**KBA Comment on Order No. ADM2025-01403**

**In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation**

The Knoxville Bar Association appreciates the opportunity to comment on the Tennessee Supreme Court's Order No. ADM2025-01403 ("the Order") regarding potential regulatory reforms to increase access to quality legal representation. This Comment was drafted after extensive review, consideration, and advisory comments from two different KBA committees – the Access to Justice Committee and the Professionalism Committee – and was, thereafter, approved by the Executive Committee and the Board of Governors unanimously.

As an initial comment, the KBA understands and appreciates that many Tennesseans are unable to afford or access legal services. Although Knoxville would not be considered a "legal desert," the KBA has many committees, programs, and volunteers who support and provide affordable legal services in and around Knox County to address this justice gap. Despite these efforts, unaffordability and lack of access remain.

Understanding the access gap, the KBA commends the Supreme Court on seeking comments from lawyers and other stakeholders on this critical issue. Although lack of access and affordability are known problems, the KBA is concerned there is a lack of evidence that the regulatory reforms under consideration in the Court's Order will address these known problems effectively.

In this Comment, the KBA identifies some general concerns that apply across the areas of potential reform listed in the Order; summarizes considerations and concerns regarding the listed items; and notes other potential reforms that may warrant the Court's consideration in determining how to best achieve the Order's objectives of providing affordable, competent, quality legal representation to all Tennesseans.

## I. Any Specific Reforms Should be the Subject of Specific Review and Comment

The KBA does not understand the Order to be inviting comment on any specific reform; rather, it is inviting comment on seven different areas of potential reform. It is the KBA's position that before any specific reform is adopted, it should be the subject of specific review and comment, especially given the important consequences to the legal profession that any considered reforms likely would have.

## II. General Concerns About Regulatory Reform– Quality Considerations

Although each regulatory reform mentioned in the Order is addressed specifically herein, as a broad consideration, the KBA understands the Order strives to address two distinct issues: the lack of low-cost legal services and access to legal services in rural areas. The KBA questions whether any of the proposed reforms will both increase the number of legal professionals in an area *and* provide affordable representation, while at the same time ensuring that the legal representation provided is of the quality that all Tennesseans deserve. The title of the Order

specifically mentions access not merely to legal representation but to "quality" representation. This title designation is sound and should be the North Star when reviewing each of the regulatory reforms. Access to legal professionals who are not properly trained, educated, vetted, and regulated has the potential to do more harm than good.

Additionally, the Order notes that one particular area of concern is a shortage of lawyers in rural areas. Having reviewed various access to justice initiatives implemented throughout the United States, it is unclear whether any of the proposed reforms would address that particular supply gap. For example, it seems unlikely that permitting non-lawyer ownership of law firms would increase the supply of attorneys in rural areas.

Any framework for expanding access to justice must be rigorously tested to ensure that the goals articulated in the Order stay in the forefront and enable more Tennesseans to access quality legal services. Thus, in reviewing each of the proposals, the KBA generally asked four questions:

1. How does this reform effectuate the goal of bringing affordable, quality legal services to legal deserts?
2. Once the legal professionals are in legal deserts, what happens next?
3. What measures are in place to ensure all Tennesseans have access to quality legal representation?
4. Does the proposed reform likely have more unintended consequences than actual good?

It is not enough to merely get legal professionals to legal deserts. Any regulatory reform must adhere to the guiding principle that the quality of legal services and professional ethics and standards of the profession should not be compromised.

Any modifications to the current framework for regulating the legal profession should not conflict with or undermine the current Tennessee Rules of Professional Conduct ("T.R.P.C."). The T.R.P.C. require lawyers to be competent, diligent, loyal, and honest, maintaining client confidentiality while being candid with courts and avoiding conflicts. The standards established in the T.R.P.C. must be maintained when considering any modifications to the regulation of the legal profession (including paraprofessionals) in Tennessee.

The T.R.P.C. Preamble provides, in material part, as follows,

> A lawyer is an expert in law pursuing a learned art in service to clients and in the spirit of public service and engaging in these pursuits as part of a common calling to promote justice and public good. Essential characteristics of the lawyer are knowledge of the law, skill in applying the applicable law to the factual context, thoroughness of preparation, practical and prudential wisdom, ethical conduct and integrity, and dedication to justice and the public good.[1]

In other words, before anything else can occur, an individual providing any type of "legal service" must have "knowledge of the law" and the skill to apply the law to the existing facts. These Rules are intended to protect Tennesseans, promote confidence in the legal system, and strengthen the

[1] Tenn. Sup. Ct. R. 8, Preamble and Scope: *A Lawyer's Responsibilities*, 1.

Rule of Law. Any regulatory reform the Court considers should have mechanisms to ensure the individuals providing legal advice and representation are knowledgeable of the law, skilled in application of the law, and held to rigorous ethical standards. Anything less is a disservice to citizenry, the judiciary, and the bar of Tennessee.

Also relevant are the competency concepts reflected in Paragraph 5 of the Preamble of the T.R.P.C. as well as the need for uniformity found in Paragraph 11.[2] Any consideration of expanding access to legal services must be done within the context of the requirements of Chapters 5 and 7 of the T.R.P.C.[3] If reforms in the listed areas are adopted without careful consideration of the long-standing rules of the legal profession, the profession will start down a slippery slope with no discernible end.

For example, a potential risk to be considered is creating a system where those with less resources may believe they are receiving quality legal advice, when, in fact, they are not. The law is complicated, and those who advise and counsel people about the legal issues they encounter must be fully qualified to do so. The consequences are too dire to permit anything less. Quality legal representation requires rigorous education, successful passage of licensure requirements, appropriate oversight, and a full and complete understanding of the obligations of lawyers to clients and the courts. To the extent the qualifications or requirements are made less rigorous, the risk of poor advice rises. The T.R.P.C., the bar admission standards, and law school accreditation requirements were established to ensure these risks were mitigated.

The Order cites reforms in other states including the limited licensing of paraprofessionals, allowing non-lawyer ownership of law firms, and providing alternative pathways to licensure as avenues to increase access to justice. However, the KBA is unaware of evidence that these measures improved access to justice in those jurisdictions by increasing low-cost legal services or addressing legal deserts.

The eight-year operation and ultimate sunsetting of the Washington State Limited Legal License Technician (LLLT) Program[4] is illustrative of this concern. In looking briefly at the decision of the Washington Supreme Court regarding the closure of the program after eight years,

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[2] Paragraph 5 of the Preamble and Scope: *A Lawyer's Responsibilities* states, "In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law." Tenn. Sup. Ct. R. 8, Preamble and Scope: *A Lawyer's Responsibilities*, 5. Paragraph 11 reminds us that, "The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts." Tenn. Sup. Ct. R. 8, Preamble and Scope: *A Lawyer's Responsibilities*, 11.

[3] *See* Tenn. Sup. Ct. R. 8, Chapter 5, *Law Firms, Legal Departments, and Legal Service Organizations*, Chapter 7, *Communications Concerning a Lawyer's Services*.

[4] *Decision to Sunset LLLT Program*, Wash. State Bar Ass'n (updated Mar. 31, 2023), https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians/decision-to-sunset-llt-program.

both the majority decision and dissent provide insight and guidance regarding regulatory reform considerations. Writing for the majority that decided to sunset the program, Washington State Supreme Court Chief Justice Debra L. Stephens explained that the majority ultimately found the program ineffective:

> The LLLT program was created in 2012 as an effort to respond to unmet legal needs of Washington residents who could not afford to hire a lawyer. Through this program, licensed legal technicians were able to provide narrow legal services to clients in certain family law matters. The program was an innovative attempt to increase access to legal services. However, after careful consideration of the overall costs of sustaining the program and the small number of interested individuals, a majority of the court determined that the LLLT program is not an effective way to meet these needs and voted to sunset the program.[5]

This decision was not unanimous. Washington State Justice Barbara A. Madsen disagreed with the ending of the program and wrote in a letter explaining her dissent as follows:

> The elimination of the LLLT license, which was created to address access to justice across income and race, is a step backward in this critical work. It is not the time for closing the doors to justice but, instead, for opening them wider.[6]

This example from the State of Washington also touches on an unmentioned but unavoidable consideration for each of the regulatory reforms referenced in the Order – funding. For many of the proposed reforms—and similar reforms not listed—significant funding would be needed. For any of these programs to have a realistic ability to promote access to justice, the Court and the bar would have to work together to present a comprehensive program to the Tennessee General Assembly that addresses the access to justice problem in this State. Certainly, significant progress can occur in making it attractive to provide legal services to those who are disadvantaged, whether it be in rural areas or elsewhere, but substantial funding likely would be necessary.

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[5] Supreme Court of Washington, *Letter from Debra L. Stephens, Chief Justice, to Stephen R. Crossland, Rajeev Majumdar & Terra Nevitt* (June 5, 2020) (on file with Wash. State Bar Ass'n), https://www.wsba.org/docs/default-source/licensing/lllt/1-2020-06-05-supreme-court-letter-to-steve-crossland-et-al.pdf?sfvrsn=8a0217f1_7.

[6] Barbara A. Madsen, *Dissent to Decision to Sunset the Limited License Legal Technician Program* (June 5, 2020) (on file with Wash. State Bar Ass'n), https://www.wsba.org/docs/default-source/licensing/lllt/2020-06-05-dissent.pdf?sfvrsn=980217f1_7.

## III. Specific Comments and Considerations on the Items Listed in the Order

**(1) Whether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar; and**

**(2) Whether there are any practicable alternatives to ABA accreditation that the Court should consider.**

The KBA expects that Tennessee's law schools will comment on these two particular regulatory reforms in great detail. However, the KBA's review of available law review articles and commentary on these topics causes the KBA to doubt that acting on these considerations would increase access to quality legal representation in any significant way.

There are several reasons to believe that eliminating any reference to ABA accreditation in Tennessee would be unlikely to reduce the costs of legal education or increase access to justice; in fact, such a requirement could increase the costs for law schools. Schools will potentially need to seek approval from multiple accreditors, in order to provide students the ability to sit for the bar exam in multiple states thus increasing accreditation fees and compliance costs. Unscrupulous, for-profit educational organizations could also seek to take advantage of any loosening restrictions, thereby creating the potential of harm to prospective students as well.

The supreme courts in both Texas and Florida recently have chosen to eliminate the language in their relevant rules requiring ABA accreditation of law schools. (Prior to these changes, neither state had a provision in place like that in Tennessee that allows for the operation of a non-ABA-accredited law school.) Neither court has linked these amendments to the goal of increasing access to justice. Instead, as the Florida Supreme Court stated, the goal "is to promote access to high-quality, affordable legal education in law schools *that are committed to the free exchange of ideas and to the principle of nondiscrimination.*"[7]

To the extent there is a connection between ABA accreditation and access to justice, presumably it is the perception that the requirements imposed by the ABA for accreditation increase the cost of legal education, which necessarily makes it more difficult for recent graduates to be able to provide legal representation at a reduced cost. There is no evidence, however, that reducing the cost of law school would drive graduates to legal deserts or to provide services at a reduced cost.[8]

ABA accreditation is highly valuable to law schools because, as the CLEAR Report notes, the overwhelming majority of states require bar applicants to have graduated from an ABA-

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[7] In re: Amendments to Rules Regulating the Florida Bar and Rules of the Supreme Court Relating to Admissions to the Bar, No. SC2025-2064, (Fla. Jan. 15, 2026) *available at* https://flcourts-media.flcourts.gov/content/download/2483731/opinion/Opinion_SC2025-2064.pdf?utm_source=substack&utm_medium=email (emphasis added).

[8] Eliminating the Professional Privilege Tax has a greater likelihood of directly reducing the costs that encumber attorneys in their practice of law.

accredited law school and to have passed a bar exam.[9] Law schools are reluctant to offer a program of legal education that would not enable graduates to sit for the bar exam or transfer their scores to another jurisdiction. Considering this reality, it is highly unlikely that any of the existing ABA-accredited law schools in the state would forego ABA accreditation. Further, if law schools were to forego ABA accreditation, there is concern that qualified applicants would not apply for admission to Tennessee law schools. Given the costs involved in establishing and operating a law school – regardless of whether it is ABA-accredited or not – it seems unlikely that a rule change to modify, reduce, or eliminate reliance on ABA accreditation would result in new law schools opening near a Tennessee legal desert.

As an example, the Appalachian School of Law is an ABA-accredited law school located in Grundy, Virginia, a county designated as a legal desert. The school was established, in part, with the goal of training lawyers who would remain in the area upon graduation. However, the school has struggled since its inception to attract enough students to operate, and it recently announced its desire to merge with Roanoke College (located in an area that is not a legal desert) to keep the doors open.

As noted in the Order, "Tennessee law schools that are not accredited by the ABA may obtain approval from the Board to allow their graduates to apply for admission to the Tennessee Bar."[10] Currently, "Graduates of unaccredited law schools outside of Tennessee may be considered for admission to the Bar on a case-by-case basis."[11] Exceptions have been carved out, but these exceptions exist in a system where most of the law schools in Tennessee have sought and achieved ABA accreditation. ABA accreditation of law schools sets a minimum educational requirement for Tennessee Bar applicants. The ABA standards guarantee a minimum quality of legal education and protect the public from poorly trained lawyers, which is fundamental for effective justice. Without the ABA accreditation process ensuring that qualified, competent, ethical lawyers are practicing in Tennessee, the burden would fall on the TBLE or other accreditation agency, both of which come at a price that is unlikely to reduce law school costs.

ABA accreditation is administered by the Council of the ABA Section of Legal Education and Admissions to the Bar. ABA accreditation allows graduates from any approved U.S. law school to take the bar exam in most states, increasing the pool of lawyers available nationwide and expanding options for students. In 2024, overall bar exam passage rate for graduates of ABA-accredited law schools was 67 percent, three times the rate of those from non-Council-accredited law schools.[12] In Tennessee, the overall bar exam passage rate for graduates of ABA-accredited

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[9] Committee on Legal Education and Admissions Reform (CLEAR), Report and Recommendations, July 27, 2025, *available at* https://www.ncsc.org/sites/default/files/media/document/CLEAR_Report.pdf.

[10] Order Soliciting Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Tenn. Sept. 16, 2025), at p.1. Last Accessed January 31, 2026, https://www.tncourts.gov/sites/default/files/ProposedRulesPdf/ORDER%20SOLICITING%20PUBLIC%20COMMENTS%20ON%20POTENTIAL%20REGULATORY%20REFORMS%20TO%20INCREASE%20ACCESS%20TO%20QUALITY%20LEGAL%20REPRESENTATION.pdf ).

[11] *Id.* at p. 2.

[12] Daniel Thies, *ABA Accreditation Protects Law Students, Leave Politics Aside* (Bloomberg Law, December 18, 2025).

law schools was 68 percent, with the passage rate of 41 percent for graduates from non-Council-accredited law schools.[13] Having to wait months or years to retake the Bar examination has a tremendous toll on lawyers, their finances, and their future success. Setting law students up for failure is not a viable solution to address access to justice concerns.

Accreditation also provides transparent data such as bar passage and employment rates, helping students choose law schools. The Council, which is independent of the ABA, works to ensure transparency to protect prospective law students. By gathering and publicizing information on topics such as admissions requirements, bar passage rates, and law graduate employment, the Council empowers students to make informed choices about their education and careers. Students and organizations across the country have come to rely on the Council as the trusted clearinghouse for this information.[14]

However, it has been argued more recently that ABA accreditation increases costs, making legal education unaffordable for many, thus limiting the number of individuals who can enter the field and provide services. But any move away from a single national accreditor could jeopardize the current cost of a law school education and, in fact, increase it. Schools will need to seek approval from multiple accreditors, leading to increased costs for accreditation fees and compliance.[15] Being subject to additional accreditors or accreditation likely will increase costs for supervision and approval.

Given all the potential negative consequences that a sweeping change in accreditation requirements could cause, plus any additional administrative and financial burden placed on the Tennessee Board of Law Examiners, the KBA opposes the implementation of this proposed regulatory reform without full consideration and discussion of the potential negative consequences and objective evidence that any such proposed reform would effectuate quality, affordable legal representation in legal deserts.

**(3) Whether there are less costly alternatives to the traditional three-year law school curriculum that would adequately prepare individuals for the practice of law.**

The third item in the Court's order is also related to the ABA accreditation issue. Eliminating the requirement of ABA accreditation might theoretically encourage law schools to experiment with a program of education that is less than three years in length, thereby saving students money. The alternatives to the traditional three-year juris doctorate program can be generally grouped into four alternatives: accelerated juris doctorates, three-plus-three programs, apprenticeship/reading programs, and hybrid and experiential models. These programs are promoted as less costly than a traditional three-year law school; however, bar passage for some alternate programs is lower, meaning individuals may have made a significant investment of time and financial resources but remain unable to practice law.

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[13] Nat'l Conf. of Bar Examiners, *The Bar Examiner*, Spring 2025.

[14] Thies, *ABA Accreditation Protects Law Students, Leave Politics Aside.*

[15] *Id.*

**83-Credit Hours:** The ABA currently mandates that schools require at least 83 credit hours for a student to graduate. Most ABA-accredited law schools, however, voluntarily require more than this, with many requiring somewhere around 90 credits. So, once again, it is difficult to imagine any ABA-accredited law schools in the state significantly reducing the number of credit hours required for graduation.

The Court has already demonstrated a willingness to approve a course of study of less than three years. The Nashville School of Law's curriculum requires only 57 credit hours to graduate, which is the equivalent of two years of full-time legal study. (This requirement is less than the requirements imposed by other state courts that currently approve non-ABA-accredited law schools.).[16] It is worth noting, however, that bar passage rates are, statistically, significantly lower for those law schools requiring fewer credit hours.[17] Nonetheless, the Court's current rules already consider the possibility of an alternative to a three-year course of study.

**Reading the Law:** Another alternative to a traditional three-year law school program would be to permit students to "read the law" under the supervision of a licensed attorney before taking the bar exam, rather than formally attending law school. Several states (California, Vermont, Virginia, and Washington) currently offer legal apprenticeship programs as an alternative to law school. These programs have stringent requirements for supervision hours, reporting, and supervising attorney experience. However, the experience of states that permit this pathway to licensure weighs against such an approach. Most notably, the bar exam passage rate for such applicants in states where this pathway exists historically has been significantly lower than it has for other applicants.[18] The bar exam pass rate of an apprentice is about one-third of that of a student who attends an ABA approved law school, according to a study by Priceconomics.[19] With a passing rate of approximately 27 percent for apprentices, students may be missing topics that a traditional law school covers and are most likely not being exposed to the many topics covered by the bar exam.

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[16] In Alabama, a graduate of one of the non-ABA-accredited law schools in the state must have completed the equivalent of three years of study. *See* Rules Governing Admission to the Alabama State Bar, Rule IVB(2)(b). The Massachusetts School of Law, a non-ABA-accredited law school, requires 90 credit hours to graduate. The California Supreme Court requires four years of study for students graduating from a non-ABA-accredited law school. https://www.calbar.ca.gov/Admissions/Requirements/Education. It is worth noting that the bar passage rate for most of these schools is below the state average. For example, the bar passage rate for the Birmingham School of Law in Alabama was 31.71% for the July 2024 bar exam. https://admissions.alabar.org/july-2024-combined-stats.

[17] *See* the authorities cited in footnotes 12, 13, and 16.

[18] Megan Hill, *Apprenticeship Alternatives to Law School - Government Practice News*, Indianapolis Bar Assoc., https://www.indybar.org/?pg=GovernmentPracticeNews&blAction=showEntry&blogEntry=79791 (last visited Apr. 25. 2026).

[19] Zachary Crockett, "How to Be a Lawyer Without Going to Law School, https://priceonomics.com/how-to-be-a-lawyer-without-going-to-law-school/.

**Three-Plus-Three Programs:** Accelerated juris doctorate programs are designed to compress coursework, thereby saving on time and tuition. If students gain the skills necessary to pass the bar and are prepared for practice, a shortened program can reduce financial burden.

The three-plus-three programs allow students to combine their final year of undergraduate with the first year of law school, shortening the total time and saving on undergraduate costs. These programs are widely used across the country and currently exist in Tennessee. Lincoln Memorial University, for example, in collaboration with Austin Peay, enables students to earn their bachelor's degree and juris doctorate in six years.[20] This reduces the total cost of education by combining undergraduate and first-year law school credits. Although three-plus-three programs may result in overall cost savings, for this program to be cost effective, individuals must be certain they want to be a lawyer as an undergraduate student, attend a school with a three-plus-three program, and be able to keep up with an accelerated program. Once again, even with a year of education-related savings, the KBA could find no statistical evidence that reduction in educational expenses results in more services or reduced legal fees in legal deserts or a greater presence of practitioners providing services within those communities. Several of these accelerated programs have been in place for a number of years. The KBA encourages the Court to scrutinize the impact of these accelerated programs prior to enacting any changes to existing requirements.

**Hybrid Model:** New York and Maine are examples of the hybrid models. New York allows aspiring lawyers to become licensed attorneys by combining some law school education with a four-year legal apprenticeship under a supervising attorney. The individual also must take the bar exam. Maine requires individuals to complete two-thirds of the coursework for a juris doctor degree from an ABA-accredited law school and study law under the supervision of a Maine attorney in their office for a minimum of one year. The individual must take the Maine Bar Exam.

It is not clear that the alternative models will increase access to justice. Practically speaking, the prospect of lower pay is the primary reason attorneys do not practice in rural areas or in public law. Avoiding the cost of one year of law school may reduce the debt burden upon graduation, but it does not guarantee financial means, or instill desire, to practice in a rural area or in public law. There simply is no indication that the professional isolation of a rural practice and the general lack of resources when practicing in public law will be so significantly mitigated by a reduction in the cost of legal education that professionals would gravitate to legal deserts.

**(4) Whether the Court should consider adopting alternative pathways for admission to the Tennessee Bar – for example, by allowing applicants to satisfy the minimum educational requirements and/or examination requirement in part by completing an apprenticeship or serving with a legal aid organization.**

Alternative pathways have been adopted by other states. These pathways often allow graduates to bypass the traditional bar exam by completing post-graduation work, supervised by a

[20] This program is called the Law Early Admissions Programs (LEAP). A similar accelerated 3+3 program exists between UT Martin and the UT Winston College of Law for qualifying students. https://winston.utk.edu/admissions/degree-programs/3plus3/.

qualifying employer, focusing on practical skills through documented work. The KBA is not recommending that the Court adopt substitutes for the minimum education requirement or the examination requirement but believes that it should bring to the Court's attention the alternative pathways that have been adopted by other states.

The South Dakota Supreme Court adopted a program that admits a limited number of law school applicants after their second year of law school. Rather than taking the bar examination upon graduation, admitted students must satisfy several requirements to be licensed, including the following:

- Complete a minimum of 500 hours of work experience as a legal extern with a host public service entity approved by the dean of the law school;
- Provide a portfolio of work demonstrating minimum competence to the satisfaction of the board of law examiners;
- Achieve a score of 85 or higher on the Multistate Professional Responsibility Exam; and
- Commit to providing at least two years of public service upon graduation at an approved law office (such as a public defender's office).

Upon completion of two years of public service, participants are fully licensed to practice law in South Dakota.[21]

A possible benefit of South Dakota's model is that it identifies students who are interested in providing legal services to those of limited means and facilitates their ability to do so for two years. South Dakota's pathway attempts to ensure participants' competence by requiring approximately twelve law school credit hours of study in a practical setting while in law school. The requirement that a candidate submit a portfolio of work upon completion also helps ensure that candidates possess the requisite measure of competence expected of lawyers. It is not clear, however, who oversees the work and who determines the quality of the portfolio. Also, it is unclear how a dispute would be resolved upon a finding that the portfolio is not of sufficient quality, or what the required next steps for the applicant would be. In some circumstances, it is feasible to envision a candidate spending a longer period of time in apprenticeship than in a traditional legal education.

The South Dakota program was adopted only one year ago. Thus, it likely is too soon to determine whether it is effective in providing quality legal services to underserved populations. The KBA suggests that the Court scrutinize the results of this program after additional passage of time prior to enacting any changes based upon such a model.

Arizona has adopted the Lawyer Apprentice Program (ALAP). Under the program, bar applicants with a UBE score between 260-269[22] are permitted to practice law under the supervision

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[21] Press Release, *Supreme Court Adopts Public Service Pathway to Bar Admission Pilot Program Rules*, South Dakota Supreme Court (Feb. 21, 2025) *available at* https://ujs.sd.gov/ujs-news/supreme-court-adopts-public-service-pathway-to-bar-admission-pilot-program-rules/.

[22] In Arizona, the Uniform Bar Examination (UBE) passing score is 270.

of a qualified Arizona attorney. Candidates who participate in the program must commit to working for at least two years in rural areas or within public law firms. Upon successful completion of this two-year period, ALAP practitioners are fully admitted to practice law in Arizona without having to retake the bar exam.[23] Although the "Next Gen" bar exam will change the scoring metrics, this program appears to offer law students who barely missed the pass threshold a lifeline to the practice of law while also directly effectuating a goal of legal representation in legal deserts.

West Virginia is using Rule 9 of the state's Rules for Admission to the Practice of Law to expand access to justice. Generally, Rule 9 grants limited permission to practice law in West Virginia to individuals licensed in another U.S. jurisdiction who are employed by Legal Aid of West Virginia, the Public Defender's Office, or Mountain State Justice. This rule encourages attorneys to offer legal representation to indigent individuals while also providing an alternative licensure pathway for applicants. Rule 9 also provides another way to increase access to justice.

In West Virginia, aspiring lawyers must achieve a score of 270 or higher to be eligible to practice law, even though, depending on the jurisdiction, a minimum score of 260 is required to pass the UBE and be admitted to practice. If an individual takes the West Virginia bar exam but falls short of the required score for West Virginia, they can seek admission in another jurisdiction where their score meets the requirements for admission in that state. Once the individual is admitted there, they can then apply for admission to practice law in West Virginia under Rule 9 if they have received an offer of employment from one of the approved Rule 9 agencies. After five years of maintaining good standing, these attorneys are eligible to apply for admission under reciprocity, thus attaining full legal licensure in West Virginia. Upon full admission, the specific oversight related to Rule 9 concludes.[24] Again, although the "Next Gen" bar exam will change the scoring metrics, this program appears to offer law students who barely missed the pass threshold a lifeline to the practice of law while also directly effectuating a goal of legal representation in legal deserts.

The programs implemented in South Dakota, Arizona, and West Virginia appear to be designed to directly incentivize professionals to provide services in legal deserts while maintaining the level of competency required for legal practitioners. As stated above, the KBA believes these newer programs merit monitoring, particularly as the "Next Gen" bar exam becomes the new standard. Further, as with all potential reforms, the KBA continues to note that questions of funding remain unanswered. For instance, if the West Viginia model were implemented in Tennessee, additional funding for Legal Aid or the Public Defender's office would be required at each agency in order to fully take advantage of placements of provisional attorneys. Absent additional funding for these positions, removal of regulatory barriers seems meaningless.

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[23] Hon. Ann A. Scott Timmer & Nicole Seder Cantelme et al., *Addressing the Access-to-Justice Gap: A Persistent Challenge That Calls for Multiple Approaches*, The Bar Examiner, (Vol. 93, No. 3 2024) *available at* https://thebarexaminer.ncbex.org/article/fall-2024/addressing-the-access-to-justice-gap/ (last visited Jan. 31, 2026).

[24] *Id.*

**(5) Whether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility.**

Currently, the Court's rules are quite permissive in terms of permitting lawyers licensed in other states to move for admission in Tennessee without being required to sit for the bar exam. Indeed, the Court's rules already provide a potential pathway to admission for lawyers who graduated from non-ABA accredited law schools.[25] Tennessee Supreme Court Rule 7, § 5.01 permits a lawyer who has been engaged in the practice of law in another jurisdiction for five of the seven preceding years to apply for admission in Tennessee even if the lawyer did not graduate from an ABA-accredited law school, provided the lawyer's course of study was the substantial equivalent of the legal education provided by approved law schools located in Tennessee.

That said, it may be worth considering whether the rules could be modified in such a way to specifically address the needs of legal deserts identified in the Order. For example, Arizona and South Dakota have created alternative pathways for admission for recent law school graduates that permit some graduates to be admitted on a conditional basis (without having passed the bar exam) if they agree to provide two (or five) years of public service in a rural area. In a similar vein, the Court might consider shortening the practice requirement for admission by motion to something less than five years if the out-of-state attorney agrees to practice in a rural area, legal aid office, or similar setting on a conditional basis for two or three years. However, as previously noted, absent additional funding, there will likely not be positions for these candidates at legal aid or similar offices.

Given the objective of increasing access to quality legal representation, particularly in rural and other underserved areas, perhaps there could be ways to tie mobility reforms to practice in rural or other economically distressed areas. Other jurisdictions have granted conditional bar licenses subject to certain conditions or requirements that include commitment to practice in an underserved area for a certain amount of time. A mobility reform, such as decreasing the amount of time a lawyer must practice in another jurisdiction before being admitted here, could lead to a conditional license that is conditioned on practice in a rural area or underserved population.

**(6) Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals and, if so, what qualifications, limitations, or subject matter restrictions the Court should consider imposing.**

Overall, the KBA has serious concerns with permitting non-lawyer paraprofessionals to provide legal services traditionally limited to licensed attorneys. The concerns raised include slippery slope analyses and the belief that a client's overall legal situation cannot be addressed adequately by a paraprofessional, especially a paraprofessional with training in only one area of the law. Notwithstanding, the KBA recognizes that reforms in this area likely would serve people

[25] The only conditions imposed in such a case are that the applicant has passed a bar exam equivalent to that offered in Tennessee and attended a law school that (1) is based on in-person attendance, (2) is approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where the law school exists, and (3) requires the equivalent of a three-year course of study that is the substantial equivalent of the legal education provided by approved law schools located in Tennessee. Tenn. Sup. Ct. R. 7, § 2.02(d).

who would not otherwise hire or receive advice from a lawyer in any event. For these reasons, the KBA addresses other, similar programs currently in use in other states.

**Court Navigators:** One option that some states have established is a system of court navigators to assist participants in the legal process who lack legal representation. A navigator program, a volunteer program, or other publicly funded program may provide affordable, or even free, legal and quasi-legal services. According to the National Center for State Courts (NCSC), over half of U.S. jurisdictions have court navigator programs. The NCSC describes such programs as follows:

> Court navigator programs use nonlawyer staff and volunteers from communities outside the court to provide person-to-person assistance to court users navigating the justice system without legal representation. Court navigators are typically volunteers who work with a court-supported program under the supervision of court staff. While many court navigator programs are operated by a community partner, some court systems operate their own navigator program.[26]

How court navigators are used is important. Court navigators are generally prohibited from providing legal advice to individuals, but they can provide some basic forms of information and assistance in navigating the legal system. As an example, New York's Court Navigator Program was created in 2014 to aid with unrepresented parties in landlord-tenant and consumer debt proceedings. According to the program's website, specially trained and supervised non-lawyers "provide general information, written materials, and one-on-one assistance to eligible unrepresented litigants." This support includes helping litigants access and complete court forms, assisting them with keeping paperwork in order, accessing interpreters and other services, and explaining what to expect and what the roles of each person are in the courtroom. While not a substitute for a lawyer, having court navigator programs in every county could make the legal system more accessible and less daunting for pro se participants.

Court navigator programs vary in terms of scope and staffing models. Currently, the National Center for State Courts is offering online information sessions for those interested in developing such programs. Certainly, these programs would require funding and oversight, but they may lessen the burden of pro se litigants on the judiciary, which likely will increase as reliance on A.I. technology increases. Further, because court navigators would likely be volunteers or compensated as part of public programs, the costs of these programs may not increase overall legal costs to litigants or the judicial system.

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[26] National Center for State Courts, *Leveraging Navigator Programs to Assist Court Users*, Aug. 28, 2025, https://www.ncsc.org/resources-courts/leveraging-navigator-programs-assist-court-users (last visited Apr. 25, 2026).

**Licensed Paraprofessionals:** In 2021, Arizona adopted a program of licensed Legal Paraprofessionals who could provide legal services in certain practice areas. A survey by Arizona's AOC in 2024 found that clients generally were satisfied with the services they received from "LPs."[27]

Alaska permits "Community Justice Workers" to provide services in five legal areas: SNAP benefits, wills, Indian Child Welfare Act (ICWA) cases, intimate partner violence, and consumer debt. The program is "hosted by" the Alaska Legal Services Corporation.[28]

The early results of these two state programs suggest that some legal services currently provided by lawyers could be competently provided by limited-license, legal paraprofessionals. Any such reform, however, would need to ensure that paraprofessionals possess adequate credentials and qualifications, and it would need to be subject-matter limited and subject to oversight. In addition, paraprofessionals must be subject to similar ethical standards as attorneys.

Any expansion in this area certainly would require additional administrative oversight and corresponding funding commitment to ensure that the paraprofessionals were properly licensed, trained, educated, receiving continuing education, and held to identified, codified, ethical standards. These standards should provide clear guidance and guidelines both to the licensed paraprofessionals and to their supervising attorneys (in the same vein as advanced practice nurses and supervising physicians).

Should the Court be inclined to study this avenue more fully, the KBA suggests the following minimum qualifications, limitations, and regulation for consideration in connection with any expansion of the services a paraprofessional may provide. These standards are necessary to ensure the public receives quality legal advice and representation.

- **Qualifications.** Legal paraprofessionals should have completed an associate degree or bachelor's degree program focused on paralegal studies or a related field. They should also have a certification from the National Association of Legal Assistants (NALA) or National Federation of Paralegal Associations (NFPA). These requirements will result in some cost to the paraprofessional, which may present a barrier to attracting such professionals.

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[27] Ariz. Admin. Office of the Cts., *Assessing Arizona's Legal Paraprofessionals: 2024 Program Survey*, https://www.azcourts.gov/Portals/0/26/Assessing%20Arizonas%20Legal%20Paraprofessionals_2024%20Survey%20--%20Appendices.pdf.

[28] Matthew Burnett, Rebecca L. Sandefur, & James Teufel, *Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)*, American Bar Foundation Access to Justice Research Initiative (2025), https://www.americanbarfoundation.org/wp-content/uploads/2025/11/ABF-Alaska-Community-Justice-Brief-FIN.pdf. As Mr. Burnett noted in the recent University of Tennessee Access to Justice symposium, the Alaska model also recognized key issues that needed to be addressed before initiating this program including infrastructure concerns, availability of internet and other technologies, and funding.

- **Limitations on scope.** A limited scope of practice should be defined for limited license legal paraprofessionals. Areas to consider include eviction proceedings, debt collection, garnishment, family law, and some government benefits. Some areas of practice, such as criminal law or taxation, would not be appropriate. For example, a paraprofessional may be beneficial in the drafting of domestic violence orders of protection (OOP) and safety planning. However, paraprofessionals should not be able to litigate or appear on behalf of clients in OOP court proceedings because such cases are high conflict and are often complicated, involving other areas of law, such as custody, child support, firearms, and criminal matters.

- **Supervision.** Paraprofessionals should work under the supervision of a licensed attorney. Ideally, the limited licensed legal paraprofessionals will be associated with a public law organization.

- **Malpractice insurance.** Limited license legal paraprofessionals must carry their own malpractice/errors and omissions insurance, a requirement separate from their supervising attorney's coverage to protect clients from any professional errors. This is necessary because traditional paralegals work under direct attorney supervision, and their mistakes fall under the supervising lawyer's malpractice insurance, as the lawyer remains ultimately responsible.

- **Ethical obligations.** Limited license legal paraprofessionals must follow ethical rules mirroring those for lawyers established by the Court and bar association. An ethical framework is necessary to protect the public.

- **Education.** Limited license legal paraprofessionals must complete initial and ongoing education to maintain their licenses. Ongoing education is necessary to ensure the paraprofessional stays competent and ethical.

- **Accountability through the BPR or similar administrative agency.** Paraprofessionals would need to have their own rules, regulations, continuing education requirements, and governing body to review complaints and impose discipline.

In sum, it is not the KBA's recommendation that the Court expand the services paraprofessionals are eligible to provide to clients in Tennessee. Rather, this comment is designed to provide a minimum framework for safeguarding the public in the event the Court desires to more fully study this option.

**(7) Whether the Court should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers.**

The KBA firmly opposes this proposal. The KBA is concerned that allowing nonlawyer ownership and fee-sharing will compromise the professional independence of lawyers. Corporations answer to shareholders and have a duty to maximize profits. A non-lawyer owner of a law firm would be motivated and perhaps even duty bound to maximize profits and would not be subject to the Rules of Professional Conduct. Nonlawyer owners, unbound by a lawyer's ethical restraint, might pressure attorneys to prioritize profit over client welfare, compromising loyalty, competence, and confidentiality, which are central to the legal profession. Allowing non-lawyer ownership by entities that are not bound by the same ethical constraints as lawyers will only increase the public's mistrust of the legal system.

Additionally, it is unclear how non-lawyer ownership of law firms would drive legal services to legal deserts or otherwise increase access to justice as neither are an obvious profit center. Informed in part by what has happened in medicine, the KBA is also concerned that permitting corporate ownership, especially corporations from outside the state, would reduce the overall supply of attorneys and could undermine quality of legal services.

A key provision of T.R.P.C. 5.4 prohibits entities owned or controlled by nonlawyers from having ownership stakes in law firms. It also forbids lawyers from sharing fees with nonlawyers.[29] T.R.P.C. 5.1 provides that a partner in a law firm must make every reasonable effort to ensure that all the lawyers conform to the T.R.P.C.[30] Rule 5.4 has long served as an effective method of preventing ethical concerns about the professional independence of members of the bar.[31] Because nonlawyers are not bound by the T.R.P.C., which protect the integrity of the profession and help ensure ethical behavior by practitioners, there is currently a lack of oversight for nonlawyers and a resulting increased risk of nonlawyer misconduct. This, in turn, causes increased risk for clients with little recourse as nonlawyers currently are not subject to ethical complaints or legal malpractice claims.[32]

The comments to T.R.P.C. 5.4 expressly state that the purpose of T.R.P.C. 5.4 is to prevent nonlawyers from interfering with lawyers' independent professional judgment and to uphold the obligation of lawyers to maintain their independent professional judgment. The restrictions imposed by the Rule aim to address the concern that if nonlawyers, who are not bound by the T.R.P.C., have a financial interest in a lawyer's profits, they might prioritize profit over the duties the lawyer owes to clients and adversely influence a lawyer's representation.[33]

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[29] Tenn. Sup. Ct. R. 8, RPC 5.4.

[30] Tenn. Sup. Ct. R. 8, RPC 5.1.

[31] Tenn. Sup. Ct. R. 8, RPC 5.4; *see also* Stephen P. Younger, *The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms*, Yale L.J.F. , 260 (Oct. 19, 2022).

[32] Younger, Yale L.J.F. at 261-262.

[33] *Id.* at 260-261.

Advocates authorizing nonlawyer ownership claim the primary reason for such changes is to address access to justice concerns through increased access to legal services. In practice, however, most alternate business structures ("ABS") that have been approved across the country are run by individuals or businesses from outside the legal profession who are merely focused on expanding their businesses and profits by partnering with lawyers. They are not focused on tackling the access to justice divide. Examples of existing ABS entities include wealth-management firms, accounting firms, litigation-finance companies, hedge funds, private-equity firms, other financial institutions, and alternative legal-service providers that offer customers the ability to create legal documents without hiring a lawyer.[34]

The experiences of Arizona and Utah are instructive. In 2020, Arizona became the first state to abolish Rule 5.4 and allow nonlawyer ownership of legal-services entities. Arizona approved its first ABS in 2021, and as of August 2022, the state had licensed 25 such entities. Many of these ABS entities provide transactional, business, and financial services. For example, Elevate Next provides legal services in "general corporate matters," while Radix Law provides "business law" services. Trajan Estate LLC offers legal services for estate planning. Other ABS entities, such as Boss Advisors, provide investment, tax, and accounting services for high-net-worth individuals.[35]

Utah's May 2022 Sandbox Activity Report identified 41 active ABS entities. As in Arizona, many of the approved ABS entities provide legal-technology services such as creating legal forms online without the help of an attorney (for example, Rocket Lawyer and LawPal) or offer business services (for example, Firmly, LLC). Utah has also opened law-firm ownership to nonlawyers. The first entity to take advantage of this was Law on Call—the first U.S. law firm that is wholly owned by nonlawyers. Law on Call provides registered agent and corporate-filing services, including free legal forms and assistance with setting up LLCs, in all 50 states.[36] It is not apparent, therefore, that permitting the ownership of law firms by nonlawyers has improved access to justice in Arizona and Utah or addressed their legal deserts.

