UTAH SUPREME COURT AD HOC COMMITTEE

REGULATORY REFORM
Nick Stiles, Co-Chair
Maryt Fredrickson, Co-Chair
Workgroup Meeting: AI/Legal Tech
September 2, 2026
2:00 – 3:00
Virtual Meeting
Public Link

1. Welcome

2. Approval of May 15 Minutes (Tab 2)

3. Discussion of draft report (Tab 3)

4. Conclusion & Action Items

Tab 1

Current AI/Legal Tech Scope

<table>
<tr><th colspan="2">Artificial Intelligence and Legal Technology</th></tr>
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<td>
• Identify current and emerging trends in legal technology.
• Research recommendations from legal regulatory reform experts on how to adapt to advancing technology.
• Examine other states' approaches to regulating or carving our legal technology, including how they define the practice of law and deal with multijurisdictional issues.
• Draft proposed rule changes, if any.
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• Develop a recommendation:
1. Delineating between legal technology that should and should not be regulated as the practice of law,
2. Identifying any additional rules or enforcement mechanisms needed to property regulate technology-aided legal practice.
• Identify whether collaboration with other branches of government or other stakeholders will be needed to implement recommendations.
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Tab 2

Meeting Minutes
Utah Supreme Court's Ad Hoc Committee on Regulatory Reform
AI/Legal Tech Meeting Minutes
May 15, 2026 - DRAFT
12:00 – 1:00
Virtual & In-person

The group approved the minutes from the previous meeting.

- Wes Howard has switched jobs and is not able to continue with the Committee. The group appreciates his contributions and wishes him well on next adventures.

- The Committee heard from three guest speakers: Lucian Pera (Tennessee/national perspective), Sateesh Nori (New York legal services/access to justice), and Jessica Yates (head of the Office of Attorney Regulation Counsel, Colorado Supreme Court).
- Lucian surveyed the national UPL landscape, including reform efforts underway in Tennessee and New York. Lucian shared his recent ABA article and a New York City Bar draft report, both proposing a narrow, disclosure-based safe harbor for AI legal tools modeled on a Texas statute as a way to resolve the UPL uncertainty that currently chills innovation.
- UPL uncertainty was the central theme across all three presentations. Speakers agreed that the lack of clarity around what constitutes UPL discourages the development of tools that could meaningfully expand access to justice. There was some discussion of other consumer protection vehicles, via malpractice actions or products liability. The *Nippon* case was discussed.
- Sateesh presented two tools his organization has developed: Roxanne AI (housing conditions) and Depositron (security deposit recovery). Both face potential shutdown under proposed New York legislation restricting AI-generated professional advice, e.g., chatbots giving advice.
- Jessica presented Colorado's non-prosecution policy as an alternative to a formal UPL definitional amendment. That working group started by looking at a carve out from the UPL rules and shifted toa non-prosecution policy instead, for a

three year period. The policy identifies criteria (e.g., confidentiality disclosures, avoiding a representative capacity, and taking reasonable steps to minimize erroneous output) under which Colorado will decline to prosecute platforms for UPL. Colorado appears to be the only state with a public-facing policy of this kind. Texas created a carve out by legislation. WA, AZ, and MN have explored this in various ways.

- On opposition, speakers identified two primary categories: attorneys concerned about practice disruption, and broader concerns about harm to vulnerable populations, particularly children.
- On consumer protection, Lucian flagged that many AI tools' broad liability waivers may run afoul of existing state consumer protection laws and encouraged the group to examine whether those waivers are enforceable. Lucian also discussed the role of 5.4 and the opportunities to remove 5.4. There has been recent scholarship on the protectionist roots of 5.4, particularly in a law review article noting the role of Auto Clubs provided legal services prior to 5.4.

Tab 3

AI & Legal Technology

Legal technology can empower consumers to help themselves better. It can also empower other types of service providers to offer services differently than a full-service attorney, potentially at lower cost. Some regulations are deterring fulsome development and use of AI and other legal technology tools for legal services. And for AI-based tools currently in use without compliance with the legal regulatory structure, there is a risk of consumer harm playing out in real time. Regulatory reforms can support the development and expanded use of legal technology and simultaneously add some consumer protections.

