Modernizing Unauthorized Practice of Law Regulations to Embrace AI-Driven Solutions and Improve Access to Justice

AI Policy Consortium
for Law & Courts

August 2025

NCSC

Thomson Reuters Institute

Introduction

The rapid advancement of artificial intelligence (AI) presents an opportunity to address longstanding access to justice challenges in the United States. But the state-by-state patchwork of Unauthorized Practice of Law (UPL) regulation poses significant barriers to the deployment and wide-scale adoption of AI tools that can help people navigate everyday legal challenges. This policy paper explores how UPL rules can modernize to embrace AI-driven solutions, balance consumer protection, and support scalable, innovative legal services. While state bar associations and state supreme courts have traditionally led legal regulatory reform, the window for proactive leadership on AI regulation is rapidly closing. These traditional regulatory bodies must take the initiative to modernize UPL rules in response to AI innovation. This paper urges the legal community to develop an adaptive regulatory framework to meet this pivotal moment and offers UPL rule-making bodies the following approaches to consider: (1) revise the UPL statutes or rules to permit the use of vetted AI and other technology tools; (2) establish regulatory sandboxes to test AI-driven legal services in controlled environments; and/or (3) narrow UPL definitions so that only persons licensed and in good standing by [state bar/office of court] are permitted to hold themselves out as lawyers or attorneys. Anyone who holds themselves out as an attorney who is not licensed and in good standing and who represents others in court or tribunal proceedings or provides legal advice or prepares documents for others affecting legal rights and duties is engaged in UPL. This would permit companies and non-lawyers to create, distribute, and utilize tools and services that provide legal assistance to consumers outside of the courtroom, so long as they do not hold themselves out as lawyers or attorneys.

Executive Summary

Every year, millions of Americans face civil legal problems—yet most do so without a lawyer. The access to justice crisis means people are unable to get help due to the high cost and limited availability of traditional bespoke legal services from a human lawyer or choose to represent themselves often with limited information about how to proceed

or advocate for themselves. Individuals confronting evictions, custody disputes, debt collection, and more face these challenges without reliable legal support, at best navigating the system with some help only from free or low-cost internet resources such as large language models (LLMs) or resource-strapped court staff, sometimes with devastating consequences. As stated in a recent court opinion, "for a pro-se litigant especially, AI software offers a tempting tool to offset the disadvantage of appearing in an unfamiliar court setting."[1]

Meanwhile, AI is sparking the development of scalable, innovative legal tools at lightning pace. Companies are using AI to power platforms that, for example, help users complete court forms, answer legal questions, and understand their rights in areas like housing, family law, debt, and immigration. Some tools are being built for consumers directly, while others are designed to support legal aid organizations, courts, and pro bono efforts. Technology-enhanced legal services products offer promise of enhanced efficiency, affordability, and round-the-clock availability—features the traditional one-human-lawyer-per-one-client system cannot even begin to match at scale.

The regulatory response to this technological disruption presents a critical choice for the legal profession's traditional governance structures. State bar associations and state supreme courts – the entities with the deepest understanding of legal practice, professional ethics, and consumer protection – have a narrow window to lead this transformation. If these entities are unable to act decisively, then they should attempt to implement this transformation via a court rule change or in cooperation with state legislatures. State bar associations and state supreme courts alone possess the nuanced understanding of legal practice necessary to craft effective regulations that properly balance innovation, access to justice, and consumer protection. The stakes are high: proactive leadership by legal regulatory authorities can ensure thoughtful, informed policy development, while regulatory inaction risks ceding control to less specialized governmental bodies.

[1] Everett J. Prescott, Inc. v. Beall, 1:25-cv-00071-JAW (United States District Court District of Maine July 24, 2025). https://websitedc.s3.amazonaws.com/documents/Prescott_v._Beall_USA_24_July_2025.pdf.

New tools are a promising bridge to narrow the access to justice gap and give consumers choice across a wider breadth of options. But there are real concerns about the quality of these services and potentially negative impacts on consumers who are turning to tools like ChatGPT as their only option. The current regulatory system creates doubt about whether consumer-facing legal AI tools are committing the unauthorized practice of law because the rules can be interpreted that the AI is providing advice to users. AI companies face operating in legal gray zones, chilled by the threat of UPL enforcement that is inconsistent across state lines in both prohibitive language and murky mechanisms of enforcement (or lack thereof). Further, the ban on UPL stunts not only the creation of potentially helpful tools, but also the ability to ensure consumer interests are protected.

A key question arising from this technological shift is whether a "re-regulation" approach, as advocated by some legal reform proponents, might lead to less regulation for certain segments of legal technology while imposing more stringent regulations on others. This white paper focuses on potential avenues for regulatory reform within existing UPL frameworks, acknowledging that the broader discussion of re-regulation, including the authorization and regulation of new categories of legal professionals like justice workers, is an important, but distinct, policy consideration beyond the scope of this paper. For further discussion on the complexities of regulating generative AI tools in legal practice, readers are encouraged to consult our "Key Considerations for the Use of Generative AI Tools in Legal Practice and Courts" white paper.

The time for incremental reform has passed. Consumers of legal services are using AI. Lawyers are using AI. Courts are using AI. Addressing the access to justice crisis—and the rapid pace of AI innovation—demands a modernized, realistic, pragmatic approach to regulatory reform that recognizes the value of these tools to help. This policy paper argues that UPL regulation must be modernized to meet the moment, enabling AI-fueled legal service delivery tools to responsibly assist with legal needs. Against the early backdrop of some recent state regulatory and litigation-based efforts at reform, the paper proposes three options that can be adopted individually or in concert:

* ***First***, states can revise existing UPL regulations to explicitly permit vetted AI tools, with requirements around disclosure, data security, and transparency.

**** Second***, states can implement a regulatory sandbox to allow AI-driven legal services and consumer-facing products to be tested in a controlled, supervised environment, balancing innovation with consumer protection, while generating data to inform future revisions of UPL rule making.

**** Third,*** states can revise the definition of the unauthorized practice of law so that only persons licensed and in good standing by [state bar/office of court] may hold themselves out as lawyers or attorneys, and

(1) represent others in court or tribunal proceedings, and/or

(2) provide legal advice or prepare documents for others affecting legal rights and duties.

Anyone who holds themselves out as an attorney who is not licensed and in good standing and who represents others in court or tribunal proceedings or provides legal advice or prepares documents for others affecting legal rights and duties is engaged in UPL.

This would allow companies and non-lawyers to create, distribute, and utilize tools and services that provide legal assistance to consumers outside of the courtroom, provided they do not hold themselves out as lawyers or attorneys.

Access to Justice – An Urgent Crisis

Our current legal system fails to serve individuals with civil legal needs at a systemic level. The crisis facing the United States is broad: in a four-year time span, 66% of the population faced at least one legal issue and resolved only 49% of those issues.[2] It is also deep: 74% of low-income households experienced at least one legal issue, and most of them did not seek legal help.[3] The World Justice Project ranks the United

[2] Martin Gramatikov et al., *Justice Needs and Satisfaction in the United States of America 2021* (IAALS, Hiil, 2021), 123.

