform to generate legal documents in contested and uncontested divorce and custody cases, eviction cases, and debt-related property seizure cases.[12]

A working group of the California State Bar Board of Trustees is exploring the development of a regulatory sandbox for the innovation of accessible legal services.[13] In Florida, a Special Committee to Improve the Delivery of Legal Services is considering the regulation of online service providers.[14] In its regulatory reform efforts, the Arizona Supreme Court has changed the state's rules around legal services delivery models in order to spur innovation.[15]

A task force established by the Chicago Bar Association and the Chicago Bar Foundation[16] has prioritized the use of legal technology to improve the ability of courts and lawyers to provide legal services to consumers and to make legal services more affordable and accessible.[17] The task force recommends the creation of an "Approved Legal Technology Provider". Lawyers would be able to collaborate with approved entities in the provision of technology-based legal products and services.[18]

---

[7] https://sandbox.utcourts.gov/interested
[8] https://legaltechnology.com/us-regulatory-reform-utah-sandbox-leader-john-lund-gives-us-insight-into-the-changes-you-can-expect/
[9] https://sandbox.utcourts.gov/approved
[10] The service will aim to help people with criminal records access their criminal history, understand what it means, learn whether they have been impacted by Utah's Clean Slate law, and whether they might be eligible for petition-based expungement under Utah law. https://drive.google.com/file/d/1QGsOQFkxkcfi_1ARkpk4yI7rM8ZmFlxA/view
[11] The software walks consumers through the Utah disclosure form and provides basic information and nonlegal advice assistance to enable completion. The software can be used by lawyers or by pro se litigants. The software was developed and is managed by a Utah licensed lawyer employed by the company. https://drive.google.com/file/d/1ti6HRrHY_Qma6Mmu1r6Lsko07kgG3nAx/view
[12] The platform will guide consumers through a series of questions to help them complete the forms and proceed pro se. https://drive.google.com/file/d/1ZC5uv1HgQUeUMAABdkkSYEiwZT9qzK7N/view
[13] http://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Closing-the-Justice-Gap-Working-Group
[14] https://www.floridabar.org/about/cmtes/cmtes-me/special-committee-to-improve-the-delivery-of-legal-services/
[15] http://www.azcourts.gov/Portals/201/Press%20Releases/2020Releases/082720RulesAgenda.pdf
[16] https://chicagobarfoundation.org/advocacy/issues/sustainable-practice-innovation/
[17] https://chicagobarfoundation.org/pdf/advocacy/task-force-report.pdf
[18] *Ibid.*

In Canada, the Law Society of British Columbia took an initial step by introducing its "Innovation Sandbox" in the fall of 2020.[19] The BC sandbox had 25 applications in its first two months of operations. As of March 8, 2021, there were 32 applications, five of which have been approved thus far.[20]

Benefits of Creating a Regulatory Sandbox

The advantages of creating a sandbox at this time include enhanced access to justice, better protection for the public and the ability to inform future regulatory policy through detailed evidence about an emerging area of service. In addition to achieving these regulatory objectives, the sandbox can also lead to new opportunities for licensees.

Access to Justice

Despite concerted efforts across the justice system, access to legal assistance continues to remain elusive for many people with everyday legal problems. Research shows that Canadians do not seek professional assistance for more than 80% of their legal issues.[21] Everyday legal problems can take a considerable toll, including increased stress, poor physical health, emotional issues, and strained relationships with family members.[22] They can also threaten a family's basic security by potentially leading to a loss of employment or housing.[23]

Regulatory uncertainty inhibits the development of new services that enhance access to justice through innovative legal services that reach new consumers in new ways. Thoughtful developers and investors may not want to operate in an environment where they risk being shut down by the regulator or becoming the test case on unauthorized practice. By removing that uncertainty, the sandbox can stimulate innovation, including attracting ITLS providers who focus on everyday legal problems in areas of high unmet need such as family law, employment, residential tenancies disputes, wills or powers of attorney.[24]