The AI/Legal Tech working group recommends an exception from unauthorize practice of law (UPL) rules for software-based legal technology tools, including those assisted by AI, conditioned on the use of particular disclaimers. There are two other examples of this regulatory model so far in the United States. Several legal technology companies are already using disclaimers, which suggests the viability of adoption within the legal technology industry. The working group believes this approach removes a central barrier to the development and widespread use by legal technology and provides some consumer protections.

Objectives

The Utah Supreme Court designated these objectives for the AI/Legal Tech working group:

- Identify current and emerging trends in legal technology
- Research recommendations from legal regulatory reform experts on how to adapt to advancing technology
- Examine other states' approaches to regulating or carving our legal technology, including how they define the practice of law and deal with multijurisdictional issues.
- Draft proposed rule changes, if any
- Develop a recommendation delineating between legal technology that should and should not be regulated as the practice of law, and identifying any additional rules or enforcement mechanisms needed to properly regulate technology-aided legal practice
- Identify whether collaboration with other branches of government or other stakeholders will be needed to implement recommendations

Exclusions. This group was not asked to evaluate AI for attorneys, law firms, or court uses. The group was also not asked to evaluate the current surge in AI-assisted self-represented litigant filings with state courts. Those topics are being studied by bar committees (for lawyers), the Administrative Office of Courts (for courts), judicial think tanks and other groups around the country (related to the case filing surge), and other entities.

Lessons Learned from the Sandbox

The Sandbox allowed entities to test legal service models that would otherwise constitute the unauthorized practice of law and to observe the results. One of the premises of the Sandbox was that by reducing certain restrictions—including the restrictions on the unauthorized practice of law and on investment by non-lawyers—legal technology companies would expand and new technology-based services would emerge. It was visionary to imagine fully-autonomous technology-based products, perhaps like an AI lawyer.

But the Sandbox was ahead of its time. Standing Order No. 15 issued in August 2020. At that time, no commercially significant generative large language model was available to the public, and the category of software the Order anticipated existed largely as document-assembly and workflow automation. The Sandbox created a regulatory pathway for a technology that had not yet arrived.

Advanced AI platforms largely achieved minimum technical viability for complex legal tasks in 2025, five years after the Sandbox launched. Those platforms arrived at a scale and speed the Sandbox's framework was not built to accommodate—and, critically, it arrived in the hands of consumers directly, without the entities seeking authorization from anyone. With the advancements in frontier AI models, legal technology quickly reached new levels of development and expansion around the country and the world, but not through Utah's Sandbox. As such, the Sandbox provided useful but limited insight into technology-enabled legal services. Use cases and developments outside the Sandbox provided more information.

Sandbox Participants. No high-innovation models, which mean a service with minimal or no lawyer involvement, resulted from the Sandbox. One high-innovation entity was authorized, but it did not launch its services and later withdrew from the Sandbox. There were three moderate-innovation entities, meaning they have some lawyer-involvement, authorized to offer legal services with software-based components. These entities are 1Law (personal injury and other legal areas), Superlegal/Lawgeex (contract review), and Rasa Legal (criminal expungement). Rasa Legal has since left the Sandbox on its own initiative.

Regulatory Structure. [These sections in green may be relocated to the front sections of the omnibus report.] The Sandbox's regulatory structure, in broad terms, had front-end controls and back-end controls. The front-end controls were application review and vetting, resulting in a Sandbox Authorization. The back-end controls were to measure consumer harm through consumer complaints, which would be reported directly to the Sandbox. There were also intermediate performance reviews and audits contemplated along the way, along with data gathering through the mandatory reporting.

Front-End & Intermediate Controls—Labor-Intensive. Pre-authorization vetting of entities, as a front-end regulatory control, is both labor- and expertise-intensive. The Sandbox staffing changed at various points, but it was primarily staffed with two full-time employees. It used one volunteer board, which meets monthly, to review applications and vet entities. Other than native expertise within staff and the volunteers, subject-matter expertise was not incorporated into the vetting process. Nor were technology experts or advanced data consultants.