[3] Legal Services Corporation, *The 2022 Justice Gap Executive Summary* (Legal Services Corporation, 2022), https://justicegap.lsc.gov/resource/executive-summary/.

States 107th out of 142 when considering whether people can access and afford civil justice.[4] To be clear, this crisis impacts Americans from all walks of life.[5] At the same time, its consequences, which can include family separation, job loss, and eviction,[6] are most punishing for Americans who are lower-income, women, multiracial, black, or rural residents.[7] These consequences rarely exist in isolation—they create cascading effects that compound the disadvantage to individuals seeking access to justice. An eviction, for instance, can lead to homelessness, job loss due to transportation challenges, school disruption for children, and deteriorating physical and mental health. Similarly, the inability to resolve a divorce or child custody dispute may result in uncertainty, stress, emotional trauma, and financial instability. The perception that legal help is unavailable or unaffordable leads some individuals to postpone end-of-life and estate planning. Without accessible legal assistance, these initial legal problems can transform into persistent cycles of crisis that become increasingly difficult to escape.

State courts, where most people engage with the legal system, are the entities overseeing these consequences. Like federal courts, they are designed with the expectation that parties will assume full responsibility for all aspects of litigating their cases—from investigation, preservation of evidence, and sequencing of issues.[8] But the reality is often quite different. The overwhelming majority of cases filed in state courts involve at least one litigant representing themselves.[9] These litigants may struggle with basic aspects of litigation, such as answering a complaint. Consider debt collection cases, which make up a sizeable part of court dockets, where rates of default judgment can be as high as 95%.[10] This staggeringly high default rate may be reduced if the

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[4] "The Global Rule of Law Recession Continues," World Justice Project, https://worldjusticeproject.org/rule-of-law-index/.
[5] Gramatikov et al., *Justice Needs and Satisfaction in the United States of America 2021*.
[6] *Civil Justice for All: A Report and Recommendations from the Making Justice Accessible Initiative* (American Academy of Arts and Sciences, 2020).
[7] *Civil Justice for All*.
[8] Jessica K Steinberg, "Adversary Breakdown and Judicial Role Confusion in 'Small Case' Civil Justice," *BRIGHAM YOUNG UNIVERSITY LAW REVIEW* 2016, no. 3 (2016): 73.
[9] *See* Paula Hannaford-Agor et al., Nat'l Ctr. for State Cts., The Landscape of Civil Litigation in State Courts, iii (2015) (in 75% of cases at least one party is self-represented), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf.
[10] Daniel Wilf-Townsend, "ASSEMBLY-LINE PLAINTIFFS," *Harvard Law Review* 135, no. 7 (2022): 86.

debtors had access to meaningful resolution options through a simplified process. In this context, the traditional bespoke lawyering model of both sides being represented by lawyers in court proceedings is a fiction; adversarial norms simply don't exist in cases involving one or two self-represented litigants.[11]

Between Promise & Uncertainty: AI's Expanding Legal Role

Tenants in the United States in housing crisis often face a daunting uphill battle to understand
complicated rental laws and landlords' obligations to remedy unsafe conditions. In New York, tenants have a new partner in their fight for housing justice—Roxanne the Repair Bot, an AI-powered assistant developed by a nonprofit tenancy law organization and legal technology company Josef.[12]

The Roxanne tool exemplifies a fast-expanding landscape of consumer-facing legal technology tools that use AI to create new ways to offer people help with evergreen legal problems. While older forms of AI have long been used to aid lawyers and consumers in obtaining legal information (such as Google searching), more recent rapid development was set in motion by the public release of new Generative AI tools like ChatGPT in late 2022. Generative AI's hallmark large language models have transformed the ability of computers to get trained on extensive amounts of data and

[11] *See e.g.* Colleen F. Shanahan, Jessica K. Steinberg, Alyx Mark & Anna E. Carpenter, Lawyerless Law Development, 75 Stan. L. Rev. Online 64 (2023) ("The assumptions of representation and adversarialism do not hold in state civil courts, where litigants are largely unrepresented and the breadth of social problems people bring to court belie the adversarial construct."); Pamela Bookman and Colleen Shanahan, A Tale of Two Civil Procedures, 122 (2022) Colum. L. Rv. 1183, 1210 ("... [A]d hoc procedures [developed by trial court judges] typically respond to procedural problems, which are rampant in lawyerless state courts because the adversarial system was not designed to be used by self-represented parties."); Jessica Steinberg, Adversary Breakdown and Judicial Role Confusion in "Small Case" Civil Justice, 2016 BYU L. Rev. 899 (2016), 926 ("... due to the rise of an unrepresented majority, adversary norms are now failing in the very context where they are expected to conform to traditional notions.").

[12] Natalie Runyon, "New A-Powered Chatbot Revolutionizes Housing Repairs and Access to Justice," *Thomson Reuters*, n.d., https://www.thomsonreuters.com/en-us/posts/ai-in-courts/housing-repairs-chatbot/.

produce responses, called outputs, that mimic natural human conversation and create new human-like text.

Tools like ChatGPT marked a turning point—not just because of their advanced capabilities, but because they are easy to use, offer answers, are widely available, and have been quickly adopted by millions. Of course, friends, family, and trusted community members have long been the first—and only—source of assistance for many people.[13] But today, anyone—not just legal professionals—can ask detailed legal questions of these new tools and receive instant responses, often in plain language. As is clear across various industries from healthcare to finance to law, Generative AI tools are reshaping how people seek out and receive tailor-made information instead of, or in addition to, decades-old internet searching. Consumers are turning to Generative AI tools like Google, ChatGPT, and others for situation-specific legal guidance.[14] This ubiquitous use highlights the disconnect between strict UPL restrictions and today's real-world, unmet needs of the public who cannot access–nor afford–services from a lawyer and thus turn elsewhere, or choose to represent themselves but want relevant information to make informed decisions about how to proceed. Technology tools of all kinds, including advanced AI tools, have the potential to help a wide range of people with legal needs, increasing efficiency and offering greater consumer choice beyond the cost of traditional, bespoke expensive legal services.[15]

Against this backdrop, the spread of AI in the legal system has been rapid but uneven, bringing both promise and problems. In many jurisdictions, including in New York with the example of Roxanne, the AI-powered bot designed to assist with eviction cases, there is an apparent willingness to experiment with new tools. Courts, nonprofits, advisory committees, state bar associations, law schools, and many more actively work to understand Generative AI's power and scope across countless contexts and