Public Protection

---

[19] https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/
[20] https://www.lawsociety.bc.ca/Website/media/Shared/docs/initiatives/InnovationSandbox-presentation.pdf
[21] A 2016 study found that 19% of Canadians sought legal advice for the legal problems they identified: Trevor C.W. Farrow et al., "Everyday Legal Problems and the Cost of Justice in Canada: Overview Report" (2016), at p. 9, online: http://www.cfcj-fcjc.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Overview%20Report.pdf
A 2018 study found that 14% of low-income British Columbians sought legal assistance for their everyday legal problem: BC Legal Services Society, "Everyday Legal Problems" (2018), at p. 17, online: https://lss.bc.ca/sites/default/files/2019-03/lssEverydayLegalProblems07_2018.pdf.
[22] Farrow et al., *supra* note 21, at p. 12.
[23] *Ibid*.
[24] http://angusreid.org/will-and-testament/

- ITLS tools pose unique, novel, and complex risks for the public. The sandbox can help to protect the public from the risks while also providing the benefits of expanded opportunities for obtaining legal assistance. The sandbox will help to ensure ITLS consumers have the same type of safeguards available to clients of licensees: competent and confidential services, recourse when required, and the provision of relevant details enabling informed choices to be made about the providers of the services.

Simply shutting down these services would be neither practical nor desirable in the public interest. Consumers are demanding cheaper and more convenient legal services and technological platforms for delivering them.

Informing Regulatory Development

The sandbox presents an opportunity for the Law Society to obtain detailed evidence about the market interest in the new services, as well as their risks and benefits. Sandbox participants would be required to disclose information about their operations as a condition of participation. This would allow the Law Society to learn what kind of consumer uptake there is for these products, which aspects of these services particularly appeal to consumers, and which aspects are posing challenges. This information will aid future policy development.

The sandbox is also consistent with the Law Society's strategic plan, which states that the Law Society must "periodically confirm the scope of what and how it regulates, particularly in an environment where accessibility of affordable legal services is an issue and significant advances in technology and related innovations are taking place."[25]

Through thoughtful operating criteria and ongoing supervision, the Law Society can also help to shape the delivery of emerging services. The sandbox parameters would give providers targets for the features and protections they would need to build into their products.

Impacts on Licensees

As new service models and tools become increasingly available, they will present innovation opportunities across all legal practice areas and settings, and clients will expect providers to take advantage of these opportunities.

The sandbox's information-gathering and awareness-raising functions can benefit lawyers and paralegals by providing information about how the public is using legal technologies and how these tools are impacting legal practices. This will provide a window into the development of tech tools so that licensees can either develop their own tools or adapt their practices.

---

[25] https://lawsocietyontario.azureedge.net/media/lso/media/about/convocation/convocation-february-2020-priorityplanningcommittee-report.pdf at p. 7.

Establishing this sandbox will help licensees compete in innovative new markets. Lawyers and paralegals start with the built-in advantages of subject matter expertise and client bases. Whether they choose to develop tech tools themselves or to incorporate other tech tools into their services, the scale and convenience offered by the tools can give firms – especially smaller firms – opportunities to build sustainable practices for a more digital future. The Law Society, in turn, can learn from this experience and better tailor regulation for licensees in these practice settings.

Window of Opportunity

The legal sector has reached an "Uber moment." As with other sectors and industries, the proliferation of new market entrants and innovative technologies will continue to transform markets and gain users, with or without the regulator's involvement. Inertia on the Law Society's part risks allowing ITLS providers to proliferate in Ontario outside of an effective regulatory scheme. The time is right for the Law Society to move forward, ensuring the chance for input and regulatory influence.

Risks and Risk Mitigation

The Public

There is a risk that sandbox participants may fail to deliver quality legal services and therefore harm the public. Such risks could be both significant and novel with the use of tech tools. For example, if an algorithm is inadvertently programmed to make an error, it could affect everyone who uses the tool. Such risks will be mitigated by careful vetting and monitoring participants and by imposing tailored operating conditions. As indicated below in the Overview of the Sandbox Proposal, quality assurance processes and tools will focus on key risks of harm to the public. Please also see the Appendix on Sandbox Operations for details about eligibility, approvals, participation agreements, reporting, and final determinations.

It should be noted that such risks already exist in the market for direct-to-public ITLS. The public will continue to be exposed to them if the Law Society does not act. It will be better to learn about problems with an ITLS tool in a structured sandbox with safeguards as opposed to in the open market. And if some or all of the services prove to be effective, the Law Society will see new pathways forward for effective regulation and quality assurance.