By comparison, Utah's Office of Artificial Intelligence Policy, an executive branch agency within the Utah Department of Commerce, houses a sandbox of its own. It is staffed by five people. It regulates only three entities since it launched in May 2024. At least one member of the staff has expertise in machine learning and mathematics, which provides an additional advantage when evaluating the entities and AI products. This office collaborates with academic and subject matter experts as needed, depending on the subject matter of a proposed project. For example, when an entity proposed an AI-provided therapy app, the office collaborated with therapists before authorizing the proposed AI tool.

The Sandbox's intermediate controls through performance and compliance audits were also designed to gather data and measure consumer harm. These audits are also labor intensive. For these regulatory tools to continue would require significant financial investment in labor resources and data management.

Back-End Controls—Data Collection & Lack of Consumer Harm. Of the medium-innovation entities in the Sandbox, according to research at IAALS, the number of consumer complaints per number of services offered was very low. But the initial data collection structure for the Sandbox was limited. As the first-of-its-kind legal-regulation sandbox, there were not yet lessons learned or best practices to inform the initial efforts and data collection. Efforts were made to improve the Sandbox's data collection and management system over time, but overall data remained limited. It is not possible to glean much from an absence of data or experiences.

Evaluating the data that was collected in the Sandbox relative to the rates of consumer harm in traditional legal services is also challenging because there is no similar consumer reporting mechanism for traditional legal services. For example, consumer complaints to a hotline, in the context of only a few entities, are not readily comparable to bar complaints, disciplinary actions, or malpractice actions in the larger legal community which has thousands of service providers and no centralized data collection. Data, or the lack thereof, should not be used as the only metric in an analysis of the Sandbox.

Regulatory Uncertainty. The appetite for investment in and development of legal innovations within the Sandbox declined. Over the years, entrepreneurs and investors found the shifting regulatory structure less and less attractive for market-based innovation. At certain points in the Sandbox, it also took significant time to vet the entities applying for authorization. [add average length if time and number of entity application pending at start of Phase 3]

Recommendations for Other Sandboxes. For states considering a regulatory Sandbox, the Working Group would recommend (1) developing a well-tailored data collection and data management system that operates from the outset, with design input from academic or other expertise; (2) ensuring adequate staffing for the Sandbox (two people was not enough); and (3) ensuring that subject-matter and technology-based expertise can be incorporated as needed, whether as volunteers or contract-based services.

National Input on Current and Emerging Trends—Legal Tech Is Thriving

Legal technology advancements are thriving without regulatory changes and without entering a sandbox. That does not mean no changes in the regulatory structure would be beneficial. It just means that entities have found workarounds within the existing structure.

Unauthorized Practice of Law (UPL). Legal technology entities and their investors are, like other business entities, risk averse. The UPL rules present risks that (1) an entity could be prosecuted for UPL or (2) that UPL could be used as a basis for civil litigation. For some legal services providers who generally have limited resources, the risk that using an AI tool may be UPL is a deterrent to using AI tools, even when the tools would maximize resource opportunities. While UPL prosecutions are uncommon nationwide, the risk created by those rules remains, deterring investment, innovation, and use.

At the outset, this working group met with Dean and Professor of Law Andrew Perlman of Suffolk University, who is one of the nation's leading experts on Legal Technology and Regulatory Reform. He identified two primary trending pathways (1) redefine UPL to include a carve out from disciplinary enforcement for legal technology, and/or (2) modify Rule 5.4, which prohibits non-lawyer ownership.

Lucian Pera, a national expert on legal ethics and lawyer regulation, also highlighted the role that restrictive UPL rules is playing in the legal technology sphere. The National Center for State Courts published a report in August 2025 about the rapid advancement of AI in the United States and the barrier that UPL restrictions present to deploying AI and legal technology solutions to the access to justice crisis. It advocated that courts either (1) amend UPL rules, (2) use a regulatory sandbox with an end result of amending UPL rules, or (3) reimagine the definition of the practice of law, to take more of an activity-based definition of the practice of law.

The committee explored the barrier of UPL with Ransom Wydner, formerly of SixFifty, an entity initially associated with the firm of Wilson Sonsini. SixFifty was an early applicant to the Sandbox but operates entirely outside the Sandbox. SixFifty manages its exposure to UPL through disclosures and disclaimers rather than through authorization. The disclaimer states, in sum, (1) that the service provided is not legal advice, (2) that AI can make mistakes, can be limited in scope, and is not a substitute for consulting with an attorney, and (3) no attorney-client privilege is created.