[13] Rebecca Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study* (American Bar Foundation University of Illinois at Urbana-Champaign, 2014), 17, https://www.americanbarfoundation.org/wp-content/uploads/2023/04/sandefur_accessing_justice_in_the_contemporary_usa._aug._2014.pdf.
[14] Joseph Avery J. et al., "ChatGPT, Esq.: Recasting Unauthorized Practice of Law in the Era of Generative AI," *Yale Journal of Law & Technology* 26, no. 1 (2023), https://yjolt.org/sites/default/files/avery_abril_delriego_26yalejltech64.pdf.
[15] Ed Walters, "RE-REGULATING UPL IN AN AGE OF AI," *Georgetown Law Technology Review* 8 (June 2024): 22.

stakeholders. Self-represented litigants with no affordable access to a human lawyer or the desire to represent themselves are turning to publicly available tools like ChatGPT and Google Gemini to craft case-specific court filings.[16] Online consumer legal service provider LegalZoom is partnering with Perplexity, a Generative AI-powered search engine.[17] Courts are experimenting with website chatbots. Public defenders are using new AI-driven technology that they hope will help them navigate voluminous evidence.[18] Legal aid organizations are experimenting with AI tools, for example, to automate routine client communication for simple aspects of high-demand areas like domestic violence.[19] And innovative companies and nonprofits are creating new consumer-facing (and legal aid facing) applications and products for common but complicated personal legal issues like bankruptcy.[20]

But this fast-moving reality marks a disruptive turning point with many open questions: how do these new tools fit into the existing legal ecosystem? Will they be regulated, and by whom? Are they providing consumers with factual and reliable information? Do they cross traditional lines between legal information and legal advice? What benchmarks and testing are still needed to confirm their efficacy and, importantly, that new tools won't leave consumers worse off than they are currently?

The best of intentions does not always equal the best of tools, and regulation and research must keep pace. Today, most AI legal systems (and generic AI tools people use for legal advice) operate outside any traditional licensing or oversight structure. Few have undergone rigorous study, and a disappointing number have publicly launched with little evidence of testing to demonstrate their reliable accuracy or that they provide actual benefits to users with data showing that people both understand

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[16] *See*, *e.g.*, *Mescall v. Renaissance at Antiquity* (W.D.N.C. 2023); *Jones v. Simploy, Inc*. ("litigants who use generative AI to draft their briefs should not rely on our continued magnanimity") (J. Angela T. Quigless); *Dukuray v. Experian Info. Solutions* (S.D.N.Y. July 2024) (noting possibility that the pro se plaintiff was "not aware of the risk that ChatGPT and similar AI programs are capable of generating fake case citations and other misstatements of law.").

[17] "LegalZoom & Perplexity Pair Consumer-Focused Legal Services and AI for First Time," Perplexity, https://www.perplexity.ai/page/legalzoom-perplexity-pair-cons-gcEFTf._TzigM1PYkUofIA.

[18] "Justicetext," https://justicetext.com/.

[19] "Legal Aid of North Carolina," Legal Aid of North Carolina, https://legalaidnc.org/lanc-lia/.

[20] "Upsolve," https://upsolve.org/.

and can use the information provided to reach better outcomes than other tools or options might offer. Early efforts to unpack the use of and benchmark the efficacy of AI legal tools are underway.[21] Questions about the reliability of the responses from AI tools and so-called "hallucinations" are legitimate and deserve study and regulatory enforcement attention.[22] Many self-represented litigants using AI tools are, predictably, submitting filings containing hallucinations.[23] In one Colorado case, the appellate court noted that the self-represented litigant filed a brief containing hallucinations. While the court did not impose sanctions against the appellant, they did not allow him to re-file the brief and "put him, the bar, and self-represented litigants on notice that we may impose sanctions if a future filing in this court cites hallucinations."[24] Another court required "the litigant to affirmatively represent in each future filing that he has scrupulously reviewed his legal citations, that they are accurate, and that they stand for his asserted propositions."[25]

Amid this wave of innovation and debate, rather than ignoring emerging non-human market options for legal services, the time is ripe to carefully examine and call greater attention and oversight to their deployment, and to how this new reality fits with longstanding—and, we argue, now outdated and unworkable—norms of the United States' only-human-lawyers-can-give-anyone-legal-advice system.[26] The "legal information" and "legal advice" dichotomy that has fueled UPL frameworks for the last century and kept UPL language stuck in its tracks simply no longer makes sense as we undergo this era of transformative technological change – and opportunity.

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[21] https://justiceinnovation.law.stanford.edu/projects/ai-access-to-justice/; see also Margaret D. Hagan. (2023). Good AI Legal Help, Bad AI Legal Help: Establishing quality standards for responses to people's legal problem stories. In JURIX AI and Access to Justice Workshop; *see also* https://www.vals.ai/vlair (Feb. 2025).

[22] Varun Magesh et al., "Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools," *Journal of Empirical Legal Studies* 22, no. 2 (2025): 216–42, https://doi.org/10.1111/jels.12413.

[23] Damien Charlotin, *AI Hallucination Cases* (2025), https://www.damiencharlotin.com/hallucinations/.

[24] Al-Hamim v. Start Hearthstone, LLC, 2024COA128 (Colorado Court of Appeals). Accessed August 6, 2025. https://www.coloradojudicial.gov/system/files/opinions-2024-12/24CA0190-PD.pdf.

[25] *Everett J. Prescott, Inc. v. Beall*.

[26] Andrew Perlman, "Towards the Law of Legal Services," *Cardozo Law Review* 37, no. 49 (2015): 65. ("[T]he current lawyer-based regulatory framework should be reimagined if we hope to spur more innovation and expand access to justice.").

Current UPL Frameworks: A Closer Look

Through most of modern history, regulation of the practice of law has been a state-by-state patchwork. Many decades ago, nonlawyers without any formal training could—and did—draft documents, prepare filings, or offer legal guidance, so long as they weren't stepping into a courtroom.[27] That changed in the early 20th century when influential bar associations pushed for regulations, claiming restrictions against non-lawyers providing legal services were necessary to protect consumers from being misled or harmed.[28] Today, regulation occurs at the state level, with ultimate authority usually lying with each state's highest court (though in some instances, day-to-day regulatory duties are delegated to the state's bar association, often with the state legislature playing a role as well).

There is no uniform agreement about what "practice of law" means; definitions are broad and ambiguous.[29] Most states have limited the practice of law to licensed lawyers, meaning anyone who is not a lawyer duly licensed and in good standing with the relevant state regulatory authority is forbidden to practice law. Most states' definitions of the practice of law capture not only representation of another in court but also any provision of legal advice, including help with completing legal documents.[30] The distinction between what lawyers only may do and what others may do is framed through the longstanding distinction of "legal advice" versus "legal information".[31] Lawyers alone may provide legal advice, usually understood to be the application of laws, rules, principles, or processes to specific facts or circumstances and then the

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[27] Derek Denckla, "Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters," *Fordham Law Review* 67, no. 5 (1999).