The Law Society

There is a risk that the sandbox will fail to attract a sufficient number of applicants. However, the Task Force has consulted with legal tech entrepreneurs and closely observed developments in other jurisdictions. Many entrepreneurs have confirmed that they would be interested in participating, so long as the sandbox provides a potential pathway to long-term operation. In addition to providing a measure of quality assurance for consumers, sandbox participation will also provide reassurance to developers and

investors who would otherwise be wary of investing resources in an enterprise that could be shut down by the regulator.

The experience of regulatory sandboxes in other jurisdictions also provides some assurance of an interest among legal entrepreneurs to engage with sandboxes. As noted above, sandboxes in Utah and British Columbia have attracted a significant number of participants shortly after launching.

The jurisdictions of Utah and British Columbia are both smaller than Ontario. Moreover, the interest of Ontario government and judicial officers in innovative technologies, along with a healthy legal tech sector, will help to create a climate conducive to participation in the sandbox initiative.

A further risk is that the sandbox will not generate sufficient evidence to support Convocation's decision-making. To mitigate this risk, ongoing reporting requirements will be imposed on participants to generate data that will help to inform decision-making. The parameters will be designed and negotiated with the assistance of a skilled data analyst who can gather, analyze and present data to Convocation in formats that are accessible to policy-makers.

Finally, there is a potential risk that the Law Society could be exposed to legal action or damage to its reputation for approving a tool that fails to deliver quality legal services. The Law Society has statutory protection for good faith actions[26] and there is no known precedent for successful claims in comparable situations. The legal and policy risks of launching the sandbox are likely less than the risks of doing nothing.

Overview of the Sandbox Proposal

This section provides an overview of the proposed sandbox. Please see the Appendix for additional details about sandbox operations.

Purpose

The purpose of the sandbox is to assess and facilitate access to technological innovation in legal service delivery, especially in areas of unmet legal needs. The sandbox will also provide detailed evidence to the Law Society to inform regulatory policy-making.

---

[26] See *Law Society Act,* s. 9: "No action or other proceedings for damages shall be instituted against the Treasurer or any bencher, official of the Society or person appointed in Convocation for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation, a by-law or a rule of practice and procedure, or for any neglect or default in the performance or exercise in good faith of any such duty or power." https://www.ontario.ca/laws/statute/90l08#BK15

Project Concept

Interested individuals and entities will apply to provide ITLS tools and programs in Ontario. The sandbox is intended to be exploratory and innovative. For this reason, eligibility at the initial application stage will be open to a wide range of ITLS and providers, including licensees, governments, charities, not-for-profit and for-profit corporations.

Accepted participants will be permitted to serve consumers while complying with risk-based monitoring and reporting requirements during their allotted operating period in the sandbox. Each participant is expected to operate in the sandbox for about two years. At the end of that period, the Law Society will determine whether (and under what conditions) the participant should be permitted to continue providing the services. It is expected that different participants will start their operating period at different times throughout the five-year life of the sandbox.

Key Features

The Law Society will evaluate and monitor sandbox participants in order to protect the public and gain valuable insights into potential regulatory reforms for Convocation's consideration.

The sandbox will introduce novel, tailored quality assurance processes and tools that will need to be continually re-evaluated and honed. At the outset, they will focus on key risks of harm to the public:

- Failure to exercise legal rights or pursue legal recourse as a result of ignorance, error, or poor-quality legal services;
- Purchase of unnecessary or inappropriate legal services;
- Exposure or sale of confidential client data to third parties; and
- Inability to seek redress or recompense from a legal service provider that has failed to provide the service expected or agreed.

Applicants who meet approval criteria will be permitted to participate in the sandbox. The criteria will be designed to serve the following objectives:

- Expand public access to ITLS tools and programs, particularly in areas of high unmet need;
- Explore flexible new approaches to protecting the public from risk of harm when using ITLS tools and programs;
- Collect information about ITLS outcomes that will support evidence-based regulatory policy-making; and
- Foster responsible development of ITLS tools and programs.

Metrics will be developed in order to evaluate the success of individual participants and the pilot as a whole.

Pathways to Ongoing Delivery

Two key pathways will be available for ITLS providers that have completed their participation in the pilot to continue operating in Ontario:

(a) *Individual permits* - Individual participants that have satisfied their performance objectives at the conclusion of their sandbox period may be given permission to continue operating in Ontario on an ongoing basis, notwithstanding their continued non-compliance with certain Law Society standards that apply to lawyer and paralegal licensees. The Law Society's permit could continue to impose any conditions deemed necessary based on the participant's experience in the sandbox.