Before admission to the bar, lawyers must spend many hours completing courses in professional ethics intended to impress upon them the duty they owe clients in providing independent advice and avoiding conflicts of interest. Lawyers must pass rigorous admission exams and take an oath to uphold their ethical duties. Indeed, law-school graduates in nearly every U.S. jurisdiction cannot become members of the bar without passing the Multistate Professional Responsibility Exam—a two-hour exam focused exclusively on professional ethics in the practice of law. Lawyers face serious consequences for violating these rules, including suspension or disbarment, which reflect the significant harm to the public that occurs when lawyers violate their professional oaths. Although nonlawyers may, of course, have their own ethical codes, they do not face the same consequences for ethical violations (for example, they cannot be disbarred), making it difficult to ensure that nonlawyers will uphold the same ethical duties if they were allowed to be involved in providing legal services. More importantly, however, most lawyers hold sacrosanct

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[34] *Id.* at 262.

[35] *Id.* at 264.

[36] *Id.* at 265.

their ethical duties to their clients and the legal profession, and the KBA fears that reforming Rule 5.4 as suggested in the Order will weaken lawyers' ability to preserve those standards.[37]

In essence, the risk of harm is significant, and there is a lack of evidence that allowing nonlawyer investment will lower costs and create innovative, more affordable legal services, thereby helping underserved populations.[38] Further, it is unclear how legal ethics will be enforced when nonlawyers—and in some cases, not even live people – are providing legal advice.

For example, 1Law, an ABS in Utah's regulatory sandbox, describes itself as a "[l]law firm with nonlawyer investment offering services via chatbot, nonlawyer assistants, and lawyer employees across a range of consumer services." Even assuming that 1Law intends to use chatbots only to answer the simplest of legal questions 1Law cannot: (1) prevent consumers from asking a chatbot a complex legal question (and expecting a complex answer); (2) ensure that customers will understand that the chatbot is not operated by a lawyer; or (3) teach a chatbot to respond to the nuances embedded in a consumer's legal question, even one that is seemingly simple. Here, again, the KBA has concerns that consumers—particularly those least familiar with the legal system—will not be equipped to properly utilize this sort of software and will lack the information needed to adequately evaluate their legal needs such that the resulting legal documents may not be suited to the person's circumstances.[39] Thus, "access" has the strong possibility to do more harm than good.

Finally, permitting nonlawyer ownership of law firms signifies movement from the "profession" of law to the "business" of law. The practice of law has never been, and should not be, purely a business. Indeed, the Preamble to the T.R.P.C. recognizes that the practice of law is a profession and not a business or job.[40] To the extent law firms and other legal organizations are run by or are under the control of non-lawyers, the profession will continue to lose its professional identity and the quality of legal services will inevitably decline. For these reasons, the KBA wholly opposes this proposal.

## IV. Other Potential Reforms

The KBA understands the list of items contained in the Order to be non-exclusive. Thus, the KBA and its Committees have reviewed several reforms already in place or under consideration in other states that are intended to address the same concerns motivating the Order—increasing access to justice—that may be worthy of the Court's consideration.

**Incubator programs:** Legal incubators are post-graduate legal initiatives—sometimes run by law schools or bar associations—that support new attorneys in launching solo or small-firm practices that are focused on providing affordable legal services to low to moderate income clients.

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[37] *Id.* at 268.

[38] *Id.*

[39] *Id.* at 269.

[40] Tenn. Sup. Ct. R. 8, Preamble and Scope: *A Lawyer's Responsibilities*, 2.

They ensure that the new attorneys receive training and mentoring, as well as access to technology and other resources for ethically operating their firms.

**Tax breaks or reimbursement to firms for providing legal services in legal deserts:** This option reduces or removes one barrier to bringing legal services to a legal desert – the financial cost of setting up and operating a legal practice in a location that has not historically had such services. These incentives would permit an attorney to obtain mentorship and a steady, initial income, having to absorb all of the start-up costs of a firm.

For example, the Indiana Supreme Court created a commission to explore possible ways of increasing access to justice in the state. One of the commission's recommendations being implemented by the Office of Judicial Administration is to establish a program that provides student loan repayment assistance for lawyers in public service careers. Another recommendation is to develop a library of short videos that could explain frequent court procedures and requirements to unrepresented litigants to help them better navigate the legal process. The court's order identifies other possible reforms involving the use of technology to help address the access to justice gap.[41] The commission also recommended the establishment of a statewide legal incubator program to teach new lawyers the skills necessary to be small business owners, create a peer support network, and partner law students and new lawyers with mentor attorneys.[42] There are other items included in the commission's report and court order that may also be worth considering.

Several state courts, including Tennessee, and bar associations have developed innovative approaches to encourage attorneys to practice in legal deserts. Some of these programs are listed below.

- **Tennessee Bar Association's Young Lawyers Division (TBA YLD)** has a Rural Judicial Fellowship (RJF). The RJF places rising second and third year Tennessee law students with rural trial judges for a summer judicial internship, pairing experiential learning with a unique opportunity to explore careers in Tennessee's rural legal communities. This program is in its second year.[43]

- **Illinois.** The Illinois State Bar Association's (ISBA) Rural Practice Fellowship Program is designed to connect rural and small-town law firms looking for law clerks and associates with law students and attorneys interested in practicing law in rural communities. The Rural Practice Associate Fellows program aims to place graduating law students and attorneys as permanent associates with rural practitioners. The program includes a $5,000 stipend at the

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[41] Order on Final Recommendations Made by the Commission on Indiana's Legal Future, Cause No. 25S-MS-288 (Ind. Nov. 5, 2025), *available at* https://www.in.gov/courts/files/order-other-2025-25S-MS-288.pdf.

[42] Commission on Indiana's Legal Future, Final Report, July 1, 2025, https://www.in.gov/courts/admin/files/legal-future-final-report.pdf.

[43] Zachary Walden & Alexandra Rogers, *Justice on the Backroads: The TBA YLD's Answer to the Rural Attorney Shortage*, Tenn. B. J. Vol. 61, No. 5 (Sept./Oct. 2025), *available at* https://www.tba.org/?pg=Articles&blAction=showEntry&blogEntry=130671.

beginning of employment, and an additional $5,000 stipend if the associate is still working for the same firm after one year. The Rural Practice Summer Fellows program aims to connect law students and attorneys as permanent associates with rural practitioners.[44]

- **Ohio.** The Ohio Department of Higher Education, the Supreme Court of Ohio, and the Ohio State Bar Association developed a program to attract newly licensed attorneys to rural communities. The Rural Practice Incentive Program offers loan repayment assistance to newly licensed attorneys (licensed for 12 years or less) who agree to practice in underserved communities or in public service. This loan repayment assistance is available to newly licensed attorneys who are employed by (1) the state public defender, (2) the prosecuting attorney of a county, (3) a county public defender commission, or (4) a joint county public defender commission to represent indigent persons. Loan repayment is also available for attorneys who work as counsel appointed by the court or selected by an indigent person, and attorneys engaged in the private practice of law, who practice civil law, provided they work in an underserved community for a minimum of 520 hours each year.[45] Participants must commit to a minimum of three years of service. Loan repayment is up to $10,000/year for a total of up to $30,000.

- **South Dakota.** The South Dakota Rural Attorney Recruitment Program, established in 2013, provides qualifying attorneys with an incentive payment in return for five continuous years of practice in an eligible rural county (population of 10,000 or less) or municipality (population of 3,500 or less). Attorneys must enter into a contract with the South Dakota Unified Judicial System, State Bar, and the eligible county or municipality. Program participants receive five annual incentive payments of $12,513.60 per year (equivalent to 90% of one year's resident law school tuition and fees)—a total of $62,568 over five years.[46]

- **North Dakota.** Modeled after South Dakota's program, the North Dakota Rural Attorney Rural Recruitment Program is administered by the state's judicial branch and provides an annual incentive of $9,000 for a five-year commitment to practice in eligible communities.[47]

- **Nebraska.** The Nebraska State Bar Association administers a state-funded loan assistance program for participants that are either: 1) a full-time salaried attorney working for a tax-exempt charitable nonprofit organization in Nebraska whose primary duties are public legal

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[44] Ill. State B. Ass'n, *Rural Practice Fellowship Program*, https://www.isba.org/ruralpractice (last visited Apr. 25, 2026).

[45] Ohio Dept. of Higher Ed., *Rural Practice Incentive Program*, https://highered.ohio.gov/initiatives/workforce-development/rural-practice-incentive-program (last visited Apr. 25, 2026).

[46] S. Dakota Unified Jud. Sys., *Rural Attorney Recruitment Program*, https://ujs.sd.gov/for-attorneys/rural-attorney-recruitment-program (last visited Apr. 25, 2026).

[47] N. Dakota Courts, *Rural Attorney Recruitment Program*, https://www.ndcourts.gov/rural-attorney-recruitment-program (last visited Apr. 25, 2026).

service; or 2) a full-time attorney primarily serving in a designated legal profession shortage area.[48]

- **New Mexico.** New Mexico is rolling out a three-phase approach to increase access to justice. Phase 3 requires lawyers licensed in New Mexico to be willing to serve the community and commit to a rural practice for a minimum of five years. This commitment involves working in an underserved community in private practice, and allows lawyers to open their own firm, to affiliate with a local firm, or to affiliate with a firm from another city to open a branch in the local community run by a Rural Justice Initiative lawyer. Lawyers will be required to provide a certain amount, to be determined, of services at a reduced cost. The Incubator will provide a stipend at the end of each full year of service over the five-year period: year 1, $10,000; year 2, $15,000; year 3, $20,000; year 4, $25,000; and year 5, $30,000. This phase gives attorneys the opportunity to become rooted in New Mexico's rural and underserved communities around the state. The funding is intended to facilitate the attorney's law practice, allowing the lawyer time to become established as a welcomed member of the local bar and community, with the stipend structure encouraging a lawyer's long-term commitment.[49]

A key requirement to each of these state initiatives, of course, is funding. These states are truly investing in rural access to justice by providing monetary incentives that allow new attorneys to find financial stability and sustainability in these legal deserts.

Additionally, some states have passed "right to counsel" legislation in eviction hearings, extending this right to rural and urban residents.[50] A few states are also providing legal representation in other civil areas like domestic violence and child welfare/support. Washington, Connecticut, Maryland, and Minnesota are exploring implementing broader right to counsel programs.

Adoption of a right to counsel in Tennessee for certain civil cases will dramatically expand access to justice for many Tennesseans. Operating a right to counsel program through Tennessee's trusted legal aid organizations will expand their ability to serve needy Tennesseans. Qualifying residents will get quality legal advice and representation, and they will not be forced to navigate an increasingly complex legal system alone.[51] It will also provide significant benefit to the court system since individuals will not be representing themselves.

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[48] Neb. State Bar Ass'n, *Rural Practice Initiative*, https://www.nebar.com/mpage/RPIStudentLoanForgiveness(last visited Apr. 25, 2026).

[49] Hon. Donna J. Mowrer & Hon. Erin B. O'Connell, *Greening New Mexico's Legal Deserts with the Rural Justice Initiative*, The Bar Examiner, Fall 2024 (Vol. 93, No. 3), https://thebarexaminer.ncbex.org/article/fall-2024/addressing-the-access-to-justice-gap/ (last visited Jan. 31, 2026).

[50] New York, Minnesota, Nebraska, Ohio, Illinois, Massachusetts, Washington, Connecticut and Maryland have programs primarily for tenants facing evictions. Some cities have also enacted similar programs for evictions.

[51] Qualifying requirements would need to be expanded to capture individuals that make more than the federal requirements but cannot afford an attorney.

## Conclusion

Providing access to quality legal representation for Tennesseans of modest means and in rural areas is an increasingly difficult challenge. The KBA appreciates that the Court's Order has renewed attention to the problem. The most direct way to address the problem may be to increase funding to existing legal aid offices or programs so they can hire more attorneys and open more branches. But it would be difficult for the Court to make that happen apart from the General Assembly. Alexander Hamilton may have exaggerated when he said the judiciary has no influence over the purse in Federalist No. 78, but the KBA recognizes that the Court certainly does not control it. It is understandable that the Court is looking at reforms that are, in fact, within the power of the judicial branch.

Acknowledging these financial limitations, the proposed regulatory reforms present grave risks of undermining the independence and integrity of the legal profession, with negative consequences not just for lawyers but for all Tennesseans. No reforms in these areas should be adopted without strong reason to think they will not undermine the profession—and that they will achieve the objective of increasing access to justice.

Rather than risk causing more harm than good, for any specific proposed reform, the KBA encourages the formation of various committees comprised of trial judges, appellate judges, law firm managers, solo practitioners, legal aid attorneys, public defenders, paraprofessionals, bar leaders, and non-profit executives to analyze and discuss the strengths and weaknesses and practical application and implementation of each such contemplated reform.

Knowing the amount of time and effort the Court will undertake to consider the comments of all who have responded, the KBA appreciates the Court for its consideration of the KBA's comment. Should the Court have any questions or seek clarification, please do not hesitate to contact the undersigned on behalf of the Knoxville Bar Association.

Sincerely,

Rachel Park Hurt, President
Knoxville Bar Association

**JOINT COMMENT OF THE TENNESSEE LAW SCHOOL DEANS ON THE SUPREME COURT'S SEPTEMBER 16, 2025 ORDER**



As deans of the Tennessee law schools, we are grateful for the opportunity to submit the following comments in response to the Supreme Court's September 16, 2025 Order.[1] We write to address specifically the first two questions in the Order: (1) "[w]hether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar; and (2) [w]hether there are any practicable alternatives to ABA accreditation that the Court should consider."

After careful consideration, we believe that the Court should maintain the current requirement that any applicant seeking admission to the Tennessee Bar "must have. . . graduated with a J.D. degree from a law school accredited by the ABA at the time of an applicant's graduation, or a Tennessee law school approved by the Board. . . at the time of an applicant's graduation" ("ABA Accreditation Requirement").[2] While we acknowledge opportunities for improvement in the ABA accreditation standards, we believe the benefits of national accreditation—particularly interstate portability, national uniformity, and consumer protection for prospective law students—outweigh the costs. Furthermore, there currently is not a viable alternative entity to promulgate and enforce a national set of accreditation standards. We worry that the creation of a new state-specific approach to accreditation, in Tennessee and potentially

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[1] Order No. ADM2025—1403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation* (Sept. 16, 2025).

[2] It is important to note that the Council of the ABA Section of Legal Education and Admissions to the Bar is the official law school accrediting body, rather than the ABA itself. The Council considers itself to be fully independent from the larger ABA; while its decisions to adopt, revise, amend or appeal the ABA Standards and Rules of Procedure are subject to concurrence by the ABA House of Delegates, the Council retains the ability to implement and enforce its decisions even if the House of Delegates disagrees with it. Shorthand reference to "ABA accreditation" is meant to refer to the Council's work.

elsewhere, would fail to achieve the Court's laudable aims and impose costs on Tennessee law schools, our students, and the clients they will eventually serve.

1. The ABA Accreditation Requirement Ensures Interstate Portability

Like Tennessee, most states require prospective lawyers to graduate from an ABA-accredited law school to secure admission to the bar. The ABA Accreditation Requirement ensures consistency among state bars, which enables members of a bar in one state to seek admission to the bar in others. This means that Tennessee-trained lawyers can practice in jurisdictions across the United States, and lawyers from across the country can practice in Tennessee. We believe that this portability benefits lawyers and the clients they serve.

2. The ABA Accreditation Requirement Ensures National Uniformity and Protects Prospective Law Students

National ABA-accreditation standards have long enabled prospective law students to choose a law school knowing they are positioned to meet the requirements for admission to the bar in almost all states. If states abandon uniform standards in favor of state-specific standards, it will create uncertainty and chaos for applicants and students as they think about where they wish to live and practice and the varying requirements across jurisdictions.

National ABA-accreditation standards also ensure a consistently high level of educational quality among law schools across the country. A high-quality legal education benefits lawyers, their clients, and the public. That is not to call into question the high-quality legal education that many non-ABA accredited law schools provide, including the Nashville School of Law. To its credit, the Tennessee Supreme Court has been a pioneer and embraced a state-specific accreditation process that is approved and monitored by the Court and Board of Law Examiners.

We endorse the Court's continued embrace of a Tennessee-specific approach as a rigorous alternative to ABA accreditation.

Finally, national ABA reporting requirements are an essential tool for prospective law students who are deciding whether to attend law school and which law school to attend. ABA-approved law schools must submit three significant reports to the ABA annually on outcomes including enrollment, admissions standards, attrition, scholarships, bar passage, and graduate employment. This consumer information allows applicants to "compare apples to apples" with data that is consistent across all ABA-approved schools and regularly updated. With the lack of an alternative national accreditor to collect such data, a state-by-state approach to law school accreditation could harm prospective law students' efforts to choose the law school that is the best fit for them academically, socially, and financially.

3. Eliminating the ABA Accreditation Requirement in Tennessee Will Not Eliminate the Need for Tennessee Law Schools to Meet the ABA Standards

The five ABA-accredited law schools in Tennessee attract applicants seeking to practice all over the country. If the Court were to replace the ABA Accreditation Requirement with a state-specific alternative, these five schools would need to continue to comply with ABA Standards in addition to any new Tennessee accreditation standards. This is because our law schools will need to ensure that our graduates can sit for the bar exam in states that continue to adhere to the ABA Accreditation Requirement. As a result, a new state-specific accreditation system is likely to increase the administrative burden (and cost) of complying with accreditation standards on at least five of the state's six law schools. (If the state were to adopt a new state-specific accreditation system, we recommend that the state make clear that ABA accreditation would meet the state's requirements for bar admission.)

4. Tennessee Stakeholders Should Seek Reform of ABA Accreditation Standards

Although we suggest that the Court consider retaining its current ABA accreditation requirement without change, we acknowledge that both the ABA accreditation standards and ABA data reporting requirements could be improved in some areas. For example, the standards might lower barriers to entry into the legal profession by allowing more flexibility for online and hybrid learning or by reducing the cost of legal education and resulting student debt. Rather than pursuing a separate accreditation track, Tennesseans can have a voice in shaping national standards through the ABA's processes.[3]

5. Alternative Pathways to Address Access to Justice Merit Careful Study

We agree with the Court that access to justice is a critical issue. We do not believe, however, that modifying Tennessee's ABA Accreditation Requirement would meaningfully address this challenge. The innovative reforms that the Court describes in its Order do not depend on changing the accreditation standards of three-year law schools. Those reforms include "limited licensing of paraprofessionals to provide certain legal services, allowing non-lawyer ownership of law firms, and providing alternative pathways to licensure other than a three-year legal education and successful completion of the bar examination." These examples and other "alternative pathways" are intended to expand the pool of individuals and firms able to provide

[3] Notably, the Council recently adopted a set of Core Principles and Values of Law School Accreditation and is undertaking a review of the ABA Standards in 2026 to reevaluate and realign them with this document, in the interest of ensuring the standards "do not unnecessarily impose burdens or cost, but rather allow sufficient flexibility to allow law schools to appropriately innovate, while still ensuring a baseline of quality." Daniel R. Theis, "From the Chair: The Council's 'Core Principles' Review of the Standards," ABA Section of Legal Education and Admissions to the Bar, *Syllabus Fall 2025*, (Nov. 24, 2025), https://www.americanbar.org/groups/legal_education/resources/syllabus/2025-fall/councils-core-principles-review-of-standards/.

certain legal services, at reduced cost. They are not replacements for three-year J.D. programs and merit careful, independent study.

Conclusion

In conclusion, we respectfully request that the Court:

1. Continue to require graduation from an ABA-accredited law school (or Tennessee-approved law school) for admission to the Tennessee Bar.
2. Engage with the Council of the ABA Section of Legal Education and Admissions to the Bar on reforms of interest to the Court.
3. Study and explore alternative pathways for addressing access-to-justice goals, as a complement to three-year J.D. programs.

We appreciate the Court's thoughtful consideration of these important issues and stand ready to provide additional information as needed.

Respectfully submitted,

Alberto Gonzales
Alberto Gonzales (Apr 21, 2026 08:55:07 EDT)

Alberto R. Gonzales
Dean
Belmont University College of Law

Matthew Lyon (Apr 21, 2026 08:52:40 EDT)

Matthew R. Lyon
Vice President and Dean
Lincoln Memorial University Duncan School of Law

William C. Koch, Jr.
President and Dean
Nashville School of Law

Jim Strickland

Jim Strickland

Jim Strickland
Dean
University of Memphis Cecil C. Humphreys School of Law

Lonnie T. Brown, Jr.

Lonnie T. Brown, Jr.
Dean
University of Tennessee Winston College of Law

Chris Guthrie

Chris Guthrie
Dean
Vanderbilt Law School

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION**

No. ADM2025-01403

**OFFICIAL COMMENT OF THE TENNESSEE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS**

The Tennessee Association of Criminal Defense Lawyers "TACDL" respectfully submits these brief comments pursuant to the Court's order soliciting public comments on potential regulatory reforms to increase access to quality legal representation.

TACDL is a non-profit corporation chartered in Tennessee in 1973. It has over one thousand members statewide, mostly lawyers actively representing people accused of criminal offenses. TACDL is committed to advocating for the fair and effective administration of criminal justice. Its mission includes education, training, and support to criminal defense lawyers, as well as advocacy before courts and the legislature supporting reforms calculated to improve the administration of criminal justice in Tennessee. TACDL's mission is in line with this Court's objective to "increase access to quality legal representation."

TACDL does not have a unified opinion on many of the issues listed in the Court's order. Our members have differing opinions on such topics as ABA accreditation and alternative pathways to licensure. However, as to question 6 regarding whether any services currently provided by lawyers could be provided by paraprofessionals, because of the unique constitutional role of criminal defense counsel, TACDL writes to emphasize that the role of criminal defense counsel cannot be performed by anyone other than licensed and well-trained attorneys.

For example, representation of the accused in General Sessions Court is one of the most important roles counsel can undertake. Life altering decisions are routinely made by defendants in General Sessions Court. A preliminary hearing is a "critical stage" of a criminal proceeding for which the constitutional right to counsel has long attached. "Plainly the guiding hand of counsel at the preliminary hearing is essential to protect the indigent accused against an erroneous or improper prosecution." *Coleman v. Alabama*, 399 U.S. 1, 9, 90 S. Ct. 1999, 2003, 26 L.Ed.2d 387, 396-97 (1970). This Court has chronicled the importance of the preliminary hearing from sixteenth century England until today. See *Waugh v. State*, 564 S.W.2d 654, 656 (Tenn. 1978). We can think of no area of criminal defense representation in which the role of competent, highly trained criminal defense counsel could be

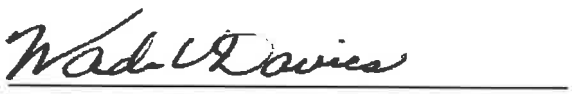
performed by someone else. This is especially true as the laws become more complicated and the potential consequences more serious.

The Court's inquiry is laudably based on the goal of increasing access to justice. Based on our experience, there does not appear to be a shortage of lawyers who are or could become competent with additional training. We believe that increasing compensation and training can cure the lack of attorneys willing to undertake indigent representation.

TACDL does not believe that a law degree and license automatically make an attorney an effective advocate. We encourage the Court's focus on how to improve the legal system. TACDL has the ability and looks forward to continuing to train attorneys to fulfill their constitutional role to provide effective assistance of counsel and zealous representation.

APPROVED BY THE TACDL BOARD

Respectfully submitted this 29th day of April, 2026.



Wade V. Davies
President, Tennessee Association of Criminal Defense Lawyers

April 29, 2026

**BY EMAIL**

Hon. James Hivner
Clerk, Tennessee Supreme Court
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

**In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403**

**EVIDENCE FROM THE UNITED KINGDOM CONCERNING THE EFFECT OF ALLOWING OUTSIDE INVESTMENT IN LAW FIRMS**

**To the Honorable Justices of the Tennessee Supreme Court:**

Among the first jurisdictions to enact legal services regulatory reform were England and Wales. In the years since, much evidence has been gathered about the effects of permitting outside investment in law firms. While the undersigned fully understand that differences exist between the legal professions and the legal services markets in Tennessee, the U.S. more broadly, and England and Wales, we believe that a review of this evidence would provide important information, often overlooked by U.S. policymakers, that may provide meaningful guidance to the Tennessee Supreme Court in addressing whether to undertake thoroughgoing legal services regulatory reform and, if so, what shape that reform should take, especially bearing in mind the imperatives of client and public protection. The undersigned hope the Court finds this information useful.

## UK LAW FIRM INVESTMENT AND CONSUMER OUTCOMES

### Executive Summary

Since the Legal Services Act 2007 came into effect and the Solicitors Regulation Authority (SRA) began licensing Alternative Business Structures ("**ABSs**") in 2012, England and Wales have run what is, in effect, the world's longest-running natural experiment in opening law firms to outside ownership and external investment. The weight of independent UK evidence — from the SRA's own impact evaluation, from the Legal Services Board ("**LSB**") as oversight regulator, from the Competition and Markets Authority ("**CMA**"), and from academic and trade research — all points in the same direction:

- Outside investment has been associated with more innovation, broader access, and stronger management — not consumer detriment.
- Regulators have found "no evidence" that liberalization of ownership has caused harm to users of legal services or the public.
- Investment has financed the things consumers actually feel: better technology, fixed-fee and online channels, professional management, and the back-office and compliance infrastructure that smaller firms struggle to fund alone.
- Consolidation has been a route to scale economies in compliance, quality assurance and IT — areas where small partnerships have historically been thinly resourced.

There are isolated firm-level failures (most recently the LSB's 2026 statement on PM Law). On the evidence, these reflect firm-specific governance and conduct issues addressed by the existing regulatory regime, not a systemic failure of the investment model. Rather, it is entirely to be expected that a law firm of *any* type may fail or engage in misconduct. There is no evidence that the existence or absence of non-lawyer ownership is more likely to generate these outcomes. The supportive case below is grounded primarily in SRA and LSB published research, with corroboration from the CMA's legal services market study and other UK bodies.

**1. Law firm investment is focused on creating profitable growth**

Outside capital enters UK legal services because firms see commercial opportunities to grow — usually by serving more clients, in more places, through better channels. Regulatory evidence supports this characterization rather than treating investment as extractive.

- **SRA Impact Evaluation of the Regulatory Reform Programme (2018)** found that allowing non-lawyer ownership has "contributed to the improvement of the financial stability of some law firms through attracting, promoting and retaining people with corporate management skills and encouraging external investment." It also concluded that introducing ABSs and removing ownership restrictions has resulted in "improved access, choice and quality of service for legal service users and innovation in provision." See SRA Impact evaluation of regulatory reform (2018) and the underlying full report (PDF).
- **SRA Innovation in Legal Services (2015)** — the largest survey of legal-services innovation ever undertaken in the UK (1,500 organizations) — found ABS firms were 13–15% more likely to introduce new legal services than non-ABS peers, with higher levels of investment, staff engagement and external involvement in innovation. See SRA Innovation in legal services (2015).
- **CMA Legal Services Market Study, Final Report (December 2016)** was clear that the policy problem in legal services for individual consumers and small businesses is weak competition and opacity — not too much external investment. The CMA recommended remedies that explicitly favoured greater transparency and competition, of the kind new entrants and investor-backed firms have driven. See CMA Legal services market study – final report (PDF) and the case page.
- **LSB Business Plan 2026/27 (April 2026)** frames the regulator's role as ensuring "regulation supports innovation and growth while maintaining high standards and protecting consumers" — explicitly treating commercial growth and consumer protection as complementary rather than competing objectives. See LSB Smarter, risk-based oversight (April 2026) and the LSB Business Plan 2026/27 (PDF).
- **LSB State of Legal Services 2025 (December 2025)** is the most recent regulator-level stocktake of provider performance, market structure and consumer outcomes at the half-way point of the LSB's Reshaping Legal Services strategy — supporting the position that the post-Legal Services Act, investment-enabled market is delivering on its objectives. See LSB State of Legal Services 2025 (PDF).
- **SRA Risk Outlook: Serving clients' needs in a changing legal market (December 2024)** explicitly recognizes firms reorganizing their operating models in response to cost, technology and demand shifts, and assesses the consumer impact positively rather than as a cause for concern. See SRA Risk Outlook 2024.

**2. Profitable growth comes from making services better for clients**

Investment-backed firms have grown by improving client experience: digital channels, fixed pricing, faster turnaround, and proactive service standards. This is consistent with what UK regulators identified as the consumer benefit case for liberalization.

- **SRA Impact Evaluation (2018):** "users of legal services are beginning to see the benefits, through better choice and availability of legal services and increased competition" — and "ABSs appear more innovative than other types of law firm. According to a 2015 survey, conducted by Enterprise Research Centre, ABSs are particularly likely to have delivered radical service innovations or organizational innovations." SRA evaluation page.
- **SRA Technology and Innovation in Legal Services (July 2021)** (University of Oxford research commissioned by the SRA) examined how investment in technology has shifted firm operating models — covering law-firm innovation, barriers, market trends and access to justice. See SRA Technology and Innovation report (2021) and the full report (PDF, 153pp).
- **LSB Use of Technology and Innovation in Legal Services (2023)** — third wave of the LSB's 1,310-firm survey — provides the most directly relevant recent evidence: "the most commonly reported impacts of new services have been more responsiveness to clients' needs (94%) and reduced environmental impact (87%); 61% of firms have implemented at least one of 13 technologies in the last three years and 58% have introduced at least one of the six technologies that can make it easier for people to use legal services (technologies for access)." Critically, "Alternative Business Structures (ABS firms) are more likely to be using seven of the 13 technologies we asked about." See LSB Technology and Innovation 2023 – overview and the full report (PDF).
- **LSB Prices of Individual Consumer Legal Services 2024 (published June 2025)** — the fourth wave of the LSB's consumer-pricing tracker — provides the most up-to-date evidence on how the market has responded to investment and digitization: "more providers are offering services remotely compared to 2020"; "providers offering fixed prices are often cheaper than those basing their prices on estimates or hourly rates"; and "price transparency has improved among regulated conveyancing firms subject to the transparency rules." Investor-backed and ABS firms have been disproportionately represented in the fixed-fee, remote-delivery and price-transparent segments. See LSB Prices of Individual Consumer Legal Services 2024 and the full report (PDF, June 2025).
- **SRA Sole practitioners' and small firms' use of technology and innovation (June 2025)** — independent SRA-commissioned research by Thinks Insight & Strategy — finds that firms themselves frame technology and innovation explicitly in client terms: "most respondents recognized that technology could bring benefits, especially in improving efficiency and client service. Many also saw its potential to improve access to justice and reduce costs for consumers." The same research identifies cost and the difficulty of choosing the right tools as the binding constraints — exactly the gaps that investment-backed and consolidator-led firms are equipped to close. See SRA Small firms' use of technology and innovation (June 2025).
- **SRA Risk Outlook: Innovation in a competitive landscape (June 2022)** framed innovation explicitly as a consumer-facing opportunity rather than a risk: "missing them can be just as much of a threat as many of the hazards we warn about." See SRA Risk Outlook (2022).

**3. Investment also creates better conditions for lawyers to do great work**

A large part of investment-backed change is reorganizing the working environment of fee-earners: better systems, better support, better management — so that solicitors can focus on legal work. The SRA's evaluation found this directly.

- **SRA Impact Evaluation (2018):** non-lawyer ownership has helped firms attract and retain "people with corporate management skills" — i.e., professional managers, finance and operations leaders previously absent from many partnerships — alongside external investment, improving financial stability. SRA evaluation page.
- **SRA Innovation in Legal Services (2015):** ABS firms had higher levels of innovation activity, investment, staff engagement and external collaboration; the dominant operational changes were better case-management systems and electronic communication with clients — exactly the infrastructure improvements that change a fee-earner's day-to-day. SRA Innovation report.

- **LSB State of Legal Services 2025** provides the most recent regulator-level stocktake of provider performance, workforce and consumer outcomes at the half-way point of the Reshaping Legal Services strategy. See LSB State of Legal Services 2025 (PDF).

**4. Investment is typically focused on better management and growth funding**

Ownership reform was designed to do two things at once: bring management capability into firms and bring capital. UK regulators have repeatedly evidenced both, and the corresponding consumer-protection concern (that investor-controlled firms would be riskier) has not materialized.

- **SRA Impact Evaluation (2018)** — headline regulatory finding: "Regulatory data shows that ABSs do not pose a greater risk to users of legal services, when compared with other firm structures and business models." Across the wider package of reforms (ABSs, MDPs, separate-business rule), the SRA concluded "no evidence that these reforms have detrimentally impacted, or resulted in a greater risk to, users of legal services." The SRA's regulatory data, summarized in this evaluation, shows ABS firms do not pose a greater risk to consumers than other structures; firm-level conduct failures are addressed through the existing intervention, compensation-fund and enforcement framework that applies regardless of ownership. SRA evaluation page.
- **LSB ABS policy framework:** the LSB's licensing rules are explicitly designed so "regulation should target risk and consumer detriment" — i.e., ownership flexibility is permitted only inside an outcomes-focused framework that polices conduct, fitness and ownership of beneficial interests. See LSB Alternative business structures.
- **LSB analysis of professional indemnity insurance costs** (joint with the SRA) is the most rigorous econometric look at what actually drives risk-related cost in legal services — drivers are firm-, work-type- and conduct-related, not ownership-structure-related. See LSB Econometric analysis of PII costs.

**5. Consolidation drives scale economies and brings professionalization to small firms**

A meaningful share of UK investment activity is consolidator-led: aggregating sub-scale partnerships under shared back-office, technology, compliance and risk-management infrastructure. The regulatory evidence is that this raises, rather than lowers, the floor on consumer-relevant capabilities at small firms.

- **SRA Impact Evaluation (2018)** found ABS reform allowed "new entrants (including foreign law firms, firms owned by professional services firms, local authority owned firms and retail brands) into the market," resulting in "improved access, choice and quality of service" — the consolidator and platform models being a substantial part of those new entrants. SRA evaluation page.
- **SRA Sole practitioners' and small firms' use of technology and innovation (June 2025)** — the SRA's independent research with Thinks Insight & Strategy specifically documents the technology, compliance and innovation gap at small firms, and the support they would value. This is precisely the gap the consolidator-investment model is designed to fill. See SRA Small firms' use of technology and innovation (2025).
- **SRA Risk Outlook: Serving clients' needs in a changing legal market (December 2024)** explicitly recognizes that some firms are responding to high costs, technology change and shifting client demand by changing how they operate — and assesses the impact on clients positively, signposting risk-management resources rather than warning against the trend. See SRA Risk Outlook 2024.
- **CMA Legal Services Market Study (2016)** identified weak competition and limited transparency as the binding consumer harms in legal services for individuals and SMEs — problems that the entry of new business models, including consolidator-backed and investor-backed firms, helps to address. CMA final report (PDF).

**Conclusion**

On the evidence published by the SRA and LSB, corroborated by the CMA and independent academic and market research, outside investment in UK law firms over the post-Legal Services Act period has been associated with: more innovation; broader access and choice; better management capability inside firms; technology and compliance professionalization that small firms could not have funded alone; and no greater consumer risk than traditional ownership models. Where individual firm failures occur, they are firm-specific conduct events addressed by the existing regulatory regime — not evidence that investment, in itself, has been harmful to consumers.

Respectfully submitted,

Lucian T. Pera (#011641)

Joshua E. Porte (#036161)

HOPE HOUSE
Hope for HIV Affected Children & Adults



23 S. Idlewild St.
Memphis, TN 38104-3926
P.O. Box 41437
Memphis, TN 38174-1437
Telephone 901.272.2702
Fax 901.722.9520
www.hopehousememphis.org



March 4, 2026

To Whom It May Concern,

Across Tennessee, access to civil legal assistance remains out of reach for many residents. The cost of retaining counsel is prohibitive for a significant portion of the population, and numerous counties are designated as legal deserts due to a shortage of practicing attorneys. For the individuals and families served by Hope House, legal services are frequently unattainable. This lack of access can have serious consequences, affecting housing stability, personal safety, family integrity, and overall economic security.

I respectfully urge the Court to prioritize practical, low barrier strategies that expand access to essential legal assistance in the near term. A framework authorizing trained legal helpers could meaningfully address unmet need. These individuals could complete targeted, modular training in defined subject areas and operate under the supervision of nonprofit organizations, libraries, community and faith-based institutions, and licensed legal practices. Creating a licensure model that requires extensive education or costly credentialing risks replicating the existing attorney shortage under a different structure. Many routine, low risk civil legal matters could be competently supported by trained community-based personnel working within clearly defined parameters.

In addition, the Court should consider establishing clear carve outs within unauthorized Practice of Law rules for low-risk assistance, such as providing information about court procedures and helping individuals complete standardized forms. These activities do not constitute the provision of legal advice in the traditional sense and should not be regulated as such. Individuals receiving this limited assistance remain protected by existing consumer protection laws, which mitigate the need for additional enforcement mechanisms tied to formal licensure.

Authorizing legal helpers would place accessible support in trusted community settings, including libraries, houses of worship, and community centers. Such an approach would strengthen the administration of justice by ensuring that access to basic legal guidance is not determined by income level or geographic location.

I commend the Tennessee Supreme Court for its leadership in examining

HOPE
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Fax 901.722.9520
www.hopehousememphis.org

opportunities to modernize and improve access to justice. I respectfully encourage the Court to authorize the delivery of defined legal services by trained legal helpers and to continue advancing reforms that ensure every Tennessean has meaningful access to the legal system.

Sincerely,

Lenox Warren

Lenox Warren, MSSW
Chief Executive Officer

*Supreme Court*
STATE OF ARIZONA
**CERTIFICATION AND LICENSING DIVISION**
1501 W. Washington Street, Suite 104
Phoenix, Arizona 85007-3222
602-452-3378

April 29, 2026

James Hivner, Clerk
RE: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

**RE: Public Comments No. ADM2025-01403**

Dear Chief Justice Bivins, Associate Justices, and Clerk Hivner:

On behalf of the Certification & Licensing Division of the Arizona Administrative Office of the Courts, congratulations on your thoughtful order requesting public comment in various area of legal reform. By now you have received many comments and a large amount of information both favoring and opposing your seven initiatives. The Legal Service Innovation unit at the Arizona AOC sends this letter not to add to or refute those comments but to offer support if the Court requires it with regard to Issues 6 and 7.

Since the formation of its own *Task Force on the Delivery of Legal Services* in 2019, Arizona has successfully implemented several legal reforms and new programs geared with a focus on reducing our legal vacuums and providing improved access to justice. In addition to its more than 150 licensed Alternative Business Structures which allow non-lawyer co-ownership of law firms, Arizona has 122 licensed Legal Paraprofessionals (LP) across six areas of practice. These LPs have reduced court mandated time standards by completing cases faster than a pro per litigant and that most LPs are managing the less complicated cases that many attorneys will not consider. Data from 2024 indicates that 46% of LP clients would otherwise have been self-represented litigants. Further, through the recent codification of two Community-based Justice Worker models (CJWs) authorizing the legal services of 47 CJWs statewide. In 2025, CJWs prevented 108 evictions, supported domestic violence survivors with hundreds of hours of free legal assistance, and partnered with the Arizona Attorney General to issue an Enforcement Action against landlords in regard to bundled utilities.

States across the nation join Tennessee in discussing the myriad issues of the legal reforms necessary to improve access to justice and Arizona is proud to be part of the conversation. This office is available to the Tennessee Supreme Court as a resource both in the deliberations and in the development of any programs. Please feel free to contact this team for additional information and data. We look forward to hearing of the deliberations and learning the Court's final decision.

Sincerely,

Mark McCall, CPM, CCM
Legal Service Innovations Manager
Certification & Licensing Division
602-452-3278
mamccall@courts.az.gov

UNIVERSITY OF MINNESOTA

*Twin Cities Campus*

***The Law School***
*Walter F. Mondale Hall*

*Room 285*
*229–19th Avenue South*
*Minneapolis, MN 55455*
*612-625-1000*
*Fax: 612-625-2011*
*http://www.law.umn.edu/*



James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

Re: ADM2025-01403

Dear Mr. Hivner:

I am writing in response to ADM2025-01403, the order by the Supreme Court of Tennessee seeking Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation. In particular, I write to comment on issue 4: "Whether the Court should consider adopting alternative pathways for admission to the Tennessee Bar" to help "ensure that all Tennesseans have access to affordable quality legal services."