[28] Nora Freeman Engstrom and James Stone, "Auto Clubs and the Lost Origins of the Access-to-Justice Crisis," *The Yale Law Journal* 134 (October 2024).

[29] Deborah Rhode L., "What We Know and Need to Know about the Delivery of Legal Services by Nonlawyers," *South Carolina Law Review* 67, no. Winter 2016 (2016): 15.

[30] *American Bar Association Task Force Report* (n.d.), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/model-def_migrated/taskforce_rpt_803.pdf; Lauren Sudeall, "The Overreach of Limits on 'Legal Advice,'" *The Yale Law Journal* 131, nos. 2021–2022 (2022), https://www.yalelawjournal.org/forum/the-overreach-of-limits-on-legal-advice.

[31] Rebecca Sandefur, "Legal Advice from Nonlawyers: Consumer Demand Provider Quality, and Public Harms," *Stanford Journal of Civil Rights & Civil Liberties* 16, no. 2 (2020), https://law.stanford.edu/wp-content/uploads/2020/06/04-Sandefur-Website.pdf.

recommendation of one or more courses of action.[32] Legal information is general information about laws, rules, and processes without any specific application to an individual factual context.[33]

While every state has statutes or rules forbidding UPL, specific state laws/rules land along a continuum of scope and clarity. Some examples:

- Alaska's definition is quite narrow, tying the unauthorized practice of law to representing oneself to be an attorney. Thus, one is only liable under the statute if one represents oneself to be an attorney *and* either represents another in court/tribunal (including by submitting pleadings) or *for compensation* gives advice/prepares documents for another affecting legal rights or duties.[34] This is a narrowly drawn rule, allowing a range of activity to occur including, theoretically, the provision of legal advice, even for compensation, as long as the person doing so does not represent herself to be an attorney.

- Georgia's UPL statute is much broader, forbidding anyone "other than a duly licensed attorney at law" not only from practice or appearing as an attorney in court or holding "himself" out to be entitled to practice law, but also from "rendering or furnishing legal services or advice" or rendering "legal services of any kind in actions or proceedings of any nature."[35] This ban explicitly applies to corporations as well as individuals.[36]

- California's UPL statute bars the practice of law by anyone who is not an active licensee of the state bar.[37] There is, however, no codified definition of the practice of law. Instead, case law guides the definition with a consequent lack of clarity: "In a pragmatic sense, the **practice of law** encompasses all of the activities engaged in by attorneys in a representative capacity, including legislative advocacy."[38]

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[32] Sandefur, "Legal Advice from Nonlawyers: Consumer Demand Provider Quality, and Public Harms."
[33] *Legal Advice vs. Legal Information*, directed by National Center for State Courts, n.d., 1:07, accessed August 6, 2025, https://www.ncsc.org/resources-courts/legal-advice-vs-legal-information.
[34] "Alaska Bar Rules Rule 63. Unauthorized Practice of Law," n.d., accessed August 6, 2025, https://courts.alaska.gov/rules/docs/bar.pdf.
[35] Ga. Code Ann. § 15-19-51(a)(4).
[36] Ga. Code Ann. § 15-19-51(b).
[37] California Business and Professions Code-BPC, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC&sectionNum=6125. Cal. Bus. & Prof. Code § 6125 (2019).
[38] Baron v. City of Los Angeles, 2 Cal.3d 535 (Supreme Court of California May 5, 1970). https://scocal.stanford.edu/opinion/baron-v-city-los-angeles-27562.

Beyond the language, actual UPL enforcement is infrequent and ad hoc. It often does not begin with consumer complaints about harm or subpar service by nonlawyers. Instead, many disputes are triggered by lawyers reporting nonlawyers for offering legal help.[39] Enforcement can come through several channels. Government actors may pursue UPL enforcement through civil actions, cease-and-desist orders, or even criminal penalties–New York, for example, classifies UPL as a felony.[40] But private enforcement plays an equally significant role. Licensed attorneys and bar associations can file civil lawsuits seeking injunctive relief or damages against entities they believe are engaging in the unauthorized practice of law in a certain jurisdiction. Such private enforcement actions often pose as much, if not more, risk to innovative legal service providers as government enforcement. In some jurisdictions, consumers themselves may also bring civil actions if they believe they've been harmed, creating additional liability exposure for legal service providers operating in the gray areas of UPL regulation.[41] Moreover, penalties vary widely. On paper, whether by court decision or statutory language, a UPL violation is serious: it can carry criminal sanctions,[42] fines, or even jail time. But in practice, instances of actual prosecutorial enforcement with resulting penalties are selective and rare.[43]

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[39] Deborah Rhode L. and Lucy Buford Ricca, "Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement," *Fordham Law Review* 82, no. 6 (2014), https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4993&context=flr.

[40] See N.Y. Jud. Law § 485-a (McKinney 2025) (classifying certain acts of unauthorized practice of law as a class E felony, punishable by up to four years in prison); see also N.Y. Penal Law § 70.00(2)(e) (McKinney 2025) (setting maximum term for a class E felony at four years).

[41] *See e.g.*, Birbrower, Montalbano, Condon & Frank v. Super. Ct., 949 P.2d 1 (1998) (New York law firm could not recover fees because it violated California UPL statute by providing services to California client).

[42] See, e.g., Tex. Penal Code Ann. §§ 38.122–123, 12.34 (West 2025) (punishing UPL as a third-degree felony with imprisonment of 2 to 10 years and a fine up to $10,000); Fla. Stat. Ann. §§ 454.23, 775.082(3)(e) (West 2025) (punishing UPL as a third-degree felony punishable by up to 5 years imprisonment); Cal. Bus. & Prof. Code § 6126 (West 2025) (punishing UPL as a misdemeanor punishable by up to one year in jail and a $1,000 fine).

[43] Laurel Rigertas, "The Birth of the Movement to Prohibit the Unauthorized Practice of Law," *Quinnipiac Law Review*, March 5, 2018, 69.

Chipping Away: Movement Toward UPL Reform

The UPL status quo is under strain. Constitutional and anti-competitive legal challenges, evolving state rules for trained nonlawyer providers and community-led aid, and on-the-ground proliferation of tech-driven legal tools reveal that the era of reform is already well underway.

Constitutional & Anti-Competitive Legal Challenges

The traditional rigidity of UPL has faced challenge through two significant legal theories: first, the argument that enforcement of UPL regulations prohibiting non-lawyers from giving legal advice violates the First Amendment, infringing on the right to freedom of speech. Most recently, a nonprofit organization Upsolve urged First Amendment protections against UPL enforcement in New York for nonlawyer speech that helped low-income individuals struggling with debt relief.[44] The district court judge granted Upsolve's injunction, holding that the legal advice and form-completion assistance by individuals in Upsolve's "Justice Advocates" program was protected "pure verbal speech" as against UPL laws that were not narrowly tailored to serve New York's state interest.[45] Professor Genevieve Lakier has explored the tension between UPL enforcement and free speech in a forthcoming work, arguing that broad bans on legal advice by anyone except bar members may overstep First Amendment limits.[46] We can expect more litigation on this front as AI tools muddy the line between regulated professional advice and general information or publishing.