(b) *Annual reviews of regulatory standards* - Annually, for the duration of the sandbox pilot project, the Law Society will formally review and potentially adjust any rules, by-laws, or other regulatory standards that participants have demonstrated can be satisfied in alternative ways. If Convocation approves amendments of general application, certain participants' permits (obtained through pathway (a)) might be obsolete, as their operations would now be compliant with the Law Society's amended regulatory framework.

Duration

The sandbox will be established as a five-year pilot project as opposed to a permanent program. A five-year window will enable the Law Society to inform itself for longer-term and broader regulatory decision-making and to observe trends regarding the capabilities of ITLS and consumer interest.

Legal Framework

The sandbox will operate pursuant to a new category of permitted exception from licensure under the Law Society's By-Laws. The *Law Society Act* permits the Law Society to use its by-laws to deem certain activities not to be the practice of law or the provision of legal services, as well as to identify certain classes of persons who may provide legal services without a licence.[27] This authority permits the Law Society to establish a comprehensive set of circumstances and conditions in its By-Laws under

[27] See *Law Society Act*, paragraph 5 of s.1 (8): "For the purposes of this Act, the following persons shall be deemed not to be practising law or providing legal services: A person or a member of a class of persons prescribed by the by-laws, in the circumstances prescribed by the by-laws." See also paragraph 3.1 of s. 62 (0.1): "Convocation may make by-laws, for the purposes of paragraph 5 of subsection 1 (8), prescribing persons or classes of persons who shall be deemed not to be practising law or providing legal services and the circumstances in which each such person or class of persons shall be deemed not to be practising law or providing legal services;" https://www.ontario.ca/laws/statute/90l08#BK184

which an approved sandbox participant (an individual or an entity) may provide legal services to the public. Proposed amendments to the By-Laws are found at **Tab 1.1**.

Resources

Staffing

The sandbox will begin with three staff: a manager, data analyst, and program administrator. The manager will be a full-time position reporting jointly to the Executive Directors of Policy and Professional Development & Competence. The other two positions will be filled by contract and will report to the manager.

The manager will have lead responsibility for policy and program development, outreach and communications, evaluation of applicants, negotiation of participation agreements, monitoring of participants, analysis and reports to Convocation. The data analyst will establish data reporting and protection protocols, monitor compliance with data reporting and protection, and assist with analysis and reporting. The administrator will manage routine communications with applicants, participants and the advisory council, coordinate media requests, manage records, and publish decisions, in addition to scheduling and general administrative work.

Advisory Council

A volunteer advisory council of external experts will be established to help steer the sandbox to meet its objectives, by providing advice and assisting in reviewing applications and evaluating participants. Advisory council members would represent a range of expertise, including: legal technology and innovation; legal regulation and professional ethics; priority legal practice areas such as family law; consumer protection and advocacy; economics; regulatory sandboxes and government or judicial administration.

Advisory bodies are common for regulatory sandboxes. They allow the regulator to tap into skills and perspectives that it lacks in-house. They also give the public and participants confidence that the regulator will be open to exploring new ideas, guided by leading independent experts.

Program Costs

There will be one-time start-up costs associated with implementing and launching the sandbox, followed by ongoing operating costs, the bulk of which will relate to compensation for the three positions. The table below contains a preliminary cost projection, on the understanding that specific operational details are still to be developed[28]. The projected costs include inflationary increases of approximately 2% in Year 2.

[28] Spending for Year 1 is expected to start around the midpoint of 2021. The 2021 budget includes $200,000 to support the sandbox. The estimated budget requirements for 2022 are preliminary, and need

Expenses	Basis	Annual Budget Year 1 ($) *	Annual Budget Year 2 ($) *
Staffing Salaries & Benefits	Based on the hiring of the following positions: • Manager (full time) • Administrator (full-time)	270,000	276,000
Data Analyst	Part-time contract or consulting role	100,000	102,000
Staffing Operating Expenses	Based on $15,000 per person in the first year for technology needs, office supplies, professional development etc. and $10,000 per person in succeeding years.	45,000	30,000
Advisory Council	Reimbursement of expenses (one or two onsite meetings in the year) and costs of engagement.	20,000	20,500
Contingency	Potential legal, technical or business expertise required from external service providers.	Funded from operational contingency, if required. See below.	
Total		**$435,000**	**$428,500**

