

UTAH SUPREME COURT AD HOC COMMITTEE



**REGULATORY REFORM**

Nick Stiles, Co-Chair

Maryt Fredrickson, Co-Chair

Workgroup Meeting: Rule 5.4

January 5, 2026

12:00 – 1:00

Virtual & In-person Meeting

In person: Education Room, Matheson

[Meeting LINK](#)

1. Welcome and Approval of November Meeting Minutes (Tab 2)
2. Rule 5.4 Drafting Workshop (Tab 3)
3. Preliminary Report Drafting Workshop (Tab 4)

# Tab 1

## Current 5.4 Scope

<b>Rule 5.4 Workgroup</b>	
<ul style="list-style-type: none"><li>• Research pros and cons of allowing lawyers to partner or share fees with nonlawyers, including any multijurisdictional implications.</li><li>• Analyze lessons learned from Sandbox ABS entities as well as Arizona's ABS program.</li><li>• Consider recommendations from experts on legal regulation.</li></ul>	<ul style="list-style-type: none"><li>• Examine rule 5.4 language from other states.</li><li>• Develop a recommendation on whether rule 5.4 should be amended.</li><li>• Draft proposed rule changes, if any.</li></ul>

# Tab 2

## Meeting Minutes

### Utah Supreme Court's Ad Hoc Committee on Regulatory Reform

#### Rule 5.4 Meeting Minutes

Friday, December 5, 2025

12:00 – 1:00

Virtual

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The workgroup accepted the minutes from the previous meeting with minor revisions.

#### Follow-Up on November Action Items

- The group reviewed key takeaways from Arizona's ABS program:
  - While Arizona eliminated Rule 5.4, the Committee will recommend that we maintain it, in an altered form.
  - The committee noted various challenges faced by eliminating Rule 5.4, including resource allocation, enforcement capacity, and oversight demands.

#### Workshop on Proposed Rule Draft

- Purpose and Guardrails
  - Profit incentives are not inherently problematic, but reforms intended to expand access to justice should not be exploited.
  - Common themes across reference materials included non-lawyer compliance with professional rules, investor involvement and consequences for non-compliance.
- Governance and Regulatory Authority
  - Discussion focused on the distinction between regulating lawyers versus regulating business entities.
  - Individuals engaged in the practice of law fall under the Court's authority, while non-lawyer participation may require alternative regulatory structures, and collaboration with other sources of regulatory authority..
- Entity Regulation and Licensing
  - The group discussed whether assistance to regulated organization implies licensure and whether regulation should apply at the entity level rather than the individual level.

- Concerns were raised about entity-based regulation, particularly around investor transparency and ownership structures.
- AI, Fee-Sharing, and Safeguards
  - The group mentioned whether AI tools providing legal advice may constitute the practice of law.
  - The group also emphasized the importance of guardrails for fee-sharing arrangements.
  - Safeguards from other Puerto Rico were identified as useful reference points, including attorney-client privilege protections, required disclosures, and 49% ownership limits.
- Deliverables and Timeline
  - The group discussed actionable goals over the next two months to prepare a preliminary report.
  - Additional brainstorming and refinement of the proposed rule are anticipated.
  - The goal is to advance access to justice while incorporating meaningful enforcement mechanisms and safeguards beyond those used in the Sandbox.

# Tab 3

**Rule 5.4. Professional independence of a lawyer.**

(a) A lawyer may provide legal services pursuant to this Rule only if there is at all times no interference with the lawyer's:

- (1) professional independence of judgment,
- (2) duty of loyalty to a client, and
- (3) protection of client confidences.

(b) A lawyer may permit a person to recommend, retain, or pay the lawyer to render legal services for another.

(c) Referral fees are prohibited.

(d) Fee sharing ~~with abetween~~ lawyers is permissible only as provided in Rule 5.8.