Second, critics have argued that overly restrictive UPL enforcement may constitute anticompetitive behavior that violates federal antitrust laws by protecting the legal profession's monopoly on legal services without sufficient public benefit. For example,

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[44] Upsolve, Inc. v. James, 22-cv-627 (S.D.N.Y. 2022).

[45] *Upsolve, Inc. v. James*, 604 F. Supp. 3d 97.

[46] Genevieve Lakier, "Unauthorized Practice and the First Amendment," in *Rethinking the Lawyers' Monopoly: Nonlawyer Practice, Access to Justice, and the Regulation of Legal Services* (Cambridge University Press, 2025).

the tension was illustrated in *North Carolina Board of Dental Examiners v. FTC*, where the Supreme Court ruled that state professional boards controlled by active market participants must be actively supervised by the state to claim antitrust immunity.[47] This precedent suggests state bar associations—often comprised primarily of practicing attorneys—might face antitrust scrutiny for aggressive UPL enforcement that excludes potential competitors, including technology-driven innovative service models that aim to improve access to justice. In February 2023, the DOJ's Antitrust Division sent a letter supporting North Carolina's consideration of UPL reforms, emphasizing that loosening certain restrictions could enhance competition and expand access to affordable legal services.[48]

State Reform: Non-lawyers & Technology

State supreme courts, in response to the pressure of the access crisis and in the face of technological developments, have started to reform UPL regulations. These efforts have taken a variety of approaches, but the majority are focused on allowing qualified non-lawyers to perform limited legal practice activities, including the provision of legal advice.[49]

Decades of research provide empirical evidence that providers other than lawyers, trained in specific areas of law and legal process, are competent, effective, and can play a part in helping people solve legal problems.[50] Paralegals have always played an active, if limited, role supervised by lawyers within law firms and legal aid organizations.[51] Federal and state administrative systems often permit nonlawyers to

[47] N. Carolina State Bd. of Dental Examiners v. F.T.C., 574 U.S. 494, 135 S. Ct. 1101, 191 L. Ed. 2d 35 (2015)
[48] Maggie Goodlander, "United States Department of Justice to North Carolina General Assembly," February 14, 2023, https://www.ncjfap.org/_files/ugd/8a3baf_dd75e7277d134fd4b5b632fdbe41f089.pdf.
[49] "Policy Briefs," Stanford Law School Deborah L. Rhode Center on the Legal Profession, https://clp.law.stanford.edu/policy-briefs/.
[50] Sandefur, "Legal Advice from Nonlawyers: Consumer Demand Provider Quality, and Public Harms."
[51] Rule 5.3: Responsibilities Regarding Nonlawyer Assistance. https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_5_3_responsibilities_regarding_nonlawyer_assistant/.

represent others before their tribunals.[52] In fact, federal agencies have created fifteen different non-lawyer advocacy programs to aid and assist individuals in certain administrative filings, proceedings and hearings.[53] And many states offer exceptions for certain activities of professionals such as real estate brokers and title agents.[54] Building on this evidentiary base, multiple states have moved forward to authorize nonlawyers to provide legal services, either as licensed paraprofessionals and/or as community justice workers.[55]

A few states have reformed UPL language with an eye toward allowing more integration with technology-enabled delivery of legal services, but the longstanding prohibition against the *corporate* practice of law remains a hurdle. Although not always explicit, UPL laws also prohibit the corporate practice of law, meaning corporations cannot employ lawyers to provide legal services to third parties.[56] While intended to ensure that legal services are provided by individuals bound by professional ethical obligations rather than corporate profit motives, this restriction poses particular challenges for AI and technology platforms that offer services that may approach the boundary of legal practice, as new tools are typically developed and deployed by corporate entities–not individuals. Further, the historical regulation of the practice of law relies almost entirely on a human role-based licensing system, with legal education, testing, and character requirements that are not transferable to an organizational entity (i.e., a legal technology company).[57]

Here are some specific examples of past state reform of UPL language involving technology:

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[52] *Access to Justice through Data and Research* (Legal Aid Interagency Roundtable, 2024), https://www.justice.gov/atj/media/1379491/dl.

[53] Amy Widman, *Nonlawyer Assistance and Representation*, Report to the Administrative Conference of the United States (Rutgers Law School, 2024), https://www.acus.gov/sites/default/files/documents/Nonlawyer%20Assistance%20and%20Representation%20-%20Final%20Report%202024.12.09_0.pdf.

[54] *See, e.g.*, UT R SUP CT Rule 14-802

[55] *See, e.g.* for licensed paraprofessionals: AZ, MN, OR, UT. For community justice workers: AK, AZ

[56] Gillian K Hadfield and Deborah L Rhode, "How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering," *Hastings Law Journal* 67, no. 5 (2016).

[57] Hadfield and Rhode, "How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering."

- North Carolina, involved in litigation with LegalZoom back in 2015, adjusted its UPL approach towards online document preparation companies.[58] North Carolina's definition of the practice of law is very broad, capturing "any legal service for any other person, firm, or corporation, with or without compensation…."[59] As North Carolina pursued LegalZoom for violating its UPL laws, the company responded with a federal antitrust complaint against the state bar. Ultimately, the parties reached an agreement, later codified by the General Assembly, exempting interactive document completion platforms from the definition of the practice of law subject to a list of requirements, including having a North Carolina attorney review the blank templates used and that the company register with the state bar.[60]

- Texas has a statute that explicitly excludes from the practice of law "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

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[58] Legalzoom.Com, Inc. v. North Carolina State Bar, 11 CVS 15111 (Wake County General Court of Justice Superior Court Division October 22, 2015). https://www.nccourts.gov/assets/documents/opinions/2015_NCBC_96.pdf?gWLfThOd3NoNA8MI5HQHeQLTZap95rnI.

[59] N.C. GEN. STAT. § 84-2.1.

[60] N.C. Gen. Stat. § 84-2.2: (a) The practice of law, including the giving of legal advice, as defined by G.S. 84-2.1 does not include the operation of a Web site by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:
(1) The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.
(2) An attorney licensed to practice law in the State of North Carolina has reviewed each blank template offered to North Carolina consumers, including each and every potential part thereof that may appear in the completed document. The name and address of each reviewing attorney must be kept on file by the provider and provided to the consumer upon written request.
(3) The provider must communicate to the consumer that the forms or templates are not a substitute for the advice or services of an attorney.
(4) The provider discloses its legal name and physical location and address to the consumer.
(5) The provider does not disclaim any warranties or liability and does not limit the recovery of damages or other remedies by the consumer.
(6) The provider does not require the consumer to agree to jurisdiction or venue in any state other than North Carolina for the resolution of disputes between the provider and the consumer.
(7) The provider must have a consumer satisfaction process. All consumer concerns involving the unauthorized practice of law made to the provider shall be referred to the North Carolina State Bar. The consumer satisfaction process must be conspicuously displayed on the provider's Web site.
(b) A Web site provider subject to this section shall register with the North Carolina State Bar prior to commencing operation in the State and shall renew its registration with the State Bar annually. The State Bar may not refuse registration.
(c) Each Web site provider subject to this section shall pay an initial registration fee in an amount not to exceed one hundred dollars ($100.00) and an annual renewal fee in an amount not to exceed fifty dollars ($50.00).