**Would be prorated for portion of year of operations*

Funding Sources

Initially, the sandbox will be funded by licensee annual fees. Ideally, ongoing operations can ultimately be funded on a cost recovery basis, recognizing however that unduly high fees could deter applicants, especially those with limited access to capital, thereby undermining the sandbox's overall potential.[29] Tiered fee structures may be needed, including separate fee categories for not-for-profit providers and small or early-stage companies.

Additional funding will be sought from external sources, which could offset participant fee shortfalls or help to minimize participant fees. Exploratory conversations have taken place but formal fundraising cannot take place until Convocation's approval has been provided and publicly communicated. Potential funders include government

---

to be revisited once further information is available. Funding requirements for 2023 and onwards will be assessed as the sandbox evolves. As the sandbox initiative is at the conceptual stage, it is not possible to project possible additional costs of internal or external resources that may be needed to support the project.

[29] The legal innovation sandboxes in BC and Utah do not currently charge fees to applicants or participants, although the Supreme Court of Utah has expressly given Utah's program the power to do so. It is first working on learning more about the profiles of participants before determining fee structures.

contributions, grants from funding organizations, and collaboration or resource-sharing with other regulators.

Implementation and Launch

If Convocation approves the pilot, an early priority will be to recruit sandbox staff and advisory council members. These individuals will be centrally involved in completing the pre-launch implementation work. Staff will keep the Task Force updated on implementation progress.

Timing 2021	Milestone
March-April	• Convocation approval in principle of sandbox proposal and by-law amendments • Preliminary outreach to funding sources
May - July	• Outreach to government and regulators • Recruit sandbox manager • Develop communications plan and webpage
June -Sept	• Recruit advisory council, data analyst, and program administrator • Develop pre-launch criteria, protocols, processes, strategies, and communications
Sept	• Organize launch • Communicate with potential applicants
Oct	• Launch

Conclusion

The Law Society has an opportunity to play a proactive, forward thinking role in developing a regulatory framework for ITLS. The technologies will continue to develop, but the Law Society may lose the opportunity to have an influence if it does not act quickly. Through the sandbox pilot, the Law Society can establish a presence in the ITLS field while building evidence to inform longer term decision-making about future regulatory policies. The Law Society is well positioned to assess the potential benefits of innovative technologies, minimize risks of harm, and identify new pathways for regulation in the public interest. Entering this arena represents an imperative in regulatory advancement and leadership.

Appendix: Sandbox Operations

Operating the sandbox will involve the following functions:

- Communicating with potential applicants and other stakeholders;
- Fundraising and liaising with governments and other regulators;
- Reviewing and approving applications;
- Drafting participation agreements for eligible applicants;
- Publishing application decisions;
- Monitoring and auditing participants;
- Evaluating data received from participants and users, and potentially gathering data in other ways such as conducting surveys or focus groups or consultation with courts;
- Making final determinations following a participant's sandbox period;
- Publicly reporting participant evaluation outcomes; and
- Reporting annually to Convocation about overall sandbox outcomes and making recommendations for Convocation to review and amend any rules, by-laws, or other regulatory standards that can demonstrably be satisfied in alternative ways.

Communications

A branding and communications strategy will be developed for the sandbox. This will address how to present the sandbox to potential applicants, the public, licensees and other stakeholders.

One of the key pre-launch outreach functions will be to identify target sandbox participants, as well as target users of participants' ITLS tools and programs.

Eligibility

Any person or entity that is prevented by current regulations from operating an ITLS tool or program may apply to the sandbox.

The sandbox is intended to be exploratory, innovative, and educational. For this reason, eligibility at the initial application stage will be open to the widest possible range of ITLS tools and programs. While applicants' tools or programs must have as a central feature the innovative delivery of legal services via technology, there will not be restrictions on the kinds of legal tasks and functions performed. The approval and evaluation processes serve as safeguards to ensure that only participants who do not pose unacceptable risks of harm to the public will be permitted to operate. Applicants must have obtained all applicable permissions, such as business permits, to operate their ITLS tool or program in Ontario.