Although many of the other possible reforms outlined in the Order are likely to be appropriate and effective ways to respond to the concerns identified by the Court, I am most able to discuss the opportunity for incorporating alternative pathways to licensing as part of those efforts. I presented on that topic at the recent Orr Symposium on Closing the Rural Justice Gap, sponsored by the Tennessee Supreme Court Access to Justice Commission, the Winston College of Law Legal Clinic, and the *Tennessee Law Review,* and I am glad to have the opportunity to add my voice to the Court's considerations.

I will speak about my own experience with respect to these concerns, but I begin by referring to the recent article by Dean Brian Gallini of the Quinnipiac University School of Law, in which he discusses with great specificity the challenges to providing access to quality legal representation, especially in rural communities. In *Licensure as Pathway, Not Barrier,* 78 Arkansas Law review 199 (2025), Dean Gallini focuses on the problems in Connecticut, his home state, but his narrative and statistics about the justice gap covers similar challenges throughout the country. As he notes, "[o]ne side lacks a lawyer in approximately three-quarters of the twenty million civil cases filed across state courts every year" and "there are millions more Americans who have a legal problem, but take no legal action to protect their interest." The speakers at the Orr Symposium make clear that Tennessee faces similar issues regarding access to representation.

Dean Gallini did not just outline the problem, however. He also discusses the opportunity to address that problem through alternative pathways for admission to the practice of law. He offers a roadmap for creating a new licensing pathway that would meaningfully expand access to justice in Connecticut by allowing interested applicants to establish their competence for licensure through providing legal services for tenants facing eviction, connecting them to an existing program created by the Connecticut state legislature in 2021 to help expand attorney access for such tenants. That is a targeted implementation of a broader conception of public-service oriented licensing that I and several co-authors identified in *INSIGHT: Lawyers Justice Corps—Public Service in a Time of Crisis,* https://news.bloomberglaw.com/us-law-week/insight-lawyers-justice-corps-public-service-in-a-time-of-crisis and that was discussed in more detail by Prof. Eileen Kaufman in *The Lawyers Justice Corps: A Licensing Pathway to Enhance Access to Justice,* 18 Univ. St. Thomas Law J. 1859 (2022). Part of the value of such alternative pathways is the opportunity to have supervised law students and recent graduates provide substantial additional energy, time, and effort to address unmet legal needs, while honing their skills and demonstrating their competence to practice on their own. All three articles offer models to consider as the Court works to address the problems of legal deserts and access to justice in Tennessee.

In addition to responding to the need for more lawyers in public service, the development of alternative pathways also promises to expand access to the legal profession itself. One of the reasons that an increasing number of states are working to adopt alternative pathways to licensing is to address the long-standing critique that the bar exam does not test many of the skills essential to legal practice, while unnecessarily and disproportionately excluding underrepresented populations from the legal profession.[1] Creating alternative pathways based on supervised practice work allows applicants to demonstrate their competence in ways other than through a high-stakes standardized exam that is an unnecessary obstacle to many qualified individuals.

For the past five years, I have been engaged in helping to develop alternative licensing pathways in Minnesota, most recently as a member of the Minnesota Supreme Court's Implementation Committee on Alternative Pathways. In addition to drafting a detailed plan for a curricular-based pathway (licensing upon graduation, based on work during law school) and exploring the possibility for a supervised-practice pathway (licensing based on work done after graduating from law school), our work has included reviewing alternative pathway planning and implementation in Oregon, Washington, South Dakota, Indiana, Utah, New Hampshire, Nevada, Connecticut, and New Mexico. Because

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[1] *See, e.g.,* Andrea Curcio, Carol Chomsky, & Eileen Kaufman, *Testing, Diversity, and Merit: A Reply to Dan Subotnik and Others,* 9 U. Mass. L Rev. 206 (2014); Carol Chomsky, Andrea Curcio, & Eileen Kaufman, *A Merritt-orious Path for Lawyer Licensing,* 82 Ohio State L.J. (2021); Joan Howarth, *The Professional Responsibility Case for Valid and Nondiscriminatory Bar Exams,* Georgetown J. of Legal Ethics 931 (2020).

attorney licensing is state-based, and because any supervised practice model of licensing depends on engagement with and participation by the practicing bar, it will be important to develop your own approach to alternative licensing, but the dynamic and growing list of states taking this journey means Tennessee would have many models to consider if you choose to address the rural justice gap (and other access to justice concerns) in this fashion.

As I hope is clear from my comments here, I believe strongly in the efficacy, practicality, and value of establishing alternative pathways to licensure, especially as a measure to address gaps in access to legal services. In addition to other important regularly reforms that you may consider to increase access, I urge you to begin the process of exploring establishing such pathways.

Sincerely,

Carol Chomsky

Carol Chomsky
Professor Emerita

**Chambliss, Bahner & Stophel, P.C.**
Liberty Tower
605 Chestnut Street, Suite 1700
Chattanooga, TN 37450
chamblisslaw.com

Chambliss®

**Stephen D. Barham**
Direct Dial (423) 757-0239
Direct Fax (423) 508-1239
sbarham@chamblisslaw.com



April 29, 2026

**VIA EMAIL AND USPS**
Mr. James Hivner, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307
appellatecourtclerk@tncourts.gov

Re: Regulatory Reform
Docket No. ADM2025-01403
Public Comments on Potential Regulatory Reforms to Increase Access to Legal Representation

Dear Mr. Hivner:

I appreciate the opportunity to present comments on behalf of the Chattanooga law firm of Chambliss, Bahner & Stophel, P.C., concerning the seven issues as to which the Supreme Court requested comments in its September 16, 2025 Order.

**About the Firm**: Chambliss, Bahner & Stophel, P.C. ("Chambliss") has provided legal services to the Chattanooga region and beyond for almost 140 years. The firm currently has more than 65 attorneys who provide a full range of legal services. Throughout its history, Chambliss has been dedicated not only to delivering quality legal services to its clients, but also to serving our community through participation and leadership in community service organizations and through the delivery of pro bono legal services. Chambliss and its attorneys have helped lead and fund Legal Aid of East Tennessee (LAET) and its predecessor organizations and have dedicated countless hours of pro bono services to legal aid clients. In fact, our local LAET recognizes volunteers and supporters with awards each year named after Chambliss alumni, Bruce C. Bailey and Chief Justice William "Muecke" Barker. The firm's work to provide legal services without regard to ability to pay has extended far beyond the formal legal aid model and has ranged from legal clinics for first responders to free and discounted legal service for entrepreneurs and startup businesses. In each case, the firm's efforts are driven by a dedication to the belief that the legal profession is much more than a business and that we are obligated to provide legal services to those who cannot otherwise afford them.

**The Principles That Inform Our Comments:** Four principles inform Chambliss' comments on the issues identified by the Court:

**First**, ensuring that licensed attorneys are qualified to provide competent legal services and protecting the public from unqualified providers should continue to be the focus of the Court's exercise of its inherent authority to regulate the legal profession. The Court possesses inherent authority "to regulate and supervise the practice of law in this State."[1] The Court's regulatory authority exists to protect the public and ensure competent legal representation. The purpose of the regulation of the unauthorized practice of law is to "'serve the public right to protection against unlearned and unskilled advice in matters relating to the science of the law.'"[2] The Court's regulatory framework reflects careful calibration between access and protection, and any proposed reform should be evaluated against the Court's foundational goal of safeguarding the public.

**Second**, proponents of changes to the Court's regulation of the legal profession should bear a heavy burden of proving that their proposed changes will not reduce the quality of legal services. In a recent decision, the Court reaffirmed its conclusion in *Petition of Burson, supra*, that "the practice of law is described as 'relating to the rendition of services for others that call for the professional judgment of a lawyer.'"[3] As the Court explained, "[t]he 'professional judgment of a lawyer' is defined by the lawyer's 'educational ability to relate the general body and philosophy of law to a specific legal problem of a client.'"[4] The Court's regulation of the legal profession has been designed to protect the public from "unlearned and unskilled" judgments of unqualified individuals. Because the interests of legal consumers are at stake, the Court should not experiment with deregulation based on theoretical or unproven benefits, but should instead insist on clear, empirical evidence demonstrating that specific deregulatory proposals will benefit, not harm, the public. Once regulatory barriers are lowered, they are difficult to restore, and harm caused to clients who receive inadequate representation from underqualified providers cannot easily be remedied after the fact. The Court should place the burden on reform proponents to demonstrate that loosening educational requirements, licensure standards, and restrictions on nonlawyer practice will not harm the public.

**Third**, narrow arguments about "economic efficiency" in the delivery of legal services to corporations should not be applied to promote equal access to justice among those with lower incomes or who live in rural areas. Professor Hadfield's 2008 article[5] is cited as authority for relaxing requirements for admission to practice law, prohibitions of the unauthorized practice of law,

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1 *Manookian v. Bd. of Pro. Resp.*, 685 S.W.3d 744, 801 (Tenn. 2024); *Petition of Burson*, 909 S.W.2d 768, 772-773 (Tenn. 1995).

2 *Petition of Burson, supra*, at 776-777 (citations omitted).

3 *Waggoner v. Bd. Of Pro. Resp.*, 673 S.W.3d 277, 235-236 (Tenn. 2023).

4 *Id.* at 236.

5 Gillian K. Hadfield, *Legal Barriers to Innovation: The Growing Economic Cost of Professional Control over Corporate Legal Markets*, 60 Stan. L. Rev. 1689 (2008).

restriction on non-lawyer ownership of legal firms, and lawyer fee sharing with non-lawyers.[6] However, Professor Hadfield makes clear that the concerns and recommendations she set out in the article apply only to legal services provided to corporations. "I take up the issue of how a regulatory structure for legal markets supplying market-structuring and economic services to corporations operates as a major obstacle to the efficient adaptation to a rapidly changing, globally competitive market economy."[7] Professor Hadfield does not direct her economic arguments to legal services to low-income individuals or rural residents. Her article does not specify or provide support for regulatory changes to address broader access to justice for those individuals.

**Fourth**, almost 50 million low-income Americans lack ready access to legal services.[8] This "Justice Gap" is not the result of imperfections in the market for legal services for corporations, it is a result of a lack of necessary resources to provide legal services to low-income individuals and rural residents that cannot be solved by deregulating who may provide legal services. The solution requires increasing the supply of legal aid resources, not lowering the quality of who provides them. Tennessee attorneys should make a greater commitment to providing pro bono services, but their efforts must be supplemented by the dedication of greater public resources to support Tennessee's legal aid organizations and other nonprofit providers of legal services to rural residents and low-income individuals. States such as South Dakota[9] and Nebraska[10] have initiated innovative efforts to incentivize

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6 Order, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation*, No. ADM2025-01403 (Sept. 16, 2025), at p. 2 ("*Request for Comments*"). The Request for Comments cites particularly to pages 1717 and 1718 of Professor Hadfield's article, which address "Obstacles to Innovation in ***Corporate*** Legal Markets". Hadfield, *supra*, 60 Stan. L. Rev. 1689, 1717-1718 (emphasis supplied).

7 Hadfield, *supra*, 60 Stan. L. Rev. 1689, 1705-1706 Professor Hadfield states that while her focus is on delivery of legal services to corporations, "[s]ome of what I say . . . will apply more generally to other business entities and organizations." *Id.* at n. 72.

8 Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (2022), available online April 27, 2026 at https://justicegap.lsc.gov/ .

9 South Dakota Rural Attorney Recruitment Program. Program information available online April 27, 2026 at https://ujs.sd.gov/for-attorneys/rural-attorney-recruitment-program/ . Harvard Law School, Center on the Legal Profession, *Incentivizing Rural Practice* (2025) available online April 27, 2026 at https://clp.law.harvard.edu/article/incentivizing-rural-practice/. The Harvard article reported that a law student at the University of South Dakota surveyed her fellow students and found that 80% would consider rural practice in exchange for partial student loan forgiveness. *Id.*

10 Nebraska Rural Attorney Recruitment Program. Stateline, Lack of Rural Lawyers Leaves Much of America Without Support, available online April 27, 2026 at https://stateline.org/2023/01/24/lack-of-rural-lawyers-leaves-much-of-america-without-support/.

rural legal services. A recent research brief prepared by the American Bar Foundation Access to Justice Research Initiative describes lessons for rural legal services delivery.[11]

The seven issues to which the Court seeks comment are discussed in the context of these four principles.

**Proposal 1**: Modifying, Reducing, or Eliminating Reliance on ABA Accreditation
**Proposal 2**: Practicable Alternatives to ABA Accreditation

The Court should not reduce or eliminate its reliance on ABA accreditation, which serves essential quality-assurance functions that would be difficult or impossible to replicate through alternative mechanisms. The ABA accreditation standards provide a consistent, nationally recognized baseline that allows students, employers, courts, and clients to make informed judgments about the quality of legal education. Replacement of ABA accreditation with state accreditation programs would lead to a hodge-podge of legal education standards, hampering the ability to make those informed judgments.

If Tennessee were to reduce or eliminate reliance on ABA accreditation, the Court would need to establish and administer an alternative accreditation system or rely on law schools' self-certification of quality. Either approach would likely prove more costly, less reliable, and less transparent than the current system. A state-run accreditation process would duplicate the ABA's work at significant expense to Tennessee taxpayers and the legal profession.

Chambliss urges the Court to retain ABA accreditation as the primary standard for legal education quality. If reforms are needed, the Court should work with the ABA and other stakeholders to improve the accreditation process rather than abandon it.

**Proposal 3**: Less Costly Alternatives to Traditional Legal Education

The cost of legal education is a legitimate concern, but reducing educational requirements is the wrong solution. The three-year J.D. curriculum reflects a century of experience about the knowledge and skills lawyers need to serve clients competently. Shortening or simplifying legal education risks producing lawyers who are unprepared for the complexities of modern practice.

Online or competency-based legal education programs have been proposed as lower-cost alternatives. While these programs may offer flexibility in some instances, there is insufficient evidence that they would produce equivalent learning outcomes. Online options are particularly concerning, as legal

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[11] Rebecca L. Sandefur, Matthew Burnett, and James Teufel, "Rural Access to Justice: Key Research Learnings and Implications for Service Delivery and Design" American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation (2026), available online on April 27, 2026 at https://www.americanbarfoundation.org/wp-content/uploads/2026/02/Rural-Access-to-Justice-FIN.pdf .

education involves not only the transmission of knowledge but also the development of interpersonal skills, professional socialization, and mentorship—educational essentials that cannot be replicated in online environments.

Efforts to reduce the cost of legal education must maintain its quality. Initiatives such as broader scholarship availability, loan forgiveness for public service, and reform within law schools to control costs offer promise. Reduction of educational requirements for licensure does not.

**Proposal 4**: Alternative Pathways to Bar Admission

The Court should not create alternative pathways to bar admission that bypass traditional legal education and examination requirements. Law office study, apprenticeships, and other alternative pathways are historical approaches to American legal education that have largely disappeared for good reason: they produced inconsistent and often inadequate preparation for legal practice.

Modern legal practice is substantially more complex than it was when law office study was common. Lawyers today must navigate intricate statutes and regulations, sophisticated financial instruments, advanced technology, and an increasingly specialized profession. A three-year law school curriculum provides a structured, consistent, and comprehensive foundation that apprenticeship cannot reliably replicate.

Chambliss recognizes that a law degree is just the beginning of an attorney's education and growth. We benefit from the consistency and quality of legal education demonstrated by a law degree from an ABA accredited law school and passage of the bar examination. The firm builds upon that base as we train and mentor young lawyers and help prepare them to assume progressively greater responsibility for client representation.

The CLEAR Report and Recommendations describes several licensure pathway options that are at various stages of consideration or implementation.[12] Although several states are considering alternatives, only two programs have track records. Wisconsin permits graduates of the state's ABA-accredited law schools, the University of Wisconsin Law School and Marquette University Law School to become licensed without a bar examination; New Hampshire Supreme Court permits graduates of the Daniel Webster Scholar Honors Program, who complete a demanding curriculum and collect portfolios of work product, and are evaluated before graduation, to become licensed immediately prior to graduation if they are deemed "minimally competent".[13]

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12 Committee on Legal Education and Admissions Reform (CLEAR), Report and Recommendations (July 27, 2025) ("CLEAR Report"), at 68.

13 CLEAR Report, at 75-76.

A large-scale study of California State Bar records of more than 240,000 attorneys found a correlation between bar examination scores and discipline rates.[14] The authors concluded that reducing the passing score would result in more attorneys being subject to disciplinary action.[15]

Alternative pathway programs vary from state to state and have not yet produced meaningful data on outcomes. Tennessee should not adopt similar programs based on speculative benefits, as the risk to the public at large from ineffective counsel is significant and meaningful.

**Proposal 5**: Modifying Requirements for Admission of Out-of-State Attorneys

Chambliss supports realistic requirements for admission of out-of-state attorneys. Current procedures for reciprocity involve significant delays and limit the firm's ability to attract and utilize qualified attorneys admitted in other states. Chambliss supports efforts to expedite the completion of reciprocity and UBE transfer approvals.

**Proposal 6**: Limited Licensing of Paraprofessionals

The Court should not authorize paraprofessionals to provide legal services that are currently provided by licensed attorneys. The experience of other states that have experimented with paraprofessional licensing provides ample grounds for caution.

Washington State's Limited License Legal Technician (LLLT) program, often cited as a model, was discontinued in 2020. In halting the experiment, the Washington Supreme Court cited low participation and high costs. At the time of its discontinuation, the program had cost $1.4 million and had only 38 active participants.[16]

We share the concern that paraprofessional limited licensing programs may threaten potential harm to vulnerable consumers and pose the risk of creating a two-tier system of justice in which lower-income clients receive services from less qualified providers. The core problem with paraprofessional limited licensing is that it attempts to provide lower-cost legal services by providing lower-quality legal services. This tradeoff is unacceptable. Tennessee should not create a class of underqualified legal providers for those who cannot afford fully licensed attorneys. Such an approach would disproportionately harm low-income and rural Tennesseans—the very populations the Court seeks to help.

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14 Anderson, Robert IV, and Derek T. Muller, "The High Cost of Lowering the Bar," *Georgetown Journal of Legal Ethics* 32, No. 2 (2019): 307-340.

15 *Id.* at 324-235.

16 Ashworth, Nonlawyers in the Legal Profession: Lessons from the Sunsetting of Washington's LLLT Program, 74 Ark. L. Rev. 689, 691 (2022).

**Proposal 7**: Non-Lawyer Ownership of Law Firms and Fee Sharing

The Court should not modify, reduce, or eliminate restrictions on non-lawyer ownership of law firms or fee sharing with non-lawyers. Tennessee's Rule 5.4, consistent with the rules of nearly every state, protects the professional independence of lawyers and ensures that lawyers' duty to clients is not compromised by obligations to outside investors or business partners.

Non-lawyer ownership experiments in two states have not been subjected to rigorous evaluation through randomized controlled trials or even systematic comparison with traditional law firm structures. The empirical record is simply too thin to support the conclusion that Alternative Benefit Structure law firms (ABSs) benefit consumers. What the record does show is that non-lawyer ownership arrangements create significant risks: increased pressure to generate revenue, potential conflicts between investor interests and client interests, and erosion of professional norms that have long protected clients.

There is no evidence that non-lawyer ownership improves access to justice for low-income individuals.

> It is unsurprising that these profit-driven ABS entities are unlikely to cure access-to-justice issues in this county. The widest gap in access to justice is for legal services for low- and middle-income Americans, and the legal services they need are typically not the profitable areas of law to which nonlawyers are attracted. Areas with the greatest need include family law, debt-collection cases, landlord-tenant suits, and mortgage foreclosures. ABSs in Arizona and Utah do not focus on providing attorneys to defend these types of litigations, and the vast majority of them do not even assist with court litigation at all.[17]

The short-term focus of private equity investors is of particular concern. Fundamentally, the interests of outside investors are inconsistent with the obligations of attorneys to elevate client interests, the importance of focusing on quality legal representation, and the responsibility to avoid excess fees and costs.

Chambliss urges the Court to reject proposals that would permit non-lawyer ownership of law firms and fee sharing.

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[17] Stephen P. Younger, *The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms*, 132 Yale L.J. Forum 259, 278–79 (2022)

**Conclusion**

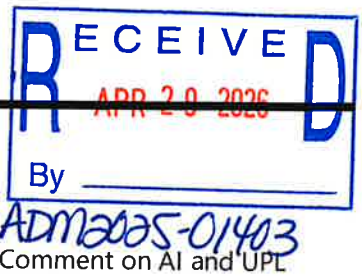
Chambliss, Bahner & Stophel appreciates the opportunity to offer comments concerning the Court's consideration of changes to the regulation of the practice of law.

Sincerely,

Stephen D. Barham
President

SDB

**Kim Meador**




**From:** Jeff Ward <ward@law.duke.edu>
**Sent:** Wednesday, April 29, 2026 12:52 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on AI and UPL reform



The Honorable Justices of the Tennessee Supreme Court
c/o Hon. James Hivner
Clerk, Tennessee Supreme Court
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

**Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403**

To the Tennessee Supreme Court:

I want to congratulate the Supreme Court of Tennessee for reassessing its approach to regulation of the legal profession to ensure that all Tennesseans have access to affordable quality legal services, and I write today to support the views expressed in the comment submitted to the Court on April 23, 2026 by Attorney Greg Siskind, Professor Cat Moon, and Attorney Lucian Pera (the "Siskind comment"). That comment ably explains why a clarified, modernized treatment of artificial intelligence under Tennessee's unauthorized practice of law ("UPL") rules is essential to expanding access to justice. I write briefly to underscore three points that, taken together, reinforce the urgency of the Court's inquiry and the soundness of the path the Siskind comment proposes.

The access-to-justice gap is no longer a matter of academic debate but of measured fact. The Legal Services Corporation's 2022 *Justice Gap Report*—the most rigorous national measurement to date—found that low-income Americans receive no or inadequate help for **92%** of their substantial civil legal problems. The National Center for State Courts has documented that at least one party is self-represented in **more than three-quarters** of state-court civil cases, typically in matters as consequential as eviction, debt collection, and family law. The World Justice Project ranks the United States **107th of 142 countries** on civil justice accessibility. And approximately **36 million American households**—the so-called "ALICE" population—earn too much for legal aid yet too little to afford a lawyer at market rates. As the Court itself has recognized, Tennessee's rural communities and legal deserts make these national patterns concrete and local.

UPL rules in their current form perform three overlapping functions, only one of which clearly serves the public interest. They operate, first, as an *integrity* function—protecting consumers from incompetent or fraudulent providers. This is the rationale on which UPL has long rested, and it remains a legitimate one. But UPL rules also operate, second, as an *insulation* function—shielding the legal profession from competition by sweeping affordable, technology-enabled alternatives out of the market. And third, they operate as an *in terrorem* function—deterring innovators, investors, and public-interest organizations from building accountable tools,

simply because no one can predict with confidence what counts as the "practice of law" in any given jurisdiction. The empirical record bears this out: in the leading national survey of UPL enforcement officials, more than two-thirds could not recall a single instance of serious public injury caused by a nonlawyer in the preceding year, and licensed attorneys—not consumers—drive a disproportionate share of complaints. The reform the Siskind comment proposes preserves the integrity function while disciplining the latter two for the public benefit.

Our Rules of Professional Conduct (in Tennessee and every state) emphasize the lawyer's role as a public citizen, declaring that "a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession." Artificial intelligence has the potential to revolutionize the delivery of legal services, to spur innovative legal solutions, and to empower individuals to navigate the legal system more effectively. While the discussion of AI in legal practice—including the thoughtful comment of Mr. Siskind and his colleagues—has appropriately attended to many of the concerns surrounding these tools and has alluded to some of their benefits, the conversation to date has only begun to express the tremendous opportunity that AI presents to advance these professional goals.

The Rules likewise remind us that "every lawyer, regardless of professional prominence or professional workload, should find time to participate in, or otherwise support, the provision of legal services to the disadvantaged," and that "every lawyer should support all proper efforts to meet this need for legal services." The responsible deployment of AI—bounded by the kinds of disclosure and consumer-protection guardrails the Siskind comment outlines—represents a significant and underappreciated way for the profession to fulfill these obligations and to advance the fundamental principles set out in the opening of our professional code.

Tennessee deserves credit for opening this conversation. By soliciting comments on regulatory reform, the Court has positioned the State to lead other jurisdictions still wrestling with these questions. I have researched and taught on these issues for many years and conclude that he proposals in the Siskind comment offer a sensible, common-sense path—one that protects consumers while opening space for responsible innovation. A Tennessee approach modeled on the Texas safe harbor or Colorado's enforcement-guidance policy, paired with focused study and pilot programs, would honor both the integrity function of UPL law and the profession's broader public-citizen obligations. Tennesseans, particularly those in rural and underserved communities, would benefit substantially.

I respectfully urge the Court to take the steps recommended in the Siskind comment.

Respectfully submitted,

Jeff Ward
Clinical Professor of Law,
Director, Duke Center on Law & Tech
Responsible AI in Legal Services
ward@law.duke.edu

April 29, 2026

The Honorable Justices of the Tennessee Supreme Court
c/o James Hivner
Clerk of the Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

SENT VIA EMAIL
Email: appellatecourtclerk@tncourts.gov

**RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION (DOCKET NO. ADM2025-01403)**

Dear Honorable Justices of the Tennessee Supreme Court,

Thank you for the opportunity to provide public comment in response to Docket No. ADM2025-01403 (In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation).[1] We submit these comments as empirical researchers who use the tools of social science to investigate access to justice and the effectiveness of both new and established ways to respond to America's persistent access to justice crisis.[2] We commend the Tennessee Supreme Court for their leadership in addressing the issue of how regulatory reforms might help to address access to quality legal representation in Tennessee.

The United States' crisis of access to civil justice is so well documented at this point that its facts require little rehearsal. Whichever measure of the *lack* of access to justice one chooses as a standard, the crisis has only deepened, at the same time that the number of American lawyers has grown, both in absolute terms[3] and relative to the size of the population.[4] More civil justice problems go unserved and unresolved than ever.[5] US courts have seen rising numbers of people appearing

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[1] https://s3.amazonaws.com/membercentralcdn/sitedocuments/tnbar/tnbar/0459/2865459.pdf?AWSAccessKeyId=AKIAIHKD6NT2OL2HNPMQ&Expires=1777343415&Signature=vf6%2BMJfGzK%2BRDmTISVUSsYnRR4U%3D&response-content-disposition=inline%3B%20filename%3D%22TennesseeSupremeCourt_OrderSolicitingPublicComment_091625%2Epdf%22%3B%20filename%2A%3DUTF-8%27%27TennesseeSupremeCourt%255FOrderSolicitingPublicComment%255F091625%252Epdf&response-content-type=application%2Fpdf

[2] The authors of this public comment are Matthew Burnett, JD, Director of Research and Programs for the Access to Justice Research Initiative at the American Bar Foundation and Adjunct Professor of Law at Georgetown University Law Center, and Rebecca Sandefur PhD, Professor in the School of Social and Family Dynamics at Arizona State University and Faculty Fellow at the American Bar Foundation. Together they are co-founders of Frontline Justice and the Justice Worker Lab.

[3] The population of U.S. lawyers has grown by 400% since 1970. *See Demographics*, A.B.A. PROFILE OF THE LEGAL PRO. 2023, https://www.abalegalprofile.com/demographics.html.

[4] To illustrate, the U.S. had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* CLARA N. CARSON WITH JEEYOON PARK, AM. BAR FOUND., THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2005 2 (2012).

[5] Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 765 (2021). At least 120 million of those go unresolved. *See* THE HAGUE INST. FOR INNOVATION OF LAW & The INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf. The Legal Services Corporation's 2022 study of the legal needs of the low-income population finds an increase in the proportion of the civil justice issues of the poor that receive no or inadequate service, from 86% in 2017 to 92% in 2022. *Justice Gap Research*, LEGAL SERVS. CORP., https://www.lsc.gov/initiatives/justice-gap-research.

without representation.[6] Civil legal aid offices routinely turn away as many eligible people as they serve for lack of resources.[7] And Tennessee is no exception, with only 10 civil legal aid attorneys per 10,000 low-income residents.[8]

The proposed options outlined in the request for public comments do not specifically outline potential rule changes that would authorize Community Justice Workers (CJWs). However, they contemplate this option under the question, "Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals and, if so, what qualifications, limitations, or subject matter restrictions the Court should consider." As discussed below, empirical evidence from research into existing CJW programs in other states shows that these programs have been both effective and impactful.[9] If this Court authorizes CJWs, Tennessee would be among more than 20 states considering CJW regulatory reforms to tackle the access to justice crisis and 13 jurisdictions (including Alaska, Montanna, Arizona, South Carolina, Delaware, Hawai'i, Texas, and the District of Columbia, among others) that have already recommended or authorized community justice worker programs.[10] The following recommendations are grounded in empirical evidence and insights drawn from our analysis of reform proposals in other states. While other areas of professional practice, such as medicine, have a robust history of using empirical evidence to inform providers' work and practice, law has been less engaged with empirical evidence about the design and impact of legal services to the public. Systematic empirical evidence goes beyond anecdote or personal experience to offer insight into "what works" and reveal consistent patterns of effectiveness, sustainability, and scalability in models for providing people access to justice, illuminating promising opportunities and showing when traditional approaches are less effective than desired.

A key focus of our empirical research for over a decade has been on community justice worker and other lay advocate models, both established and emerging.[11] Our most recent publication on the Alaska Community Justice Worker Program, based on in-depth quantitative analysis of over three

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[6] *See, e.g.*, Stephan Landsman, *The Growing Challenge of Pro Se Litigation*, 13 LEWIS & CLARK L. REV. 439, 440–41 (2009).
[7] *Justice Gap Research*, *supra* note 5.
[8] National Center for Access to Justice, Justice Index: Attorney Access, at https://ncaj.org/state-rankings/justice-index/attorney-access.
[9] *See e.g.* Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. "Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)." American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation. *See also*, Teufel, James, Matthew Burnett, and Rebecca L. Sandefur. 2026. "Analysis of the Social and Economic Impact of the Delaware Qualified Tennant Advocates Program (2022-2025)." American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation.
[10] *See* Frontline Justice, Progress to Date, at https://www.frontlinejustice.org/about#progress.
[11] *See, e.g.* Rebecca L. Sandefur and Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 Alaska Law Review 23-44 (2024); Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L.J. 1509 (2024). Burnett, Matthew and Rebecca L. Sandefur. 2022. "*Designing Just Solutions at Scale: Lawyerless Legal Services and Evidence-Based Regulation*." Public Law, 19 (102); Rebecca L. Sandefur and Emily Denne. 2022. "*Access to justice and legal services regulatory reform*." Annual Review of Law and Social Science 18: 27-42. Rebecca L. Sandefur, Thomas M. Clarke, and James Teufel. 2021. "*Seconds to Impact? Regulatory Reform, New Kinds of Legal Services, and Increased Access to Justice*." Law and Contemporary Problems 84:69-80; Rebecca L. Sandefur. 2020. "*Legal Advice from Nonlawyers: Consumer Demand, Provider Quality and Public Harms*," Stanford Journal of Civil Rights and Civil Liberties 16: 283-314; and Rebecca L. Sandefur and Thomas M. Clarke. 2016. "*Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the USA*." Hastings Law Journal 67:1467-1492.

years of data, demonstrates the transformative potential of community justice workers, especially in rural communities.[12] This research finds that:

- Community justice workers assisted in the recovery of over $23.6 million dollars to Alaskan families, children, and older adults (including disproportionally to people with disabilities, veterans, domestic violence survivors, and Alaska Natives).
- These supports resulted in an additional $14.5 million dollars in economic benefit to the communities where people received them.
- During the study period, the number of ALSC cases served by community justice workers increased by 1,575%.
- Community justice work touched over half of the state's zip codes, including towns and villages with no attorneys and those off the road system.
- The estimated financial return on investment from public benefit value for people and their communities under a federal grant focused on disaster legal assistance was approximately $25 of benefit for every $1 invested.

In addition to this research, we are working with CJW programs in other states (including Texas, Montanna, Oklahoma, and Minnesota) to understand both required inputs and resulting social and economic benefits, particularly to rural and other underserved communities. We look forward to sharing these additional findings in the coming year as these programs mature.

**RECOMMENDATIONS**

As Tennessee considers the design and implementation of justice worker authorization and staffing, we offer five recommendations grounded in empirical evidence. These reflect our recognition that service models capable of helping to meet America's enormous crisis of access to civil justice must not only be able to provide competent and effective services to people in need, they must also be *scalable* to meet vast unmet need and *sustainable* over the long term for both justice worker programs and justice workers themselves.[13] We encourage program regulators and designers to craft these models and the rules that authorize them in ways that are supportive of both sustainability and scale.

*1. Designing for scale.*

a. Enable a wide range of types of organizations to host justice workers.

Regulatory regimes that permit many different types of organizations to host justice workers are likely more effective at supporting scaling than are those that limit authorization to only legal services organizations. This may be especially true in rural contexts where many areas have few or no legal aid offices or other lawyers. Wider authorization supports scale in two critical ways. First, authorizing community-based organizations such as libraries or faith-based organizations and nonlaw progressional organizations such as health clinics to host justice workers allows those organizations to upskill existing staff to assist clients and community members with legal matters related to the problems they are already assisting

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[12] *See*, Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. "*Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025).*" American Bar Foundation Access to Justice Research Initiative. Chicago, IL.

[13] Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L.J. 1509 (2024). Matthew Burnett and Rebecca L. Sandefur. 2022. "*Designing Just Solutions at Scale: Lawyerless Legal Services and Evidence-Based Regulation.*" Public Law, 19 (102)

with. These include issues like rental code violations that create health-harming housing conditions and the range of issues that people bring to librarians in hopes of finding routes to resolution.[14] These models permit growth in the justice worker frontline workforce without the costs and effort of finding and hiring new staff for legal aid offices because these individuals already volunteer or are employed by these organizations.

Second, because these organizations are more widely distributed across states than are legal services organizations, they reach into more areas and communities. As we reported above for Alaska, which permits many types of organizations to host justice workers, in a short time justice workers extended the reach of legal aid into over half the state's zip codes.[15]

b. Permit people with a wide range of life experiences to serve as justice workers.

We encourage a process for applying to operate justice worker programs that allows applicant organizations flexibility in designing training, eligibility, and post-authorization support models for justice workers. An openness to a diversity of models, combined with the targeted collection of evidence about impact (see below), holds promise to allow learning about what training, eligibility, and post-authorization support models are effective at creating justice worker programs that are effective in connecting people to the legal help they need when they need it, sustainable for communities served, justice worker programs, and justice workers themselves, and scalable to meet America's vast crisis of unmet legal need.

Research evidence indicates that some elements of existing justice worker program design are likely unnecessary to ensure competent and effective service and run the risk of limiting the growth and impact of authorized programs. These elements can include degree or experience requirements, character and fitness assessments, and criminal background checks. Part of the reason past limited license practitioner models have failed to grow has been the imposition of high bars to admission. For example, Washington State's now sunset Limited License Legal Technician (LLLT) program's admission requirements included multiple examinations, formal coursework in both college and law school, thousands of hours of supervised practice, and the purchase of malpractice insurance.[16] These structural factors of program design contributed to the LLLT model's failure to scale up.[17] We recommend removing barriers to justice workers' participation that evidence does not support as effective means of ensuring competence and quality; those barriers are unnecessarily restrictive and likely to limit the model's ability to scale up to meet the vast unmet civil legal needs of Tennesseans. Other states that have authorized justice workers have approached justice workers' eligibility in flexible and accessible ways. For example, Alaska's community justice worker program does not include degree or experience requirements. Instead, the designers of Alaska's program

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[14] National Center for Access to Justice. 2021. Working with Your Hands Tied Behind Your Back: Non-Lawyer Perspectives on Regulatory Reform.

[15] *See*, Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. "*Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025).*" American Bar Foundation Access to Justice Research Initiative. Chicago, IL.

[16] Thomas M. Clarke and Rebecca L. Sandefur. 2017. "Preliminary Evaluation of the Washington State Limited License Legal Technician Program." American Bar Foundation and National Center for State Courts.

[17] *Id.* See also Jason Solomon and Noelle Smith. 2021. "The Surprising Success of Washington's Limited License Legal Technician Program." Stanford Center on the Legal Profession.

worked with adult education specialists to design effective, competence- based trainings.[18] Initial training is reinforced and supported by giving justice workers access to "an online portal... which provides resources such as templates, forms, and legal guides as well as a forum for collaboration and support among CJW volunteers and [supervising] staff."[19] They are also supported by a Community Justice Worker Resource Center.[20] Utah, in its legal services regulatory sandbox, employs an active, evidence-based model for monitoring competence of service. Utah authorizes entities to develop their own models for training and deploying justice workers, and then requires those entities to report on a regular basis data on client outcomes, complaints, and other elements of service.[21] We encourage Tennessee to create authorization processes that are open to these and other alternate routes that both support the competence of CJWs and keep the role accessible to people with a wide range of experiences and skill sets.

c. Consider authorization processes that regulate CJW-hosting organizations rather than individual justice workers.

The way justice worker authorization is designed can make scaling easier or harder. A model that requires each justice worker to be authorized individually may require more regulatory resources and therefore grow more slowly than a model that authorizes entities (*e.g.*, nonprofit organizations) to train and supervise justice workers. For example, paralegal regulation follows the model of individual authorization. These models have been very slow to scale.[22] By contrast, a model that authorizes organizations to train, certify and field justice workers holds promise to scale more quickly.[23] Entity regulation of this type has been effective in the immigration space, where organizations like Catholic Social Services and others are currently authorized to host over 2,000 accredited immigration representatives.[24] It has also facilitated scale in Utah's legal services regulatory sandbox, which delivered over 75,000 services in first four years.[25]

*2. Designing for sustainability.*

a. Implementation should include data collection.

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[18] See Joy Anderson and Sarah Carver. 2024. "Community Justice Workers – Alaska's Response to the Access to Justice Crisis." MIE JOURNAL 38(1):33-36.

[19] Joy Anderson et al., Community Justice Workers: Part of the Solution to Alaska's Legal Deserts, 41 *Alaska Law Review* 9-22 (2024)

[20] https://www.alsc-law.org/leadership/

[21] Rebecca L. Sandefur and Lucy Ricca. 2024. "Outside the Box: How States are Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law." JUDICATURE 108(1) https://judicature.duke.edu/articles/outside-the-boxhow-states-are-increasing-access-to-justice-through-evidence-based-regulation-of-the-practice-of-law/

[22] Rebecca L. Sandefur and Emily Denne. 2022. "*Access to justice and legal services regulatory reform*." Annual Review of Law and Social Science 18: 27-42.

[23] Rebecca L. Sandefur and Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 Alaska Law Review 23-44 (2024)

[24] Rebecca L. Sandefur and Matthew Burnett. "Justice Futures: Access to Justice and the Future of Justice Work." In Rethinking the Lawyer's Monopoly: Access to Justice and the Future of Legal Services, edited by David Engstrom and Nora Freeman Engstrom. Cambridge University Press.

[25] Rebecca L. Sandefur and Lucy Ricca. "Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law: New State Approaches." *Judicature*

We encourage the Courts to embed reasonable data collection into the reporting of authorized organizations supporting CJWs and to make those data public. We further encourage the Courts to ensure that adequate resources are invested in staffing and supporting data collection and analysis. This investment will help to ensure that the Courts, the Access to Justice Commission, local service providers, legislators, researchers, and other residents of Tennessee can learn in real-time about the impact of these programs and how they may be made more effective.

For example, data collected as part of the routine work of Alaska's community justice worker program enabled critical assessments of the programs' impact and reach. These data demonstrated that Alaska's CJWs have connected with people in over half of the state's zip codes, including in rural and remote parts of Alaska where there are no lawyers. It also permitted assessment of the impact of the program through the analysis of return on investment presented above.

b. Funding sources should be diverse.

A critical source of resilience and sustainability is durable funding. Community justice worker programs will live with many of the same constraints faced by legal aid, where government funding is inadequate to support programs of sufficient size to meet actual needs. There are ways to surmount this barrier. Resource streams will likely need to include support not only from foundations, government, individuals, and corporate donors, but also opportunities for earned income. For example, organizations can be permitted to charge nominal or sliding scale fees for services to some clients based on their income, where appropriate.