> advice of an attorney."[61] Interestingly, this statute does not, on its face, limit itself to "interactive document completion platforms" or companies providing legal information via software.

Utah is an example of a state that has moved further to develop a regulatory apparatus to proactively authorize companies (for or non-profit) using technology to practice law and to test the quality of services provided in this way. In 2020, the Utah Supreme Court launched a regulatory sandbox in which entities could seek provisional authorization to offer services that would otherwise violate the state's UPL rules.[62] The sandbox is a regulatory framework explicitly designed to allow innovative models, including those entirely or predominantly provided through technology platforms, to deliver legal services, *including legal advice and other activities qualifying as the practice of law*, directly to consumers.[63] The sandbox seeks to permit and regulate potentially disruptive forces, for the benefit of consumers and the legal system:

> The potential benefits for access to justice from legal disruptions are significant. If legal services can be provided to litigants and those with potential legal problems in a much more cost-effective way, then true access to justice becomes possible for millions of people who currently get no help and do nothing. Technology, especially online legal services, exponentially increases the potential to improve access to justice. But it also simultaneously increases the risk of legal and practical harm to users if those services are not of sufficient quality. However, the potential benefits are too large to pass up, so changing how legal services are regulated to both open the door to innovation and protect litigants and other users in responsible ways is critical.[64]

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[61] Tex. Code Ann. 81-101(c).
[62] "Utah Supreme Court Standing Order No. 15 (Amended)," September 21, 2022. The sandbox also allows companies owned partly or entirely by nonlawyers and using lawyers, human nonlawyers, or software to provide services.
[63] *Narrowing the Access-to-Justice Gap by Reimagining Regulation* (The Utah Group on Regulatory Reform, 2019), 74, https://utahinnovationoffice.org/wp-content/uploads/2024/01/Narrowing-the-Justice-Gap-Report-August-2019.pdf.
[64] *Narrowing the Access-to-Justice Gap by Reimagining Regulation*.

Participants in Utah's sandbox are subject to the regulatory authority of the Utah Supreme Court and required to report detailed data on the services they provide, including data relevant to assessing the incidence of consumer harm.[65] It is the evidence of consumer harm, caused by low quality or malintentioned legal service, that triggers a regulatory response (e.g. suspension or termination of authorization).[66] In addition to these back-end protections, front-end protections include careful scoping of services and pre-launch vetting of entities providing legal services without lawyer involvement, vetting of applicants and participants to ensure they reach Utah consumers currently underserved by the legal market, and requirements that non-lawyer owners adhere to core fiduciary duties.[67]

Utah's model provides a space where AI-driven legal assistance tools can operate within a regulated framework that balances innovation with consumer protection. While it is unclear how many sandbox entities are actively deploying AI-based tools, [68] the framework demonstrates that states can create pathways for AI-powered legal services without abandoning consumer safeguards. Two other states are moving forward with similar sandbox structures: Washington and Minnesota.[69] These states acknowledge a reality that many states continue to ignore: companies are creating tools that deliver legal services, and consumers are using them.

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[65] "Innovation Office Manual," The Office of Legal Services Innovation, February 20, 2024, https://utahinnovationoffice.org/wp-content/uploads/2024/02/Innovation-Office-Manual.pdf.
[66] "Innovation Office Manual."
[67] Matthew Durrant B. et al., "Letter from Utah Supreme Court to Legal Services Innovation Committee," September 5, 2024, https://utahinnovationoffice.org/wp-content/uploads/2024/10/Letter-to-the-Legal-Services-Innovation-Committee-9.5.24.pdf.
[68] Utah's sandbox has faced multiple hurdles over the past two years and public data releases have been sporadic and subject to change.
[69] "Utah Sandbox Inspires Similar Regulatory Initiatives in Canada and Other States," Institute for the Advancement of the American Legal System, November 20, 2024, https://iaals.du.edu/blog/utah-sandbox-inspires-similar-regulatory-initiatives-canada-and-other-states.

Three Approaches to Reforming UPL

The legal profession stands at a critical juncture. The rise of AI presents unprecedented opportunities to expand access to justice, along with concomitant risks. As such, we offer three distinct paths forward for state supreme courts (or state bar associations) and lawmakers to consider.

Before examining these three approaches, it is essential to emphasize the urgency of action by traditional legal regulatory authorities. State bar associations and state supreme courts possess unique expertise in legal practice, professional responsibility, and the protection of consumers seeking legal services. This specialized knowledge positions them as the most qualified entities to craft nuanced regulations that can effectively balance innovation with consumer protection. However, their window for leadership is rapidly closing. The choice is clear: state bar associations and state supreme courts can lead this transformation with informed, thoughtful regulation. The alternative is either the inadequate "status quo" of the current situation or less nuanced mandates that may not adequately serve either innovation or consumer protection goals.

Path 1: Proactively Revise UPL Statutes to Permit the Use of Vetted AI & Other Technology Tools.

Current UPL statutes, often written before the advent of sophisticated AI, are ill-equipped to address the nuances of AI-driven legal assistance. A more proactive approach involves revising UPL statutes from the ground up to explicitly accommodate AI and GenAI solutions. This approach seeks to recognize the reality of AI-use and create space for responsible innovation via a simple legal framework for AI-driven legal services.

One state, Colorado, may be taking this path. In January 2024, the Colorado Access to Justice Commission asked the Colorado Supreme Court to consider revising the state's UPL rules "to determine if revisions should be made to accommodate technological

advances that will impact the practice of law and access to justice."[70] The court formed a subcommittee of the Advisory Committee on the Practice of Law to consider AI-related amendments to UPL rules. No public proposals have been released at this time but are expected in the near future. Notably, a related proposal from Jessica Yates suggests that UPL regulations should not apply to certain Licensed Legal Professionals (LLPs), allowing them to expand their roles in domestic relations cases to include eliciting testimony in court and working with financial experts. This aims to address feedback from judicial officers regarding the benefits of increased in-court practice for LLPs, potentially helping to avoid pro se parties examining witnesses or experts. Other proposed changes would clarify scope of practice and educational requirements for licensure and align LLP registration fees with those applicable to attorneys [71].The language below is suggested for consideration, a starting point. The proposed framework may be implemented through statute or court rule, depending on each state's regulatory approach. It works to balance innovation with consumer protection through a registration requirement, mandated disclosures, accuracy standards, data security protocols, and accessible error reporting mechanisms. This approach offers greater regulatory certainty but may require ongoing adaptation as AI technology evolves.