Some applicants may be given priority, such as those that are focused on expanding access to justice in areas of law with high unmet legal needs.

Intake, Application Review and Approval

Successful applicants will be permitted to join the sandbox at any point during the five-year pilot period, rather than at certain fixed intake periods. This rolling admission offers participants flexibility to apply at whatever stage in their development works best for them, with the caveat that applicants cannot join so late in the pilot period that there is insufficient time to monitor and assess their service.

The following process will be used to review and approve participants' applications:

- Sandbox staff receive and process applications, including following up with applicants to identify gaps or concerns.
- The advisory council reviews completed applications and prepares a recommendation to approve, reject, or return the application for further information.
- After reviewing the advisory council's recommendation, the sandbox manager decides to approve, reject, or return the application.
- Applicants may request a review of a decision to reject an application, or of conditions imposed in a decision to approve an application; review decisions are made by a Law Society Executive Director.

Application approval decisions will be made with reference to a detailed set of approval criteria, which will be publicly available. The following are examples of topics that the detailed criteria will include:

- Viability (whether the applicant or its tool demonstrates capability of delivering legal services over the duration of sandbox participation; whether it is at a sufficient stage of development to launch);
- Consumer benefit (whether the tool offers a good prospect of identifiable benefit to users (either directly or via increased competition) and whether it poses likely detrimental impacts to users or to the legal system);
- Licensee involvement (whether the tool has involved licensed Ontario lawyers or paralegals in its development, delivery, or both);
- Insurance (whether the applicant carries appropriate insurance commensurate to the risks involved in the delivery of its services, e.g. errors and omissions insurance, product liability insurance, general commercial liability insurance, and/or cyber insurance);
- Quality assurance (whether the applicant has appropriate mechanisms in place for continuously assuring and enhancing the tool's technical quality; whether persons involved with the operation of the tool receive appropriate training and support); and
- Exit strategy (whether the applicant has adequate plans for protecting users' rights and interests in the event of either the tool or the entity itself ceasing operation due to business or regulatory reasons).

Approval criteria will be designed to be flexible and responsive to novel proposals. Operating conditions can be imposed to address certain weaknesses in an applicant's overall compliance with the criteria. Approval criteria should focus on the outcomes that ITLS tools generate, though in some circumstances it will also be appropriate to focus on those tools' processes. They will aim to measure tools in terms of both risks and benefits so that a balancing exercise can be done.

Approval decisions will aim to ensure that minimum viability and public protection requirements are met, while recognizing that some degree of uncertainty is acceptable in this environment, and indeed is beneficial for the sandbox's testing, evaluation, and learning functions. Approval decisions at this entry stage will aim to minimally impair innovation and public access to legal services. Insurance requirements, consumer communication and disclosure requirements, and compliance with other relevant law (such as privacy legislation) will also serve as concurrent public protection safeguards.

The sandbox office will publish a written decision for each completed application that it receives.

Participation Agreements

If approved to join the sandbox, participants will need to enter into a participation agreement with the Law Society, which will set out the conditions under which the participant can provide legal services. Conditions will include:

- protocols for data collection and data governance;
- requirements for participants to communicate certain information to users and the public;
- requirements for participants to address user complaints;
- maintenance of approval conditions, e.g., carrying insurance; and
- reporting and auditing requirements.

These approvals and agreements will bring participants under the exception to be created in the By-Laws that will permit participants to provide legal services. They will preclude the Law Society from exercising its "unauthorized practice" enforcement powers as long as a participant abides by the terms of its approval and agreement.

Each approved participant will be given an individualized operating period in the sandbox that best meets the needs of both the Law Society and the participant. As a general rule, participants would be given an operating period of two years, with options to extend on mutual consent. Participants need sufficient time to effectively demonstrate their viability. At the end of a participant's operating period in the sandbox, the Law Society will need to decide whether the participant can continue operating under an ongoing permit.

A process for suspension or revocation of an approval will be established, where serious problems have arisen during a participant's operating period in the sandbox. Suspension or revocation could be based on non-compliance with the participant's

approval conditions or participation agreement, as a result of a complaint resolution process, or as a result of the entity ceasing operations.