Kind regards,

Matthew Burnett, JD
Director of Research and Programs, Access to Justice Research Initiative, American Bar Foundation; Visiting Scholar, Justice Futures Project, Arizona State University; Adjunct Professor of Law, Georgetown University Law Center

Rebecca Sandefur, PhD
Professor, Sanford School of Social and Family Dynamics and (by courtesy) Sandra Day O'Connor College of Law, Arizona State University; Faculty Fellow and Founder of the Access to Justice Research Initiative, American Bar Foundation

CHAIR
HOUSE OF DELEGATES
**Jonathan Cole**
Baker, Donelson,
Bearman, Caldwell &
Berkowitz, PC
1600 West End Avenue,
Suite 2000
Nashville, TN 37203
(615) 726- 7335
jcole@bakerdonelson.com

AMERICANBARASSOCIATION

HOUSE OF DELEGATES
321 N. Clark Street • Chicago, IL 60654-7598
312.988-5157
americanbar.org



April 29, 2026

James Hivner, Clerk
100 Supreme Court Building
401 7th Ave. N.
Nashville, TN 37219-1307

Re: Comments on Law School Accreditation Component of Tennessee's Bar Admission Requirements

Dear Chief Justice Bivins:

Please accept this letter in my capacity as a Tennessee lawyer and Chair of the House of Delegates of the American Bar Association in response to this Court's Order Soliciting Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Sep. 16, 2025) (the "Order"). I have the honor of serving as Chair of the House of Delegates since 2024, which is the second ranking officer position in the ABA.

This submission addresses the first issue identified in the Order: whether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar. On that note, I respectfully urge the Court to continue its reliance on ABA accreditation standards. I write primarily, however, to correct certain characterizations of the ABA that have appeared in other comments and that, if left unanswered, risk distorting the record upon which this Court will make these critical decisions.

Some commenters have urged this Court to sever its relationship with the ABA on the grounds that the ABA is a partisan activist organization operating without accountability to the legal profession. This characterization is fundamentally wrong and should not form the basis of any regulatory determination. The ABA is one of the largest voluntary professional associations in the

world, and its positions and advocacy reflect the considered judgment of hundreds of thousands of lawyers, judges, law professors, and law students from every state and territory, including Tennessee. Its positions are not handed down by a small cadre of activists; they are the product of a transparent, representative, and deliberative process open to every segment of the profession—a process that I have the privilege of chairing. To dismiss the ABA as an activist organization is to dismiss the collective voice of the American legal profession itself.

Preliminarily, I echo the ABA Council's March 16, 2026, comment in correcting a misunderstanding regarding accreditation: the ABA itself does not directly accredit law schools. As this Court's Order recognizes, accreditation standards are established by the ABA's Council of the Section of Legal Education and Admissions to the Bar, an independent entity within the ABA's organizational structure.[1] For seventy years, the Council has been recognized by the United States Department of Education as the national accrediting agency for JD programs—a designation that subjects it to rigorous federal oversight and periodic review. It operates under its own governance framework, with membership that includes legal educators, practitioners, and public members. It creates its own Standards and Rules, with limited input from the general ABA. Furthermore, it conducts accreditation reviews through transparent procedures including site evaluations and opportunities for institutional response. Any suggestion that the ABA's broader policy positions influence the accreditation process reflects a misunderstanding of this institutional architecture. The Court's continued use of this federally recognized framework protects the public by ensuring that Tennessee's lawyers have received an education meeting nationally recognized standards of quality.

Next, I address the ABA's policies and advocacy, which are separate from "ABA accreditation." It is important to understand how those policies are formed. The ABA's policy-making body is its House of Delegates, a representative assembly of approximately 600 members. The House includes delegates elected by ABA members in each state; delegates from nearly every state bar association and larger local bar associations; delegates from the Association's sections, divisions, and other national legal organizations; and delegates-at-large. The ABA's Board of Governors, the United States Attorney General, and the Director of the Administrative Office of the U.S. Courts are also members by virtue of their offices.

The House of Delegates formulates policy through the adoption of Resolutions with Reports at each Midyear Meeting and Annual Conference, addressing matters before Congress, the courts, and state and local governments. The process is deliberate and structured, following Robert's Rules of Order (12th ed.) when a more specific rule from the ABA's Constitution and Bylaws does not govern. A sponsoring entity—whether a section, committee, state or local bar association, or individual member—drafts a resolution with clear "Resolved" clauses, accompanied by a detailed report explaining its background, rationale, and potential impact. Sponsoring entities consult with the Association's Drafting Committee and other interested entities during development. The Rules and Calendar Committee reviews each proposal for proper form and publishes the reports approximately six weeks before each meeting to allow delegates time for study and consultation. Before the House session, resolution sponsors present their proposals to committee, caucus, and

[1] Order at 2.

delegation meetings, and stakeholder feedback frequently refines a resolution before it reaches the floor. Resolutions then proceed through structured floor debate, during which delegates speak for or against the measure, and adoption requires a majority vote. Once adopted, the resolution becomes official ABA policy, guiding the Association's advocacy before judicial, legislative, and regulatory bodies.

This is not the mechanism of an activist organization imposing its will from above. It is the mechanism of a republican institution in which the representatives of the profession itself deliberate, debate, and decide. Every ABA policy position emerges from this representative process and is subject to the same scrutiny that characterizes any responsible lawmaking body. Even the ABA President cannot make statements on behalf of the Association that conflict with Resolutions set by the House of Delegates.

Despite this deliberative process, certain commenters have asserted that the ABA's stances are "one-sided" and that the Association functions as a left-wing advocacy organization. But the ABA's actual record refutes this claim. The ABA's policy priority, first and foremost, is the Rule of Law. And the Association has consistently defended the Rule of Law without regard to partisan affiliation.

The examples are numerous. Take the ABA's opposition to presidential signing statements during the Bush and Obama Administrations. After the House of Delegates adopted a position asserting that these statements should not be used to sidestep Congress's legislated directives, ABA presidents Greco and Robinson criticized both Presidents Bush and Obama for continuing the practice.[2] And the ABA called out President Obama's "troubling" remarks, when in the leadup to *NFIB v. Sebelius*, President Obama warned the Supreme Court that overturning the Affordable Care Act would be "judicial activism."[3] Then, in 2020, the ABA joined the bipartisan criticism of Senator Chuck Schumer for remarks targeting individual Supreme Court Justices.[4] The Association recognized then, as it does now, that hostility toward judges is dangerous regardless of the speaker's political affiliation. More recently, the ABA has rejected inappropriate calls to impeach federal judges and condemned remarks questioning the legitimacy of judicial review.[5]

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[2] Letter from William T. Robinson III, President, ABA, to President Obama (Dec. 30, 2011), https://web.archive.org/web/20130120035044/http://www.abanow.org/wordpress/wp-content/files_flutter/13256102972011dec30_presidentsigningstatement_1.pdf; *see also* ABA, House of Delegates, Res. 304 (Aug. 8, 2006).

[3] Debra Cassens Weiss, *ABA President Says Obama's Initial Remarks on Judicial Activism Are 'Troubling'*, ABA (Apr. 9, 2012), https://www.abajournal.com/news/article/aba_president_says_obamas_initial_remarks_on_judicial_activism_are_troublin.

[4] Michelle A. Behnke, *When Judges Are Targeted, the Legal Profession Must Respond*, DC Journal (Apr. 16, 2026), https://dcjournal.com/when-judges-are-targeted-the-legal-profession-must-respond/.

[5] *Id.*; *Statement of the American Bar Association: ABA Stands Firmly with Statement of Chief Justice John Roberts in Rejecting Inappropriate Calls for Judicial Impeachment*, ABA (Mar. 18, 2025), https://www.americanbar.org/news/abanews/aba-news-archives/2025/03/aba-president-statement-re-roberts-rejecting-impeachment-calls/; *ABA Condemns Remarks Questioning Legitimacy of Courts and Judicial Review*, ABA (Feb. 11, 2025), https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/aba-statement-re-remarks-questioning-judicial-review/.

The ABA also recently reaffirmed its commitment—through a policy adopted during the Obama Administration—to insisting that DOJ prosecutorial decisions remain free from "partisan political interests."[6] And in February of this year, the House of Delegates adopted Resolution 702, which encourages free, open, and civil discussion on legal and policy issues and recognizes the value of having lawyers with a wide range of views participate meaningfully in ABA leadership, programming, and advocacy.[7]

These are not the actions of an ideological organization. These are the actions of a professional association that has, for nearly 150 years, defended the institutions upon which the American legal system depends.

I respectfully submit that the ABA Council's accreditation framework continues to serve Tennessee and its citizens well. The Court's longstanding reliance on it has ensured that attorneys admitted to the Tennessee Bar receive a legal education meeting rigorous national standards, and I see no basis to conclude that departing from that framework would better serve the public interest.

I appreciate the Court's invitation to comment on these important questions. I stand ready to provide any additional information the Court may find useful.

Respectfully submitted,

Jonathan Cole

Jonathan Cole
Chair, ABA House of Delegates

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[6] Department Of Justice Proceedings Must Remain Nonpolitical, ABA (Sep. 26, 2025), https://www.americanbar.org/news/abanews/aba-news-archives/2025/09/department-of-justice-nonpolitical/.

[7] *ABA House of Delegates Adopts Nearly 30 Policies on Wide-Ranging Legal Issues*, ABA (Feb. 9, 2026), https://www.americanbar.org/news/abanews/aba-news-archives/2026/02/midyear-house-of-delegates-results/; *see also* ABA, House of Delegates, Res. 702 (Feb. 9, 2026).

# IN THE SUPREME COURT OF TENNESSEE
# AT NASHVILLE

## IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION

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**No.ADM 2025-0143**

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## COMMENT OF THE TENNESSEE ACCESS TO JUSTICE COMMISSION TO POTENTIAL REGULARTORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION

The Tennessee Access To Justice Commission (the Commission), pursuant to Supreme Court order filed September 16, 2025, respectfully submits the following Comment to potential regulatory reforms to increase access to quality legal representations.

**Executive Summary**

Tennessee faces a significant and well-documented access-to-justice gap, with the vast majority of low- and moderate-income residents experiencing civil legal issues without obtaining legal assistance. The 2025 Civil Legal Needs Assessment conducted by The Tennessee Alliance for Legal Services confirms that cost, lack of awareness, and structural barriers—including rural attorney shortages and limited access to technology—prevent many Tennesseans from securing help with critical matters such as housing, family law, and healthcare-related debt. At the same time, the Tennessee Supreme Court has called for public input on regulatory reforms, and the Tennessee Access to Justice Commission has undertaken a comprehensive review of national models, stakeholder perspectives, and its own decades of experience to identify reforms most likely to produce meaningful, measurable improvements in access to justice.

Based on that review, the Commission recommends four priority areas for focused study and potential implementation: (1) piloting non-lawyer assistance programs in high-need practice areas; (2) developing alternative pathways to licensure that incentivize service in rural and public interest settings; (3) refining court rules to better support self-represented litigants and expand pro bono participation; and (4) investing in plain-language forms, self-help resources, and responsibly designed AI tools to improve access to legal information. The Commission further recommends that the Court convene dedicated task forces to develop detailed proposals for each area. These

targeted, data-driven reforms offer a practical path forward—one that expands access to legal services while preserving the competence, integrity, and public trust essential to Tennessee's justice system.

**Introduction**

Tennesseans throughout the state cannot afford lawyers to represent them when they face a range of civil legal issues from fighting evictions to creating basic wills. The findings of the 2025 Civil Legal Needs Assessment conducted by the Tennessee Alliance for Legal Services offer helpful insights into this systemic problem.[1] Through surveys of 1,003 households and 165 legal, judicial, and community stakeholders across all 95 counties, the assessment found that 78% of respondents experienced at least one civil legal problem in the past year, yet fewer than one in four sought legal help, largely due to cost, lack of awareness, and access barriers.[2] The report identified the most common legal needs in areas that the Commission's work has examined: healthcare and medical debt (36.5%), family law issues including domestic violence and custody (30.2%), and housing instability such as eviction and landlord disputes (24.1%).[3] The assessment also identified significant disparities affecting rural residents, people with disabilities, seniors, immigrants, and households earning under $40,000 annually.[4] The gap is exacerbated by additional persistent barriers like limited internet access, language access challenges, and staffing shortages among legal aid providers.[5]

These findings make clear that the access-to-justice crisis in Tennessee is not theoretical. It is felt daily by real Tennesseans navigating serious legal problems without help. Recognizing the urgency of this challenge, the Tennessee Supreme Court issued an Order in September 2025 soliciting public comment on potential regulatory reforms to address it, and specifically called upon the Tennessee Access to Justice Commission to respond.[6] The order highlighted the "significant access-to-justice" gap in Tennessee, noting the tremendous work of civil legal services organizations assisting those at or near the poverty line.[7] Further, the Court discussed the growth of rural legal deserts. Some estimate that "as of 2020, Tennessee had twenty counties with fewer

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[1] Tennessee Civil Legal Needs Assessment 2025, Tennessee Alliance for Legal Services at https://las.org/wp-content/uploads/2026/02/TALS-TN_Civil_Legal_Needs_Assessment_2025.pdf.

[2] *Id.* at 9-11.

[3] *Id.* at 3.

[4] *Id.*

[5] *Id.* at 23.

[6] Tennessee Supreme Court Order, In re: Public Comments on Potential Regulatory reforms (filed September 16, 2025 at https://tncourts.gov/sites/default/files/ProposedRulesPdf/ORDER%20SOLICITING%20PUBLIC%20COMMENTS%20ON%20POTENTIAL%20REGULATORY%20REFORMS%20TO%20INCREASE%20ACCESS%20TO%20QUALITY%20LEGAL%20REPRESENTATION.pdf

[7] *Id.*

than ten lawyers."[8] As a recent article in the Tennessee Bar Journal explained, rural residents are "rapidly losing access to lawyers which means losing access to justice."[9]

The Tennessee Access to Justice Commission and the Court have a shared commitment to ensuring meaningful access to justice for all Tennesseans. Building on more than twenty-five years of service supporting the Court, the Commission has worked to identify and address systemic barriers that contribute to the access-to-justice gap. The Commissioners have been tasked with developing strategic plans, identifying priorities, and recommending programs to improve access to justice across the state.[10] The Commission has provided collaborative leadership by working with courts, legal aid organizations, bar associations, and community partners to expand pro bono participation, develop self-help resources, revise court rules, and address systemic barriers to legal services. It is from this foundation of experience and commitment that the Commission undertook its response to the Court's Order.

To prepare this Comment, the Commission approached the Court's request with deliberate care and thoroughness. The Commission reviewed the CLEAR Report[11] in its entirety, sponsored a series of lunch-and-learn sessions with access-to-justice scholars and practitioners from states that have implemented innovative reform efforts, and established a dedicated subcommittee comprised of five Commissioners who conducted independent research on each of the regulatory reform topics identified in the Court's Order.

Building on this work and the Commission's more than twenty-five years of experience addressing access-to-justice issues in Tennessee, the Commission carefully reviewed all seven questions presented by the Court. The Commission evaluated each question through a single, consistent lens: which reforms would have the most meaningful and demonstrable impact on closing Tennessee's access-to-justice gap while preserving the competence, integrity, and public trust that define the legal profession.

That review led the Commission to identify four priority recommendations. Two of these recommendations, non-lawyer assistance programs and alternative pathways to licensure, respond directly to specific questions raised in the Court's Order. Two additional recommendations, concerning reform of court rules affecting self-represented litigants and the development of self-help tools and AI-assisted resources, emerged from the Commission's own research and discussions. The evidence supporting these two additional reforms was sufficiently compelling

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[8] ABA, Profile on the Legal Profession (2020) at https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf.

[9] *Id.*

[10] https://tncourts.gov/courts/supreme-court/rules/supreme-court-rules/rule-50-tennessee-access-justice-commission.

[11] Committee on Legal Education and Admissions Reform (CLEAR) Report and Recommendations 10 (July 27, 2025), https://perma.cc/SW8E-FTX4.

that the Commission felt obligated to include them in this Comment, even though they were not specifically enumerated in the Order.

The Commission's four recommendations are:

1. Examine mechanisms for non-lawyer assistance and create a pilot project targeting specific legal practice areas where data demonstrates that low-income Tennesseans cannot obtain affordable, quality legal representation. (Addressing Item No. 6 in the Order.)
2. Study and develop alternative pathways to licensure, including curricular, post-graduation, and hybrid approaches, designed to incentivize lawyers and law students to serve in the public interest and in rural legal deserts. (Addressing Item Nos. 3, 4, and 5 in the Order.)
3. Review and refine Tennessee Supreme Court rules to further improve access to justice for self-represented litigants, including rules affecting limited-scope representation, pro bono service, and court navigation. (Identified through Commission research as a high-impact ATJ priority.)
4. Galvanize legal experts to develop statewide plain-language forms, stronger self-help resources, and responsible generative AI tools to expand access to legal information for self-represented litigants. (Identified through Commission research as a high-impact ATJ priority.)

The Commission also reviewed the remaining questions in the Court's Order, specifically those concerning ABA accreditation and non-lawyer ownership of law firms and addresses them in a separate section of this Comment. After careful consideration, the Commission does not find that either of these reforms would meaningfully promote access to justice for Tennesseans and therefore does not recommend them for the Court's priority consideration.

The Commission recognizes that each of the four priority recommendations involves reforms of significant complexity. Given the timeframe for this Comment, it was not possible for the Commission to fully develop implementation frameworks, cost structures, oversight mechanisms, or operational details for any of these reforms. Each recommendation will require substantial further study by subject-matter experts and dedicated stakeholders before it can be responsibly implemented.

Accordingly, the Commission's overarching recommendation to the Court is this: designate each of the four priority areas for focused study by a separately convened task force. Each task force should include subject-matter experts, members of the Commission, representatives of legal aid organizations, members of the bar, and other relevant stakeholders. These task forces would be charged with developing concrete implementation proposals, including governance structures, funding requirements, oversight mechanisms, and evaluation metrics, for the Court's subsequent consideration.

**Regulatory Reform Recommendations**

This Comment is intended to provide the Court with a substantive foundation for that work. It offers an honest assessment of the access-to-justice landscape in Tennessee, a survey of meaningful reform efforts underway in other states, and a clear identification of the areas where targeted action is most likely to produce results for the Tennesseans who need it most.

1. **The Court should examine mechanisms for non-lawyer assistance and create a pilot project targeting specific legal practice areas where data demonstrates that low-income Tennesseans cannot obtain affordable, quality legal representation. (Addressing Item No. 6 in the Order.)**

The Court identified in its Order that "there is a growing recognition that the current supply of legal services in the United States is insufficient to meet the needs of many Americans."[12] The Court also noted that "there is a growing concern regarding the lack of access to legal services in rural areas."[13] To address supply-side concerns about civil legal services, more than 25 states are exploring, implementing, or administering at least one regulatory reform initiative that authorizes nonlawyers to provide legal information or practice law in limited settings.[14]

These efforts are encouraged by the Conference of Chief Justices and Conference of Court Administrators in a resolution titled "In Support of Exploring Access to Justice Through Authorized Justice Practitioner Programs."[15] (Resolution 1-2025). The resolution noted that state supreme courts are responsible for the regulation of legal service providers in their respective jurisdictions, and six states have programs authorizing individuals without law licenses to practice law in limited or community settings. These models range from court navigators who cannot give legal advice to licensed paraprofessionals (LPs) who can provide limited legal services in certain practice areas.

**A. Court Navigators Assisting Pro Se Litigants**

One of the earliest non-lawyer initiatives created "navigators" – trained non-lawyer professionals who assist litigants in navigating court processes, completing forms, and understanding procedural requirements.[16] These programs, implemented in states like New York

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[12] Tennessee Supreme Court Order, In re: Public Comments on Potential Regulatory reforms (filed September 16, 2025.

[13] *Id.*

[14] https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap/.

[15] https://ccj.ncsc.org/resources-courts/support-exploring-access-justice-through-authorized-justice-practitioner-programs.

[16] Non-Lawyer Navigators in State Courts: Part II – An Update, new energy, urgency and possibilities. By Mary McClymont. https://www.law.georgetown.edu/tech-institute/wp-content/uploads/sites/42/2023/10/Nonlawyer-

and Alaska, typically target high-volume practice areas, like housing and family law, where self-represented litigants are common.[17] Navigators receive short-term, skills-based training that includes instruction on court procedures, ethical boundaries (especially the distinction between legal information and legal advice), and how to fill out legal documents. Navigators can also receive specialized training in subject-matter areas like evictions or consumer debt. Although navigators do not provide legal advice, they can play a critical role in improving court access and efficiency by helping individuals better understand and participate in their cases.[18]

### B. Licensed Paraprofessionals Offering Specialized Legal Services

Several states have created a new tier of paid legal service providers that are not lawyers and refer to this new non-lawyer status by different terms including allied legal professional, legal paraprofessional, qualified paraprofessional, and licensed legal professional.[19] For clarity, this comment refers to these programs collectively as "licensed paraprofessional" programs or LPs. LPs allow non-lawyers to provide limited legal services. States have established different limitations for LPs, and many programs designate specific practice areas for LP certification.

For example, Minnesota's pilot project, launched in 2021, allows licensed paraprofessionals to represent clients in specific types of housing and family matters.[20] They keep track of their work and report it so the state can determine if they are impacting the 95% rate of unrepresented litigants in these cases.[21] Utah's Licensed Paralegal Practitioner (LPP) program established in 2018 allows LPPs to practice in consumer debt, landlord-tenant and family law.[22] Over two years, these LPPs have provided nearly 20,000 services to 10,000 clients with few complaints.[23]

LP programs have credentialing requirements that can include a combination of formal education (like an associate's degree or paralegal certificate), a set number of hours of substantive legal experience under attorney supervision, and passage of a licensing exam. They must also

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Navigators-in-State-Courts-Update.pdf; Non-lawyer navigators in state courts: An emerging consensus, A survey of the national landscape of non-lawyer navigator programs in state courts assisting self-represented litigants. By Mary E. McClymont, the Justice Lab at Georgetown Law Center at https://www.law.georgetown.edu/tech-institute/wp-content/uploads/sites/42/2023/06/Nonlawyer-Navigators-in-State-Courts.pdf. *See also,* https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf

[17] *Id.*

[18] *Id.*

[19] https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

[20] Licensing Legal paraprofessionals, Rhode Center, https://clp.law.stanford.edu/licensing-paraprofessionals/#:~:text=Utah%20–%20licensed%20paralegal%20practitioners%20(LPPs,provincial%20offenses%2C%20and%20administrative%20tribunals.

[21] https://iaals.du.edu/projects/allied-legal-professionals.

[22] *Id.*

[23] *Id.*

complete continuing legal education (CLE) and adhere to professional conduct rules. These programs require dedicated licensing oversight which requires a financial investment from the state.

While states are still evaluating the effectiveness of these programs, early signs suggest that they are especially helpful for litigants of modest means. In Arizona, for example, paraprofessionals charge an average hourly rate of $236 with flat fees ranging from $600 to $3000–rates and fees that may remain out of reach for some low-income individuals and that, in certain markets, approach those of attorneys.[24] However, these programs are generally focused on practice areas where individuals are not retaining counsel and instead proceed pro se, meaning they are expanding access in spaces where legal representation is often absent rather than displacing existing attorney services.

### C. Community Justice Workers Certified under a Lawyer's Practice License.

Community-Based Justice Worker (CJW) programs "involve training and certifying individuals working at community-based organizations to offer legal advice and services in certain case types."[25] This model provides free legal assistance to target low-income individuals who would not be able to afford legal representation. The CJWs might be required to be supervised by an attorney and/or be in partnership with a legal service corporation.[26] As of this month, 14 states have passed or proposed rules authorizing justice worker programs and 20 are considering them.[27] An evaluation of Alaska's program shows that by the end of 2024, "CJWs were serving nearly 4 cases for every one case served as volunteer attorneys."[28] Because they are imbedded in a community-based organization or legal aid organization, these non-lawyers reach populations that may not otherwise seek help from traditional legal institutions.

As one example, the CJW model in Arizona trains nonlawyers from local communities to provide limited legal assistance, especially to people who cannot afford attorneys. Authorized by the Arizona Supreme Court in 2020, the model allows these workers—often embedded in nonprofit organizations, social service agencies, or community groups—to offer practical support such as

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[24] Assessing Arizona's Legal Paraprofessionals: 2024 Program Survey, https://www.azcourts.gov/Portals/0/26/Assessing%20Arizonas%20Legal%20Paraprofessionals_2024%20Survey%20--%20Narrative%20Summary_1.pdf at 15.

[25] The Diverse Landscape of Community-based Justice Workers at https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers . *See also,* https://docs.google.com/spreadsheets/d/1yJIHSRy9k-l8wq8D6QRpqAuuFNLUiyQwpRNv1m9VTSs/edit?gid=262340764#gid=262340764.

[26] Nikole Nelson, Rebecca L. Sandefur & Matthew Burnett, Empowering Justice Through Community Justice Workers, 38 MGMT. INFO. EXCH. J. 29 (2024).

[27] Frontline Justice, https://www.frontlinejustice.org/about.

[28] https://www.americanbarfoundation.org/wp-content/uploads/2025/11/ABF-Alaska-Community-Justice-Brief-FIN.pdf at 2.

explaining legal rights, helping complete forms, and preparing individuals for hearings. They typically focus on high-need areas like housing, public benefits, family law, and domestic violence, and may work under attorney supervision or mentorship. By operating in trusted community settings, CJWs make legal help more accessible and easier to navigate. This model is designed to address the justice gap, where many people face legal problems without adequate assistance due to cost or limited attorney availability. CJWs do not replace lawyers but instead handle routine or high-volume needs through free, limited-scope services, helping to extend the reach of the legal system. Rooted in principles of community engagement, legal empowerment, and scalability, the model builds a larger, more flexible legal workforce while enabling individuals to better understand and advocate for their rights.

LP and CJW models generally require modifications to, or limited exemptions from, unauthorized practice of law rules, which are changes that several states have already implemented. Most programs also limit these roles to specific areas of law and to serving low-income populations, often focusing on high-volume matters where self-representation is common. In addition, both models require meaningful investment to develop and sustain, particularly where paraprofessionals operate under the supervision of, or in partnership with, legal services lawyers.

The Supreme Court could create task force in partnership with the Commission to further study specific state programs, identify the legal practice areas in Tennessee (i.e. consumer debt, evictions, orders of protection) where pro se representation is most prevalent, and develop proposals for a targeted paraprofessional licensing program and/or court access worker initiative in collaboration with legal services or social services organizations. This approach directly connects to our recommendations to examine court rules and develop court-approved forms and procedures to improve access to justice. For example, a targeted paraprofessional program could directly connect to our recommendation to expand a lawyer's ability to provide limited scope representation. The Georgia Supreme Court took a similar approach in August 2024.[29] The Court created a Supreme Court Study Committee on Legal Regulatory Reform "to develop recommendations regarding the regulation of the practice of law to improve civil legal access for Georgians."[30] The goal of the Committee was to "examine existing regulation of the practice of law and determine the viability of modifications to current regulatory practices to allow certain qualified, credentialed and supervised non-attorneys to provide limited legal services directly to low-income Georgians, with a focus on the "narrow areas in which non-lawyers can be trained to assist clients who otherwise could not afford a lawyer or who live in rural areas where lawyers are not available." The committee was chaired by Justice Carla Wong McMillian and vice-chaired by Court of Appeals Presiding Judge Stephen Louis A. Dillard.[31] The structure of the Georgia Committee might be instructive to our Court. For example, the Committee had 13 members, 8 members were appointed by the Chief Justice of the Court, and 5 members were appointed by the President of the State Bar, and the chair could designate and appoint committees as necessary to research and investigate issues to complete their work. Within 10 months, the committee issued a comprehensive report by engaging in

[29] https://www.gasupreme.us/wp-content/uploads/2024/09/In-Re-Supreme-Court-Study-Committee-on-Legal-Regulatory-Reform.pdf.

[30] https://assets.georgiacourts.gov/2/wp-content/uploads/2026/01/22165038/GA-Supreme-Court-Report-on-Legal-Regulatory-Reform_6-30-25.pdf. https://www.gasupreme.us/07-07-2025-supreme-court-study-committee-on-legal-regulatory-reform-submits-report/.

[31] *Id.*

extensive fact-gathering, including an analysis of regulations and programs in other states, and conducting "over 40 stakeholder interviews with members of the legal profession and community-based organizations that serve low-income and rural residents."[32] One of its recommendations was "a phased pilot program that would permit non-attorneys to perform certain limited legal tasks in specific types of cases."[33] The phased pilot approach in three counties aimed "to balance the need to show caution when expanding the practice of law into new areas with the urgent unmet legal needs of low-income and rural Georgians."[34]

Similarly, here, a Tennessee Supreme Court Task Force could be tasked with detailed fact-findings about the potential and challenges for non-lawyer representation in Tennessee and generate a report with recommendations. As demonstrated by Georgia's approach, the Court could pilot one of these models in three to four counties and evaluate its effectiveness over a couple of years before implementing a statewide model.

**2. The Court should study and develop alternative pathways to licensure, including curricular, post-graduation, and hybrid approaches, designed to incentivize lawyers and law students to serve in the public interest and in rural legal deserts. (Addressing Item Nos. 3, 4, and 5 in the Order.)**

In Tennessee, numerous counties have fewer than ten active lawyers, and several have only one to five lawyers serving the entire population. These shortages impede access to our civil justice systems—particularly in rural communities. In response to similar access-to-justice gaps, other states have adopted alternative lawyer licensing pathways that do not rely exclusively on the traditional model of the three-year J.D. and bar examination.

Broadly, these reforms fall into three categories:

- Curricular options where the applicants complete most or all bar requirements while attending law school,
- Post-graduation supervised practice options, and
- Hybrid or a combination of a curricular and post-graduation option.

**A. Curricular Pathways to Bar Licensure**

The curricular based options allow applicants to complete most, if not all, of the admission requirements while in law school. These range from full diploma privilege to requirements that applicants develop a portfolio of work that is evaluated by bar examiners. Curricular based

[32] *Id.*
[33] *Id.*
[34] *Id.*

pathways require close partnership between the law schools in the state and the state bar and have been most successful in states with few law schools.

The University of New Hampshire and the New Hampshire Supreme Court have maintained a highly structured alternative pathway that functions as a competency-based substitute for the bar exam for more than 20 years. To qualify, students must be admitted into the program during law school and complete a specialized, practice-focused curriculum over their final two years. This includes simulated and real legal work, like client counseling, negotiations, drafting, and court appearances—combined with doctrinal coursework. Throughout the program, students are evaluated by judges, practicing attorneys, and members of the New Hampshire Board of Bar Examiners, rather than taking a single written test. Other states are considering adopting similar approaches, including Oregon, Minnesota, Washington, and South Dakota.

The South Dakota alternative pathway is specifically for public interest lawyers and allows them to demonstrate their competence without taking the bar exam. The program is a pilot with up to ten law students who must follow a required curriculum, complete externships with attorney supervision, and commit to working in public interest for at least two years after graduation. In 2025, the South Dakota adopted a five-year pilot program to provide a public service pathway to bar admission.

### B. Supervised-practice Pathways to Bar Licensure

The second alternative pathway involves supervised practice following graduation. These programs generally fall into three categories. The first emerged as a temporary response to the pandemic, and the Commission has not examined this category in detail. The second applies to graduates who did not initially pass the traditional bar examination. The third includes graduates who meet specified program criteria and elect to pursue supervised practice as an alternative path to licensure.

Three states have launched a supervised practice pathway for graduates who failed the traditional bar exam: California, Oregon, and Arizona. All three states require that graduates to pass the MPRE, meet all character and fitness requirements, and satisfy any other conditions for bar admission. The program only substitutes for a passing score on the traditional bar exam.

The Arizona Supreme Court's Arizona Lawyer Apprentice Program (ALAP), launched in 2024 and supported by a grant from the State Justice Institute, is "designed for candidates who narrowly miss Arizona's Uniform Bar Exam (UBE) passing score of 270, recognizing that a single cut score does not perfectly measure attorney competence and future success."[35] If a candidate

[35] https://www.sji.gov/arizona-lawyer-apprentice-program-alap-the-arizona-supreme-court/. For the July 2025 UBE, 16 of 44 eligible candidates (36%) have applied, while for the February 2025 UBE, 20 of 36 eligible

fails by fewer than 9 points, they can be admitted to practice law under the supervision of an experienced Arizona attorney, provided they commit to two years of providing legal services in rural areas or with public law offices statewide and meet all other admission standards. Upon completing the program, the licensee receives a regular license to practice law in Arizona. After one year, ALAP received 70 applications, and to date, there are 40 active licenses.[36]

Oregon has also launched a full-fledged supervised practice program in 2024, called the Supervised Practice Portfolio Examination (SPPE).[37] This pathway to licensure that allows applicants to complete structured supervised legal work after law school and submit a portfolio demonstrating competencies across key practice areas.[38] This model emphasizes real-world client work product and performance evaluation by supervising attorneys as an alternative to taking the bar exam. Minnesota and Washington are currently creating post-graduate alternative pathway to licensure program.[39]

### C. Hybrid Pathways to Bar Licensure

The last alternative pathway is a hybrid or combination to the first two pathways described above. The Utah Supreme Court adopted an Alternate Path to licensure for graduates who have not taken a bar exam in any jurisdiction.[40] It is a combination of experiential education, post-graduate supervised practice, and standardized examination. Nevada is developing an innovative three-part Comprehensive Licensing Examination (the Nevada Plan).[41] The Nevada Plan requires all bar candidates to complete a supervised practice requirement. The Nevada Plan is an example of graduate reform that will apply to all bar candidates.

These reforms collectively demonstrate that state supreme courts can innovate within their licensing authority to assess practice competence while simultaneously advancing public protection and access to justice. They reflect a shift to competency-based licensure options that better align educational experiences with practice demands.

Tennessee should consider adopting an alternative licensure pathway tailored specifically to incentivize public interest work and to serve rural legal deserts. The Supreme Court could devise an implementation committee, like the current one in Minnesota, to study and propose an alternative pathway to licensure. The committee could be tasked with drafting a rule change to

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candidates (56%) have applied. Earlier eligibility periods yielded 19 applications from July 2024 examinees (35%) and 7 applications from July 2023/February 2024 examinees (12%).

[36] *Id.*

[37] https://www.osbar.org/sppe.

[38] https://www.abajournal.com/web/article/oregons-alternative-pathway-to-the-bar-proves-popular.

[39] https://nationaljurist.com/washington-becomes-fourth-state-to-adopt-alternative-pathways-to-practice-law/; https://ble.mn.gov/board/alternative-pathways/

[40] https://www.utahbar.org/wp-content/uploads/2025/08/Frequently-Asked-Questions.pdf

[41] https://nvbar.org/nvplan/

implement the pathway and draft a plan for implementing the pathway. Such a pathway could include:

- Permitting bar admission after 12–18 months of supervised practice in designated rural counties, public defender offices, district attorney offices, or legal aid organizations;
- Allowing law students to complete structured, clinic courses or rigorous externships in underserved counties as part of a curricular licensing option;
- Designing a supervised practice pathway that incentivizes jobs in rural counties and public interest work through mentoring and portfolio evaluation;
- Pairing such pathways with incentives—such as loan repayment support, continuing legal education mentorship credits, or retention bonuses—to encourage sustained service in these communities; and
- Creating a curricular program that shortens the time students are in law school by a semester allowing them to meet admission requirements while in law school, which would make law school cheaper and allow them to begin practicing in a public interest job or rural legal desert sooner.

To illustrate potential impact, if ten law students at each Tennessee law school chose to pursue an alternative pathway focused on rural or public interest service, that could result in fifty new lawyers each year committed to serving legal deserts and public interest organizations. Over time, this cohort could significantly increase legal coverage in underserved regions and make measurable progress toward closing Tennessee's justice gap.

Such reforms would not lower professional standards. Rather, by assessing competence through observed practice and supervised skill development, and by incentivizing service where it is most needed, Tennessee can protect the public, strengthen practice readiness, and take a concrete step toward advancing access to justice for all its residents.

3. **The Court should review and refine Tennessee Supreme Court rules to further improve access to justice for self-represented litigants.** *(Identified through Commission research as a high-impact priority.)*

When studying the issues presented in the Court's Order, the Commission determined that it should also address additional access-to-justice reforms that further the purposes identified by the Court. The Commission has particular expertise in examining court rules and developing court-approved forms and procedures to improve access to justice. Thoughtful revision of court rules can meaningfully improve access to justice in rural areas, across the State, and in the case types where many litigants proceed without counsel.

Based on its experience, the Commission recommends that the Court consider whether targeted rule refinements could further improve access to justice in several areas, including:

- refining the rules governing limited-scope representation so that attorneys may provide appropriate, ethical assistance to self-represented litigants without unnecessary procedural burdens that discourage pro bono participation or limit access to justice;
- allowing attorneys who are licensed in another jurisdiction, but reside or work in Tennessee, to provide qualified pro bono legal services in Tennessee through approved organizations;
- encouraging attorneys and law firms to support supervised paralegal participation in pro bono matters;
- developing or endorsing court rules and procedures that make the courts easier for self-represented litigants to navigate;
- considering whether Tennessee Supreme Court Rule 13 should be amended to allow appointment of counsel in certain civil matters; and
- considering whether Rule 6.1 should be amended to increase the practical impact of pro bono service and financial support for civil legal services.

### A. Limited Scope Representation and Related Rule Review

The Commission recommends that the Court consider whether rules governing limited scope representation could be refined to further support access to justice. Before the 2025 developments concerning Tennessee Rule of Civil Procedure 11.01, the Commission had already undertaken work addressing limited scope representation, also referred to as unbundled legal services,[42] under Tennessee Supreme Court Rule 8. That work was paused after Formal Ethics Opinion 2025-F-172 interpreted Rule 11.01 in a manner that raised substantial concerns for legal services organizations, pro bono programs, and attorneys providing limited assistance to otherwise self-represented litigants. The opinion was later withdrawn, and a separate rule-review process was initiated regarding Rule 11.01.

Even so, the Commission believes the concerns that prompted its earlier Rule 8 work remain important. Rule 11.01 and Rule 8 address related aspects of limited scope representation and may warrant consideration together to ensure that attorneys may provide appropriate, ethical assistance to self-represented litigants without unnecessary procedural burdens that discourage pro bono participation or limit meaningful access to justice. The Commission's

[42] According to the American Bar Association, unbundled legal services or limited scope representation is "an alternative to traditional, full-service representation. Instead of handling every task in a matter from start to finish, the lawyer handles only certain parts and the client remains responsible for the others. It is like an à la carte menu for legal services, where: (1) clients get just the advice and services they need and therefore pay a more affordable overall fee; (2) lawyers expand their client base by reaching those who cannot afford full-service representation but have the means for some services; and (3) courts benefit from greater efficiency when otherwise self-represented litigants receive some counsel."
https://www.americanbar.org/groups/delivery_legal_services/resources/.

prior limited-scope work is attached for the Court's consideration. See Appendix A – Access to Justice Commission, Pro Se Assistance/Limited Scope Review, November 22, 2023.[43]

### B. Out-of-State Attorneys Performing Pro Bono Work in Tennessee

In general, attorneys must be licensed in the jurisdiction where they perform pro bono legal work. However, some states permit attorneys licensed elsewhere in the United States to provide pro bono services in-state under defined conditions. Texas, for example, created the New Opportunities Volunteer Attorney (NOVA) Pro Bono Program. Under that program, inactive members of the State Bar of Texas and lawyers licensed and in good standing in other states may participate if they provide pro bono services through an approved legal services organization and satisfy certification requirements. Tennessee could consider adopting a similar rule. See Appendix B – Examples of Out-of-state Pro Bono Rules from Other Jurisdictions.

### C. Paralegal Support for Pro Bono Work

The Court may also wish to consider ways to encourage attorneys and law firms to allow paralegals to contribute time and resources to pro bono matters under attorney supervision. National organizations including the National Federation of Paralegal Associations and the American Bar Association have recognized the importance of supervised paralegal work in expanding legal services.[44] Supervised paralegal assistance can support intake, drafting, research, and certain administrative and tribunal-related functions, and can therefore increase the capacity of lawyers and legal services organizations to serve more Tennesseans.