There are other legal tech entities around the country using similar disclaimers and disclosures to guard against UPL prosecution. There are also critics of the disclaimers purporting that only legal information is provided, particularly when the tool provides an application of facts to law or generates legal documents.

Two other states recently adopted a disclaimer-based model for AI and legal tech regulation.

Infrequency of UPL Prosecution. Studies over the last decade reflect that UPL enforcement is infrequent nationwide. Notably, a substantial volume of everyday technology activity could constitute UPL under existing definitions and is nonetheless universally tolerated. For example, consumer tax preparation software, which applies legal principles to a user's specific facts and generates a document, would meet the definition of UPL in some places because there is no CPA or other UPL-exempt person involved. No one proposes to shut down services like that or take enforcement action.

This could suggest that UPL enforcement is more based on consumer harm, rather than a strict liability approach, for reasons related to enforcement resources or for other reasons. Other scholars have noted that UPL is not generally reported based on consumer harm but is instead done for anti-competitive reasons since UPL is more commonly reported by other lawyers against non-lawyers than it is reported by consumers.[1]

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[1] J. Jacobowitz & P. Javis, *Unauthorized Practice or Untenable Prohibitions: Refining & Redefining UPL*, 13 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 283, 300–01 (2023); D. Rhode & Lucy Ricca, *Protecting the*

Current Consumer Harm. Large language models, like ChatGPT, are consistently used by self-represented litigants to generate legal advice specific to a person's concerns and to draft court filings and other legal documents. This activity would likely be considered UPL. Very few challenges related to UPL have taken place so far.[2] There are some court decisions regarding attorney-client privilege and work product related to information self-represented people submit to courts that was generated by an AI tool, but no dominant legal rules have yet emerged.[3] Of perhaps greater importance—and one affecting state and federal courts in real time—is that AI is widely used by people representing themselves and currently produces hallucinations or inaccurate information with some frequency, resulting in what is referred to as "AI slop."[4] This presents, at least in the short term as AI improves, some risk of consumer harm when self-represented people rely on AI-generated legal advice and documents.

Other Vehicles to Address Consumer Harm. Some in the national dialogue consider UPL risk as one that can be resolved through civil litigation instead of regulatory enforcement. In a civil cause of action, an entity providing tech-based legal services is liable if there is consumer harm, since injury is generally an element for civil causes of action. However, whether self-represented litigants (or people using legal technology for self help outside of the litigation environment) could afford a civil action to remedy their consumer harm

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Profession or the Public? Rethinking Unauthorized Practice Enforcement, 82 FORDHAM L. REV. 2587, 2590–93 (2014).

[2] E.g., *Nippon Life Ins. Co. of Am. V. OpenAI Fdtn.*, No. 1:26-cv-02448 (N.D. Ill); *MillerKing, LLC v. DoNotPay, Inc.*, No. 3:23-cv-00863-NJR (S.D. Ill.), *Faridian v. DoNotPay, Inc.*, 3:23-cv-01692 (N.D. Cal.). *MillerKing* was later dismissed for lack of standing.

[3] *See generally* J. Ellis, *When Does Client Use of AI Waive Privilege?*, Law Tech. Today (May 20, 2026); *United States v. Heppner*, 820 F. Supp. 3d 292, 296 (S.D.N.Y. 2026) (litigants cannot "maintain that [AI program] Claude is an attorney. In the absence of an attorney-client relationship, the discussion of legal issues between two non-attorneys is not protected by attorney-client privilege. Because Claude is not an attorney . . . that alone disposes of [a] claim of privilege."); *Shealy v. Seaside Invs., LLC*, No. 2684CV00799-BLS2, 2026 LX 386790, at *7 (June 16, 2026) (no discovery privilege applies to AI because "AI is a tool not a person. Nothing about what ChatGPT produces discloses the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.") (quotations omitted); *but see Warner v. Gilbarco, Inc.*, 820 F. Supp. 3d 629, 636-37 (E.D. Mich. 2026) ("ChatGPT (and other generative AI programs) are tools, not persons, even if they may have administrators somewhere in the background. As Plaintiff noted in her response, Defendants' motion "asks the Court to compel Plaintiff's internal analysis and mental impressions—i.e., her thought process—rather than any existing document or evidence, which is not discoverable as a matter of law."); *Assini v. Hayward*, 2026 NY Slip Op 26086, ¶ 3 (Sup. Ct.) ("Plaintiff can assert work product protections in connection with his AI use. It is true that AI systems like ChatGPT, Claude, Gemini, and others widely available to the public, collect user data for training and other purposes. But in this Court's estimation, that does not eliminate all expectations of privacy or automatically waive protections.").