(e) A lawyer or law firm may share legal fees with a nonlawyer only if: *[This may need amended based on how 5.4(f) turns out, so the two do not conflict.]*

- (1) the fee to be shared is reasonable ~~and the fee-sharing arrangement has been authorized as required by Utah Supreme Court Standing Order No. 15~~;
- (2) the lawyer or law firm provides written notice to the affected client and, if applicable, to any other person paying the legal fees;
- (3) the written notice describes the relationship with the nonlawyer, including the fact of the fee-sharing arrangement; and
- (4) the lawyer or law firm provides the written notice before accepting representation or before sharing fees from an existing client.

(f) A lawyer may practice law in a partnership or other form of organization in which an ownership interest is held, or managerial authority is exercised, by a nonlawyer who performs professional services which assist the organization in providing legal services to clients, but only if:with nonlawyers, or in an organization, including a partnership, in which a financial interest is held or managerial authority is exercised by one or more persons who are nonlawyers, provided that the nonlawyers or the organization has been authorized as required by Utah Supreme Court Standing Order No. 15 and provided the lawyer:

DC rule

(1) The partnership or organization has as its sole purpose providing legal services to clients [Puerto Rico limited this to just free legal services to indigent persons--

*="The law office provides for the collective fulfillment of the responsibility to offer free legal services to indigent persons";*

(2) All persons having such managerial authority or holding a financial interest undertake to abide by these Rules of Professional Conduct;

(3) The lawyers who have a financial interest or managerial authority in the partnership or organization undertake to be responsible for the nonlawyer participants to the same extent as if nonlawyer participants were lawyers under Rule 5.1;

(4) The foregoing conditions are set forth in writing.

Puerto Rico rule

(5) Every non-lawyer with an ownership interest must ensure that the office is operated only by persons admitted to the legal profession in Puerto Rico. The legal practitioner must represent the non-lawyer owner in exercising all voting rights and all other matters related to the law office. They must also ensure compliance with the rules of professional responsibility and notify the Supreme Court once the arrangement begins. By January 15 of each year, they must file with the Clerk of the Supreme Court of Puerto Rico an affidavit stating the number of attorneys in the firm, the dates and amounts of all investments made by the non-lawyer owner, and the profits received by that person in the previous calendar year;

(6) Neither the non-lawyer owner nor any designated agent shall engage in the unauthorized practice of law. Additionally, the only value provided by the non-lawyer owner in exchange for their ownership interest must be money, and the owner or their agents shall not provide any services to the law office, including but not limited to marketing services;

(7) The non-lawyer owner shall not interfere with the independent professional judgment of the legal practitioner or the attorney-client relationship;

(8) Information relating to the representation of a client shall be protected as required by Rule 1.6;

(9) The arrangement described in subsection (2) shall not contravene Rule 1.5;

(10) The legal practitioner informs the client that an ownership interest in the law office is held by a non-lawyer; and

(11) Non-lawyer owners may acquire no more than 49% of the shares of the law office.

~~(1) before accepting a representation, provides written notice to a prospective client that one or more nonlawyers holds a financial interest in the organization in which the lawyer practices or that one or more nonlawyers exercises managerial authority over the lawyer; and~~

~~(2) sets forth in writing to a client the financial and managerial structure of the organization in which the lawyer practices.~~

**Comment**

[1] The provisions of this Rule are to protect the lawyer's professional independence of judgment, to assure that the lawyer is loyal to the needs of the client, and to protect clients from the disclosure of their confidential information. Where someone other than the client pays the lawyer's fee or salary, manages the lawyer's work, or recommends retention of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (a), such arrangements must not interfere with the lawyer's professional judgment. See also [Rule 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). This Rule does not lessen a lawyer's obligation to adhere to the Rules of Professional Conduct and does not authorize a nonlawyer to practice law by virtue of being in a business relationship with a lawyer. It may be impossible for a lawyer to work in a firm where a nonlawyer owner or manager has a duty to disclose client information to third parties, as the lawyer's duty to maintain client confidences would be compromised.

[2] The 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 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).

[3] Fee sharing and referral fees are defined in [Rule 1.0](#).

[4] Before engaging in any fee sharing arrangement, lawyers should be familiar with Utah law regarding prohibitions on kickbacks.