### D. Rule Refinements Affecting Self-Represented Litigants

The Court should also consider whether additional model rules, local rules, or statewide procedural refinements would make the courts easier for self-represented litigants to navigate. Tennessee already has an example of this approach in the Pro Se Bench Book for General Sessions Judges, which includes draft rules and practices that may assist courts in handling cases involving self-represented parties. See Appendix C – Pro Se Bench Book for General Sessions Judges. Several trial courts across the state have adopted helpful practices that could serve as models. Other model rules for the Court to consider are:

- Waiting a certain amount of time for the pro se litigant to appear in court before entering a default,

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[43] Access to Justice Commission, Pro Se Assistance/Limited Scope Review, November 22, 2023. Appendix A contains the Commission's earlier work regarding limited scope representation and ghostwriting. It predates, and has not been revised to address, the 2025 developments concerning Tennessee Rule of Civil Procedure 11.01. Before those developments, the Access to Justice Commission had voted to seek action consistent with the findings reflected in this material, either by requesting an opinion from the Board of Professional Responsibility consistent with those conclusions or by seeking a comment to Tennessee Supreme Court Rule 8 from the Tennessee Supreme Court. Before that work was completed, Formal Ethics Opinion 2025-F-172 was issued, resulting in separate review of Rule 11.01 and suspension of the Commission's earlier Rule 8 efforts pending that process.

[44] https://www.americanbar.org/groups/litigation/resources/newsletters/ethics-professionalism/ethics-paralegal-work-supervision-litigation/?login.
https://cdn.ymaws.com/www.paralegals.org/resource/resmgr/files/migration/n/non_lawyer_practice_2_.pdf

- Providing videos and other documents to explain what to expect in court, the order of the docket, and explaining whether volunteer mediators are available,
- Permitting trained court clerks to explain a court process or the law to self-represented litigants without violating unauthorized practice of law rules,
- Ordering courts to explain information to an unrepresented party and assist in eliciting relevant facts to ensure a fair decision,
- Granting continuances to either party at least one time unless otherwise restricted by law so long any legal protection in place remains during the continuance(s),
- Encouraging appropriately trained mediators to be available for certain dockets for mediator of the day programs,
- Ensuring rules and processes make it easy for self-represented litigants to request and obtain an affidavit of indigency under a defined process for the affidavit to be timely reviewed by a judge so that applicants do not need to come back to court to file the underlying court document, and
- Not allowing writs of possession to be executed in eviction cases if not sought timely and within a prompt timeframe after an eviction judgment. See Appendix C.

### E. Appointment of Counsel in Certain Civil Matters

The Court could amend TSC Rule 13 to allow the appointment of counsel in certain civil cases. The Commission recognizes the enormity of this reform, but the impact it would have on low-income Tennesseans who cannot afford legal counsel or do not qualify for assistance from legal service organizations would be significant. The Commission recommends that the Court evaluate such a rule change that would allow for appointments in certain civil cases. See Appendix B for examples of other jurisdictions that allow appointment for civil cases on a case-by-case basis.

### F. Rule 6.1 and Support for Civil Legal Services

Finally, the Court may wish to consider whether Rule 6.1 should be revised to increase the practical impact of pro bono work and financial support for civil legal services.[45] Many of the regulatory reform recommendations will require a significant financial support to help fill the access to justice gap. Rule 6.1 could be a source for some of that funding if lawyers were required to do more than just aspire to 50 hours of pro bono. Lawyers could have a choice of providing free legal services or providing financial support to legal services organizations in lieu of pro bono hours. The District of Columbia has adopted a rule that could serve as a model.[46] The Court could ask the Commission to examine what other states have implemented regarding mandatory pro bono and make a suggestion to amend to Rule 6.1.

4. **The Court should galvanize legal experts to develop plain-language self-help materials and leverage responsible generative AI tools to expand access to legal**

[45] DarKenya W. Waller and Eric G. Osborne, Democracy, the Justice Gap and Preserving the Rule of Law, https://las.org/democracy-the-justice-gap-and-preserving-the-rule-of-law/; https://issuu.com/nashvillebarassociation/docs/2024_summer_nbj_online.

[46] https://www.dccourts.gov/sites/default/files/matters-docs/rule49.pdf.

**information for self-represented litigants.** *(Identified through Commission research as a high-impact priority.)*

The Commission recommends that the Court view plain-language forms, self-help resources, and responsible technology as closely related components of a modern access-to-justice strategy. For many Tennesseans, especially those in rural areas and those who cannot afford counsel, meaningful access to justice depends not only on the availability of lawyers, but also on whether litigants can understand court processes, locate reliable materials, and present their claims or defenses in a form the legal system can meaningfully process.

### A. Statewide Forms and Self-Help Resources

The Tennessee Supreme Court is the only entity in Tennessee that can approve statewide use of plain-language legal forms for filing with the courts under Tennessee Supreme Court Rule 52. The creation of additional statewide forms would materially improve access to the Tennessee court system, including in rural areas. The availability of approved forms would promote consistency, reduce confusion, and help self-represented litigants present legally sufficient information to the court. In addition, if the Court ultimately approves paraprofessional or other non-lawyer assistance models, the existence of clear, approved forms will make those reforms more effective and more administrable.

The need for additional forms is particularly important in case types where one side has a readily available form and the other does not. Without sufficient forms, litigants may not have a meaningful opportunity to be heard. For example, in general sessions court, there is a statutorily created detainer summons form, but there is no comparable statewide form for a tenant to assert defenses or related claims. These kinds of gaps can make the system more difficult to navigate for unrepresented parties.

The Commission therefore recommends that the Court authorize the Commission and the Administrative Office of the Courts to work together to develop a more robust and modern self-help portal or center.[47] This effort should include sustained staffing and project management, including a dedicated position responsible for coordinating the development, review, approval, updating, and maintenance of plain-language forms; overseeing the usability and organization of the portal; and incorporating appropriate technological advances into the delivery of self-help resources. The Court may also wish to consider whether Rule 52 could be refined to allow the Commission and the Administrative Office of the Courts to evaluate, prioritize, and advance forms projects in a more systematic way so that forms development becomes an ongoing access-to-justice priority rather than a piecemeal effort.

Other states demonstrate the value of this approach. Kentucky, for example, has developed a self-help portal that includes guided interviews for numerous court forms,[48] and other

[47] Our current Tennessee Self Help Center is difficult to navigate: https://www.tncourts.gov/programs/self-help-center.

[48] https://www.kycourts.gov/Legal-Help/Pages/Self-Help-Portal.aspx.

state court systems provide useful models Tennessee can study in building a stronger statewide resource.[49]

### B. Responsible Use of Generative AI in Self-Help Services

Artificial intelligence makes this work more urgent, not less. Self-represented litigants are already using publicly available generative AI tools to ask legal questions, draft filings, and attempt to navigate court processes. That reality cannot be ignored. AI therefore presents both a serious risk and a significant opportunity.

On the one hand, general-purpose tools may generate inaccurate, incomplete, overconfident, or legally unsound information. Self-represented litigants who rely on those tools may prepare flawed pleadings, misunderstand deadlines or procedures, or present arguments that are not supported by Tennessee law. That can harm litigants, create inefficiencies for courts, and undermine confidence in the justice system. If the justice system does not provide better alternatives, many users will continue turning to tools that are not designed for Tennessee courts, Tennessee procedure, or the practical realities faced by self-represented litigants.

On the other hand, responsibly designed and carefully limited AI tools could become one of the most effective ways to expand access to legal information and self-help assistance. If grounded in Tennessee-specific law, approved forms, court rules, and carefully curated plain-language content, such tools could help litigants understand court processes, identify the correct forms, complete guided interviews, receive explanations of common legal terms and procedural steps, and avoid common filing errors.

For that reason, the Commission recommends that the Court partner with the Administrative Office of the Courts, legal services organizations, technologists, and other stakeholders to identify funding sources and develop safe, limited AI-supported tools for self-represented litigants. These tools should not attempt to replace lawyers or provide unrestricted legal advice. Rather, they should be built to expand reliable access to legal information and to direct users toward approved Tennessee resources instead of leaving them to depend on unregulated public platforms that may produce erroneous or fabricated legal work.

The Commission believes this reform may have especially significant promise. In many case types, the combination of court-approved forms, guided self-help tools, and carefully bounded generative AI could have a greater practical impact on day-to-day access to justice than almost any other single reform. AI is already shaping how people seek legal help. The Court therefore has an opportunity to ensure that this emerging technology supports the public with accurate, understandable, and Tennessee-specific resources rather than allowing the field to be shaped entirely by general consumer tools.

In short, forms are now more important because of AI, not less. If the court system does not provide reliable plain-language materials, guided tools, and carefully bounded technological resources, self-represented litigants will continue to rely on whatever tools they can

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[49] https://betterinternet.law.stanford.edu/2018/07/28/making-an-inventory-of-self-help-websites/. See Alabama, South Carolina, Connecticut.

find. The question is not whether AI will affect access to justice. It already does. The question is whether Tennessee's courts will help shape that reality in a way that protects the public while expanding meaningful access to justice. The Commission believes that improved statewide forms, a stronger self-help infrastructure, and responsibly limited generative AI tools may together offer one of the greatest opportunities to improve access to justice for Tennesseans.

## Regulatory Reforms Considered Without a Recommendation

The Commission was tasked with evaluating potential regulatory reforms through the lens of improving access to justice. After thorough analysis, the Commission determined the regulatory reform options listed in questions 1, 2, and 7 of the Court Order do not create present clear or effective pathways to expanding access to legal services. The following section explains the reasoning behind this conclusion and outlines the key considerations that informed the Commission's position.

### A. ABA Accreditation (Questions 1 and 2)

The Commission carefully considered the questions posed by the Court regarding reliance on ABA accreditation, alternatives to that accreditation, and less costly alternatives to the traditional three-year law school curriculum. These questions have generated significant public attention and commentary. After thorough review, the Commission does not recommend that the Court reduce or eliminate its reliance on ABA accreditation and offers the following analysis in support of that conclusion.

Tennessee already occupies a more flexible position than many jurisdictions on this issue. Under existing rules, graduates of Tennessee law schools approved by the Board of Law Examiners but not accredited by the ABA may sit for the Tennessee bar. The Nashville School of Law provides one such pathway, serving non-traditional students and career-change professionals who may otherwise lack access to legal education. This structure provides an additional pathway into the legal profession for Tennesseans who might not otherwise have access to legal education. However, expanding the number of non-ABA-accredited institutions would require the Court and the state to develop and maintain a robust independent oversight framework to ensure quality and protect consumers, a responsibility that currently falls largely to the ABA and one that would demand significant and sustained state resources. In this respect, Tennessee has already implemented a measured, locally tailored alternative to exclusive reliance on ABA accreditation, and the existing framework represents an appropriate balance between expanded access and responsible oversight.

The Commission's analysis leads it to conclude that moving beyond this existing framework to further reduce or eliminate reliance on ABA accreditation would not meaningfully

advance access-to-justice goals and could in fact undermine them. The Commission's concern centers on two related issues: attorney supply and interstate mobility.

Tennessee's law schools draw students from across the country, many of whom remain in Tennessee to practice after graduation. ABA accreditation is a critical factor in that pipeline. Graduates of ABA-accredited schools are generally eligible to sit for the bar in any state, making Tennessee an attractive destination for students who may be uncertain where they will ultimately practice.[50] If Tennessee were to reduce or eliminate its reliance on ABA accreditation, law schools operating under that reduced standard would produce graduates whose ability to practice in other states would be significantly restricted. Prospective students who are uncertain about where they wish to practice, which includes many law students, would have strong incentives to choose schools in states that maintain full ABA accreditation. Reduced enrollment at Tennessee law schools would mean fewer graduates entering the Tennessee bar, fewer lawyers available to serve underserved communities, and fewer attorneys willing to take on rural or public interest work. The access-to-justice consequences of shrinking Tennessee's attorney pipeline would fall hardest on the very populations the Commission is charged with serving.

The interstate mobility concern is equally significant. Graduates of non-ABA-accredited schools already face meaningful limitations on their ability to practice across state lines. Most jurisdictions continue to condition bar admission on ABA accreditation, and there is no indication that this is changing in a way that would benefit Tennessee graduates.[51] A Tennessee law graduate who cannot be licensed in neighboring states is a less attractive candidate for multistate employers, less mobile in response to market demands, and less able to follow clients whose legal needs cross state lines. Reduced portability does not serve access-to-justice goals.

The CLEAR Report reflects this tension and does not recommend the wholesale abandonment of ABA accreditation. The Report questions whether certain accreditation standards, many of which focus on institutional inputs such as faculty composition, facilities, and administrative structures, are sufficiently tied to demonstrated practice readiness or improved client outcomes, particularly given their contribution to the rising cost of legal education.[52] The Commission shares the concern that rising tuition and resulting student debt materially affect graduates' willingness and ability to serve low-income populations and rural communities.[53] The CLEAR Report acknowledges that national accreditation requirements have ensured uniform quality standards in accredited schools across the country, and notes that 49 states currently require graduation from an ABA-accredited law school.[54] The Report does not recommend the wholesale

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[50] Committee on Legal Education and Admissions Reform (CLEAR) Report and Recommendations, p. 91 (July 27, 2025), https://perma.cc/SW8E-FTX4.

[51] *Id.*

[52] *Id.* at 45-47.

[53] *Id.* at 98-99.

[54] *Id.* at 19.

abandonment of ABA accreditation, but rather calls on state supreme courts to encourage an accreditation process that promotes innovation, experimentation, and cost-effective legal education geared toward lawyers meeting the legal needs of the public.[55] The Commission views this as an endorsement of reform within the existing accreditation framework, not a call to abandon it.

With respect to alternatives to ABA accreditation, the CLEAR Report identifies state-based accreditation, outcome-focused regulation, and conditional or provisional approval models as tools some jurisdictions are exploring. Each of these alternatives, however, requires significant administrative capacity, sustained oversight infrastructure, and reliable metrics to ensure competence and public trust. Developing and maintaining such a system would require substantial investment by the Court and the state, and the evidence regarding the effectiveness of these models remains, by CLEAR's own assessment, emerging and uneven. Poorly designed alternatives risk shifting risk onto clients and the public rather than meaningfully expanding access.

For all of these reasons, the Commission concludes that reducing or eliminating reliance on ABA accreditation is not an access-to-justice solution for Tennessee. Tennessee's existing framework, which already accommodates non-ABA-accredited institutions through Board of Law Examiners approval, appropriately balances flexibility with the consumer protections and interstate mobility that ABA accreditation provides. The Commission recommends that the Court maintain its current approach on this issue while continuing to monitor developments in other jurisdictions and the ongoing work of CLEAR.

### B. Non-lawyer Law Firm Ownership (Question 7)

As for modifying or eliminating Rule 5.4 of the Tennessee Rules of Professional Conduct that generally prohibits fee sharing with non-lawyers and non-lawyer ownership of law firms, the Commission recognizes that non-lawyer ownership of law firms offers the potential to expand access to legal services through capital investment, competition, and innovation. Accordingly, several states are testing whether loosening ownership restrictions could increase service availability and affordability. At the same time, non-lawyer ownership of law firms raises serious concerns regarding professional independence, consumer protection, and the commercialization of legal practice. Current state experiments suggest cautious optimism among reformers but do not yet provide conclusive evidence that alternative business structures significantly reduce the justice gap. One of the hallmarks of this debate is the lack of definitive evidence. As a result, the national trend reflects incremental experimentation rather than wholesale deregulation.

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[55] *Id.* at 14.

**Conclusion**

For more than two decades, the Tennessee Supreme Court demonstrated a strong commitment to improving access to justice for all Tennesseans. As the Court considers the range of regulatory reform possibilities, the Commission urges the Court to prioritize targeted, data-driven reforms grounded in Tennessee's unique legal landscape and informed by emerging national models. By piloting carefully designed non-lawyer assistance programs, exploring alternative licensure pathways tied to public service and rural legal deserts, removing procedural barriers for self-represented litigants, and investing in modern tools like plain-language forms and responsible AI solutions, the Court can meaningfully expand access while preserving the competence, integrity, and public trust that define the legal profession. The Commission commends the Court's leadership on these issues and hopes for the opportunity to contribute to this process as the Court develops and implements effective, access-to-justice solutions.

Respectfully Submitted,

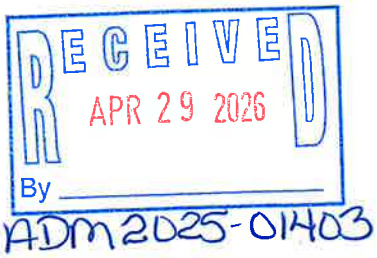
Eric Osborne (BPR No. 029719)
Chair, Access To Justice Commission
Tennessee Supreme Court
511 Union Street, Suite 600
Nashville, TN 37219

SOUTHERN ENVIRONMENTAL LAW CENTER

1033 Demonbreun Street, Suite 205
Nashville, TN 37203

Telephone 615-921-9470
Facsimile 615-921-8011

April 29, 2026




*Via email:* appellatecourtclerk@tncourts.gov

James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

Re: Docket No. ADM2025-01403, Regulatory Reform

Dear Clerk Hivner:

I am submitting this comment pursuant to the Tennessee Supreme Court's Order, dated September 16, 2025, in docket number ADM2025-01403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation.* In that Order, the Court requested comment on seven issues, which included: "[w]hether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility." Order 6, Sept. 16, 2025, docket no. ADM2025-01403 (issue 5).

I write to tell the Court about my experience as an interstate attorney seeking admission to the Tennessee Bar. I am a highly trained and practiced environmental litigator, and I am currently a member of the Wisconsin Bar with no disciplinary history. I applied for admission without examination (comity) months before I moved to Tennessee.[1] Yet I have still not been admitted to the Tennessee Bar in over a year since I submitted my application, and I do not believe my experience is unique. I believe Tennessee's current practice for admission without examination discourages highly qualified, out-of-state attorneys like me from practicing in Tennessee.

*My Qualifications, Training, and Experience as an Environmental Litigator*

I attended the University of Wisconsin—Stevens Point (UWSP), where I triple-majored in biology, economics, and general resource management policy. That education gave me a foundation in the science of biology and natural resource management; environmental and natural resource law; and economics, including social and environmental economics. During my senior year at UWSP, I decided to attend law school to pursue a career in environmental law. I chose Drake University Law School, which is accredited by the American Bar Association, because Drake's education focused on preparing graduates to practice independently immediately upon graduation. While in law school, I served as the Articles Editor for the *Drake Law Review* and was

[1] Wisconsin has reciprocity with Tennessee. The Wisconsin Bar will allow a Tennessee attorney to move for admission upon proof of practice if that attorney has practiced law for at least three of the last five years. Wis. Sup. Ct. R. 40.05, https://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=540636.

the captain of one of Drake's two National Moot Court teams. I served as a teaching assistant for the 1L Legal Research and Writing class; a research assistant for former Dean Jerry Anderson; and an extern for former Iowa Supreme Court Justice Brent R. Appel.

During my 3L year, I applied for admission to the Wisconsin Bar. I graduated in May 2013 and sat for the Wisconsin bar exam in July 2013. At the time, the Wisconsin bar exam included one day of Multistate Bar Exam (MBE) multiple choice questions and a second day of state-specific essay questions. The Wisconsin Board of Bar Examiners provided test-takers with their raw scores as well as scaled results. For the July 2013 bar exam, the average scaled score for each test section was 144 points and a combined 258 points was required to pass. I answered correctly 170 of the 200 MBE questions, which placed me higher than 99.3% of Wisconsin test-takers during that exam. I received a MBE scaled score of 183 points and an essay scaled score of 181 points for a total scaled score of 364 points. This was well above the 258 points required to pass. I joined the Wisconsin Bar on October 14, 2013.

During law school, I interned at the U.S. Environmental Protection Agency's Office of General Counsel, and they offered me a position as their Honors Fellow upon graduation. I worked as the Honors Fellow for the Office of General Counsel from October 2013 to October 2014. In November 2014, I joined the environmental team at Godfrey & Kahn, S.C., a business-focused law firm based in Wisconsin. While at Godfrey & Kahn, I helped a client obtain the first wastewater discharge permit issued in Wisconsin that used a water quality trade to comply with a phosphorus discharge limitation.

In May 2016, I left Godfrey & Kahn to join the Wisconsin Department of Justice's (WDOJ) Environmental Protection Unit. I served as an Assistant Attorney General for the WDOJ from June 2016 through February 2025. In my role as an Assistant Attorney General, I civilly prosecuted violations of Wisconsin's environmental laws and defended the Wisconsin Department of Natural Resources (WDNR) when its decisions were challenged in court. I worked statewide, and most of my cases were in rural areas of the State.

In February 2025, I decided to move to Tennessee and join the Southern Environmental Law Center (SELC). SELC is a nonprofit, nonpartisan environmental organization rooted in the South. SELC has more than 160 legal and policy experts working to protect people, lands, air, water, climate, and wildlife across Virgina, North Carolina, South Carolina, Georgia, Alabama, and Tennessee. The staff in SELC's Tennessee office provide *pro bono* legal representation and advocacy for Tennesseans facing environmental issues. While SELC's Tennessee office is in Nashville, we represent clients throughout the State. For example, I have worked on major matters in Bedford and Marshall counties, neither of which has many experienced environmental litigators willing to provide *pro bono* representation.

I have been admitted to the bars of the United States District Court for the Middle District of Tennessee; the United States District Court for the Eastern District of Tennessee; the United States District Court for the Western District of Tennessee; and the United States Court of Appeals

for the Sixth Circuit. Despite my training, experience, and spotless disciplinary history, as of the date of this letter, I have yet to be admitted to the Tennessee Bar.

*My Application to the Tennessee Board of Law Examiners*

While I was still working at the WDOJ, I submitted a complete application for admission without examination to the Tennessee Board of Law Examiners. I submitted that application on February 18, 2025, *over a year ago now*. After I moved to Tennessee in April 2025 and joined SELC, I registered for practice pending admission. *See* Tenn. Sup. Ct. R. 7, § 10.07. The National Conference of Bar Examiners (NCBE) completed its review of my application in spring 2025, and I successfully completed the Tennessee Law Course on June 22, 2025, *see* Tenn. Sup. Ct. Rule 7, § 1.07.

I have followed up with the Board of Law Examiners regarding the status of my application, inquiring if anything is outstanding or missing. On January 15, 2026, the Board of Law Examiners told me that it was still reviewing applications that were submitted in 2024 and had not begun reviewing applications submitted in 2025. The Board of Law Examiners could not provide me with an estimate as to when it would begin reviewing applications submitted in 2025. I have not heard from the Board of Law Examiners since then.

*My Experience Seeking Licensure as an Out-of-State Attorney*

In my experience, seeking admission without examination to the Tennessee Bar is costly, delayed, and therefore not a functional pathway for admission. I believe the current process is discouraging qualified out-of-state attorneys from seeking admission in Tennessee, and the Court should take action to address systemic issues delaying this process.

Admission without examination is costly. As part of my complete application, I paid the NCBE $550.00. I also paid the Board of Law Examiners $1,436.02 (including the processing fee) to review my application, *a service which it has still not provided me over a year after collecting my payment*. In addition to the direct cost of my application, I paid the Wisconsin Board of Bar Examiners for a copy of my 2013 application to give to the Tennessee Board of Law Examiners; have paid the Wisconsin Supreme Court repeatedly for certificates of good standing to ensure I have a current certificate to support a *pro hac vice* motion; paid to register to practice pending admission in Tennessee; and paid to complete the Tennessee Law Course.

These monetary costs do not include the time and labor I have spent shepherding my application and dealing with the consequences of practicing under a temporary registration. I am obligated to explain my licensure status to clients. Tenn. Sup. Ct. R. 7, § 10.07(a)(6). I must work with another SELC attorney who is admitted to the Tennessee Bar and move for admission *pro hac vice* in any matter in state court, which puts more work on my colleagues. *See* Tenn. Sup. Ct. R. 19(a). This also burdens the courts to rule on the *pro hac vice* motions and the Board of Professional Responsibility to process the motions.

For over a year, I have been under a continuing obligation to update my pending application with the Board of Law Examiners if anything changes in my life. I must proactively reach out to the Board of Law Examiners to try and get updates on the status of my application because otherwise the Board does not communicate with me. I feel the stress of making sure that I comply with every special rule related to my temporary license status, because if I do not, I can be denied admission to the Tennessee Bar. I also must continue to maintain my license in Wisconsin despite having left that State in April 2025.

I know that my experience is not unique. There is an informal Facebook group for attorneys that have applied for admission without examination to the Tennessee Bar. Based on discussion in that group, I believe it is not uncommon for attorneys to wait a year and a half or two years for the Board of Law Examiners to review their applications. One applicant said that because the Board took almost two years to start reviewing his application, by the time the Board got to it, the Board considered it out-of-date and required him to submit new certificates of good standing and disciplinary history. I am concerned I will experience something similar once the Board finally begins reviewing my application, causing further delay and cost for me.

Tennessee's current inability to promptly process applications for admission without examination is deterring experienced attorneys from seeking admission here. I would not recommend it to other out-of-state attorneys. The only other route for admission would be to sit for the Tennessee bar exam, which would also be costly and burdensome. Nor do I think that should be required to better "protect" Tennesseans. I successfully completed the Wisconsin bar exam in 2013. I am a highly qualified and experienced environmental litigator with a clean disciplinary history who wants to provide *pro bono* legal services to the people of Tennessee, especially in areas outside of Tennessee's major cities. I believe I will provide quality, beneficial legal services to rural Tennesseans if admitted to the bar. Moreover, Tennessee relies on the Uniform Bar Exam, which does not even test the administrative and environmental law that I practice daily. Like me, I think that many practicing attorneys will not be willing to bear the cost of studying and sitting for a second bar exam, nor should they be forced to do so just to obtain timely review of their applications for admission.

At a minimum, the Court should formally change the rule to allow practice pending admission until the Board of Law Examiners takes final action on an application for admission without examination. *See* Tenn. Sup. Ct. R. 7, § 10.07(a). I also respectfully request that the Court address systemic challenges with the Board of Law Examiners. I assume the staff of the Board of Law Examiners are working in good faith to process applications for admission without examination as quickly as they can. Despite this, applications are not being processed promptly. If the Board of Law Examiners lacks staff, technology, or other resources to process applications, those issues must be addressed for comity to become a meaningful pathway to admission in this State. I respectfully encourage the Court to address the current costly and unduly delayed process.

I appreciate your review of my comment and consideration of my experience. I am happy to provide supporting documentation or discuss any of the details included in this letter if it would be of assistance to the Court.

Sincerely,

*s/ Emily M. Ertel*

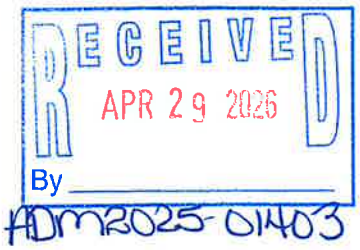
Emily M. Ertel
Senior Attorney*

Southern Environmental Law Center
1033 Demonbreun Street, Suite 205
Nashville, TN 37203
Office: (615) 921-9470
Fax: (615) 921-8011
eertel@selc.org

**Licensed in WI; not yet licensed in TN*

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment in Docket No. ADM2025-01403




**From:** Emily Ertel <eertel@selc.org>
**Sent:** Wednesday, April 29, 2026 10:09 AM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Cc:** George Nolan <gnolan@selc.org>
**Subject:** Public Comment in Docket No. ADM2025-01403

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Dear Clerk Hivner:

Please find attached my public comment submitted pursuant to the Supreme Court of Tennessee's orders in docket no. ADM2025-01403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation*. Please let me know if you have any issues accessing the attachment.

Thank you,

Emily Ertel

**Emily M. Ertel**
Senior Attorney

Southern Environmental Law Center
1033 Demonbreun Street, Suite 205
Nashville, TN 37203
(615) 921-8014
selc.org

Licensed in WI; registered to practice pending admission in TN

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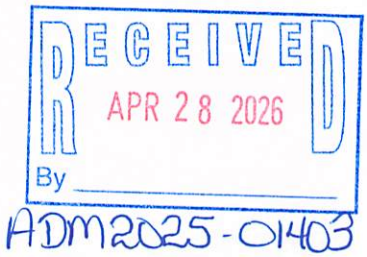





April 28, 2026

James Hivner, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307
appellatecourtclerk@tncourts.gov

**Re: Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation**

Dear Mr. Hivner:

The National Association for Law Placement (NALP) seeks to provide the following comments regarding the issue of whether the Tennessee Supreme Court should modify, reduce, or eliminate its reliance on the American Bar Association Council of the Section of Legal Education and Admissions to the Bar (the Council) accreditation in setting minimum educational requirements for applicants to the Tennessee Bar.

NALP is the preeminent association of law schools and legal employers throughout North America and beyond, focused on supporting and advancing the careers of law students and lawyers. NALP is widely recognized as the leading authority on the legal job market and the career paths of lawyers. For over 50 years, NALP has published the most comprehensive report in the industry on the employment outcomes of new law school graduates and has studied the trajectory of their careers over subsequent years. This research, combined with NALP's deep understanding of what drives the legal job market, uniquely positions NALP to comment on the potential impact to the careers of Tennessee law school graduates should the Tennessee Supreme Court alter the current Rules of the Supreme Court Relating to Admissions to the Bar to modify, reduce, or eliminate its reliance on Council accreditation.

1220 19th Street NW, Suite 510 • Washington, DC 20036
T (202) 835-1001 • F (202) 835-1112 • E info@nalp.org
www.nalp.org

As a preliminary matter, it is essential to distinguish between *eliminating* the Council as the accreditor of Tennessee law schools and *providing an alternative* to it, as is already done in Tennessee and other states. While the latter raises concerns, it still maintains the option of participating in a national accreditation scheme. By contrast, it is NALP's position that outright eliminating the Council as a recognized accreditor of Tennessee law schools would be catastrophic to the careers of future Tennessee graduates. We therefore write to briefly explain this position.

**The Modern Legal Job Market Requires Portability**

To understand the impact of weakening the national accreditation system provided by the Council, it is important to understand that legal careers have changed profoundly since the Great Recession. While just a decade ago it was commonplace for lawyers to have lifelong legal careers in a single state, today's graduates face a much more fluid, competitive legal industry. Indeed, mobility — both geographic and professional — has become the defining feature of successful modern legal careers.

The importance of mobility, particularly in the early stages of a lawyer's career, is underscored by longitudinal studies conducted by NALP and the NALP Foundation that examine the employment status of law school graduates three years after graduation. This research shows an exceptionally high degree of mobility among early-stage lawyers with upwards of 70% of graduates from recent law school classes having held two or more jobs within their first three years of practice. Further, on average one in five of those job changes involve relocation, whether it's due to new professional opportunities or personal circumstances.

Given these facts, the portability of a law license is critical to the success and longevity of legal careers today. As bar eligibility in most states is directly tied to Council accreditation, weakening the national Council accreditation system would make it significantly more difficult for lawyers to relocate or adapt as their careers evolve. Practically speaking, JD degrees from non-Council-accredited law schools functionally limit where the degree holder can practice law and their employment prospects, ultimately decreasing the value of that degree and resulting in such individuals prematurely exiting the profession, if they ever practice law at all.

**National Accreditation is Critical for Graduate Mobility and Employment**

Maintaining a national accreditor is particularly critical for graduate mobility and employment immediately following law school. Currently, five of the six Tennessee law schools are Council-accredited, producing approximately 600 graduates annually. These students come from across the country, with out-of-state enrollment figures ranging

anywhere from 9% to 93% for the Class of 2028 (the most recently enrolled law school class). The fact that these law schools are currently accredited by the Council — which is the only national accreditor for law schools — provides these out-of-state students with the assurance that they can attend a Tennessee law school and return home after graduation and still be eligible to practice law. Eliminating Council accreditation removes that assurance and forces these students to choose between either remaining in Tennessee for practice or going elsewhere for law school.

Moreover, the negative impact of eliminating Council accreditation goes beyond just out-of-state students. NALP data shows that on average 42% of all Tennessee law graduates will obtain a job in another jurisdiction following graduation — a figure that is much higher than the national average of 34% and represents about 252 Tennessee law school graduates each year. Without Council accreditation, many of these graduates would not be eligible to be licensed in another state or would face severe hurdles in becoming so. In fact, for the past ten years, the top three jurisdictions for Tennessee graduates who obtain a job outside of Tennessee have been New York, the District of Columbia, and Texas. Should the Court eliminate Council accreditation, Tennessee graduates would no longer be eligible for admission in New York or the District of Columbia immediately following graduation. *See* N.Y. Ct. App. R. 520.5 (imposing a five-year practice requirement on graduates from non-Council-accredited law schools); D.C. Ct. App. R. 46 (imposing an additional study requirement on graduates from non-Council-accredited law schools).

The Texas Supreme Court recently amended their criteria for bar eligibility to allow graduates of non-Council-accredited schools to sit for the Texas bar exam, but only if such schools are approved by the Texas Supreme Court based on yet-to-be determined criteria. *See* Order, Misc. Dkt. No. 26-9002 (T.X. S. Ct. Jan. 6, 2026). Tellingly, the Nashville School of Law, Tennessee's only non-Council-accredited law school, was not included in the list of initially approved law schools attached to the Texas Supreme Court's order. Nor were any other non-Council-accredited law schools, including those that hold state accreditation such as the fifteen CALS schools in California. This fact illustrates the risks should the Court eliminate Council accreditation.

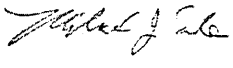
The lack of Council accreditation will also negatively impact the job opportunities of Tennessee graduates — whether they are staying in-state or going out-of-state. Mid to large-sized law firms, which collectively account for nearly 30% of all entry-level legal jobs, overwhelmingly prefer or require that applicants hold degrees from Council-accredited schools. Likewise, many government and public interest employers have similar preferences. For example, the IRS' prestigious Chief Counsel Honors Program requires candidates to have graduated from an Council-accredited law school. *See* IRS, The Chief Counsel Honors Program, https://www.jobs.irs.gov/resources/honors-program-entry-level-attorneys (accessed Apr. 23, 2026).

In short, a national accreditor is critical for graduate mobility and employment following law school. Eliminating Council accreditation for Tennessee law schools will limit the jurisdictions graduates can practice in, outright exclude them from many employment opportunities, and harm their overall job prospects.

**Conclusion**

For the foregoing reasons, the National Association for Law Placement encourages the Supreme Court of Tennessee to maintain Council accreditation as a component of Tennessee bar admission requirements. While alternatives like California's model should be studied carefully, eliminating reliance on the Council as the accreditor for Tennessee' law schools would severely harm its graduates and lawyers and undermine the national accreditation scheme that is vital for an increasingly mobile profession.

Respectfully submitted on behalf of the National Association for Law Placement,

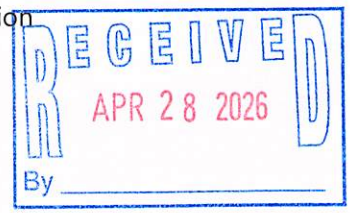


Michael J. Ende
President

Nikia Gray,
Executive Director

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation




**From:** Nikia Gray <ngray@nalp.org>
**Sent:** Tuesday, April 28, 2026 7:25 PM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Subject:** Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation

ADM 2025-01403

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You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Dear Mr. Hivner-

Attached please find comments from the National Association of Law Placement in response to Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation.

Please do not hesitate to let us know if there are any questions about our comments or NALP's data. We are happy to be of further assistance.

Best regards,
Nikia

Nikia Gray, Esq.
Executive Director
NALP - We advance law careers
1220 19th Street NW, Suite 510, Washington, DC 20036
Phone (202) 835-1001
www.nalp.org

Pronouns: She/Her/Hers

*NALP believes in fairness, facts and the power of a diverse community.*

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION**

**No. ADM2025-01403**

**PUBLIC COMMENT OF RENÉ GALICIA, ESQ.**
California State Bar No. 349282
10615 Chapman Highway #370
Seymour, TN 37865
rene@galicia.law
Submitted April 28, 2026

## INTRODUCTION AND SUMMARY

René Galicia, Esq. is a California-licensed attorney residing in East Tennessee. He holds a Juris Doctor degree from a law school approved by the California Committee of Bar Examiners, passed the California bar examination, and has practiced law in matters ranging from corporate in-house counsel work to immigration, estate planning, business and real estate law, and civil representation for low-income, Spanish-speaking clients. He cannot become licensed in Tennessee without re-examination. Not because he lacks competence and not because he has failed a bar examination, but because the organization that accredited his law school was not the American Bar Association.

This comment argues that Tennessee's current reliance on ABA accreditation as the threshold requirement for bar eligibility does not serve the public protection purpose that justifies it. The bar examination tests competence. Accreditation tests institutional characteristics. Where an applicant has passed a rigorous bar examination and practiced under the professional responsibility rules of a licensing jurisdiction, the identity of the organization that approved his law school is not a meaningful proxy for his fitness to serve Tennessee clients. It is an administrative credential that, in practice, functions as a market-entry barrier with no corresponding public protection benefit.

The barrier is absolute on the comity track. Rule 7, Section 5.01, requires satisfaction of the educational requirements of Section 2.02, which mandate ABA accreditation. The commenter's non-ABA JD forecloses the comity pathway entirely, regardless of his years of practice, the rigor of the bar examination he passed, or his standing as a licensed attorney in California. The practice requirement is not even the obstacle he faces; the educational gate closes before he reaches it. His only available pathway is to retake a bar examination he has already passed, in a state that uses a less demanding examination format than California employed when he became licensed. Alternatively, he could obtain an ABA-accredited JD, spending three or more years and well over $150,000 to obtain a second law degree, substantively identical to the one he already holds, after which he would qualify for comity admission without examination. The rule would give priority to an ABA diploma he did not originally earn over a California license he has held and practiced under for nearly 3 years. Neither option serves any public protection purpose. Both are precisely the kind of result the absurd results canon, applied by Tennessee courts to Supreme Court Rules as well as statutes, exists to prevent.

Tennessee's rules have already mapped this contradiction. Rule 7 Section 2.02(d) permits non-ABA graduates to sit for the Tennessee bar examination upon demonstrating substantially equivalent education and practice experience, implicitly conceding that non-ABA education can be sufficient. Rule 47 permits any licensed attorney, regardless of educational pedigree, to practice Tennessee state law during declared disasters, implicitly conceding that ABA accreditation is not a competency variable. The commenter qualifies under both provisions. What the current rules do not offer is a pathway to the full, permanent, sustainably funded practice that Tennessee's underserved communities need and that qualified attorneys already living and working in this State are prepared to build.

This comment addresses Questions 1, 2, 5, 6, and 7 of the Court's September 16, 2025, Order. It urges the Court to end ABA exclusivity in bar eligibility, following the models adopted by Texas and Florida in January 2026 and by the District of Columbia in April 2026, and to leverage Tennessee's existing regional accreditation infrastructure through SACSCOC and its founding participation in the Commission for Public Higher Education. It proposes replacing the comity admission practice requirement with individualized evaluation, provisional licensure, and credit for part-time and legal aid service, anchored by the Tennessee Law Course, which is already mandatory for all comity applicants. It urges caution regarding paraprofessional expansion, recommending that the Court prioritize licensed-attorney access reforms before broadening the scope of non-attorney practice, and identifies minimum safeguards should the Court proceed. And it proposes specific amendments to Rule 7, Sections 2.02(a) and 5.01(a), for the Court's consideration.

The reforms proposed here do not lower Tennessee's standards. They align Tennessee's gatekeeping mechanisms with the competencies they are meant to serve.

## I. STATEMENT OF INTEREST

This Court has invited comment on whether the regulatory framework governing admission to the Tennessee Bar unnecessarily restricts access to legal services for Tennesseans and, if so, what reforms would better serve the twin goals of expanding access while ensuring competence. This comment addresses Questions 1, 2, 5, 6, and 7 of the Court's September 16, 2025, Order. It argues that these goals are not in conflict; properly designed reforms can simultaneously expand the supply of qualified legal services and maintain, or improve, the quality of representation available to Tennesseans who need it most.

The commenter is René Galicia, Esq., a California-licensed attorney (California State Bar No. 349282) who resides in East Tennessee. He holds a Juris Doctor degree from a law school approved by the California Committee of Bar Examiners, a state-authorized body that applies rigorous standards to the schools it approves, including curriculum review, faculty qualifications, and student outcomes. His school was not accredited by the American Bar Association ("ABA"). He passed the California bar examination, which, at the time he took it, was a three-day examination widely regarded as the most rigorous state bar examination in the United States.[1] He currently serves as General Counsel for a Texas-based corporation under Texas Disciplinary Rule 5.05(c), which permits out-of-state licensed attorneys to provide legal services exclusively to their employer without obtaining a Texas law license. His only bar license is in California. He also maintains a part-time California practice focused primarily on pro bono and low-cost legal services for low-income clients, many of whom are Spanish-speaking members of immigrant communities.