[4] "In recent years, courts across the country have continued to receive submissions littered with AI-generated 'case' citations. As one court observed, 'thus far [generative AI's] batting average in legal briefs leaves something to be desired.' This epidemic of citing fake cases has continued unabated . . ." *Benjamin v. Costco Wholesale Corp.*, 779 F. Supp. 3d 341, 342-43 (E.D.N.Y. 2025) (citation omitted).

may be unrealistic and limit the viability of this option as an alternative remedy for consumer harm.

Rule 5.4. Rule 5.4, which prohibits non-lawyer ownership, can also be a second deterrent in legal technology growth. That topic is discussed in more depth in the 5.4 Working Group's report.

Other States

Two other states have developed an AI regulatory structure—one by rule and one through a non-prosecution policy.

Colorado. The AI/Legal Tech working group met with Jessica Bednarz from IAALS, who was part of Colorado's working group to address the regulation of AI and legal technology. Colorado began that work by considering a carve out from the definition of UPL. That presented some challenges in that state to provide for innovation but also to protect against consumer harm. So Colorado's working group pivoted to a non-prosecution policy instead. The Colorado Office of Attorney Regulation's non-prosecution policy developed a safe harbor, meaning certain nonlawyer providers—particularly technology platforms—will not be prosecuted as long as certain consumer-protection safeguards are in place. These include:

- Lawyer supervision or quality-assurance oversight;
- Clear disclosures that the provider is not a licensed lawyer;
- Transparent privacy and confidentiality practices;
- User acknowledgment of the nature and limits of the services; and
- Absence of any evidence of misconduct from the nonlawyer involved, such as misleading, false, or deceptive statements about services or harm to consumers of the nonlawyer's services

The policy does not apply to legal services for matters involving incarceration or juvenile detention, safety, or custodial decisions. The policy is structured as a three-year pilot project.

Texas. The legislature in Texas recently enacted a statute carving out AI and legal technology as long as a disclaimer is provided. Texas Code 81.101(c) provides:

> In this chapter, the "practice of law" does not include the design, creation, publication, distribution, display, or sale, including publication, distribution, display, or sale by means of an Internet web site, of written materials, books, forms,

> computer software, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney.

The Texas model is not dependent on lawyer involvement in the AI or software based product.

New York. New York is moving in the opposite direction, considering a ban on legal advice delivered by a chatbot. There are opponents to that legislation, and it is still being sorted out in the legislative process.

Other Options. Another option, and one offered by NCSC in its 2025 report, is to reimagine the regulation of the practice of law, based on activity rather than by person. The United States uses a "you either have a license to practice law or you don't" model for regulating the practice of law. Not all countries use that model. Some regulate the activity, not the person. The Utah Supreme Court's directive to the AI/Legal Tech working group included a request to delineate between legal technology that should and should not be regulated as the practice of law.

Parts of the United Kingdom (notably, England and Wales) use a tiered, activity-based system to regulate the practice of law. Some activities are called "reserved legal activities" and they require a full license to practice law, as either a solicitor or barrister. Other things are "unreserved legal activities," and these include (1) providing legal advice or assistance with the application of the law to disputes, and (2) providing representation or dispute resolution services, as long as the representation does not cross into a reserved activity. No license or other authorization is required for unreserved legal activities.

There are some other examples of activity-based regulation in other countries. And there is a growing trend in the United States to start using limited licenses for licensed paralegals and community justice workers, generally limited by activity or type of legal service.

The working group declined to consider an activity-based regulatory structure for legal technology and AI-assisted legal services. Delineating what activities should and should not be considered the practice of a law in the legal technology sphere is a rapidly changing landscape. The scope of those activities is too variable, and the capabilities of technology is expanding too rapidly, to lead to a comprehensive delineation of activities at this time.