[5] revise or remove] Paragraph (e) permits individual lawyers or law firms to enter into business or employment relationships with nonlawyers, whether through nonlawyer ownership or investment in a law practice, joint venture, or through employment by a nonlawyer owned entity. In each instance, the nonlawyer owned entity must be approved by the Utah Supreme Court for authorization under Standing [Order No. 15](#).

[6] Add a comment about the new additions.

[76] This rule differs from the ABA Model Rule.

*Effective date:*

# Tab 4

## **5.4 working group**

### **1. What we learned concerning Rule 5.4 in the Utah Sandbox**

- a. There are challenges with the “free market fixes all” approach to regulatory reform. Challenges exist in vetting and regulating, non-Utah actors trying to take advantage of the relaxed regulatory structure, aggressive direct marketing, and lack of easily identifiable A2J metrics.
- b. There are some successes in the Sandbox, including for example, allowing paralegals to have an ownership interest in a law firm. These arrangements provide some promise about what an altered Rule 5.4 could permit, it is unclear at this stage their impact on A2J.

### **2. What we learned about other jurisdiction’s Rule 5.4 reforms**

- a. Arizona. Completely removing Rule 5.4 is a hugely resource intensive model. Arizona has slightly alleviated this oversight burden by requiring all entities to have compliance attorneys that seemingly bear some of the compliance burden. The stated purpose of Arizona’s 5.4 reform is to encourage businesses to provide legal services at affordable prices. We are not aware of any published metrics concerning increased access to legal services yet.
- b. District of Columbia. DC first modified Rule 5.4 back in 1991, and again in 2025. (2025 Amendments Announcement) DC’s model allows for nonlawyer ownership only if the sole purpose is providing legal services to clients, all owners comply with the rules of professional conduct, and the lawyers who have a financial interest or managerial authority in the partnership or organization undertake to be responsible for the nonlawyer participants to the same extent as if nonlawyer participants were lawyers under Rule 5.1. DC does not have a stated interest in A2J.
- c. Puerto Rico. Puerto Rico amended Rule 5.4 to allow for non-lawyer ownership only where the purpose of the entity is to provide free legal services. There are eight requirements prescribed in the new rule. Puerto Rico publishes their rules in Spanish, but here is an article with information about the changes and an English translation. The Puerto Rico Supreme Court did not unanimously adopt the rule change; Justice Luis F. Estrella Martinez dissented from the change. Here is the dissenting

opinion. (We have a word copy of the dissent, just need to find where it's posted online to hyperlink it here.) Puerto Rico will conduct a study after three years to determine any impacts.

d. And a new trend rising in big firms of working around 5.4 by carving off services (McDermott article summarizes this) **Should we include this?**

### 3. Wants and don't wants

<u>Recommendations on 5.4 Amendments</u>	<u>Not Recommended</u>
<ul style="list-style-type: none"><li>• Modification to allow for non-lawyer ownership</li><li>• Require compliance with RPC</li><li>• Require fiduciary duties of all owners</li><li>• <u>Organization has sole purpose of providing legal services to clients (consider PR model, only "free legal services")</u></li><li>• <u>No non-lawyer ownership more than 49%</u></li><li>• <u>Notice to clients</u></li><li>• Require purpose of expanding access to legal services</li><li>• Prohibition against non-lawyer owners interfering with professional judgement of lawyers relating to legal practice</li><li>• Review period with possible later amendments</li><li>• </li></ul>	<ul style="list-style-type: none"><li>• Eliminating Rule 5.4 completely</li><li>• A regulatory structure that requires the Utah State Bar to regulate engaged entities without placing the cost of the alternative regulation on the engaged entities.</li><li>• _____</li><li>• _____</li><li>• _____</li></ul>

### 4. Topics that need to be addressed

- a. Overlap with AI Workgroup and recommendations
- b. The on-going question of how to adequately address alternative legal regulation where an organization (owned in part by non-lawyers) wants to practice in another jurisdiction outside DC, Arizona, Puerto Rico, and Utah.