He would like to become licensed in Tennessee to serve its residents, particularly low-income, underserved, and Spanish-speaking communities that face acute shortages of accessible legal representation. He cannot. Under Tennessee Supreme Court Rule 7, Sections 2.02(a) and 5.01(a), his Juris Doctor degree from a California state-approved, non-ABA-accredited law school does not satisfy the educational requirements for admission by comity. Tennessee's current rules do not ask whether he is competent to practice law. They ask only whether the organization that accredited his law school was the ABA. The answer is no, and that answer, whatever its original justification, now operates as an arbitrary barrier to qualified attorneys who are prepared and willing to serve Tennessee's communities.

The commenter's situation also illustrates a categorical barrier that runs deeper than the practice requirement: his non-ABA JD disqualifies him from the comity pathway under Rule 7, Section 5.01, entirely, regardless of how many years he has practiced or that he holds a California license in good standing. The five-of-seven-year practice requirement is not even the main obstacle he faces on the comity track. The ABA education requirement forecloses that pathway before the practice clock ever begins to run.

Tennessee's existing rules have already mapped this territory and found it wanting. They offer the commenter a hierarchy of inadequate half-measures. RPC 5.5(d) permits employer-only practice, but the commenter has no Tennessee employer. Rule 7 Section 10.01 permits registered in-house

counsel to provide pro bono services through established nonprofit bar programs, but that pathway requires a Tennessee employer that he does not have, restricts practice to that employer's representation, and, in any event, channels pro bono work only through nonprofit programs, foreclosing the low-bono and fee-paying client relationships that make a sustainable community practice financially possible. Rule 47, invoked during declared disasters, imposes no ABA requirement but restricts practice to pro bono services and expires upon the emergency's end. Rule 7, Section 2.02(d), would permit him to sit for the Tennessee bar examination, but that would entail retaking a competency examination he has already passed. None of these pathways accomplish what full admission under reformed rules would accomplish. This comment explains why reform is warranted and what it should look like.

This is not an isolated case. It is a structural problem. Tennessee's current reliance on ABA accreditation as the gateway to bar eligibility, and its attendant practice requirements under the comity rules, excludes attorneys who have demonstrated competence through the only measure that actually tests it: passing a bar examination. This comment urges the Court to reclaim its regulatory authority over legal education standards, modernize its interstate admission framework, and, in doing so, unlock a meaningful supply of qualified attorneys for the Tennesseans who need them most.

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[1] The California bar examination was a three-day examination until February 2017, when it was reduced to two days. California has never adopted the Uniform Bar Examination, although on April 17, 2026, the California Committee of Bar Examiners recommended that the California Supreme Court adopt the NextGen UBE beginning in July 2028, subject to Board of Trustees and California Supreme Court approval. See Cal. Bar, CBE Recommends the NextGen Uniform Bar Exam and Consideration of a Future California Component (Apr. 17, 2026), https://www.calbar.ca.gov/news/cbe-recommends-nextgen-uniform-bar-exam-and-consideration-future-california-component. California historically administered a hybrid examination: Multistate Bar Examination multiple-choice questions developed by the National Conference of Bar Examiners ("NCBE"), combined with California-written essays and performance tests. California's bar passage rates consistently rank among the lowest in the country for first-time takers, reflecting the examination's rigor. At the time the commenter passed the exam, the minimum passing score was a scaled 1440 out of 2000. See Cal. Bar, Statistics, https://www.calbar.ca.gov/Admissions/Examinations/California-Bar-Examination/Statistics (last visited Apr. 27, 2026).

## II. QUESTIONS 1 AND 2: THE COURT SHOULD END ITS EXCLUSIVE RELIANCE ON ABA ACCREDITATION AND RECLAIM ITS OWN REGULATORY AUTHORITY

The Court asks whether it should "modify, reduce, or eliminate its reliance on [ABA] accreditation in setting minimum educational requirements for applicants to the Tennessee Bar" and whether "there are any practicable alternatives to ABA accreditation" it should consider.[2] The answer to the first question is yes. The answer to the second is also yes, and the roadmap already exists in the reforms adopted by Texas and Florida in January 2026, the District of Columbia in April 2026, and in the accreditation infrastructure that Tennessee itself is helping to build.

**A. The Bar Examination, Not School Accreditation, Is the Appropriate Competency Gatekeeper**

Accreditation is an input measure. It assesses the characteristics of a legal education program, its curriculum, faculty, library resources, and facilities, against a set of standards established by the accrediting body. Bar passage is an output measure. It directly assesses whether a candidate possesses the minimum legal knowledge and analytical skills necessary to practice law competently. Where both measures are available, the output measure is the more reliable and more defensible gatekeeper for public protection purposes.

Tennessee already uses the Uniform Bar Examination ("UBE"), a standardized, psychometrically validated assessment of minimum competence adopted by forty-one jurisdictions.[3] The UBE tests knowledge across the full range of subjects a newly admitted attorney must understand, through various formats, the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test, designed to assess legal reasoning and application, not mere memorization of doctrine. When a candidate passes the Tennessee UBE with a scaled score of 270 or higher, he has demonstrated, through a validated, independently administered examination, that he possesses the minimum competence to practice law in this State.[4]

Against this backdrop, the question of which entity approved his law school is, at most, a secondary concern. The Court's own rules acknowledge this. Rule 7, Section 2.02(d) already creates a discretionary pathway through examination for non-ABA graduates who hold degrees from schools approved by "an authority similar to the Tennessee Board of Law Examiners," have passed a bar examination "equivalent to that required by Tennessee," and have practiced for three of the preceding five years.[5] The Court has, therefore, already determined that non-ABA legal education can be sufficient; the question is only whether that determination should remain a narrow, discretionary exception or become a principled, systematic rule.

This Court should adopt the latter approach. Where an applicant has passed a bar examination that directly tests minimum competence, the accrediting body that approved his law school is not a meaningful proxy for his fitness to practice. Conditioning his admission on ABA accreditation substitutes an input measure, which organization approved his school, for the output measure, whether he passed the bar, in a way that serves no identifiable public protection purpose that the bar examination does not already serve.

The practical consequence of this framework is illustrated by the commenter's own situation. The comity pathway under Rule 7 Section 5.01 is not available to him at all. Section 5.01(a)(1) requires the applicant to satisfy the educational requirements of Section 2.02, and Section 2.02(a) requires ABA accreditation. His non-ABA JD fails that threshold categorically. No amount of practice experience, no length of California licensure, and no demonstration of professional accomplishment can cure the educational disqualification under the current rule. The comity clock never begins to run for him because the educational gate is closed before he reaches it.

His only available pathway to Tennessee admission is the bar examination under Section 2.02(d). Under that provision, he very likely satisfies the educational requirements to sit: his California state-approved JD was granted by an authority similar to the Tennessee Board of Law Examiners; he passed the California bar examination, which Rule 7 Section 2.02(d)(2) requires to be equivalent to Tennessee's; and he will satisfy the three-of-five-year practice requirement under Section 2.02(d)(3) as of next month. Tennessee's rules, therefore, already implicitly recognize his education as sufficient to attempt admission. What the rules require, however, is that he retake a bar examination he has already passed. That requirement does not advance any competency purpose. He has already demonstrated minimum competence through licensure. Requiring him to demonstrate it again through a different examination does not protect the public; it merely delays his ability to serve it.

Under current Rule 7, the options available to a licensed, practicing attorney in his position are two and only two: sit for the Tennessee bar examination, retaking an assessment of minimum competence he has already satisfied in a more demanding jurisdiction, or return to an ABA-accredited law school to obtain a second Juris Doctor degree substantively identical to the one he already holds, at a cost exceeding $150,000 and no less than three additional years of full-time study, after which he would qualify for comity admission without examination. The first option is redundant. The second defies any competency rationale. Tennessee courts apply the absurd results canon to Supreme Court Rules as they do to statutes, declining to adopt interpretations that produce outcomes illogical or contrary to the rule's evident purpose, even when the plain text appears to support them. The evident purpose of Rule 7's educational requirements is to ensure a minimum level of competence. Requiring a licensed, practicing attorney to obtain a second law degree substantively identical to the one he already holds, or to retake an examination of minimum competence he has already passed, serves no competency or public protection purpose. It is precisely the kind of result the absurd results canon exists to prevent.

The redundancy of the bar examination requirement becomes even sharper when examined alongside Rule 7, Section 3.05, which permits attorneys who passed the UBE in another jurisdiction to transfer their scores to Tennessee without retaking the examination.[6] An attorney who passed the UBE at exactly 270 in any of the forty-one UBE jurisdictions may transfer that score to Tennessee today. The commenter, who passed a more demanding examination in California (1440 passing score, often considered equivalent to a UBE 288 score), may not. California's professional responsibility standards are similarly demanding: the MPRE minimum passing score in California is 86, compared to Tennessee's required 82, reflecting California's more stringent threshold for professional conduct licensure. The disparity is not a function of relative competence. It is a function of the examination format California adopted, a decision made for its own reasons that has no bearing on the commenter's fitness to practice Tennessee law. When the mechanism designed to avoid redundancy, the UBE score transfer, is unavailable solely because of format rather than rigor, the bar re-examination requirement cannot be justified as advancing any legitimate competency or public protection goal.

**B. The ABA's Accreditation Monopoly Operates as an Anticompetitive Restraint on Legal Education**

The Federal Trade Commission's Office of Policy Planning and Bureau of Competition addressed this issue directly in a December 2025 comment to the Texas Supreme Court. The FTC staff concluded that the ABA's exclusive control over law school accreditation constitutes a "monopoly" that "increases the cost of a legal education" and "limits the supply of new lawyers," and that delegating bar eligibility to the ABA "effectively gives the ABA . . . the ability to exclude market participants who would compete with its members."[7]

The FTC's analysis is grounded in well-established antitrust principles. In North Carolina State Board of Dental Examiners v. FTC, the Supreme Court held that a state professional licensing board composed of active market participants is not entitled to state action antitrust immunity unless the state actively supervises the board's conduct.[8] The Tennessee Supreme Court does not actively supervise the ABA's accreditation decisions. It simply accepts them. Under Dental Examiners, that passive delegation to a body whose members have strong financial interests in restricting entry raises serious anticompetitive concerns.[9]

The ABA's accreditation standards provide a concrete illustration of the problem. Chapter 6 of the ABA's Standards historically required law schools to maintain a full-time law library director holding a law faculty appointment, in most cases a tenure-track position, along with dedicated library staff and a physical collection spanning all federal court decisions, all state appellate decisions, all federal and state regulations, and significant secondary materials.[10] These requirements imposed substantial fixed costs on every ABA-accredited school, costs that flowed directly into tuition. They had no demonstrated relationship to producing competent lawyers. The ABA itself was ultimately forced to acknowledge this: in 2024, the ABA loosened these requirements, removing the mandatory full-time director requirement and eliminating the prescribed core collection, stating simply that "physical books are no longer required."[11]

That concession is instructive. If the library standards were sound educational policy, they would not have been abandoned under pressure. If they were necessary for minimum competence, their removal would have generated educational objections rather than relief. The reality is that they were the kind of cost-inflating, innovation-suppressing requirements that the FTC identified as the predictable output of a monopolist accreditor whose standards serve the interests of incumbent institutions more than the public. The library requirement is one example; it is not the only one.

The commenter's own experience illustrates the point at the individual level. His California state-approved law school provided access to legal research tools, curriculum, and instruction that enabled him to pass the California bar examination. The fact that his school did not maintain the physical library infrastructure and tenured library faculty that ABA standards historically required did not diminish the quality of his legal education or his competence as an attorney. It did, however, reduce the cost of his legal education, enabling him to complete law school later in life without

incurring significant debt and on a schedule compatible with his other obligations. That is precisely the kind of cost-effective, accessible legal education model that the Court should encourage.

### C. The ABA Lacks the Democratic Legitimacy to Serve as a Quasi-Governmental Gatekeeper

The ABA presents itself as the voice of the American legal profession. The membership data do not support that claim. As of the 2024 fiscal year, the ABA had approximately 170,000 dues-paying attorney members, roughly 13 percent of the approximately 1.3 million licensed attorneys in the United States.[12] In 1979, approximately half of all American attorneys were ABA members.[13] The organization adds more than 25,000 new members annually but retains only about 53% of them.[14] In the 2024 fiscal year, attorney member dues generated approximately $42.7 million for the ABA, accounting for approximately 36% of its total reported revenue.[15]

This is not the profile of a representative professional body. It is the profile of an organization whose authority has been delegated by states, not earned through the voluntary endorsement of the profession it purports to represent. When Tennessee delegates accreditation authority to the ABA, it is not delegating to "the legal profession." It is delegating to a private advocacy organization with a 13 percent constituency share, operating without active state supervision, whose financial structure increasingly counts on revenue other than dues from the attorneys whose gatekeeping it controls.

The Supreme Court's analysis in Dental Examiners is again instructive. The Court emphasized the particular danger of competitive harm "when a state professional board is composed of unsupervised industry competitors."[16] The ABA Council that sets accreditation standards consists of law school administrators, faculty, and practicing lawyers, all of whom have direct interests in the structure of legal education and the supply of new lawyers. The FTC has documented the ABA's history of using its accreditation monopoly to serve those interests, including a 1995 DOJ antitrust complaint, a consent decree, and a 2006 federal court finding that the ABA had "on multiple occasions . . . violated clear and unambiguous provisions" of that decree.[17]

### D. Texas, Florida, the District of Columbia, and Tennessee's Own Accreditation Initiatives Provide a Ready Roadmap

Tennessee need not act without precedent or infrastructure. Texas, Florida, and the District of Columbia have each moved in 2026 to reduce or eliminate ABA accreditation as a barrier to bar admission, and Tennessee is itself a founding partner of a new accreditation body built around exactly the outcome-focused criteria this Court is being asked to adopt.

The Texas Supreme Court's January 6, 2026, final approval of amendments to Rule 1 of the Rules Governing Admission to the Bar eliminated ABA reliance entirely, substituting direct court approval based on objective criteria, bar passage rates, employment outcomes, curriculum requirements, and compliance with applicable law, which the court itself administers.[18] The Texas order expressly provided that loss of ABA accreditation would not itself mandate removal from

the court's approved list, and that schools not accredited by the ABA could seek direct court approval.[19]

The Florida Supreme Court's January 15, 2026, order in In re Amendments to Rules Regulating the Florida Bar took a more gradualist approach: it amended the definition of "accredited law school" to include not only ABA-approved schools but any school approved by an accrediting agency recognized by the United States Department of Education and approved by the court.[20] Florida made explicit that graduates of ABA-accredited schools would continue to qualify, that law schools could continue to seek ABA accreditation, and that the court would contact the seven DOE-recognized institutional accreditors to assess their interest in accrediting law schools under outcome-focused standards.[21] The Florida amendments become effective October 1, 2026.

The District of Columbia Court of Appeals has gone further still on the comity question specifically. In an order filed March 24, 2026, effective April 24, 2026, the court amended D.C. App. R. 46(e)(3) to eliminate educational pedigree as a requirement for admission without examination entirely. Under the amended rule, any attorney who has actively practiced law as a member in good standing of a bar of a court of general jurisdiction in the United States for at least three of the five preceding years qualifies for D.C. comity admission.[21a] The prior requirement of an ABA-approved JD, or twenty-six credit hours of ABA law school study for non-ABA graduates, has been deleted from the comity pathway. The amendment does not ask where the applicant went to law school. It asks whether the applicant has practiced law. That is the individualized, practice-focused standard this comment proposes for Tennessee's Section 5.01.

Tennessee is particularly well-positioned to act either through direct court approval like Texas, or through accreditation. The Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC"), one of seven regional accreditors currently recognized by the U.S. Department of Education, already accredits the University of Tennessee (UT) System's five campuses, including UT Knoxville's College of Law.[21b] SACSCOC evaluates institutions on educational quality, student outcomes, and institutional effectiveness, criteria that map directly onto the competency-focused accreditation standard for which this comment advocates. A framework that recognized SACSCOC-accredited law schools as satisfying Rule 7's educational requirement would impose no disruption to existing Tennessee law school graduates, no reduction in educational standards, and no loss of degree portability for students already within SACSCOC's regional coverage.

Tennessee has gone further still. The University of Tennessee System is a founding partner of the Commission for Public Higher Education ("CPHE"), a new accrediting body established by six public university systems with an explicit focus on student achievement, workforce readiness, and academic quality.[21c] CPHE has adopted accreditation standards and is pursuing formal recognition by the U.S. Department of Education, which it anticipates receiving no earlier than late 2027.[21d] This comment does not suggest that CPHE currently qualifies as a DOE-recognized accreditor for purposes of Rule 7, because it does not yet hold that recognition. The point is structural: Tennessee has already demonstrated, through its founding participation in CPHE, a commitment to outcome-

focused, state-responsive accreditation that prioritizes student achievement over administrative credentialing. It would be anomalous for this Court to continue ceding bar admission authority exclusively to a national private organization operating under different criteria when Tennessee is actively helping construct an outcome-focused regional alternative.

This Court should adopt, at a minimum, the Florida approach: end ABA exclusivity, recognize DOE-recognized regional accreditors and state bar authority approval as equivalent pathways, and establish a framework for direct court approval of schools based on outcome metrics. The proposed amendment to Rule 7, Section 2.02(a) has been revised to reflect this framework explicitly:

> (a) Any applicant seeking admission must have completed a course of instruction in and graduated with a J.D. Degree from: (1) a law school accredited by the ABA at the time of the applicant's graduation; (2) a Tennessee law school approved by the Board pursuant to section 17.01 of this Rule; (3) a law school accredited by a regional or national accrediting agency recognized by the United States Department of Education, provided the Board determines that such agency applies standards substantially equivalent to those required for Tennessee approval; (4) a law school approved by the bar admitting authority of the state or territory in which the law school is located, provided such authority applies standards the Board determines to be substantially equivalent to those required for Tennessee approval; or (5) a law school approved by the Court pursuant to criteria the Court shall establish, which shall include bar passage rates, employment outcomes, curriculum requirements, and compliance with applicable law.

Three objections raised by the ABA Council in its March 16, 2026, comment to this Court warrant direct response.

First, the ABA Council argues that ending ABA exclusivity would undermine the portability of law degrees, noting that approximately 30.9% of first-time Tennessee bar takers in July 2025 graduated from out-of-state ABA-accredited schools.[21e] This concern, while genuine, does not require exclusivity; it requires continued recognition. The proposed amendment expressly preserves ABA accreditation as a qualifying pathway (1); it adds pathways rather than eliminates them. Graduates of Vanderbilt, the University of Tennessee, and every other ABA-accredited school would continue to qualify for Tennessee bar admission on exactly the same terms as today, and their degrees would remain nationally portable. The portability concern is an argument against eliminating ABA recognition, not an argument against ending its monopoly.

Second, the ABA Council cites aggregate bar passage data showing 67% first-time passage for ABA graduates versus 23% for non-ABA graduates nationally in 2024.[21f] This aggregate comparison is misleading because it conflates several distinct categories under the "non-ABA" label: graduates of state-accredited schools such as those approved by the California Committee of Bar Examiners, graduates of truly unaccredited schools, and graduates of foreign law schools, each of which has substantially different outcomes. California Bar data show that graduates of California-accredited schools pass at rates far exceeding the 23% aggregate, which is driven primarily by unaccredited and foreign school graduates.[21g] The proposed amendment addresses this

directly: pathways (3) and (4) do not recognize truly unaccredited schools or foreign institutions. They recognize schools accredited by DOE-recognized agencies or approved by state bar admitting authorities that apply substantially equivalent standards, a qualification that the California Committee of Bar Examiners satisfies. This Court need not speculate: any applicant who passes the Tennessee UBE at 270 or higher, or a comparable out-of-state examination such as California's, has already demonstrated minimum competence. The bar passage data confirm the examination works. That is precisely the argument for relying on it.

Third, the ABA Council cites California's February 2025 bar examination redesign, which failed and required significant remediation, as evidence of the risks of states departing from nationally developed processes.[21h] That episode involved California's attempt to replace the NCBE-developed multiple-choice component of its hybrid examination with questions developed by a third-party vendor, while retaining California's own essays and performance tests. The redesign failed; California reverted to using NCBE-developed multiple-choice questions for that component while continuing to write its own essays and performance tests. Critically, on April 17, 2026, the California Committee of Bar Examiners recommended that the California Supreme Court adopt the NextGen UBE beginning in July 2028, subject to Board of Trustees and Supreme Court approval, reflecting California's trajectory toward the same national examination framework Tennessee already uses.[21i] The objection is inapposite in any event. This comment does not propose that Tennessee design or administer its own bar examination. Tennessee would continue administering the full UBE exactly as it does today. The reforms proposed here concern who may sit for the UBE or be admitted through comity, not what the UBE contains. Tennessee's bar examination infrastructure remains fully intact under every proposal advanced in this comment.

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[2] Order, In re Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403, at 4 (Tenn. Sept. 16, 2025) [hereinafter "Order"].

[3] Tenn. Sup. Ct. R. 7, Sec. 4.02; National Conference of Bar Examiners, List of UBE Jurisdictions, https://www.ncbex.org/exams/ube/list-ube-jurisdictions (last visited Apr. 27, 2026).

[4] Tenn. Sup. Ct. R. 7, Sec. 4.07(b); see also CLEAR Report and Recommendations 56-68 (July 27, 2025) [hereinafter "CLEAR Report"] (discussing bar examination as assessment of minimum competence).

[5] Tenn. Sup. Ct. R. 7, Sec. 2.02(d).

[6] Tenn. Sup. Ct. R. 7, Sec. 3.05.

[7] FTC Staff Comment re Proposed Amendment to Rule 1 of the Rules Governing Admission to the Bar of Texas, at 3, 6 (Dec. 1, 2025) [hereinafter "FTC Staff Comment"]. The comment was authorized by a vote of the Commission. Id. at 1 n.1.

[8] N.C. State Bd. of Dental Exam'rs v. FTC, 574 U.S. 494, 507 (2015).

[9] FTC Staff Comment at 4-5 (explaining that state action immunity requires active supervision and that passive delegation to the ABA raises anticompetitive concerns).

[10] ABA Standards and Rules of Procedure for Approval of Law Schools, Standards 603, 606 (2016-2017 ed.) (requiring full-time library director with faculty appointment and physical core collection spanning all reported federal and state court decisions, current regulations, and significant secondary works).

[11] ABA, Notice and Comment: Proposed Revisions to Standards and Rules of Procedure (Feb. 2024) (cover memorandum stating "Physical books are no longer required"); see also Standard 604 (2025-2026 ed.) (replacing enumerated core collection requirement with "reliable and efficient access" standard).

[12] ABA Treasurer's Report, Fiscal Year 2024, 111 ABA J. (Aug. 2025), https://www.abajournal.com/magazine/article/aba-treasurers-report-fiscal-year-2024 (reporting consolidated revenue from nearly 170,000 dues-paying members) (last visited Apr. 27, 2026).

[13] Id. (noting that in 1979, roughly half of all lawyers were ABA members).

[14] ABA Journal, New Dues Rates for ABA Members Announced (2024) (reporting that the ABA "adds more than 25,000 new members annually, but only retains about 53% of them").

[15] ABA Treasurer's Report, Fiscal Year 2024, 111 ABA J. No. 4 (Aug. 2025) (reporting consolidated revenue from nearly 170,000 dues-paying members totaled $42.7 million); American Bar Ass'n, Form 990: Return of Organization Exempt from Income Tax (Fiscal Year Ending August 31, 2024) (reporting total revenue of $119,070,500).

[16] N.C. State Bd. of Dental Exam'rs, 574 U.S. at 504.

[17] FTC Staff Comment at 6-7 (citing Competitive Impact Statement, United States v. Am. Bar Ass'n, No. 95-cv-1211 (D.D.C. June 27, 1995); United States v. Am. Bar Ass'n, 2006 U.S. Dist. LEXIS 42645, at *2 (D.D.C. 2006)).

[18] Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas, No. 26-9002, at 1 (Tex. Jan. 6, 2026) [hereinafter "Texas Order"].

[19] Id. paras. 6(d)-(e).

[20] In re Amendments to Rules Regulating the Fla. Bar and Rules of the Supreme Court Relating to Admissions to the Bar, No. SC2025-2064, at 5-6 (Fla. Jan. 15, 2026) [hereinafter "Florida Order"].

[21] Id. at 6.

[21a] In re Amendments to D.C. App. R. 46, No. M-295-26 (D.C. Ct. App. Mar. 24, 2026) (eff. Apr. 24, 2026) (amending Rule 46(e)(3) to replace ABA educational pedigree requirement with active practice standard of 3 of 5 years, deleting prior subsection (B) requiring ABA-approved JD or 26 ABA credit hours for non-ABA graduates).

[21b] Southern Association of Colleges and Schools Commission on Colleges, Directory of Member Institutions, https://sacscoc.org (confirming accreditation of the University of Tennessee system); University of Tennessee College of Law, About the Law School, https://law.utk.edu (last visited Apr. 27, 2026).

[21c] Commission for Public Higher Education, Mission and Purpose, https://cphe.org/missionandpurpose/ (last visited Apr. 27, 2026) (founding university systems include the State University System of Florida, the University System of Georgia, the University of North Carolina System, the University of South Carolina System, the Texas A&M University System, and the University of Tennessee System); University of Tennessee, Work to Learn Tennessee, https://tennessee.edu/academics/affordability/work-to-learn-tennessee/ (describing UT system workforce development and career-readiness initiatives).

[21d] Commission for Public Higher Education, Frequently Asked Questions, https://cphe.org/frequently-asked-questions/ (last visited Apr. 27, 2026) ("CPHE will submit an application for recognition to the U.S. Department of Education once it meets the regulatory requirements to do so, likely during late 2027.").

[21e] ABA Accreditation Council, Comment re No. ADM2025-01403, at 5 (Mar. 16, 2026) [hereinafter "ABA Council Comment"] (citing Tennessee Board of Law Examiners, July 2025 UBE Exam Statistics).

[21f] ABA Council Comment at 4 (citing National Conference of Bar Examiners, Persons Taking and Passing the 2024 Bar Examination by Source of Legal Education (2024)).

[21g] State Bar of Cal., Profile of California Law Schools, Executive Summary (2022) (reporting 2022 bar passage rates of 67% for ABA-accredited graduates, 21% for California-accredited graduates, and 9% for unaccredited graduates, demonstrating that the non-ABA aggregate is driven primarily by the unaccredited and foreign school categories).

[21h] ABA Council Comment at 4 (citing Reuters, "California's February Bar Exam Mess is Costing Millions to Clean Up" (June 6, 2025)); see also L.A. Times, "'Utterly Botched:' Glitchy rollout of new California bar exam prompts lawsuit and legislative review" (Feb. 28, 2025). California historically administered a hybrid examination combining NCBE-developed multiple-choice questions with California-written essays and performance tests. The February 2025 redesign replaced the NCBE multiple-choice component with questions developed by Kaplan; California reverted to NCBE-developed multiple-choice questions following the failed redesign while continuing to develop its own essays and performance tests.

[21i] Cal. Bar, CBE Recommends the NextGen Uniform Bar Exam and Consideration of a Future California Component (Apr. 17, 2026), https://www.calbar.ca.gov/news/cbe-recommends-nextgen-uniform-bar-exam-and-consideration-future-california-component. The CBE's recommendation goes to the Board of Trustees at its May 14-15, 2026 meeting before being submitted to the California Supreme Court. The final decision on exam format rests with the California Supreme Court.

## III. QUESTION 5: TENNESSEE SHOULD MODERNIZE ITS INTERSTATE ADMISSION RULES TO REFLECT THE REALITIES OF A MOBILE LEGAL PROFESSION

The Court asks whether it "should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility."[22] It should. The current framework imposes barriers that are not, today, calibrated to any legitimate competency concerns, excludes qualified attorneys prepared to serve Tennessee communities with acute unmet legal needs, and contains internal inconsistencies that undermine its own justifications.

### A. A Licensed Out-of-State Attorney Is Not Less Qualified Than a Newly Admitted Tennessee Lawyer

Under Rule 7, Section 5.01(a)(3), an applicant for admission without examination must have been "primarily engaged in the active practice of law . . . for five of the seven years immediately preceding the date upon which the application is filed."[23] An attorney who passes the Tennessee bar examination, by contrast, may be admitted immediately upon completion of the Tennessee Law Course and satisfaction of character and fitness requirements, regardless of whether he has ever practiced law for a single day.

This asymmetry is not defensible on public protection grounds. An attorney licensed in California or any other State who has passed a bar examination has demonstrated minimum competence through a validated assessment. He has practiced under the Rules of Professional Conduct, subject to State Bar discipline and potential license revocation for inadequate representation. He has real-world experience, court appearances, client counseling, contract drafting, legal research, and negotiation, which a newly admitted Tennessee attorney does not have. Yet under current Rule 7, he must wait five of seven years (and hold an ABA JD) before Tennessee will consider admitting him without examination, while a newly minted Tennessee graduate with zero practice experience may be admitted immediately.

The five-year requirement does not measure competence; it measures time. Those are not the same thing. An attorney who has practiced part-time for two years in a specialized field may be more competent in that field than an attorney who has logged five years in general practice. An attorney who has served as in-house counsel for a large corporation, assisted in federal litigation, and advised on complex regulatory matters may be more prepared to serve Tennessee clients than the temporal threshold suggests or excludes. A blunt durational rule treats all practice as equivalent and all applicants as interchangeable, which is precisely what an individualized competency evaluation would not do.

### B. Rule 7's Internal Inconsistency Reveals That the Practice Requirement Is Not Calibrated to Competence

Rule 7, Section 2.02(d)(3), the provision governing non-ABA graduates seeking to sit for the Tennessee bar examination, requires the applicant to have been "primarily engaged in the active

practice of law . . . for three of the five years immediately preceding the date upon which the application is filed."[24] Rule 7, Section 5.01(a)(3), governing comity admission without examination, requires five of the seven preceding years.

The same rule therefore applies a lower practice threshold, three of five years, to the more demanding pathway, taking and passing the bar examination, than it applies to the less demanding pathway, admission without examination based on an established practice record. If three years of practice are sufficient to demonstrate the competence necessary to sit for the Tennessee bar as a non-ABA graduate, then five of seven years cannot be justified as a public protection measure for comity applicants who have already been licensed and practiced in another jurisdiction. The inconsistency reveals that the five-year comity requirement is not a competency measure; it is a market entry barrier, one whose primary beneficiaries are incumbent Tennessee practitioners rather than the public the rule purports to protect.

### C. Proposed Reforms: Individualized Evaluation, Tennessee Law Course, Provisional Licensure, and Practice Credit

This comment proposes the following framework as a replacement for the current durational practice requirement in Rule 7, Section 5.01(a)(3):

First, the mandatory Tennessee Law Course should serve as the primary mechanism for ensuring that out-of-state attorneys are familiar with Tennessee-specific law. That course already exists. Under Rule 7, Section 1.07, it is already mandatory for all comity applicants.[25] It is a 7.5-hour online course covering Tennessee civil procedure, evidence, appellate procedure, family law, property, torts, wills and estates, criminal law, professional responsibility, business associations, employment law, workers' compensation, and constitutional law.[26] It directly addresses the concern that out-of-state attorneys may lack familiarity with Tennessee-specific doctrine and procedure. It does so at a cost of fifteen dollars and approximately seven and a half hours of time. This is the proportionate, narrowly tailored response to the state-specific knowledge concern, not a five-year waiting period.

Second, the durational practice requirement should be replaced with an individualized evaluation of the applicant's practice history. An applicant with substantial experience, in-house counsel work, active litigation practice, public service, or other qualifying activity as defined in Rule 7, Section 5.01(c), demonstrates competence through that record. The Board's existing discretionary authority under Rule 7, Section 5.02 already permits consideration of "any evidence submitted by the applicant in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to competence in the profession."[27] That discretionary authority should be formalized and expanded as the primary evaluation mechanism, with the durational requirement eliminated or substantially reduced.

Third, provisional licensure should be available for applicants who cannot demonstrate sufficient practice experience through individualized evaluation. Under a provisional license, the applicant would practice under the supervision of an experienced Tennessee attorney for a defined period,

engage in mandatory pro bono service with a Tennessee legal aid organization, and complete any additional MCLE requirements the Board determines appropriate. Upon satisfactory completion, the provisional license converts to full admission. This approach is consistent with the alternative licensure models documented in the CLEAR Report and already in use in several states.[28]

Fourth, part-time practice must count toward any experience threshold. There is no principled basis for requiring full-time practice. An attorney who has practiced part-time for two years, appearing in court, advising clients, drafting contracts, or handling transactions, has engaged in the active practice of law within the meaning of Rule 7, Section 5.01(c). The nature and quality of the practice matter; the number of hours per week does not.

Fifth, pro bono service with a legal aid organization, whether in Tennessee or another jurisdiction, should count as qualifying active practice. This serves a dual purpose: it provides a pathway for attorneys who have not accumulated traditional practice hours, and it creates an incentive structure that channels attorneys toward the underserved communities where Tennessee's unmet legal needs are most acute. An attorney who has represented low-income clients in eviction proceedings, family law matters, public benefits cases, and immigration proceedings has demonstrated practical competence in exactly the practice areas most relevant to Tennessee's access-to-justice crisis, irrespective of how much time has passed.

The proposed amendments to Rule 7, Section 5.01(a) would read as follows:

> (1) meet the educational requirements imposed under sections 2.01 and 2.02 (as amended) of this Rule; (3) [Replace existing subsection] have demonstrated, to the Board's satisfaction, practice experience sufficient to establish competence to practice law in this jurisdiction, based on an individualized evaluation of the nature, duration, and breadth of the applicant's active practice, as defined in subsection (c) of this section; provided that (i) part-time practice shall count toward any experience determination; (ii) pro bono service with a legal aid organization recognized by the Tennessee Access to Justice Commission or equivalent authority shall count as active practice; (iii) applicants who do not satisfy the Board's experience determination may be admitted on a provisional basis pursuant to [new provisional licensure provision]; and (iv) all applicants admitted under this section shall complete the Tennessee Law Course pursuant to section 1.07 of this Rule prior to, or within ninety days of, admission.

### D. Tennessee's Own Emergency Practice Rule Confirms That Educational Pedigree Is Not a Competency Variable

Tennessee Supreme Court Rule 47, enacted in the aftermath of Hurricane Katrina and most recently activated in October 2024 following severe flooding in East Tennessee, permits any attorney authorized to practice law in another United States jurisdiction to provide free legal services to disaster-affected Tennessee residents, without pro hac vice admission and without any admission fee, assigned and supervised through an established nonprofit bar association or pro bono program.[29]

Rule 47 draws no distinction between attorneys who attended ABA-accredited law schools and those who did not. Its sole competency criterion is licensure in good standing in another United States jurisdiction. The rule contains no educational requirement. It does not ask whether the responding attorney's school was approved by the ABA, by a state bar authority, or by any other accrediting body. Whether or not any particular attorney who responded to the October 2024 activation attended a non-ABA law school is not known to this commenter and is not the point. The point is structural: in drafting and implementing Rule 47, this Court made a considered judgment that educational pedigree is not a relevant factor in determining whether an out-of-state attorney is sufficiently competent to practice Tennessee law and to appear in Tennessee courts. That judgment does not become less valid when the emergency declaration expires.

The commenter's California license and non-ABA education, which disqualify him from permanent Tennessee bar admission under Rule 7's ABA requirement, would fully qualify him to serve flood victims under Rule 47. He could appear in every court in the affected judicial districts, represent individual clients in eviction and family law proceedings, and provide the full range of state law legal services, provided that services were rendered free of charge and through a designated program. The legal needs of disaster-affected communities do not end when the emergency declaration does. The communities of East Tennessee affected by the September 2024 flooding still need legal assistance. The attorney competent to provide it under Rule 47 is equally competent to provide it under a permanent license.

### E. The Federal and State Practice Framework Creates a Jurisdictional Gap That Falls With Particular Force on Tennessee's Most Vulnerable Communities

Federal law authorizes attorneys licensed in any United States jurisdiction to practice immigration law, VA benefits, and other categories of federal matters anywhere in the country, without regard to where the attorney holds state bar admission. That authorization, which operates nationwide and is not unique to Tennessee, creates a jurisdictional gap when combined with the standard state court admission requirements that Tennessee and every other state maintain. The gap falls with particular force on Tennessee's immigrant and veteran communities, who rely most heavily on federal practice authorization and whose legal needs do not stop at the boundary between federal and state law.

A California-licensed attorney residing in Tennessee may represent Tennessee residents in federal immigration matters, proceedings before U.S. Citizenship and Immigration Services, the Executive Office for Immigration Review, and the United States Court of Appeals for the Sixth Circuit, and in federal benefits proceedings, pursuant to federal law and the rules governing practice before those federal bodies.[30] That same attorney cannot assist the client with a connected Tennessee state law matter: the eviction that followed the client's detention, the probate issue affecting the client's family, the family law proceeding in Tennessee General Sessions Court, or the criminal law matter that may impact their legal presence in this country.

The client who needs immigration representation and family law assistance is not two clients; she is one person with interconnected legal needs. The veteran whose federal benefits claim connects to a state court guardianship or housing matter faces the same gap. The artificial barrier between federal and state practice does not protect these clients; it leaves portions of their legal needs unaddressed by the attorney who already knows their situation. The solution is not to expand the scope of paraprofessional practice, as discussed below. The solution is to remove the barrier that prevents their qualified attorney from serving them across the full range of their legal needs. Reform of Rule 7's interstate admission requirements would accomplish this directly.

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[22] Order at 5.

[23] Tenn. Sup. Ct. R. 7, Sec. 5.01(a)(3).

[24] Tenn. Sup. Ct. R. 7, Sec. 2.02(d)(3).

[25] Tenn. Sup. Ct. R. 7, Sec. 1.07(a)(3); Tennessee Board of Law Examiners, Tennessee Law Course, https://bwp.tnble.org/?page_id=57 (last visited Apr. 27, 2026) [hereinafter "TLC Page"].

[26] TLC Page (listing course subjects including Tennessee Rules of Civil Procedure, Family Law, Property, Torts, Wills and Estates, Criminal Law, Professional Responsibility, Business Associations, Employment Law, Workers' Compensation, and Constitutional Law).

[27] Tenn. Sup. Ct. R. 7, Sec. 5.02.

[28] CLEAR Report at 79-90 (describing supervised practice and hybrid licensure pathways in Oregon, Utah, Nevada, and other states).

[29] Tenn. Sup. Ct. R. 47; Order Activating Rule 47 (Tenn. Oct. 28, 2024), https://tncourts.gov/press/2024/10/28/tn-supreme-court-activates-rule-allowing-flood-victims-accept-free-legal-services.

[30] See 8 C.F.R. Sec. 1292.1(a)(1) (authorizing practice before the Executive Office for Immigration Review by attorneys licensed in any U.S. jurisdiction); 38 C.F.R. Sec. 14.629 (authorizing accredited representatives and agents to practice before the Department of Veterans Affairs); Tenn. Sup. Ct. R. 8, RPC 5.5(c) (permitting out-of-state attorneys to provide legal services in Tennessee in matters in which they are authorized to practice under federal law).

## IV. QUESTIONS 3 AND 4: ALTERNATIVE PATHWAYS TO LICENSURE, INCLUDING LEGAL AID SERVICE, DESERVE SUPPORT

The Court asks whether there are less costly alternatives to the traditional three-year law school curriculum and whether it should consider alternative pathways for bar admission, such as apprenticeship or service with a legal aid organization.[31] This comment endorses both inquiries and addresses the legal aid service pathway specifically, as it is particularly well-suited to Tennessee's access-to-justice needs.

A pathway under which accumulated hours of supervised legal service with a recognized Tennessee legal aid organization, West Tennessee Legal Services, Legal Aid of Middle Tennessee and the Cumberlands, or Legal Aid of East Tennessee, could satisfy admission requirements, upon recommendation of the organization's supervising attorney, would accomplish several goals simultaneously. It would provide a structured, supervised practice environment in which an applicant demonstrates competence through actual legal work. It would channel attorneys toward the communities and practice areas where Tennessee's unmet legal needs are greatest. And it would create an incentive for attorneys who might otherwise not consider Tennessee practice to engage

with its legal aid system and, through that engagement, develop the Tennessee-specific knowledge and community connections that make them effective long-term practitioners.