Recommendation for Proposed UPL Rule Change

Justice Neil Gorsuch has suggested, "[i]t seems well past time to reconsider our sweeping unauthorized practice of law prohibitions."[5] The working group recommends a rule change to create a carve out in Utah's UPL rule for legal technology, conditioned on consumer protection disclosures.

Statute. Utah Code section 78A-9-102 defines the "practice of law" as "the same as that term is defined in Utah Code of Judicial Administration, Rule 14-802." A person engaged in the unauthorized practice of law may be subject to sanctions if that practice occurred in a proceeding before the court. The statute also creates civil penalties, a private right of action by a citizen harmed by the unauthorized practice of law, and criminal penalties as a Class A misdemeanor.

Rule. The Utah Code of Judicial Administration Rule 14-802, referenced in the Utah Code, has been renumbered to Supreme Court Rule of Professional Practice 4-802. It provides that "only persons who are active, licensed Bar members in good standing may engage in the practice of law in Utah." The word "persons" includes legal entities as well as natural persons. And the rule defines the practice of law as "representing the interests of another person by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person's facts and circumstances."

The rule includes a list of exceptions and exclusions. The working group proposes adding an additional exclusion and a safe harbor for legal services provided by legal technology, including AI-assisted services, conditioned on disclosures made to the consumer. The rule change is suggested in redline at Appendix __.

Rule Change Instead of Standing Order. The Working Group recommends a rule change to gain the benefit of public comment and broad stakeholder input. Another alternative would be another Standing Order, which are easier to modify if needed, but those orders lack the benefit of a public comment process and have less transparency when adopted. Input from some stakeholders also favored using a rule because it creates more regulatory certainty than a Standing Order.

Collaboration for Implementation

Short-Term Needs. The working group recommends the proposed rule change be vetted with regulatory enforcement staff at the Utah State Bar before being sent for public comment. [Who would this be with and can we vet it now instead?] No additional

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[5] Neil M. Gorsuch, A REPUBLIC IF YOU CAN KEEP IT 257 (2019).

collaboration is contemplated. The public comment process in Utah is robust and is able to capture comments from all stakeholders.

Future Developments. The intelligence of frontier-class AIs is predicted to double every seven months. Superior model training methods and "agentic" capabilities continue to improve AI's accuracy, intelligence, and speed. It is possible that in the foreseeable future, there will be legal technology capable of providing autonomous legal services without the involvement of a human attorney. That technology might then seek to be licensed in various states. With Utah's history of innovation and being the home of the first regulatory sandbox for legal services, Utah may be a state to consider for early licensing efforts.

The working group does not recommend the Sandbox continue just to consider that type of future, hypothetical opportunity. Instead, when the time comes to consider a licensing request for a legal technology entity, the court and its regulatory partners might consider collaborating with Utah's Executive Branch AI office described earlier in this report. That office is well-staffed and includes machine-learning and other technology expertise. It has a history of partnering with stakeholders and subject matter experts when evaluating requests. As a result, it may be a source of expertise and an institutional structure to support next efforts as a collaborative partner while still preserving the Utah Supreme Court's role in regulating the practice of law.

Workgroup Members (in alphabetical order)

- Ty Brown, CEO, ZAF Legal
- Alex Chang, Law Offices of Alexander Chang
- Kent David, Corporate Counsel, Woodbury Corporation
- Connor Dela-Cruz, Regulatory Reform Fellow
- Andrea Donahue, Director, Office of Legal Service Innovation and Liaison, Ad Hoc Committee on Regulatory Reform
- Maryt Fredrickson, Chief of Staff to the Chief Justice of the Utah Supreme Court and Co-Chair, Ad Hoc Committee on Regulatory Reform
- Nick Hafen, Vice-Chair, Legal Services Innovation Committee, Head of Legal Technology Innovation, BYU Law
- Wes Hayward, Corporate Counsel, Blackstone
- Beth Kennedy, Chair, Ethics and Discipline Committee, Utah State Bar
- Nick Stiles, Appellate Court Administrator and Co-Chair, Ad Hoc Committee on Regulatory Reform

- David Wingate, Associate Professor in Artificial Intelligence and Machine Learning, BYU

[Not for the report, be prepared to discuss whether this runs afoul of current federal EOs or related efforts. The AI Policy Office reported on this at the 1.16.26 meeting as low or no risk, since these efforts are designed to encourage AI more use, not restrict it.]