We propose the following language:[72]

> Notwithstanding any other provision of law, the use of AI and other technologies by persons, firms, or companies specifically offering or marketing AI-driven products or services designed to provide legal information, assist in document preparation, analyze legal issues, or provide legal advice and assistance to the public **shall not be considered the unauthorized practice of law** provided that all persons, firms, or companies offering such services:

[70] Maria Berkenkotter E. and Lino Lipinsky de Orlov S., "Can Robot Lawyers Close the Access to Justice Gap," *Colorado Lawyer*, December 2024, 7.
[71] Colorado Office of Attorney Regulation Counsel, "OARC Update - July 2025," https://www.coloradolegalregulation.com/newsletters/oarc-update-july-2025/
[72] The language takes as its starting point North Carolina's rule related to legal document completion companies. https://www.ncbar.gov/media/490358/website-document-provider-registration.pdf

(a) **Registration**: Register with the [state body with regulatory authority over legal services[73]].

a. Registration shall include the following minimum requirements:
    i. Name of owner/operator and any d/b/a names;
    ii. Name of firm or company (if applicable) and any d/b/a names;
    iii. Relevant information regarding owner/firm/company, including:
        1. Physical address of principal place of business and contact information;
        2. Name and contact information of agent for service of process.
    iv. Statement of attestation of compliance with the below listed requirements.
b. Payment of registration fees and renewal fees as set by state authority.
c. Registration must be renewed annually.
d. Registration must be completed before commencing operations in [state].

(b) Additional Requirements:

a. Prominently and clearly disclose that the service provided by the technology is not conducted by an attorney.
b. Implement reasonable measures to regularly test and validate the accuracy and reliability of their services.
    i. Methods of satisfying the requirement of reasonable measures may include, but are not limited to
        1. Regular review and approval of training protocols and outputs by attorney(s) licensed in [state]; or
        2. Implementation of documented quality assurance processes that are designed to achieve comparable levels of accuracy and reliability, which may include technical validation protocols, peer review systems, or other methods appropriate to the service provided.

[73] Such as the state supreme court or state bar.

ii. Attorneys conducting such review and approval are not considered to be practicing law and any consideration paid for such activities is not legal fees. [The names and license numbers of such attorneys must be retained on file with the provider and provided to regulators upon request.]

c. Maintain robust data security protocols to protect user privacy.
d. Establish a clear and accessible mechanism for users to report errors or inaccuracies.
e. Comply with all applicable state and federal laws, including all relevant consumer protection laws.

This section does not apply to developers or providers of general-purpose artificial intelligence models or platforms that are not specifically designed, marketed, or held out by the provider as a dedicated legal information, assistance, or advice tool, even if such models or platforms can be adapted or used by end-users for legal purposes.

Nothing in the above language immunizes providers from negligence, tort/criminal liability, etc. Persons, firms, or companies may not disclaim any warranties or liability or limit liability to consumers or damages or other remedies in any way.

Persons, firms, or companies operating AI or other technologically provided legal services as described above and not in compliance with this rule/statute will be subject to enforcement as the unauthorized practice of law.

(c) Enforcement Mechanism:
Compliance with these requirements shall be overseen by [state body with regulatory authority]. The regulatory authority shall have the power to investigate complaints, conduct audits, require periodic reporting by registered providers, and impose administrative sanctions (including suspension or revocation of registration) for violations. In addition, non-compliance may be referred for civil or criminal enforcement as appropriate under state UPL statutes.

Path 1's revised language shifts the focus from restriction to enablement, creating a pathway for AI innovation while prioritizing transparency, accuracy, and consumer protection. It recognizes that AI can expand access to justice without necessarily replicating the role of a licensed attorney. This approach seeks to set relatively simple parameters for these providers while leveraging existing tort and contract liability, as well as state and federal consumer protection laws.

For a deeper dive into practical considerations and best practices for the use of generative AI in legal contexts, we recommend consulting our "Key Considerations for the Use of Generative AI Tools in Legal Practice and Courts" white paper.

Path 2: Establish a Regulatory Sandbox for AI/GenAI Solutions.

While Path 1 outlines what is essentially a carve-out from the scope of UPL and outlines some light touch requirements for entities to qualify for that carve-out, states could opt to develop a more robust regulatory approach to non-traditional providers of legal services, however the state chooses to define that scope. This is the approach of the Utah legal regulatory sandbox. Proposed sandboxes in Washington and Minnesota are specifically targeted at tech-based and AI-based legal services.

As noted above, the sandbox is a regulatory framework designed to permit new types of legal providers and services and collect data on those services specifically to inform both regulatory intervention and ongoing regulatory policy. This approach offers the benefits of allowing developers and providers to test new services and models in a controlled environment, gathering data on their impact and effectiveness while maintaining consumer protection. The intent would be to use the data gathered within the sandbox to inform future regulatory decisions, potentially offering laypeople who cannot afford a lawyer a range of options.

This option allows for experimentation and data-driven policymaking but requires careful design and implementation to ensure meaningful oversight and prevent consumer harm. The sandbox approach is a comprehensive regulatory framework and, as such, requires more regulatory resources for effective implementation. Simply

changing the language of the relevant rule or statute may not be sufficient, but it will be necessary. The Utah Supreme Court used a Standing Order to establish the sandbox, stating within that order which kinds of entities are within its scope. A recent analysis, the "Legal Innovation After Reform: Five Years of Data" report, shows that Utah's regulatory experiments have spurred some new services and benefited many consumers, with little evidence of harm so far.[74]

One possible approach is to add a subsection to the relevant UPL rule/statute carving out entities authorized in the sandbox:

> Notwithstanding any other provision of law, persons, firms, or companies using AI or other technologies to provide legal information, assist in document preparation, analyze legal issues, or provide legal assistance to the public, shall not be considered the unauthorized practice of law provided that all such persons, firms, or companies are authorized to provide services under [standing order/administrative order/rule setting up the sandbox] and in good standing under that authorization.

It is important to note, however, that experience has highlighted three limitations to the sandbox approach. First, a time-limited pilot program may deter investment and truly bold innovation, as companies are hesitant to build new models that might vanish when the sandbox ends. Second, intensive oversight requires resources and expertise that courts or bar regulators may lack, potentially making sustained supervision difficult. Third, despite the sandbox's openness to new technology, Utah saw relatively few cutting-edge AI tools; no participating entity has deployed advanced generative AI to provide services, and most innovations have been modest improvements targeting routine legal needs.

In addition, the strictness of a state's regulations surrounding a regulatory sandbox may influence a provider's appetite for participating in the sandbox (see ABA Journal, March 4, 2025, "Nearly 30 legal entities may leave Utah's regulatory sandbox program after state tightens rules").