The commenter would participate in such a program today. As a bilingual attorney with experience in immigration, business and real estate law, estate planning, and civil matters, he would welcome the opportunity to volunteer with a Tennessee legal aid organization on evenings and weekends. Under current rules, he cannot do so in any meaningful way without risking unauthorized practice of law under Tennessee Supreme Court Rule 8, RPC 5.5. A legal aid service pathway, combined with the reforms proposed in Section III above, would unlock that contribution immediately.

The CLEAR Report identifies public interest and legal aid service as a particularly valuable pathway for addressing both the access-to-justice crisis and the shortage of attorneys in underserved communities.[32] Recommendation 7 of the CLEAR Report specifically calls on state supreme courts to "champion public interest lawyering by considering innovative pathways to licensure" and to "support efforts to lower caseloads and support lawyer well-being" for public service attorneys.[33] A legal aid service admission pathway is a concrete implementation of that recommendation calibrated to Tennessee's specific needs.

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[31] Order at 4-5.

[32] CLEAR Report at 93-115.

[33] Id. at 16 (Recommendation 7.1).

## V. QUESTION 6: CAUTION IS WARRANTED ON PARAPROFESSIONAL EXPANSION; THE BETTER SOLUTION IS EXPANDING LICENSED ATTORNEY ACCESS

The Court asks whether legal services currently provided by lawyers could be competently provided by paraprofessionals, and if so, what limitations should apply.[34] This comment urges caution and recommends that the Court prioritize reforms that expand the supply of licensed attorneys, particularly through the interstate admission reforms proposed above, before expanding the scope of paraprofessional practice.

The access-to-justice problem that motivates this inquiry is real and serious. But the solution to a shortage of qualified attorneys is not to make legal services available from less qualified practitioners. It is to make qualified attorneys more accessible. The reforms proposed in Sections II and III of this comment would, if adopted, immediately expand the pool of licensed attorneys available to serve Tennessee residents without lowering the competency standards that protect the public.

The commenter has observed firsthand the harm that results when unregulated or inadequately supervised non-attorneys provide legal assistance to non-English-speaking clients. "*Notarios*" and paraprofessionals who hold themselves out as capable of handling immigration matters, often with

genuine intent to help, regularly cause serious, sometimes irreversible harm: applications filed prematurely, incorrect pathways pursued, procedural defaults that cannot be undone, and clients placed in removal proceedings as a consequence of a filing that should never have been made.[35] The complexity that lies beneath the surface of even apparently routine immigration and housing matters is not reliably visible to practitioners who lack legal training and the professional obligation of continuing competence.

To the extent the Court does authorize any paraprofessional role, this comment supports the framework proposed by attorney William P. York in his March 16, 2026 comment: any paraprofessional role must be structured as supervised assistance to licensed attorneys, not as an independent practice pathway; attorney supervision must be genuine and documented, not nominal; and the lines of attorney responsibility for all work performed must be clear.[36] Any such framework should also include robust enforcement mechanisms for unauthorized practice of law, given the documented harm caused by unsupervised non-attorney practice in immigrant communities.

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[34] Order at 5.

[35] See, e.g., Legal Services Corporation, The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans 48 (Apr. 2022) (documenting the extent of unmet legal need and the inadequacy of non-attorney assistance in complex legal matters).

[36] William P. York, Public Comment, No. ADM2025-01403, at 5-6 (Mar. 16, 2026).

## VI. QUESTION 7: NON-LAWYER OWNERSHIP OF LAW FIRMS SHOULD NOT BE PERMITTED

The Court asks whether it should "modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers."[37] It should not. Tennessee Rule of Professional Conduct 5.4 should be preserved in its essential form.

The prohibition on non-lawyer ownership is not a vestige of professional protectionism. It is the structural guarantee that a lawyer's professional judgment, the advice he gives, the cases he accepts or declines, the settlements he recommends, the time he devotes to a client's matter, remains governed by his duties to the client and the legal system, not by the financial interests of an outside investor. When a law firm is owned by a private equity fund, a publicly traded corporation, or another non-lawyer entity, the lawyer answers to two masters: his professional obligations to his client, and the financial expectations of his owners. Those obligations are not always aligned, and when they diverge, the client, particularly the low-income client who cannot evaluate the quality of representation or easily obtain alternative counsel, bears the risk.

The experience of the American medical profession provides a documented cautionary parallel. The entry of private equity into medical practice has been associated with consolidation, reduced time per patient, prioritization of profitable procedures over patient need, and, in some cases, demonstrable declines in care quality.[38] Medical patients and legal clients share a common

vulnerability: they often cannot accurately evaluate the quality of the service they receive at the time it is provided, and the harm from inadequate service may not be apparent until it is irreversible. The legal profession's independence rules exist precisely because of this information asymmetry. They should not be dismantled in the name of access to justice when the reforms proposed above would expand access without compromising independence.

The legal profession's own recent experience with ownership reform reinforces this caution. Arizona eliminated its ban on non-lawyer ownership of law firms in 2021, becoming the first state to do so in the modern era.[39] The Arizona experience remains nascent, but early evidence suggests that the anticipated access-to-justice benefits have not materialized at scale, while concerns about lawyer independence and consumer protection have grown more acute as the nature of the entities seeking ownership stakes has become clearer. Arizona's experiment may ultimately yield useful data, but Tennessee need not conduct its own experiment when the reforms proposed in Sections II and III of this comment offer a proven, independence-preserving path to expanding access.

This comment therefore supports preserving Rule of Professional Conduct 5.4 and urges the Court to address the access-to-justice crisis through the mechanisms proposed in Sections II and III: ending ABA exclusivity, modernizing comity requirements, and creating legal aid service pathways that expand the supply of qualified, independent, licensed attorneys.

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[37] Order at 5.

[38] See, e.g., Zirui Song & Leemore Dafny, The Growing Role of Private Equity in Healthcare, JAMA 327(18), at 1765 (2022) (documenting association between private equity acquisition of medical practices and changes in care patterns and costs); see also York Comment at 2 (Mar. 16, 2026) (noting that "outside ownership necessarily carries with it pressures relating to revenue, efficiency, market share, growth, staffing, case selection, and return on investment").

[39] See Joel Truett, Goodbye Rule 5.4: Legal Ethics Change in Arizona, Ariz. St. L.J. (Apr. 19, 2021); cf. William P. York, Public Comment, No. ADM2025-01403, at 2 (Mar. 16, 2026) (arguing that outside ownership creates structural conflicts between commercial pressures and client-centered representation).

## VII. CONCLUSION

The Court framed this proceeding around a genuine tension: the goal of lowering barriers to the legal profession must be balanced against the goal of ensuring competent representation and safeguarding the public. This comment has argued throughout that this tension is resolvable; the reforms most urgently needed are not those that dilute competency standards, but those that remove barriers that never served a competency purpose in the first place.

Ending Tennessee's exclusive reliance on ABA accreditation does not lower the quality of Tennessee's bar or compromise public protection. It removes a gatekeeping function from a private organization that represents approximately 13 percent of American attorneys, has a documented history of anticompetitive conduct, and whose standards have demonstrably inflated the cost of legal education without producing better lawyers. The bar examination, the output measure, remains fully intact. And Tennessee already has the regional accreditation infrastructure, through

SACSCOC today and potentially through CPHE in the future, to implement outcome-focused alternatives without starting from scratch.

Modernizing the comity rules does not reduce the rigor of Tennessee's admission standards. It replaces a blunt durational barrier with the individualized evaluation and targeted state-specific training that the public protection rationale actually requires, through the existing Tennessee Law Course. The attorney who passes that course, completes a character and fitness review, and demonstrates a record of competent practice is as well-prepared to serve Tennessee clients as an attorney who simply waited five years.

Creating legal aid service pathways does not compromise the integrity of the profession. It channels attorneys toward the communities the Court most wants to serve, under supervision and with accountability structures that protect clients throughout the process.

The commenter is one attorney. But he represents a category of attorney that current Rule 7 systematically excludes: qualified, experienced, bilingual practitioners who attended non-ABA law schools, passed rigorous bar examinations, and are prepared to serve underserved communities, not in some future regulatory landscape, but now, if the rules permitted it. This Court has already determined, through Rule 47, that such attorneys are competent to serve Tennesseans in a crisis. The Tennesseans who need legal help with housing, immigration, family law, and public benefits are in a crisis that did not begin with a flood and will not end with an emergency order. They can be served, starting now, by attorneys who are already here.

This comment respectfully urges the Court to adopt the reforms proposed herein.

Respectfully submitted,

Rene Galicia

René Galicia, Esq.
California State Bar No. 349282
10615 Chapman Highway #370
Seymour, TN 37865
rene@galicia.law
April 28, 2026

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment — No. ADM2025-01403 — René Galicia, Esq., CA Bar No. 349282

**From:** Rene Galicia, Esq. <rene@galicia.law>
**Sent:** Tuesday, April 28, 2026 6:15 PM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Subject:** Public Comment — No. ADM2025-01403 — René Galicia, Esq., CA Bar No. 349282

**Warning: Unusual sender** <rene@galicia.law>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Dear Clerk Hivner,

Please find attached the public comment of René Galicia, Esq., California State Bar No. 349282, submitted in response to the Court's September 16, 2025 Order soliciting public comments on potential regulatory reforms to increase access to quality legal representation, No. ADM2025-01403.

The comment addresses Questions 1, 2, 5, 6, and 7 of the Court's Order and proposes specific amendments to Tennessee Supreme Court Rule 7, Sections 2.02(a) and 5.01(a).

Respectfully submitted,

Rene Galicia, Esq.
CA Bar No. 349282
Phone: 213-222-6240
Email: Rene@Galicia.Law

**MaryBeth Lindsey**

**From:** William Metzinger <wmetzinger@gmail.com>
**Sent:** Tuesday, April 28, 2026 3:47 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on MJP and lawyer mobility reform (Question 5)



To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 21, 2026, by Brian Faughnan and Lucian Pera.

In addition to the proposed Rule 5.5 reforms, I respectfully request the Court consider targeted and related changes to Tennessee Supreme Court Rule 7 governing admission by comity (admission on motion). Two aspects of the current framework merit particular attention:

**(a) Indefinite comity prohibition tied to the 180-day filing for in-house admission**

The current rule's apparent consequence—that failure to meet the 180-day deadline for filing an application for in-house admission may result in a permanent bar to comity admission—raises concerns of proportionality, clarity, and policy coherence (See Tenn. Sup. Ct. R. 7, Section 10.01(d)(3)).

First, the absence of a defined endpoint for this restriction is difficult to reconcile with how the profession addresses far more serious misconduct. Even in cases involving significant ethical violations—such as client fund misappropriation or other serious breaches—disciplinary systems typically impose determinate sanctions with defined reinstatement pathways (often in the range of several years). By contrast, a procedural lapse in timing can effectively result in a lifetime restriction on admission by comity.

Second, the nature of the consequence appears misaligned with the underlying conduct. The remedy directs the applicant toward admission by examination, which is framed as a competency-based pathway. Yet the triggering issue is not a demonstrated lack of competence, but rather noncompliance with a filing deadline. This creates a conceptual mismatch: the "penalty" operates in the domain of competence rather than as a proportional regulatory consequence (such as a monetary penalty, late fee, or discretionary waiver standard).

Third, the rule would benefit from clearer articulation. It is not readily apparent whether the prohibition is intended to be absolute, whether any discretionary relief exists, or how the Court or Board of Law Examiners may evaluate mitigating circumstances.

For these reasons, I respectfully request that the Court consider:

- Clarifying the scope and duration of any disqualification tied to the 180-day deadline;
- Providing a defined path to eligibility after a specified period or upon satisfaction of objective criteria; and/or
- Replacing or supplementing the current consequence with a more proportionate mechanism (e.g., discretionary review, late filing provisions, or financial penalties).

**(b) Consideration of a COVID-related amnesty or equitable relief period**

The Court may also wish to consider a limited amnesty or equitable relief mechanism addressing applicants affected by the COVID-19 period.

As reflected in broader legal and administrative contexts, courts and agencies have recognized that the pandemic created extraordinary disruptions affecting mobility, employment transitions, access to information, and administrative processes. During that period, many attorneys relocated across jurisdictions under unusual and often urgent circumstances, while licensing systems operated with reduced capacity or significant delays.

Analogous reasoning can be found in cases such as *Kwong v. United States,* 179 Fed. Cl. 382 (2025), where courts have acknowledged the need to evaluate procedural compliance in light of extraordinary external conditions. While not directly controlling in this context, the principle is instructive: rigid application of procedural deadlines may warrant reconsideration where systemic disruption materially impaired compliance.

A narrowly tailored amnesty period—whether time-limited or tied to defined pandemic dates—could allow otherwise qualified applicants to seek admission by comity upon a showing of good cause related to COVID-era disruptions. Such an approach would:

- Address fairness concerns for a discrete and identifiable group;
- Promote lawyer mobility at a time when the Court has recognized the need to expand access to legal services; and
- Avoid imposing long-term structural consequences based on short-term, extraordinary conditions.

The Court's current review presents a meaningful opportunity to align Tennessee's licensing framework with modern legal practice while maintaining appropriate safeguards for the public. The proposed Rule 5.5 reforms represent a significant step in that direction, and targeted adjustments to Rule 7 would further advance those goals by ensuring that admission pathways are clear, proportionate, and responsive to real-world conditions.

I appreciate the Court's consideration of these comments.

Kind regards,

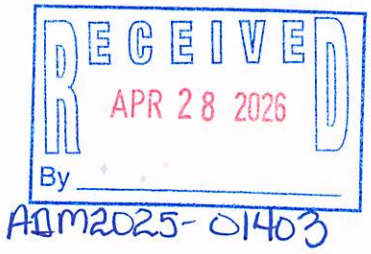
Bill

Bill Metzinger
wmetzinger@gmail.com
615.540.2060

harris | shelton

Christopher S. Campbell
Chief Managing Member
ccampbell@harrisshelton.com
Licensed in Tennessee and Arkansas

April 27, 2026




Submitted via email: appellatecourtclerk@tncourts.gov

James Hivner, Clerk
Tennessee Supreme Court
Re: No. ADM2025-01403 Public Comments
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

IN RE: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation (Court Order ADM2025-01403)

Dear Clerk Hivner and Honorable Justices of the Tennessee Supreme Court,

Harris Shelton Hanover Walsh, PLLC respectfully submits this comment in response to the Court's Order dated September 16, 2025 soliciting written comments on potential regulatory reforms, including Question (7): whether the Court should "modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers." We oppose any modification to Rule 5.4 that would permit non-lawyer ownership of law firms or fee sharing with non-lawyers.

We share the Court's concern about the justice gap and attorney shortages described in the Order, including unmet civil legal needs among low-income residents and the challenges faced by "legal desert" communities. However, allowing nonlawyer to investment in law firms is a structural change with irreversible consequences that should not be adopted absent clear, compelling, Tennessee-relevant empirical evidence that (a) it measurably improves access to justice and (b) it does so without increasing harm to clients, courts, or the integrity of the profession.

Non-lawyer ownership threatens lawyer independence. The duty of professional judgment, loyalty, and confidentiality cannot be subordinated to outside investors' commercial interests. Even robust compliance programs cannot fully neutralize conflicts that arise when non-lawyer owners influence case selection, litigation strategy, settlement decisions, or revenue allocation. Rule 5.4's structural separation protects the public by ensuring that clients' interests, not return on capital, drive legal advice.



6060 Primacy Parkway, Suite 100 Memphis, TN 38119 ph. 901.435-0143 (d) 901-525.1455 (o)

Christopher S. Campbell
Chief Managing Member
ccampbell@harrisshelton.com
Licensed in Tennessee and Arkansas

Even under "non-controlling" or "limited" frameworks, nonlawyer financial interests predictably create pressure to: (1) prioritize revenue and growth over client-centered outcomes; (2) standardize and scale services in ways that may not fit individualized legal needs; (3) influence staffing, budgeting, and case strategy in ways that compromise quality; and (4) encourage settlement or litigation decisions driven by business objectives rather than client interest and professional judgment.

Non-lawyer ownership risks exacerbating conflicts and undermining fiduciary duties. Equity holders who are not bound by the Rules of Professional Conduct may press for cross-selling, data monetization, or volume-driven practices that weaken individualized counsel. Permitting fee sharing with non-lawyers can create incentives to steer clients to particular service vendors or to prioritize short-term revenue over long-term client outcomes. These pressures are incompatible with the profession's duties of independence, confidentiality, candor to tribunals, and avoidance of conflicts.

The proposed relaxation is unlikely to meaningfully close the access-to-justice gap. Jurisdictions experimenting with non-lawyer ownership have not shown clear, scalable evidence that such models reduce prices for low- and moderate-income consumers across core need areas such as family, housing, and consumer law. Market entry often targets higher-margin or automated segments, while complex, low-fee matters remain underserved. Tennessee can better advance affordability through alternatives the Court has already invited comment on—such as exploring less costly educational pathways, bar admission reforms, and careful deployment of paraprofessionals in defined, supervised roles—without sacrificing Rule 5.4's essential safeguards.

Existing tools can responsibly expand access without compromising independence: limited scope representation, innovation in law practice technology under lawyer control, streamlined licensure for experienced out-of-state attorneys, and court-sponsored pro bono and self-help initiatives. These approaches preserve the non-delegable duties lawyers owe to clients and courts while enabling efficiency and scale. If the Court elects to pilot reforms, any such reforms should exclude changes to ownership or fee sharing and, instead, focus on supervised service models that maintain lawyer accountability.



6060 Primacy Parkway, Suite 100 Memphis, TN 38119 ph. 901.435-0143 (d) 901-525.1455 (o)

harris | shelton

Christopher S. Campbell
Chief Managing Member
ccampbell@harrisshelton.com
Licensed in Tennessee and Arkansas

Finally, public confidence in the justice system depends on the perception—and reality—that lawyers are guided by professional obligations rather than investor priorities. Eroding Rule 5.4 would blur that line, invite complex enforcement challenges, and risk harm to vulnerable consumers who often cannot detect subtle conflicts embedded in business structures.

For these reasons, Harris Shelton Hanover Walsh, PLLC respectfully urges the Court to retain Tennessee's existing prohibitions on nonlawyer ownership of law firms and fee sharing with nonlawyers. We appreciate the Court's focus on ensuring that all Tennesseans have access to affordable quality legal services while also ensuring attorney competence and safeguarding the public. The Court can—and should—pursue access-to-justice reforms that expand service capacity and reduce costs without compromising professional independence or introducing profit-driven incentives that threaten client loyalty, confidentiality, and public trust. Thank you for considering these comments and for the opportunity to be heard in this important process. Please accept this letter for filing in Docket No. ADM2025-01403 and direct any correspondence to the undersigned at 6060 Primary Parkway, Suite 100, Memphis, TN 38119.

HARRIS SHELTON HANOVER WALSH, PLLC

Sincerely,

Christopher S. Campbell, Chief Manager

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment on Court Order ADM2025-01403


**From:** Finnely King-Scoular <finn@harrisshelton.com>
**Sent:** Tuesday, April 28, 2026 10:40 AM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Cc:** Christopher Campbell <ccampbell@harrisshelton.com>; Chad Roberts <croberts@harrisshelton.com>
**Subject:** Public Comment on Court Order ADM2025-01403

ADM2025-01403

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Good morning,

Please see attached for the public comments of Harris Shelton Hanover Walsh, PLLC, located in Memphis, Tennessee, in response to Court Order ADM2025-01403.

Thank you for your service to the people of Tennessee.

Finn King-Scoular | Legal Assistant

harris|shelton

6060 Primacy Parkway
Suite 100
Memphis, TN 38119
Tel 901.310.1857
finn@harrisshelton.com

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James Hivner, Clerk

Re: Regulatory Reform

100 Supreme Court Building

401 7th Avenue North

Nashville, TN 37219-1307

appellatecourtclerk@tncourts.gov

VIA EMAIL

April 28, 2026

Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403

We the undersigned Tennessee law professors respectfully submit this public comment in response to the Supreme Court of Tennessee Order No. ADM2025-01403.

1. Recognition of the access to justice and legal deserts crises

First, we commend and celebrate this Court for taking this step and starting this important discussion. The Court is absolutely correct that America faces a significant and worsening access to justice crisis. The Legal Services Corporation (LSC) has released four different *Justice Gap* studies (2005, 2009, 2017, and 2022) that clearly establish the deterioration.[1] The 2005 Report notes that "[o]nly a very small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of . . . [a] lawyer."[2] By 2022, LSC reported that "[l]ow-income Americans did not receive any legal help or enough legal help for 92% of the problems that substantially impacted their lives in the past year."[3]

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[1] For links to all five reports, see LEGAL SERV. CORP., THE JUSTICE GAP REPORT (2022), https://justicegap.lsc.gov/resource/section-1-introduction/ [https://perma.cc/B3H6-C5TL].

[2] Legal Serv. Corp., Documenting the Justice Gap in America 4 (Sep. 2005), https://lsc-live.app.box.com/s/zb2hn2xm0ewmsubckbtpo9jjegxruwfp [https://perma.cc/B4UX-UXXF].

[3] Legal Serv. Corp., *supra* note 1.

Nor is the issue limited to the poor. Middle-income Americans are increasingly priced out of the market for legal services. Rebecca Sandefur estimates that more than one hundred million Americans experience one or more civil justice issues at any given time.[4] Survey results from a mid-sized city suggest that 66% of Americans encounter at least one civil justice issue in an eighteen-month period, and those same Americans use a lawyer's help just 16% of the time.[5] Small businesses fare similarly, with one study finding that 60% of small business owners lack a lawyer's assistance with their significant legal issues.[6]

The problem is shown most clearly in the rise of the *pro se* litigant. At least one party appears unrepresented in a whopping 76% of state-court civil cases.[7] In courts that handle issues like debt collection, family law, or eviction—90% or more of the cases feature at least one *pro se* litigant.[8] The upshot is quite embarrassing for a country founded on "equal justice under law." In 2022, the *World Justice Project's Rule of Law Index* ranked the United States 36th in the world for civil justice, tucked between Barbados and Mauritius.[9]

The problem of legal deserts is likewise serious and growing. The small town practice of law is in significant distress, and this leaves many Americans without access to a lawyer or other legal resources.[10] A full 20 Tennessee counties have fewer than 10 lawyers.[11]

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[4] *See* Rebecca L. Sandefur, *Money Isn't Everything: Understanding Moderate Income Households' Use of Lawyers' Services*, *in* Middle Income Access to Justice 222, 223 (Michael Trebilcock, Anthony Duggan & Lorne Sossin, eds., 2012).

[5] *See* Rebecca L. Sandefur, Am. Bar. Found., Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study 3, 6, 14 (2014), http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa._aug._2014.pdf [https://perma.cc/966A-JYV4].

[6] *See* LegalShield, The Legal Needs of Small Business: A Research Study Conducted by Decision Analyst Commissioned by LegalSheild 4 (2013), https://avonintegrativehealth.com/storage/app/media/_Client/patient_education/1010711-legal-needs-of-small-businesses.pdf [https://perma.cc/V5CJ-FTBH].

[7] Ralph Baxter, *Dereliction of Duty: State-Bar Inaction in Response to America's Access-to-Justice Crisis*, 132 Yale L.J. F. 228, 230 (2022).

[8] *Id.* at 230 n.9.

[9] World Just. Project, Rule of Law Index 10, 34 (2022), https://worldjusticeproject.org/sites/default/files/documents/WJPIndex2022.pdf [https://perma.cc/A3GU-CEPV].

[10] *See* Elizabeth Chambliss, *Rural Legal Markets*, 12 Tex. A&M L. Rev. 961 (2025); Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway, & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15 (2018).

[11] https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf at p. 14.

The Court is correct to note that these issues are serious and growing and have a detrimental effect on public belief in our justice system.[12] We are thrilled that the Court has recognized these problems and is seeking solutions.

2. Order Items 1-3 Addressing Law Schools

We have decided to avoid any appearance of a conflict of interest and will thus refrain from comment on these issues.

3. Order Items 4, 5, 6, and 7

We note that many American states are currently engaged in some or all of these reforms, and a number more are considering changes. Overall, we have been particularly impressed with the approaches of Arizona and Utah, who have used a combination of different strategies and have been unafraid to act boldly and experiment. Acting individually, these reforms will not solve the crisis described above, but any progress should be welcome and taken together, such reforms should prove helpful.

Item four ("Whether the Court should consider adopting alternative pathways for admission to the Tennessee Bar") is being tried in multiple states. At least six states (California, Maine, New York, Vermont, Virginia, and Washington) have some sort of apprenticeship program[13] and another six states are considering other alternative pathways into the practice of law (Arizona, Nevada, Oregon, South Dakota, Wisconsin, and Vermont).[14] Many more states are considering such a move. As of yet the uptake in these

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[12] Benedict Vigers & Lydia Saad, *Americans Pass Judgment on Their Courts*, GALLUP, December 17, 2024, https://news.gallup.com/poll/653897/americans-pass-judgment-courts.aspx (Survey showing a "Americans' confidence in their nation's judicial system and courts dropped to a record-low 35% in 2024," representing a "sharp decline in confidence in" the American judiciary that "is among the largest Gallup has ever measured").

[13] *See, e.g.*, Karen Sloan, *More States Consider How to License Lawyers*, Reuters, https://www.reuters.com/legal/government/more-states-reconsider-how-license-lawyers-2023-04-10 (Apr. 10, 2023); N.Y. Comp. Codes R. & Regs. tit. 22, § 520.4 (2024), ;

[14] Walter Olson, *States Pursue Alternative Licensing Pathways for Lawyers*, Cato at Liberty (Mar. 28, 2024), https://www.cato.org/blog/states-pursue-alternative-licensing-pathways-lawyers (noting that several states, including Arizona, Nevada, Oregon, South Dakota, Wisconsin, and Vermont, are considering alternative pathways to legal licensure). Lauren Curtis, *Arizona Lawyer Apprentice Program (ALAP)*, State Just. Inst. (Jan. 1, 2026), ; Laura Bagby, *Nevada Supreme Court Approves Plan to Proceed with Developing Alternative Attorney Licensing Pathway in State*, 2Civility (Sept. 23, 2024), ; *Admission to the Practice of Law in Wisconsin*, Wis. Ct. Sys., ; *Law Office Study Program*, Vt. Judiciary, .

programs has been small, and the study of their full impact is ongoing, but that does not mean they are not worth implementing.[15]

Item five ("Whether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility") seems like a straightforward way to increase the provision of legal services in the State, especially if any changes are reciprocal. One of the main issues of changing the route to becoming a lawyer in this state is that other states may not allow licensed Tennessee lawyers to waive into their bar if our entry requirements change significantly. Tennessee could work with other states to ease movement among reform minded states.

Issue six ("Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals") is likewise being tried in multiple states. Arizona, Minnesota, New Hampshire, Oregon, and Utah all have some form of licensed paralegal program, and such programs are under consideration in many other states.[16]

Alaska, Arizona, and Utah have likewise pioneered justice worker programs, where legal aid or specific legal non-profits train and supervise non-lawyers in providing services in specific areas like domestic violence or debt collection.[17] We are particularly supportive of

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[15] *Supreme Court Approves Alternative Pathways to Lawyer Licensure in Washington State*, Wash. Cts. (Mar. 15, 2024), https://www.courts.wa.gov/newsinfo/?fa=newsinfo.display_detail&newsId=50389 (approving alternative pathways to licensure based on findings that the bar exam limits access to the profession and that new pathways may help address attorney shortages and expand legal services); *see also* Or. State Bar, *Alternatives to the Bar Exam: Final Report of the Alternatives to the Bar Exam Task Force* (2018), https://www.osbar.org/_docs/resources/AltPathways/TFReport.pdf (proposing an apprenticeship-style pathway to licensure aimed at reducing barriers to entry and improving access to justice, while recognizing varied outcomes across existing state programs).

[16] *How States Are Using Non-Lawyers to Address the Access to Justice Gap*, Am. Bar Ass'n (Sept. 2, 2022); Tom Jarvis, *Newly Enacted Paraprofessional Pilot Program Helps Promote Access to Justice*, N.H. Bar Ass'n (July 19, 2022), https://www.nhbar.org/newly-enacted-paraprofessional-pilot-program-helps-promote-access-to-justice/ (noting that several states have adopted licensed paralegal or limited-license legal practitioner programs, with additional states considering similar models). *See also* T.E. Mootz III, *Independent Paralegals Can Fill the Gap in Unmet Legal Need*, 4 U.D.C. L. Rev. 67 (2000), https://digitalcommons.law.udc.edu/cgi/viewcontent.cgi?article=1204&context=udclr (arguing that independent paralegals can expand access to justice by providing lower-cost legal services and addressing unmet demand in the civil legal system)

[17] Inst. for the Advancement of the Am. Legal Sys., *The Diverse Landscape of Community-Based Justice Workers* (Feb. 22, 2024), https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers; Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 Law J. Soc. Just. 66 (2023) (arguing that community-based justice workers expand access to "preventative civil justice problem-solving" for underserved populations); *see also* Matthew Burnett, Rebecca L. Sandefur & James Teufel, *Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021–2025)* (Am. Bar Found. 2025), https://www.americanbarfoundation.org/wp-

justice worker programs. The advantage to these programs is that a) they do not require building out a new licensure and training regime; b) they build off of existing community legal resources; c) they act as a force multiplier to underfunded providers of legal services to the poor like legal aid; d) they can be aimed at rural counties or specific tasks; and e) they are the reform least likely to undercut struggling small firm, main street lawyers.

Issue seven "Whether the Court should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers") is currently underway in Washington, D.C., Arizona, and Utah. Utah and Arizona have separately regulatory regimes for these providers, and the results from the Utah "regulatory sandbox" have been promising:

> Sandbox entities have served 24,000 unduplicated consumers and provided over 40,000 legal services. Most of those services (87%) have been provided by lawyers working as employees within new legal businesses. Thirteen percent of services have been provided by nonlawyers. Sandbox entities are primarily serving individual consumers and small businesses with an average cost of service of $162. Small business services make up the majority delivered to date (40%). Military benefits (21%), immigration (13%), end of life planning (6%), and accident/injury (6%) round out the top five areas of service.[18]

In sum, we praise the Court for opening this discussion and think that some combination of items 4-7 would be helpful in addressing the state's unmet legal needs.

4. The Court Should Also Consider More Direct Supervision of Tennessee Courts to Ameliorate the Growth in *Pro Se* Litigation

We would encourage the Court to consider other options as well. In particular, the Tennessee Supreme Court has broad authority to supervise the courts of this State. This authority is both conferred by statute and inherent under the Tennessee Constitution. The Tennessee Constitution vests the "judicial power of this state . . . in one Supreme Court." As the "supreme judicial tribunal of the state," the Court "has broad inherent authority over the Tennessee judicial system."[19]

Accordingly, the General Assembly has recognized that "to ensure the harmonious, efficient, and uniform operation of the judicial system of the state, the supreme court is

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content/uploads/2025/11/ABI-Alaska-Community-Justice-Brief-FIN.pdf. (finding that Alaska's community justice worker program dramatically expanded legal service capacity, particularly in rural communities, and generated significant economic returns).

[18] Letter from the Utah Supreme Court to the Utah State Bar, March 28, 2023, https://utahinnovationoffice.org/wp-content/uploads/2024/01/3.-Letter-to-Utah-State-Bar-3.28.23.pdf.

[19] In re Bell, 344 S.W.3d 304, 313 (Tenn. 2011).

granted and clothed with general supervisory control over all the inferior courts of the state."[20] The Court has "a broad conference of full, plenary and discretionary power" under Tennessee law.[21]

Under these powers this Court should consider adopting court and rules-based solutions to our State's access to justice crisis. Such reforms could be in addition to the reforms listed in the Order, or in lieu of, and would likely represent an easier and more direct route to amelioration.

There are multiple different reforms that could help. IAALS, the Institute for the Advancement of the American Legal system, has undertaken several different projects that could serve as a model, including their Uncomplicated Courts Initiative[22] and their Cases Without Counsel project.[23] The State Justice Institute has likewise compiled a list of promising reforms to help Americans engaged in Self-Represented Litigation.[24] One of the projects they list is currently underway in Hamilton County, Tennessee: an effort to create an online dispute resolution system for medical debt.[25] Likewise, this Court's self-help center[26] and the creation of uniform pleadings[27] for issues like divorce or domestic violence have already made a huge difference for ordinary Tennesseans and should be expanded.

We recommend that this Court create a taskforce to consider new, statewide Rules for cases in civil sessions court, and also possibly for any family, child support, domestic violence, or probate matters that regularly feature unrepresented litigants. While there are many approaches this taskforce might take, there are three simple things this Court could order that would make a massive difference:

1) This Court could order that when one or both of the sides to a civil litigation is unrepresented, the Sessions Court judges have a duty to explain the process to the

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[20] Tenn. Code Ann. § 16-3-501; see also Tenn. Att'y Gen. Op. 87-02 (Jan. 7, 1987) (recognizing that the "supervisory authority over the Tennessee judicial system is a part of the inherent power of the Tennessee Supreme Court").

[21] Tenn. Code Ann. § 16-3-504.

[22] *Uncomplicated Courts Initiative*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., https://iaals.du.edu/projects/uncomplicated-courts-initiative (last visited Mar. 26, 2026).

[23] *Cases Without Counsel*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., https://iaals.du.edu/projects/cases-without-counsel (last visited Mar. 26, 2026).

[24] *Self-Represented Litigation*, STATE JUST. INST., https://www.sji.gov/priority-investment-areas/self-represented-litigation/ (last visited Mar. 26, 2026).

[25] *Tennessee Online Debt Resolution Platform (TOP)*, TENN. CTS., https://www.tncourts.gov/programs/mediation/tennessee-online-debt-resolution-platform-top (last visited Mar. 26, 2026).

[26] *Self Help Center*, TENN. CTS., https://www.tncourts.gov/programs/self-help-center (last visited Mar. 26, 2026).

[27] *Court Forms*, TENN. CTS., https://www.tncourts.gov/court-forms (last visited Mar. 26, 2026).

unrepresented, to determine the legal basis for the case before them, to discover the relevant facts at issue from any unrepresented party, and to ensure the claimant has met their burden of proof before deciding any case.

2) This Court could argue that insofar as Sessions Court cases are always heard before a Judge, the Tennessee Rules of Evidence are suspended in these Courts, and Sessions Court Judges should admit all relevant evidence, and then make a determination with respect to credibility.
3) This Court could also order that when a court clerk explains the law or process of any case regularly heard in civil sessions court, they are not providing legal advice and are not subject to any bans on the unauthorized practice of law. As of now, this Court has apparently ordered the opposite. This Court could order clerk's offices to explain their court's processes to unrepresented litigants (and confused lawyers) and what legal documents might be needed to pursue or defend a case.[28]

These reforms sound more radical than they actually are. There are already Sessions Court Judges and Clerks following these procedures and they have been recommended repeatedly by respected organizations like the National Center for State Courts, the SJI, and IAALS.

SIGNED

Eric Amarante, The University of Tennessee Winston College of Law

Maha Ayesh, LMU Duncan School of Law

Benjamin H. Barton, The University of Tennessee Winston College of Law

Mohamed Faizer, LMU Duncan School of Law

Regina L. Hillman, The University of Memphis School of Law

Alex Long, The University of Tennessee Winston College of Law

Caitlin Moon, Vanderbilt Law School

Jennifer S. Prusak, Vanderbilt Law School

Joy Radice, The University of Tennessee Winston College of Law

Katy Ramsey Mason, The University of Memphis School of Law

Paula Schaefer, The University of Tennessee Winston College of Law

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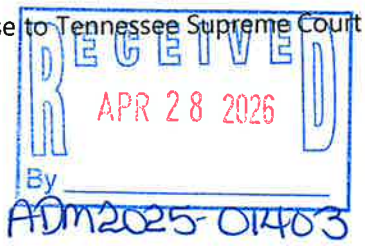
[28] *See* Lauren Sudeall, *The Overreach of Limits on 'Legal Advice'*, 131 YALE L.J. F. 637 (2022).

Daniel M. Schaffzin, The University of Tennessee Winston College of Law

Lauren Sudeall, Vanderbilt Law School

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403




From: Barton, Benjamin <bbarton@utk.edu>
Sent: Tuesday, April 28, 2026 10:33 AM
To: appellatecourtclerk <appellatecourtclerk@tncourts.gov>
Subject: Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403

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Professor Benjamin Barton, The University of Tennessee Winston College of Law, on behalf of:

Eric Amarante, The University of Tennessee Winston College of Law Maha Ayesh, LMU Duncan School of Law Mohamed Faizer, LMU Duncan School of Law Regina L. Hillman, The University of Memphis School of Law Alex Long, The University of Tennessee Winston College of Law Caitlin Moon, Vanderbilt Law School Jennifer S. Prusak, Vanderbilt Law School Joy Radice, The University of Tennessee Winston College of Law Katy Ramsey Mason, The University of Memphis School of Law Paula Schaefer, The University of Tennessee Winston College of Law Daniel M. Schaffzin, The University of Tennessee Winston College of Law Lauren Sudeall, Vanderbilt Law School

IJ

INSTITUTE FOR JUSTICE

April 27, 2026



Mr. James Hivner, Clerk
Tennessee Supreme Court
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307
VIA E-MAIL

RE: Response to the Court's Order No. ADM2025-01403 Seeking Public Comment on Potential Regulatory Reforms to Increase Access to Quality Legal Representation

To Clerk Hivner and the Supreme Court of Tennessee:

The Institute for Justice (IJ) commends the Court for considering these important and measured steps toward improving access to justice for Tennesseans. These comments are in response to the Court's sixth consideration, asking "whether any legal services currently provided by lawyers could be competently provided by paraprofessionals and, if so, what qualifications, limitations, or subject matter restrictions the Court should consider imposing."

IJ is a nonpartisan, public interest law firm that defends the constitutional rights that allow Americans to pursue their dreams. For more than thirty years, we have worked to remove unnecessary licensing and regulatory barriers to defend the rights of Americans to work and help one another freely. Through our First Amendment litigation, we protect the rights of individuals to speak for a living and to share advice—including basic legal advice—without unjustifiable restrictions. Those efforts converge in our work to open the door for capable nonlawyers to help others navigate everyday legal problems.

As the Court's order recognizes, too many Tennesseans face routine civil legal problems that affect core areas of life—family matters, housing, probate, debt, property, small business issues—without meaningful guidance. In many instances, these are not complex legal disputes, but practical problems involving forms, deadlines, and basic legal processes. Yet for many people—especially in rural communities—lawyers are scarce, and even those with some resources often struggle to find affordable help. Many never seek assistance at all, either because they do not recognize their issue as legal in nature or because the system appears too costly or inaccessible to navigate. Research by Dr. Rebecca Sandefur shows that as many as 86 percent of civil legal problems never make it into the formal legal system[1]—so these issues go unresolved, are handled incorrectly, or spill over into larger, avoidable disputes; and if they reach a legal-aid office, they are often turned away because of understandably constrained resources.[2]

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[1] *See* Rebecca L. Sandefur, *The Impact of Counsel: An Analysis of Empirical Evidence*, 9 Seattle J. for Soc. Just. 51, 56–60 (2010) (noting that only 14 percent of civil justice problems are taken to a court or hearing body).
[2] Legal Servs. Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* 9, 71 (2022), available at https://lsc-live.app.box.com/s/xl2v2uraiotbbzrhuwtjlgi0emp3myz1.


901 N. Glebe Road, Suite 900 Arlington, VA 22203 P: (703) 682-9320 F: (703) 682-9321
general@ij.org www.ij.org

This gap does not just affect those in need of low-cost legal help—it affects the functioning of the justice system as a whole. When individuals and small business owners are forced to navigate legal processes alone, courts become burdened with confusion, delays, and preventable errors. Judges and clerks must spend valuable time managing procedural missteps rather than resolving the merits of cases, and straightforward disputes become more costly and time-consuming for everyone involved. Expanding access to basic legal help—especially in underserved and rural areas—helps ensure that cases are presented clearly, resolved efficiently, and decided on the law, not on who can afford representation. Modest reforms that allow trained nonlawyers to assist with routine matters would not only expand access to justice, but also strengthen the integrity, efficiency, and fairness of Tennessee's courts for all who rely on them.