Appendix ___

Rule 4-802. Authorization to practice law.

Effective: ~~*1/5/2023*~~

(a) **Application.** Except as set forth in paragraphs (c) for Licensed Paralegal Practitioners, and the exclusions and exceptions in paragraphs ~~and~~ (d) and (e), only persons who are active, licensed Bar members in good standing may engage in the practice of law in Utah.

(b) **Definitions.** For purposes of this rule:

(1) "Practice of law" means representing the interests of another person by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person's facts and circumstances.

(2) "Law" means the collective body of declarations by governmental authorities that establish a person's rights, duties, constraints, and freedoms and includes:

(A) constitutional provisions, treaties, statutes, ordinances, rules, regulations, and similarly enacted declarations; and

(B) decisions, orders, and deliberations of adjudicative, legislative, and executive bodies of government that have authority to interpret, prescribe, and determine a person's rights, duties, constraints, and freedoms.

(3) "Person" includes the plural as well as the singular and legal entities as well as natural persons.

(c) **Licensed Paralegal Practitioners.** A person may be licensed to engage in the limited practice of law in the area or areas of (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, name or gender change, and petitions to recognize a relationship as a marriage; (2) forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(1) Within a practice area or areas in which a Licensed Paralegal Practitioner is licensed, a Licensed Paralegal Practitioner who is in good standing may represent the interests of a natural person who is not represented by a lawyer unaffiliated with the Licensed Paralegal Practitioner by:

(A) establishing a contractual relationship with the client;

(B) interviewing the client to understand the client's objectives and obtaining facts relevant to achieving that objective;

(C) completing forms approved by the Judicial Council or preparing documents that are consistent with the relevant portions of the Judicial Council-approved forms;

(D) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;

(E) signing, filing, and completing service of the form;

(F) obtaining, explaining, preparing, and filing any document needed to support the form;

(G) reviewing documents of another party and explaining them;

(H) informing, counseling, assisting, negotiating, and advocating for a client for purposes of settlement;

(I) filling in, signing, filing, and completing service of a written settlement agreement form in conformity with the negotiated agreement;

(J) communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto; and

(K) explaining a court order that affects the client's rights and obligations.

(L) standing or sitting with the client during a proceeding to provide emotional support, answering factual questions as needed that are addressed to the client by the court or opposing counsel, taking notes, and assisting the client to understand the proceeding and relevant orders.

(d) **Exceptions and ~~E~~exclusions.** Whether or not it constitutes the practice of law, the following activity by a nonlawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

(1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.

(2) Providing general legal information, opinions, or recommendations about possible legal rights, remedies, defenses, procedures, options, or strategies, but not specific advice related to another person's facts or circumstances.

(3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in Utah when no fee is charged to do so.

(4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one's minor child or ward in a juvenile court proceeding.

(5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.

(6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.

(7) Representing a party in any mediation proceeding.

(8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.

(9) Serving in a neutral capacity as a mediator, arbitrator, or conciliator.

(10) Participating in labor negotiations, arbitrations, or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.

(11) Lobbying governmental bodies as an agent or representative of others.

(12) Advising or preparing documents for others in the following described circumstances and by the following described persons:

(A) A real estate agent or broker licensed in Utah may complete state-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

(B) An abstractor or title insurance agent licensed in Utah may issue real estate title opinions and title reports and prepare deeds for customers.

(C) Financial institutions and securities brokers and dealers licensed in Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities, and other investments.

(D) Insurance companies and agents licensed in Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.

(E) Health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.

(F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.

(13) Representing an Indian tribe that has formally intervened in a proceeding subject to the Indian Child Welfare Act of 1978, 25 U.S.C. sections 1901–63. Before a nonlawyer may represent a tribe, the tribe must designate the nonlawyer representative by filing a written authorization. If the tribe changes its designated

representative or if the representative withdraws, the tribe must file a written substitution of representation or withdrawal.