[74] David Freeman Engstrom et al., *Legal Innovation After Reform: Five Years of Data on Regulatory Change* (Stanford Law School Deborah L. Rhode Center on the Legal Profession, n.d.), https://law.stanford.edu/wp-content/uploads/2025/06/SLS_CLP_LegalInnovation_REPORT_v5.pdf.

Some observers have suggested that states might consider creating general-purpose regulatory sandboxes that cover legal, financial, health care, and other technology-enabled services.

Precise details for setting up a sandbox model are too involved to set out in this paper but both Utah's Standing Order No. 15 and the Manual of the Utah Office of Legal Services Innovation provide a wealth of information for interested states.

Another approach could be for court/state legislatures to recognize an independent for-profit or nonprofit sandbox organization that would certify providers to qualify for the UPL safe harbor. One advantage of this approach is that it relieves the government (court or legislature) from having to set up the sandbox framework itself:

> Notwithstanding any other provision of law, persons, firms, or companies using AI or other technologies to provide legal information, assist in document preparation, analyze legal issues, or provide legal assistance to the public, shall not be considered the unauthorized practice of law provided that all such persons, firms, or companies are certified as qualified to provide services by [independent certification organization] and in good standing under that authorization.

In addition to outsourcing the sandbox development and operation, there are additional ways to manage resources, including taking a cohort approach to sandbox admission (i.e., limiting the number of accepted entities in a year or focusing the cohort on a specific area of need).

Path 3: Regulate Lawyers (and only lawyers)

The core challenge with the current regulation of the legal services market is the collapsed distinction between lawyers and the activities performed to help people resolve a legal need. In the last century, often at the behest of the organized bar, that range of activities has become "the practice of law"—something only lawyers can do.

Lawyers practice law, the practice of law is what lawyers do, and there is little room for any other option in the market.[75]

Above, we have outlined policy avenues for states to increase options in the market, by creating space for additional providers by carving out exceptions to enforcement for UPL. Many states are also doing this by creating new licenses or certifications allowing limited practice of law activities.

Another option is for state supreme courts to narrow UPL definitions so that only persons licensed and in good standing by [state bar/office of court] are permitted to hold themselves out to be lawyers or attorneys. Liability for unauthorized practice of law would attach only to those not so licensed who hold themselves out as lawyers or attorneys and either represent others in court or tribunal proceedings, or give legal advice or prepare documents for others affecting legal rights and duties. This approach would allow others, including technology and AI providers, to offer legal assistance and services outside the courtroom, so long as they do not hold themselves out as lawyers or attorneys

This approach maintains the court's clear authority to control who may appear in court and represent others in legal proceedings, while focusing UPL enforcement on preventing misrepresentation of attorney status rather than broadly prohibiting legal assistance activities.

This third path hews more closely to Alaska's UPL rule which, as noted above, creates liability for UPL only if one is representing oneself to be a lawyer *and* either represents another in court/tribunal (including by submitting pleadings) or, for compensation, gives advice/prepares documents for another affecting legal rights and duties.

This third path builds upon Alaska's UPL approach, which creates liability for UPL only when someone represents themselves to be an attorney while providing legal services, including court representation or providing legal advice and document preparation.

Possible language in this regard is as follows:

[75] Lucy Ricca and Thomas Clarke, *The Bar Re-Imagined: Options for State Courts to Re-Structure the Regulation of the Practice of Law* (Stanford Law School Deborah L. Rhode Center on the Legal Profession, 2023), 23, https://law.stanford.edu/wp-content/uploads/2023/09/Rhode_Center_Re-ImaginingTheBar.pdf.

Only persons licensed and in good standing by [state bar/office of court] are permitted to hold themselves out to be a lawyer or attorney.

Any person who is not licensed and in good standing with [state bar/office of court] and who represents themselves to be a lawyer/attorney *and either* represents another in a court or tribunal, including by initiating litigation or filing pleadings, *or* gives advice or prepares documents for another affecting legal rights and duties, shall be liable for the unauthorized practice of law.

In this path, the focus of regulation is on preventing misrepresentation of attorney credentials while allowing the broader market of legal assistance to operate. This approach assumes that prohibiting misrepresentation, combined with market forces, tort laws, consumer protection laws, and reputational risks, will be sufficient to protect consumers while fostering innovation and accessibility.

Adopting Path 3 would put the onus on providers of AI legal solutions to ensure their product is unequivocal in stating that the product is not an attorney and is not presenting itself as an attorney, via language similar to paragraph (b)(a.) of Path 1 above – "Prominently and clearly disclose that the service provided by the technology is not conducted by an attorney."

Conclusion

The access to justice crisis will not be solved by maintaining outdated restrictions on who can provide vital assistance to those most in need. As this paper has detailed, AI tools are already being integrated into the legal landscape — utilized by lawyers, courts, and, most critically, by consumers seeking to navigate the complexities of the United States legal system, often as their only recourse. This paper argues that modernizing UPL regulations is a critical first step, demonstrating that protecting the public and fostering innovation are not mutually exclusive goals, but rather convergent paths toward a more equitable legal system.

Each of the three approaches to regulatory reform set forth in this paper

1. **Revising UPL rules to permit vetted AI tools with appropriate safeguards,**
2. **Establishing regulatory sandboxes for controlled testing, and**
3. **Narrowing UPL definitions**

presents a unique set of benefits and challenges. The optimal path forward will inevitably depend on the specific context of each state, its regulatory capacity, its appetite for innovation, and its level of commitment to ensuring meaningful access to justice for all its residents. A thoughtful, inclusive, and informed debate among all stakeholders—including legal professionals, technology developers, consumer advocates, and policymakers—is essential to navigate this transformative moment in the legal profession.

The legal profession stands at a crossroads that will define its future relevance and public service mission. State bar associations and state supreme courts have the opportunity—and responsibility—to lead this transformation through informed, thoughtful regulatory reform. Their expertise in legal practice, professional ethics, and consumer protection makes them uniquely qualified to craft regulations that can effectively balance innovation with public protection. However, this window of opportunity will not remain open indefinitely. Failure to act raises the potential of the implementation of less nuanced frameworks that may not optimally serve the goals of access to justice, innovation, or consumer protection.

The crucial takeaway is that some form of proactive engagement with AI's role in legal services is imperative. Waiting for perfect solutions or allowing fear of the unknown to paralyze progress is not an option. Whether through explicit statutory revision, a controlled sandbox approach, or a principled narrowing of UPL's scope, action is needed now. The choice facing state bar associations and state supreme courts is not whether AI will transform legal services – that transformation is already underway. The choice is how they will choose to lead that transformation with the expertise and nuanced understanding they possess. Doing nothing is no choice at all and will perpetuate the access to justice crisis and cede the future of legal services to unregulated, and

potentially harmful, market forces. It is time to embrace change responsibly and reshape the legal landscape to truly serve the public good.