Reporting on Data and Outcomes

Each participant would have individually tailored reporting requirements. The resulting data would be evaluated based on the individualized risks of the participant and would inform decision-making about the participant. Examples of information that participants may be required to report include:

- Consumer demographics;
- Consumer interest and uptake;
- Performance outcomes and quality of service;
- Legal process outcomes;
- Complaint resolution outcomes and service feedback;
- Pricing information;
- Financial and other business outcomes;
- Marketing models; and
- Viability and sustainability of the tool.

Policies will also be developed for the Law Society's own use and protection of data shared by sandbox participants. Such policies would likely include:

- A requirement that participants anonymize any data shared with the Law Society;
- A guarantee that the Law Society would keep data provided by sandbox participants confidential, and not share it with any other organization, except for certain legal reasons, or to publicly report certain sandbox outcomes
- A policy governing who within the Law Society can access the data and for what purposes; and
- A policy for maintaining and ultimately destroying shared data.

Participants will also be required to communicate certain information to users and the public. This information could include, for example:

- Information about the sandbox program and the tool's permission to operate within it, including any conditions imposed;
- Informed consent disclosures, acknowledging that the tool or service:
    - is not being provided by an Ontario licensee,
    - carries liability insurance, and/or
    - has certain limitations in terms of the tasks or functions that it can perform, as applicable; and
- Information about the applicable complaint resolution processes and feedback channels available through the participant and/or the Law Society.

There may also be a need for escalation protocols for users who are unsatisfied with the participant's process.

A protocol will also be established for users who wish to provide additional feedback about the tool, the entity, or the sandbox pilot.

Making Final Determinations about Participants

Individual participants that have satisfied their performance objectives at the conclusion of their sandbox period may be given permission to continue operating in Ontario on an ongoing basis, notwithstanding their continued non-compliance with certain Law Society standards that apply to lawyer and paralegal licensees. The permit issued by the Law Society could continue to impose any conditions deemed necessary based on the participant's experience in the sandbox.

The decisions about participants will be made public to support transparency and to educate the public, the professions, and legal innovators about the benefits, risks, and other developments in this emerging field.

Dealing with Non-Participants

A strategy will be developed with respect to entities that do not apply to participate in the pilot project but conduct similar operations to sandbox participants, in contravention of Law Society rules and by-laws. Some of these entities may operate outside of the Law Society's traditional purview, and some may raise challenging issues about whether they provide legal services as defined by the *Law Society Act*.

Prosecution is only one among several tools available to the Law Society for these circumstances, and has a variety of practical and strategic limitations. A staged approach will be coordinated with the Law Society's Professional Regulation Division, with the aim of incentivizing non-participants to apply for participation in the sandbox. This approach will accord with the Law Society's current approach to addressing unauthorized practice complaints.

Tab 1.1

LAW SOCIETY OF ONTARIO

BY-LAWS MADE UNDER SUBSECTIONS 62 (0.1) AND (1) OF THE LAW SOCIETY ACT

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON APRIL 22, 2021

MOVED BY

SECONDED BY

THAT Convocation make the following by-law:

BY-LAW 16

INNOVATIVE TECHNOLOGICAL LEGAL SERVICES

1. For the purposes of the Act, a person, including an individual, corporation or other entity, who is an approved participant in the Society's innovative technological legal services ("ITLS") sandbox program, or who has received a permit from the Society to provide an ITLS, and, in each case, is operating an ITLS tool or program in compliance with the Society's requirements, shall be deemed not to be practising law or providing legal services with respect to the operation of that ITLS tool or program.

Onglet 1.1

BARREAU DE L'ONTARIO

RÈGLEMENTS ADMINISTRATIFS PRIS EN APPLICATION DES PARAGRAPHES 62 (0.1) ET (1) DE LA *LOI SUR LE BARREAU*

MOTION QUI SERA PROPOSÉE LORS DE LA RÉUNION DU CONSEIL LE 22 OCTOBRE 2021

APPUYÉE PAR

Il est proposé que le Conseil adopte le règlement administratif suivant :

RÈGLEMENT ADMINISTRATIF Nº 16

SERVICES JURIDIQUES TECHNOLOGIQUES NOVATEURS

1. Pour l'application de la Loi, une personne, y compris un particulier, une société ou une autre entité qui a reçu l'autorisation de participer au programme de bac à sable du Barreau pour la prestation de services juridiques technologiques novateurs (SJTN), ou qui a reçu un permis du Barreau pour fournir des SJTN et qui, dans chacun de ces cas, exploite un outil ou un programme de SJTN conformément aux exigences du Barreau, est réputée ne pas pratiquer le droit ou ne pas fournir des services juridiques en exploitant cet outil ou ce programme de SJTN.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 470:
North Carolina Regulatory Sandbox Act.