(14) Providing legal services through technology-based tools, including artificial intelligence (AI), as long as conspicuous notices or disclaimers are provided to the person being assisted that: (1) the tool or service is not an attorney or providing the same legal advice or service a human lawyer could provide; (2) no attorney–client privilege is created by using the electronic nonlawyer's services, which means information shared between the consumer and the tool or service is not confidential, could be disclosed to other parties, and could be used in litigation; and (3) the technology-based tool or service can make mistakes and is not a substitute for legal advice from a person licensed to practice law. This rule applies to the unauthorized practice of law only and does not affect any regulatory or civil remedies a consumer may have to remedy consumer harm. [for discussion: should this carve out include human-lawyer involvement, like in CO, or take the angle like TX?]

(e) **Exclusive list.** The exceptions and exclusions for nonlawyers in this rule are exclusive lists of activities unless the unauthorized practice of law is authorized by other means.

Advisory Committee Notes:

Paragraph (a).

"Active" in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Paragraph (b).

The practice of law defined in paragraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting, or completing legal documents that affect the legal rights or responsibilities of another person; representing another person before an adjudicative, legislative, or executive body, including preparing or filing documents and conducting discovery; and negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the "practice of law." Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: "Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person's own interests in a cause to which the person is a party in his or her own right and not as assignee."

Similarly, an employee of a business entity is not engaged in "the representation of the interest of another person" when activities involving the law are a part of the employee's duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in paragraph (b)(2), "the law" is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application, and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority are included under paragraph (b)(2)(A).

Paragraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions, and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this paragraph includes courts and similar tribunals, arbitrators, administrative agencies, and other bodies that render judgments or opinions involving a person's interests.

Paragraph (c).

The exceptions for Licensed Paralegal Practitioners arise from the November 18, 2015 Report and Recommendation of the Utah Supreme Court Task Force to Examine Limited Legal Licensing. The Task Force was created to make recommendations to address the large number of litigants who are unrepresented or forgo access to the Utah judicial system because of the high cost of retaining a lawyer. The Task Force recommended that the Utah Supreme Court exercise its constitutional authority to govern the practice of law to create a subset of discreet legal services in the practice areas of: (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; (2) unlawful detainer and forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases. The Task Force determined that these three practice areas have the highest number of unrepresented litigants in need of low-cost legal assistance. Based on the Task Force's recommendations, the Utah Supreme Court authorized Licensed Paralegal Practitioners to provide limited legal services as prescribed in this rule and in accordance with the Supreme Court Rules of Professional Practice. In the future, the Court may add additional practice areas for Licensed Paralegal Practitioners to assist otherwise unrepresented persons in obtaining legal representation.

Paragraph (c)(1).

A Licensed Paralegal Practitioner may complete forms that are approved by the Judicial Council and that are related to the limited scope of practice of law described in paragraph (c). The Judicial Council approves forms for the Online Consumer Assistance Program and for use by the public. The forms approved by the Judicial Council may be found at https://www.utcourts.gov/ocap/ and https://www.utcourts.gov/selfhelp/.

A Licensed Paralegal Practitioner may also prepare documents that are consistent with the relevant portions of the Judicial Council approved forms but that eliminate any unnecessary information or tailor the information to a client's specific needs. Such documents may be filed with the court by a Licensed Paralegal Practitioner in the same manner as forms approved by the Judicial Council. This paragraph is not intended to expand the scope of Licensed Paralegal Practitioners' limited scope of practice.

Paragraph (d).

To the extent not already addressed by the requirement that the practice of law involves the representation of others, paragraph (d)(2) permits the direct and indirect dissemination of legal information in an educational context, such as legal teaching and lectures.

Paragraph (d)(3) permits assistance provided by employees of the courts and legal-aid and similar organizations that do not charge for providing these services.

Paragraph (d)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under paragraph (d)(5)).

Paragraph (d)(17) strikes a balance between unauthorized practice of law restrictions and consumer protection. With the increase in legal technology and AI tools, innovation and deployment of such tools has been impaired by the risk of unauthorized practice of law enforcement, whether by regulatory enforcement, by civil penalties, or by criminal prosecution. At the same time, consumers are using AI and legal technology for legal advice and legal services in increasing amounts, without any assurance that the consumer is aware of the risks associated with those services. This rule creates a safe harbor for legal technology providing legal services as long as the required disclosures are provided to the consumer.