2021-2022 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 1, 2021
Introduced by:	Sens. Johnson, Hise	**Prepared by:**	Cindy Avrette Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 470[1] would establish the North Carolina Innovation Council, which would be authorized to select persons or entities applying to offer banking, financial, or insurance products or services to consumers utilizing new or emerging technology, that would participate in a "regulatory sandbox program" for an initial period of 24 months, under the oversight of either the Office of the Commissioner of Banks or the Department of Insurance.

The overseeing agency would have authority waive statutory or regulatory requirements that otherwise would not permit a participant to offer the product or service to consumers.

Applicants would pay a fee of $50 and participants would pay a fee of $450 to cover reasonable agency expenses. A participant and its assigned agency could agree to extend the initial 24-month period or to alter the parameters of the product or service being offered under the program.

Before offering innovative products or services to consumers during the program, participants would be required to provide them with specified disclosures.

AMENDMENT: The amendment sets the terms of the Council members and establishes the protocols for its meetings.

BILL ANALYSIS: Senate Bill 470 would enact the North Carolina Regulatory Sandbox Act of 2021 as new Chapter 169 of the General Statutes.

The new chapter would establish the North Carolina Innovation Council, consisting of 11 members as follows:

- The Commissioner of Banks or appointed designee.
- The Commissioner of Insurance and Fire Marshall or appointed designee.
- The Secretary of State or appointed designee.
- The Attorney General or appointed designee.
- Two public members appointed by the Governor.
- One public member appointed by the Lt. Governor.
- Two public members appointed from academia by the Senate President Pro Tempore.
- Two public members appointed from the North Carolina entrepreneurial or blockchain community by the House Speaker.

The Council would be charged with selecting persons or entities wishing to offer innovative product or service for participation in a 24 month program under the oversight of either the Office of the

[1] As introduced, this bill was identical to H624, as introduced by Reps. Saine, Turner, Lofton, Szoka, which is currently in House Insurance.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Commissioner of Banks or the Department of Insurance, depending on the particular product or service being offered. In determining admission to the program, the Council would be required to consider:

- The nature of the innovation product or service and the potential risk to consumers.
- The methods for protecting consumers and resolving complaints during the sandbox period.
- The applicant's business plan.
- Whether the entity's management has sufficient expertise to conduct a pilot of the proposed product or service.
- Whether any person substantially involved in the development, operation or management of the innovative product or service has been convicted of or under investigation for fraud or State or federal securities law violations.
- Any other factor the Council or the applicable agency deems relevant.

Applicants that are entities would be required to have a physical presence in the State. The Council could deny an application in its discretion, if it gives defined reasons for the denial. Denied applicants would not be entitled to initiate a contested case or seek judicial review under the Administrative Procedure Act but could utilize the APA's informal dispute resolution procedures.

An "innovative product or service" would be defined as a financial or insurance product or service utilizing new or emerging technology, including blockchain technology, or involving a new use of existing technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model or delivery mechanism to the public that is not known to have a comparable widespread offering in this State.

The assigned oversight agency would have authority to grant an "innovation waiver" of specified requirements imposed by statute or rule that would not currently permit the product or service to be offered to consumers. The agency would have the discretion to publish a list of sandbox participants or a public notice of the existence of any innovation waivers.

Participants would have to make the following disclosures to consumers before offering an innovative product or service to consumers:

- The participant's name and contact information.
- That the product or service is authorized pursuant to the sandbox program for a temporary testing period.
- That the product or service is not endorsed by the State or the applicable agency, which are not liable for any losses or damages caused by the product or service.
- That the consumer can file complaints with the applicable agency or the Attorney General, and provide contact information where complaints or other comments may be filed.

The Council would be authorized to study and make recommendations with respect to blockchain initiatives and the application of blockchain technology that would provide additional benefits to the State's consumers and industry.

EFFECTIVE DATE: This act would become effective October 1, 2021.

Bill Patterson, counsel to the Senate Commerce Committee, substantially contributed to this summary.