As the Court has recognized, the rules governing who may provide legal services necessarily limit supply and increase cost; the question, then, is not whether to regulate, but how to do so in a way that meaningfully expands access without imposing unnecessary barriers.

To that end, we encourage the Court to implement a low-barrier-to-entry model similar to community-justice-worker and certified-legal-advocate programs in other states, which allow trained nonlawyers to provide meaningful legal assistance to those who need it most, within the communities they already serve. As demonstrated by programs in other states, high-barrier paraprofessional licensing models risk recreating the very problem the Court is seeking to solve—imposing costly, time-intensive requirements that limit entry, restrict supply, and leave many Tennesseans, particularly in rural and underserved areas, with few or no practical options for help.

We also draw the Court's attention to two recent decisions. First, the Second Circuit Court of Appeals' decision in one of IJ's cases, *Upsolve v. James*, affirmed that providing legal advice is speech protected by the First Amendment.[3] Upsolve is a nonprofit that trains community volunteers to give free legal advice to low-income New Yorkers facing debt-collection lawsuits. But these volunteers are laypersons, not licensed attorneys. Their advice would, therefore, be the unauthorized practice of law (UPL). By recognizing that laws restricting legal advice regulate *speech*, not mere conduct, the Second Circuit made clear that the Constitution places limits on how far states can go in policing who may help others understand and exercise their rights. This decision marks a turning point in the national conversation: jurisdictions can no longer ignore the Constitution when restricting who can provide legal guidance.

Second, the U.S. Supreme Court's decision last month in *Chiles v. Salazar* reinforces and extends this principle.[4] There, the Court held that states may not restrict speech based on its content or viewpoint simply by labeling it professional "conduct." When a law regulates the "content of speech," such as a law that prohibits legal advice by non-lawyers, it "cannot avoid searching First Amendment review just because it mostly regulates non-expressive conduct." Where speech does not "bear[] a close causal connection to some separately unlawful conduct

[3] *Upsolve, Inc. v. James*, 155 F.4th 133 (2d Cir. 2025).
[4] *Chiles v. Salazar*, 146 S. Ct. 1010 (2026).

like a traditional crime" and is regulated because of its content, that is a regulation of "speech as speech."

Together with *Upsolve*, *Chiles* supports efforts to expand access to legal help by limiting restrictions on who may give basic legal advice to help others understand and exercise their rights.

The current market for legal services—despite the best efforts of lawyers and legal aid providers—cannot meet the overwhelming demand of the access-to-justice crisis. Tennessee is now well positioned to advance access to justice in a manner consistent with both the First Amendment and common sense—by empowering more people to share legal information and guidance without fear of prosecution.

IJ offers two recommendations:

1. We encourage the Court to implement a low-barrier-to-entry framework authorizing nonlawyers to assist with common legal issues. Instead of a licensed paraprofessional program with steep barriers to entry, the Court should look to states that have approved accessible programs that authorize "Community Justice Workers" and "Legal Advocates" to provide legal help in the communities they already serve. To maximize the program's impact, this model should employ low-barrier, risk-matched training and supervision requirements.
2. We further encourage the Court to clarify that the provision of out-of-court legal advice and support—defined as offering guidance to help individuals understand their rights, options, or next steps—does not, standing alone, constitute the practice of law when it does not involve representing another person before a tribunal, acting in a representative capacity in a legal proceeding, or otherwise acting on behalf of another to resolve or settle a controversy before a court or other adjudicative body.

**Implement a low-barrier framework authorizing nonlawyers to assist with common, low-complexity legal issues.**

We encourage the Court to adopt a program that authorizes nonlawyers to provide legal help that has low barriers to entry; risk-matched, modular training; and adaptable supervision requirements. To make a meaningful difference in the access-to-justice crisis, any program should remain accessible to those ready and able to serve. As Dr. Sandefur has observed, we cannot afford any barriers that are not empirically necessary.[5] This Court should consider modeling its program on those successfully adopted in states like Alaska and Arizona.

A low-barrier legal helper program—for example, the Community Justice Worker (CJW) or Legal Advocate model—is preferable to the licensed paraprofessional model, which has been limited in its efficacy, generally due to steep entry requirements that discourage participation. Licensed paraprofessional programs have typically required participants to obtain specialized

[5] Rebecca L. Sandefur & Lucy Ricca, *Outside the Box: How States Are Increasing Access to Justice Through Evidence-Based Regulation of the Practice of Law*, 108 Judicature 58, 60–63 (2024).

legal degrees, have hundreds or thousands of hours of experience, and undergo exams and character and fitness evaluations.

In many instances, these programs have introduced entry requirements similar to those which already restrict the supply of lawyers and have failed to make a substantial and scalable impact on access to justice. For example, across four states which implemented programs for paraprofessionals (Arizona, Michigan, Utah, and Washington), there were just 166 practitioners as of 2022.[6] Given the scale of legal needs in Tennessee, a similar program is unlikely to make a meaningful impact on expanding access to legal help.

On the other hand, since 2022, Alaska's CJW program has recruited over 200 participants, who have assisted with over 1,400 cases—strong evidence that restrictive licensing frameworks suppress participation rather than scale it.[7]

Most recently, the District of Columbia Courts, as they considered similar reforms, opted to prioritize a low-barrier CJW program over a licensed paraprofessional program. The Civil Legal Regulatory Reform Task Force deprioritized the paraprofessional model due to the need to further study the upfront investment of resources, uncertain demand for such services, and unresolved questions about whether its benefits would justify its administrative and financial burdens.[8]

We encourage the Court to resist imposing excessive credentialing and instead adopt practical training that is subject-matter specific and scales with the gravity of the task. Alaska's CJW program offers a model: asynchronous, stackable, online educational modules that provide concrete, task-based instruction, at an eighth-grade reading level that can be achieved within 8 to 10 hours.[9] This kind of modular, practical design ensures both quality and flexibility, equipping CJWs with the tools they need without creating new licensing hurdles that would limit participation.

If the Court opts to house the supervision of this program in existing organizations, we encourage the Court to not limit the program to existing legal aid providers and instead make it expansive, to include institutions such as libraries, shelters, health clinics, and religious organizations. Restricting this program to existing legal aid organizations risks replicating the barriers which already exist under our current system, due to their inherent limitations.

By allowing a program to operate through organizations beyond legal aid providers, it would be able to meet residents where they are. For example, Arizona's Certified Community

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[6] Rebecca L. Sandefur & Matthew Burnett, *Justice Futures: Access to Justice and the Future of Justice Work*, in Rethinking the Lawyers' Monopoly: Access to Justice and the Future of Legal Services 34 (David Freeman Engstrom & Nora Freeman Engstrom, eds., 2025).

[7] Matthew Burnett, Rebecca L. Sandefur, & James Teufel, *Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021–2025)* at 2, American Bar Foundation Access to Justice Research Initiative, (Nov. 2025), available at https://www.americanbarfoundation.org/wp-content/uploads/2025/11/ABF-Alaska-Community-Justice-Brief-FIN.pdf.

[8] *District of Columbia Courts Civil Legal Regulatory Reform Task Force Report* 35–36 (July 2025), available at https://www.dccourts.gov/sites/default/files/CLRRTF-Final-Report-and-Appendices-7-31-2025.pdf.

[9] Joy Anderson, Sarah Carver, & Robert Onders, Community Justice Workers: Part of the Solution to Alaska's Legal Deserts," 41 Alaska L. Rev. 9, 16–17 (2024).

Legal Advocate program allows trained justice workers at numerous approved community-based nonprofits to offer basic legal assistance without attorney supervision.[10] An expansive program which allows organizations beyond legal-services nonprofits would allow the program to better meet the needs of all Tennessee's residents and strengthen access to justice by embedding legal support directly within communities.

Narrowing the program to traditional legal-aid providers also excludes the many residents whose incomes exceed the strict eligibility limits for nonprofit legal assistance but who still cannot afford an attorney. These costs preclude even middle-class individuals from accessing legal assistance under the current regulatory regime. A recent civil legal needs assessment in Tennessee found that 23.5% of respondents reported that their income fell between 125% and 200% of federal poverty guidelines—demonstrating that almost a quarter of residents earn just above the income cap for most legal aid organizations but are still unable to afford the fees charged by private lawyers.[11] Allowing a wider range of organizations to participate would ensure the program reaches the broadest cross-section of Tennesseans.

We also encourage the court to allow legal helpers to charge fees for their work. Though it is likely that many organizations would offer legal assistance *pro bono* through a nonprofit structure, permitting sliding-scale fees would enhance the program's long-term sustainability. Comparable models exist, such as the Department of Justice's framework for accredited immigration representatives.[12] Limited fees would help participating organizations maintain and expand services without diminishing access for those most in need.

**Clarify and modernize what constitutes the practice of law.**

As the Court considers authorizing nonlawyers to provide limited legal assistance, it also has an opportunity to take a broader step: clarifying which activities should not be considered the "practice of law" in the first place. There is a growing national recognition that not every helpful act involving law or legal information requires a lawyer. *See In re Paplauskas*, 228 A.3d 43, 55 (R.I. 2020) ("Activities which, on a purely theoretical level, might be deemed to constitute the practice of law, may not be considered to be the practice of law in a practical sense unless it is in the public interest to require an attorney to perform these activities."). That same practical reasoning should guide the next stage of reform; and while the statutory definitions of the practice of law and UPL provide an important backdrop, the Court retains ample authority to interpret and apply that definition in a manner consistent with the public interest and the realities facing Tennesseans today.

The Court should make clear that providing out-of-court legal advice and support—such as helping individuals understand their rights, navigate processes, complete forms, or assess next steps—does not constitute the practice of law when it does not involve representation before a tribunal or acting on behalf of another to resolve a legal controversy. These are informational and

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[10] Ariz. Code Jud. Admin. § 7-211 (2024). A directory of approved Community Based Organizations and Certified Community Legal Advocates can be found at: https://www.azcourts.gov/Certification-Licensing/Legal-Advocates/CCLA-Directory (last accessed Apr. 20, 2026).

[11] Tenn. All. for Legal Servs., *State of Tennessee Civil Legal Needs Assessment* 10 (2025) available at https://las.org/wp-content/uploads/2026/02/TALS-TN_Civil_Legal_Needs_Assessment_2025.pdf.

[12] 8 C.F.R. § 1292.11(a)(1).

navigational functions, not the exercise of legal authority, and restricting them leaves many Tennesseans with no help at all while offering little corresponding public benefit.

Existing law already provides meaningful consumer protection for recipients of services. The Tennessee Consumer Protection Act guards against fraud, misrepresentation, and unfair practices, ensuring accountability without requiring blanket prohibitions on who may offer basic legal guidance.[13] Clarifying the scope of UPL in this way would preserve those protections while removing unnecessary barriers that prevent capable individuals from helping others in low-risk settings.

Finally, clarifying that out-of-court legal advice is not categorically prohibited aligns with the growing recognition that such advice is protected speech. As reflected in *Upsolve v. James*, restrictions on legal advice regulate communication itself and must be carefully tailored. Bringing Tennessee's rules into alignment with these principles would ensure they remain both effective and constitutionally sound.

**Conclusion**

IJ commends the Court for considering practical reforms to expand access to legal help in Tennessee. We respectfully urge the Court to adopt a low-barrier framework for legal helpers as a measured and effective first step—one that increases the supply of legal assistance without recreating the very barriers that have left so many Tennesseans without help. This approach would be especially valuable in rural and underserved communities, where legal needs are real but lawyers are often scarce.

We also urge the Court to clarify that routine, low-risk, out-of-court legal guidance does not require a law license. Clear limits on the definition of the practice of law eliminate the chilling effect that currently deters community members, nonprofit staff, and others from offering even basic guidance.

These reforms would remove unnecessary obstacles to help, improve the functioning of the courts, and reinforce a simple but important principle: the justice system should be accessible, workable, and oriented toward resolving disputes on the law and the facts—not on who can afford to navigate the system. In taking these steps, the Court can strengthen both access to justice and public confidence in the rule of law.

Sincerely,

Paul Avelar
Senior Attorney
*Licensed only in Arizona*

[13] Tenn. Code Ann. §§ 47-18-101 to -138.

**MaryBeth Lindsey**

**From:** Tyler Brown <t@zaflegal.com>
**Sent:** Monday, April 27, 2026 6:22 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on nonlawyer ownership (Question 7)



To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 21, 2026, by David Esquivel and others.

I am a Utah and Arizona licensed lawyer. I currently sit on the Utah Supreme Court's Ad Hoc Committee on Regulatory Reform. As someone who has been involved with regulatory reform from the earliest outset of the Utah sandbox experiment, I can tell you the primary lesson I've learned is that the regulations governing the practice of law across the country are serving lawyers more than they are serving the public--that is a problem. The model rules of professional conduct in most states are inhibiting innovation, which ultimately leads to a less competitive and less consumer-oriented legal services marketplace.

The Utah experiment has shown that non-lawyer ownership of law firms does not increase the risks of consumer harm. It turns out that non-lawyers are at least as ethical as lawyers. Who would have ever guessed that? The other lesson learned is that solving this problem in a single jurisdiction doesn't fix the entire marketplace. The practical reason for this is that investors looking to scale a legal tech business that provides great legal solutions to consumers are ultimately turned off by the limited geographies of state-by-state approvals. Limited upside means limited investment. This "lack of scale" problem has not stopped all investors from pursuing innovation inside Utah and Arizona, but we have not yet seen the floodgates open. More states need to take bold initiative to push the legal services marketplace in a direction that favors consumers over attorneys.

The lion's share of legal innovation is happening outside of "the practice of law" as it is defined by most states. This is because the regulatory frameworks applicable to the practice of law stifle innovation. As a result, we have relatively few lawyers participating in cutting-edge legal innovation. Instead, it is dominated by tech with limited lawyer input. That will be to the detriment of the consumer. By taking a bold step in Tennessee, I believe consumers will be one step closer to a functional marketplace where legal services are high quality, dramatically more affordable, and more accessible.

I admire the courage of regulators in Tennessee and elsewhere who are taking a close look at this and asking the right question--how can legal regulation serve the public interest? The answer--a competitive legal services marketplace.

Thanks,

**Ty Brown** // Partner

**Office :** +1 801 346 0080
6925 S Union Park Center, Ste 265 // Cottonwood Heights, Utah 84047

**MaryBeth Lindsey**

**From:** Michael Rafferty <mrafferty@harrisshelton.com>
**Sent:** Monday, April 27, 2026 6:15 PM
**To:** appellatecourtclerk
**Subject:** IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY "REFORMS" - Strong opposition



To the Supreme Court of Tennessee:

I have practiced in Tennessee since 1982. I am also licensed to practice in Arkansas (1985) and Mississippi (1990). I try to focus my practice on commercial litigation, but I have more than 30 years of experience in defending medical malpractice claims.

I witnessed a phantom medical malpractice "crisis" early in my practice along with a second such purported crisis which yielded the current "Health Care Liability Act." The HCLA is little more than a trap for claimants to shift the focus from a medical malpractice claim to a pointless dispute over "notice" which, of course, has nothing to do with the merits (or lack thereof) of a claim.

At the same time the HCLA became law, the General Assembly enacted the caps on damages, also in response to a phantom crisis. I remember seeing one critic point out that the impetus for this legislation could not be supported by any actual facts, but was effectively legislation by anecdotes and urban legends. Sadly, many of the so-called reforms have mimicked or followed policy initiatives which originated in Texas where there probably was a genuine need to clean up a corrupt system.

I moved here from Missouri when I went to college at Rhodes. When I started practicing, I was always pleased that Tennessee, even in Shelby County where my office is located, seemed to be much more moderate, avoiding extremes in favoring either the plaintiff or the defendant. The one thing that has been consistent in my more than 44 years of practice is that insurance companies have been highly effective in prohibiting any public interest legislation. I have heard critics complain about runaway juries, but we've always had safeguards in place to deal with that. But unlike many people, I have the benefit of experience, from the inside, and therefore have perspective. I have even served on a jury.

The idea that we now need to discard the way of licensing lawyers in favor of a free-for-all with, effectively, no regulation is ludicrous. If the ABA is not going to evaluate law schools, what entity will do this?

When I started practicing, more lawyers viewed the practice of law as a profession, not merely a job or a way to make money. Younger lawyers, particularly those in the more urbanized counties, don't appear to have any appreciation for the concept of being an officer of the court or of providing a service for clients. Eliminating the traditional method for accrediting schools is not a solution; it will further erode a crucial pillar of an institution – the courts – that needs to be a bulwark against mediocrity and greed and oppression of the weak and disadvantaged in favor of the unprincipled.

I was extremely discouraged and disappointed when I learned that the Supreme Court was seriously considering these so-called regulatory "reforms." For one, I knew that if the Court were considering them, they would certainly be implemented whether they were needed or helpful. Second, I also knew they weren't needed, but that the forces behind these policy initiatives were echoes of nonsense that is spewed hourly on Fox News and other propaganda outlets that base their views, not on facts or history, but phony grievances that are aggressively ignorant of history. I know this is a losing proposition for me. I know these unnecessary "reforms" are inevitably coming, just as I know every update on my iPhone is toing to make it less user-friendly. I should proofread this before I send it, but I doubt it's going to be read, and I know my perspective will not prevail.

If the system is broken – and I adamantly disagree that there's any evidence that it is broken – discarding the traditional way that all current lawyers became licensed in favor of something that would have no standards and no infrastructure to ensure accreditation is certainly not the way to fix it. And if this state won't spend money on health care, the legislature certainly won't have any appetite for building an infrastructure to do what is currently being done to ensure accreditation. This state won't even join the Twenty-first Century and implement a uniform and effective e-filing system!!!!

It should go without saying that these my opinions and not those of anyone else in my firm or the firm as a whole.

**Michael F. Rafferty** | Attorney at Law

harris|shelton

6060 Primacy Parkway
Suite 100
Memphis, TN 38119
Direct 901.435.0128 | Tel 901.525.1455 | Fax 901.526.4084
mrafferty@harrisshelton.com

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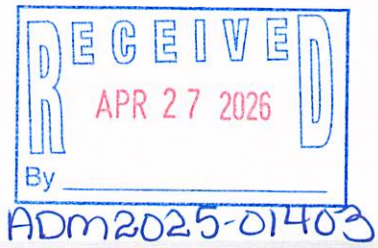
**MaryBeth Lindsey**

**From:** Robert Davis <ethiclaw45@gmail.com>
**Sent:** Monday, April 27, 2026 5:23 PM
**To:** appellatecourtclerk
**Subject:** New Rules Expanding Access to Justice




**Warning: Unusual sender** <ethiclaw45@gmail.com>
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Greetings:
I am a lawyer, licensed in Pennsylvania, West Virginia and Georgia. However, my hometown is signal Mountain Tennessee. I still have a number of cherished relatives who are living in the state of Tennessee.

My good friend Lucian Pera has asked me to raise my voice in support of changes in administrative rules by the Supreme Court in Tennessee that will make access to justice much easier for Tennesseans, particularly for those who are poor.

I am also an adjunct professor of law and have both prosecuted and defended lawyers, judges, state officials, and others in ethics and disciplinary proceedings. One thing I have learned in my 53 years of practice is that when justice is rationed and the poor and others have no access to it, justice generally is denied.

Thinking of my fellow Tennesseeans, I strongly urge the Tennessee Supreme Court to accept the proposed changes that will truly increase access to justice for those less fortunate.
Thank you for considering my views. I would be pleased to answer questions and expand upon my views if requested.

Robert H 'Bob" Davis Jr.
Former PA Chief Counsel, former Counsel, West Virginia State Bar, former Asst. Gen. Counsel, State Bar of Georgia

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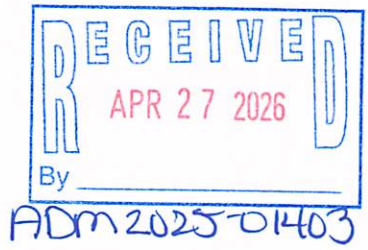
Law Office of Robert H. Davis, Jr.

Harrisburg PA

**MaryBeth Lindsey**

**From:** Jayne Reardon <jayne@jaynereardon.com>
**Sent:** Monday, April 27, 2026 3:47 PM
**To:** appellatecourtclerk
**Cc:** Jayne Reardon
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Initial comment on need for action




Warning: Unusual sender <jayne@jaynereardon.com>

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To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 2, 2026, by Lucian Pera supporting the Supreme Court's finding of an urgent need for reform. I appreciate the opportunity to lend my voice from the neighboring state of Illinois.

I currently am in the private practice, but I spent over fifteen years at the Illinois Supreme Court Commission on Professionalism. Through my work promoting professionalism, I came to learn that most states in our country, including Illinois, are characterized by legal deserts and large swaths of populations that lack access legal services. At the same time, unsurprisingly, polls of the public show they feel shut out of the legal system and their perception of lawyers and judges plummets. When members of the public feel marginalized by the legal system, they do not support it. When we allow this to occur, and persist, we fail to live up to basic principles of professionalism.

It is our core responsibility to confront and attempt to stem this tide. The raison d'être of our profession is to make legal services available so that Americans can understand and vindicate their rights. Lawyers have the responsibility "to seek improvement of the law and access to the legal system...[and] should further the Public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation to maintain their authority." Preamble to the Rules of Professional Conduct Comment [6] .

I commend the Tennessee Supreme Court for its bold leadership in confronting and in fashioning reforms to correct this crisis. I hope other states follow suit. If I can assist n any way, I stand by.

Jayne R. Reardon
FisherBroyles, LLP
203 N. LaSalle St. Suite 201
Chicago, IL 60601

**MaryBeth Lindsey**

**From:** Bahou, A.J. <ajbahou@bradley.com>
**Sent:** Monday, April 27, 2026 3:43 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on AI and UPL reform



To the Tennessee Supreme Court:

I personally write today to support a request that the Court appoint a working group and fund pilot programs related to the use of AI in high-need legal areas, including housing, debt collection, and family law.

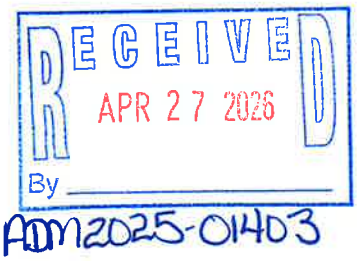
This is a personal request—not submitted on behalf of my firm or any client. My signature line below is merely provided as contact information.

All the best,
A.J. Bahou

Bradley

**A.J. Bahou**
Partner | Chair AI Practice
e: ajbahou@bradley.com w: bradley.com
d: 615.252.2333
Bradley Arant Boult Cummings LLP
1221 Broadway, Suite 2400
Nashville, TN 37203
LinkedIn | Facebook | Twitter | Instagram | Blogs

ALAS
Attorneys' Liability Assurance Society




April 27, 2026

VIA E-MAIL: appellatecourtclerk@tncourts.gov

**Re: Docket No. ADM2025-01403—Tennessee Supreme Court's Request for Comment on Whether the Court Should Modify, Reduce, or Eliminate Regulations Prohibiting Nonlawyer Ownership of Law Firms or Fee Sharing with Nonlawyers**

Attorneys' Liability Assurance Society Ltd., a Risk Retention Group (ALAS) responds to the request of the Tennessee Supreme Court for comments on whether the court should modify, reduce, or eliminate regulations prohibiting nonlawyer ownership of law firms or fee sharing with nonlawyers.

## I. Introduction

ALAS is a mutual insurance company that insures 222 law firms, including more than 84,000 lawyers in all 50 states, the District of Columbia, and 38 foreign countries, and is the leading provider of professional liability insurance for large law firms in the United States. We insure 18 member firms with offices in Tennessee—with 1,164 total lawyers practicing in the state. Since our inception in 1979, ALAS has handled more than 19,000 claims and has developed substantial knowledge and experience concerning situations that give rise to legal malpractice claims. By virtue of the extensive loss prevention services it provides to its members, ALAS has a unique understanding of problems confronting lawyers and law firms today.

Lawyers from ALAS were actively involved in the American Law Institute's development of the *Restatement Third, The Law Governing Lawyers* and in the American Bar Association's (ABA) 2002 revision of the Model Rules of Professional Conduct. ALAS is also involved with other professional and bar associations that have defined the ethical and professional duties of lawyers and is mindful of the need to enhance access to justice for middle- and low-income individuals. ALAS applauds the Tennessee Supreme Court for its efforts to ensure access to affordable legal services for all Tennessee residents.

The provisions of Tennessee Rule of Professional Conduct 5.4, titled "Professional Independence of a Lawyer," were enacted to "protect the lawyer's independence of professional judgment" by prohibiting, among other things, nonlawyer ownership of a law firm.[1] The Tennessee Supreme Court's recent initiative to explore modification, reduction, or elimination of Rule 5.4 and any other regulations governing the manner in which lawyers and law firms function seeks to balance dual goals: (1) ensuring the availability of affordable legal services, while (2) protecting consumers of legal services from harm. While modifying, reducing, or eliminating Rule 5.4 and other regulations prohibiting nonlawyer ownership may appear to be in line with those objectives, they do not promote either. Instead, they threaten to undermine the core values of the U.S. legal system and compromise client confidentiality and the attorney-client privilege without reliable evidence that the changes will increase access to justice. Accordingly, ALAS opposes any modification, reduction, or elimination of Rule 5.4 or any other

[1] Tenn. Sup. Ct. R. 8, RPC 5.4 cmt. [1-2].



10 South Riverside Plaza
Suite 1100
Chicago, IL 60606
312.697.6900 tel
312.697.6901 fax
alas.com

Tennessee regulations prohibiting nonlawyer ownership of law firms or allowing fee sharing with nonlawyers.

## II. History of Select Rule 5.4 Proposed Revisions

The ABA has debated revising or eliminating its Model Rule of Professional Conduct 5.4 multiple times since the 1970s. Each time, the ABA has ultimately rejected proposals to revise Rule 5.4 because such a change threatened the core values of the legal profession, including lawyer independence, confidentiality, and client loyalty. For example, between 1977 and 1983, the Commission on Evaluation of Professional Standards (Kutak Commission) considered the issue of lawyers partnering with nonlawyers and proposed a draft Rule 5.4 allowing such conduct. The ABA House of Delegates rejected the proposal and, instead, adopted a version of Rule 5.4 that is substantially the same as the current version of the rule.[2] In 2000, the ABA House of Delegates again considered and rejected a proposal for fee sharing with nonlawyers and nonlawyer ownership, instead adopting a recommendation stating that "the sharing of legal fees with non-lawyers and the ownership and control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession."[3] We share the ABA's view in this regard.[4] In 2019, the ABA Center for Innovation released a resolution that would have encouraged "variations" to Rule 5.4 as a way to address the access to justice problem. However, in the wake of strong opposition from multiple state bar presidents, the ABA House of Delegates adopted a version of the proposal that explicitly disclaimed any recommendation regarding changes to Rule 5.4.[5] Most recently, on August 9, 2022, the ABA House of Delegates passed Resolution 402, reaffirming its position that allowing nonlawyers to own law firms is inconsistent with the core values of the legal profession.[6]

Most U.S. jurisdictions are in accord with the ABA's position and continue to prohibit nonlawyer ownership of law firms, consistent with the long-standing principles set forth in Rule 5.4. Several states recently confronted with the issue of whether to revise or eliminate their respective versions of Rule 5.4 responded with a resounding "no."

For example, the Florida Supreme Court considered and rejected a proposal to allow nonlawyer ownership of law firms and fee sharing with nonlawyers in March 2022.[7] In December 2025, the Florida Supreme Court reaffirmed its prohibition on nonlawyer ownership of law firms by amending Rule 4.8.6,

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[2] ABA Comm. on Ethics 20/20, *Issue Paper Concerning Alternative Business Structures* (Apr. 5, 2011), https://www.americanbar.org/content/dam/aba/administrative/ethics_2020/abs_issues_paper.authcheckdam.pdf.

[3] *Id.* at 6.

[4] The topic of nonlawyer ownership and fee sharing with nonlawyers surfaced yet again in 2011 and 2016, and each time the ABA declined to make any changes to Rule 5.4. Press Release, ABA Comm. on Ethics 2020, *ABA Commission on Ethics Will Not Propose Changes to ABA Policy Prohibiting Non-Lawyer Ownership of Law Firms* (Apr. 16, 2012); ABA, *Report on the Future of Legal Services in the United States* (Aug. 2016).

[5] ABA House of Delegates, Resolution 115 (Feb. 17, 2020), https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2020/2020-midyear-115.pdf.

[6] ABA House of Delegates, Resolution 402 (Aug. 9, 2022), https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/402-annual-2022.pdf.

[7] Letter from the Fla. Sup. Ct. to the Fla. Bar Rejecting Nonlawyer Ownership (Mar. 3, 2022), https://www.abajournal.com/files/Florida_Supreme_Court_letter.pdf.

"Authorized Business Entities," to explicitly prohibit nonlawyers from serving as a partner, member, shareholder, president, or equity owner of a Florida law firm.[8] The amendment also prohibits nonlawyers from supervising the work of any lawyer or performing any policymaking duties at a law firm.[9] In December 2023, the Texas Access to Justice Commission voted against a plan that would allow nonlawyer ownership of law firms.[10] Illinois and Connecticut have also forcefully rejected efforts to allow nonlawyer ownership.[11]

On September 9, 2022, the California Bar retracted its efforts to pursue nonlawyer ownership, when the governor of California signed legislation (AB 2958) restraining the California Bar from pursuing a regulatory sandbox aimed at testing nonlawyer ownership.[12] On October 12, 2025, California's governor signed another bill into law, Bill AB 931, which bans contingent fee arrangements with nonlawyer-owned firms.[13] In March 2017, the United States Court of Appeals for the Second Circuit upheld the dismissal of a complaint by two related New York law firms that would have undercut New York Rule 5.4.[14] In that case, the defendants, the Presiding Justices of the Appellate Division of New York who are tasked with administering the rule, successfully defeated plaintiffs' claim that Rule 5.4 improperly prohibited the law firms from accepting nonlawyer investment, which they claimed would enable the firms to improve the quality of the legal services offered, reduce fees, and expand their ability to serve needy clients.[15] In affirming the lower court's decision dismissing the complaint, the Second Circuit held that New York Rule 5.4 serves New York's "well established interest in regulating attorney conduct and in maintaining ethical behavior and independence among members of the legal profession."[16] Similarly, two recent New York Ethics Opinions reiterated that Rule 5.4, prohibits lawyers from sharing fees with nonlawyers.[17]

On the other side of the spectrum, six jurisdictions have created a pathway for nonlawyers to obtain an ownership interest in law firms: District of Columbia, Arizona, Utah, Indiana, Washington, and Puerto Rico. As explained more fully below, despite touting access to justice as the primary driver for this change, most of these jurisdictions have not seen meaningful progress in efforts to increase access to justice and make legal services more affordable for underserved communities. To the contrary, the

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[8] *In re* Amend. *to Rules Regul. Fla. Bar*, No. SC2025-1173 (Fla. Dec. 18, 2025).

[9] *Id.*

[10] Texas Access to Legal Services Working Group, *Report and Recommendations* (Dec. 5, 2023), https://www.texasatj.org/sites/default/files/2023.12.05%20Final%20Report.pdf.

[11] The Chicago Bar Foundation, *CBA/CBF Task Force on the Sustainable Practice of Law & Innovation* (Oct. 2020), https://chicagobarfoundation.org/advocacy/cba-cbf-task-force-on-the-sustainable-practice-of-law-innovation/.

[12] ALAS also submitted comments opposing revisions to Rule 5.4 proposed by California and Illinois.

[13] Emily R. Siegel, *California Bans Contingent Fee Sharing With 'Alternative' Firms*, Bloomberg Law (Oct. 12, 2025), https://news.bloomberglaw.com/business-and-practice/california-bans-contingent-fee-sharing-with-alternative-firms.

[14] *Jacoby & Meyers, LLP v. Presiding Justices*, 852 F.3d 178 (2d Cir. 2017).

[15] *Id.* at 181.

[16] *Id.* at 191.

[17] N.Y. Formal Op. 1289 (Dec. 23, 2025) (Rule 5.4 does not permit a law firm to share fees with a nonlawyer entity); N.Y. Formal Op. 1288 (Dec. 19, 2025) (trust may not own shares of a New York law firm even if, among other things, both the trustee an sole beneficiary are New York–licensed attorneys because the trust is not a lawyer and not an entity authorized to practice law).

changes have seen private equity companies and even a Big Four accounting firm enter the marketplace with a focus far removed from access to justice issues.

## III. Rule 5.4 Should Not Be Revised

Tennessee's Rule 5.4 serves critical public-policy interests. The rule ensures that lawyers will protect client interests and uphold the principles of the profession, including lawyer independence. These core values will be threatened if the financial interests of nonlawyers, who have no ethical duty to the law firms' clients, overshadow the best interest of clients.[18] Indeed, given that profit is the principal goal in most business ventures, there is substantial risk that nonlawyer investors, or intermediary entities, will focus only on the bottom line at the expense of client interests and the quality of services. Potential consequences of this focus include a decrease both in the quality of law-related services and pro bono work.[19]

Based on ALAS's extensive experience, we know that building and maintaining an effective risk management program in a law firm takes considerable resources. It is also a matter of culture and professionalism that puts ethical practice and client concerns above profit. We are very concerned that allowing fee sharing with nonlawyers and nonlawyer ownership will erode the culture and professionalism of law firms and result in a practice that is less protective of clients.

Lawyers are unique from most other professional services providers because they owe special and specific responsibilities to their clients and are required to proceed in a manner that best serves their clients' interests, as outlined throughout the Tennessee Rules of Professional Conduct. A lawyer's ability to maintain professional independence is paramount to serving a client's best interests. The ethical obligations set forth by Rule 5.4 ensure that lawyers protect clients' interests over profits. For example, consider what might happen if private equity investors were permitted to have an ownership stake in law firms. It is not unrealistic to envision those investors taking dividends out of the firm, cutting costs expended on risk management and quality control, and taking other steps to realize profits. These actions might benefit the investors financially, but they would undermine the firm's lawyers' professional obligations to their clients.[20] These concerns apply equally to firms that share fees with or co-own intermediary entities.

These are not the only risks associated with fee sharing and nonlawyer ownership of law firms. The attorney-client privilege and client confidentiality are long-standing principles at the heart of every lawyer's relationship with every client. *See* Tenn. R. of Pro. Conduct 1.6. It is unrealistic to think that nonlawyer investors and other business partners will not want data on clients that is both confidential and privileged. Revealing such data will breach the lawyer's duty of confidentiality (absent client

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[18] Nick Robinson, *When Lawyers Don't Get All the Profits: Non-Lawyer Ownership of Legal Services, Access, and Professionalism*, 29 Geo. J.L. Ethics, 14 (2016).

[19] *Id.* at 11.

[20] Sapna Maheshwari & Vanessa Friedman, *The Pandemic Helped Topple Two Retailers. So Did Private Equity*, N.Y. Times (May 14, 2020), https://www.nytimes.com/2020/05/14/business/coronavirus-retail-bankruptcies-private-equity.html.

consent) and likely waive the privilege.[21] For example, nonlawyer investors may seek access to client confidences and data to inform their business decisions, thereby creating a serious risk of confidentiality breach and waiver of applicable privilege. Beyond the initial exposure of information to nonlawyer investors, there is also a risk that the investors may further disclose a client's confidential information to their business partners to assist in their financial decisions. In light of these concerns, modifying, reducing, or eliminating Rule 5.4 and related regulations does not achieve the Tennessee Supreme Court's goal of maintaining consumer protection.

Nor will the proposed revisions of Rule 5.4 promote the Tennessee Supreme Court's stated purpose of access to justice. Although there are some proponents that assert that Alternative Business Structures (ABS) entities will improve access to justice, there is no evidence suggesting access to justice is the driving force for nonlawyer ownership. To the contrary, since the inception of the first ABS program more than five years ago, the available data does not show a meaningful improvement in access to justice or the delivery of legal services to otherwise underserved communities. Instead, the data indicates that ABS entities largely focus on commercial legal markets (e.g., intellectual property, contract law, and commercial litigation) rather than targeted access initiatives for underserved or low-income communities (e.g., housing, consumer protection, public benefits, and income support). Indeed, Arizona's 2024 annual ABS report shows that it granted 51 ABS licenses that year, and the vast majority of those entities focus on practice areas unrelated to access to justice needs, including commercial litigation, general business services, intellectual property, mass torts and class actions, and trusts and estates.[22]

The experience in Utah is telling. Once Utah required participants to demonstrate that authorization allows them to reach underserved Utah consumers, over 75% of the approved entities sought to terminate their authorization for an ABS license.[23] These patterns suggest that ABS reforms have not closed, nor substantially impacted, the justice gap.

The lack of evidence establishing that nonlawyer ownership increases access to justice also led Ontario, Canada, to decline a recommendation to allow nonlawyers to become majority owners in firms.[24] That decision was premised on an Ontario-commissioned 2014 study by Jasminka Kalajdzic that sought to determine whether ABSs had improved access to justice in England and Australia, two jurisdictions that allow nonlawyer ownership.[25] Ms. Kalajdzic's study concluded that there is "no empirical data to support the argument that non-lawyer ownership has improved access to justice."[26]

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[21] ABA Comm. on the Future of Legal Services, *Report on the Future of Legal Services in the United States* (Aug. 2016), at 3.

[22] ABS Committee, *Annual Report to Supreme Court for 2024* (Apr. 2025); ABS Committee, *Annual Report to Supreme Court for 2024* (Feb. 28, 2025).

[23] Utah Office of Legal Services Innovation, *Authorized Entities* (last visited Dec. 11, 2025), https://utahinnovationoffice.org/authorized-entities/.

[24] Alternative Business Structures (ABS) Report: *Majority non-lawyer ownership off the table* (Sept. 28, 2015).

[25] Memorandum from Jasminka Kalajdzic to Linda Langston of the Ont. Trial Lawyer Ass'n on ABS Research 1 (Dec. 1, 2014).

[26] *Id.* at 1, 10–11, 14.

This lack of evidence was again manifest in the ABA Commission on the Future of Legal Services' 2016 *Report on the Future of Legal Services in the United States* (Legal Services Report), which documented the commission's findings stemming from a two-year study focused on access to legal services.[27] Here too, there was "little reported evidence that ABS has had any material impact on improving access to legal services."[28] Similarly, in England, where nonlawyers have been allowed to own interests in law firms since 2011, the lack of access to justice persists for most of the low- and middle-income population.[29] According to a 2019 Solicitors Regulation Authority survey, 68% of those surveyed stated they cannot afford the cost of legal services, and 79% believe that it needs to be easier for people to access legal guidance.[30]

Instead of increasing access to justice, Australia and England have seen growth in a single practice area—personal injury cases—since allowing nonlawyer ownership of law firms.[31] Other areas where such access is desperately needed, such as family law, property and landlord/tenant law, and criminal law, have not seen the same growth.[32] Indeed, the rate of self-representation in family law matters in Australia was more than 50% in 2014.[33] This is entirely consistent with the conclusions of a 2014 study conducted by Nick Robinson, a fellow at the Program on the Legal Profession at Harvard Law School, which found that nonlawyer investment is "likely to be attracted to legal sectors, like personal injury, where expected returns are high and that are relatively easy to commoditize, but where there may not be as much of an access need because of the long-standing practices like conditional or contingency fees."[34] This provides further evidence that allowing nonlawyer ownership of law firms will not serve the Tennessee Supreme Court's stated purpose of access to affordable legal services.

Numerous jurisdictions have enacted successful programs aimed at reducing the access-to-justice gap without allowing nonlawyer ownership. For example, since 2012, Washington State has permitted the licensing of nonlawyers, such as paralegals, to undertake some legal tasks through creation of the limited license legal technician (LLLT) program.[35] LLLTs can advise and assist clients in certain family law matters in Washington. Although the Washington program was sunset in 2023, other states, including Colorado, Minnesota, New Hampshire, and Oregon, have begun licensing paraprofessionals to promote access to justice. They have done so through limited authorization to provide affordable legal services in areas where underserved communities seek the most assistance, including representation in family court, domestic violence court, and landlord/tenant matters.[36]

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[27] ABA Comm. on Future Legal Services Report at 1.

[28] *Id.* at 42.

[29] Solicitors Regulation Authority, *Legal Access Challenge Launched to Encourage Innovation* (May 30, 2019), https://www.sra.org.uk/sra/news/press/2019-press-release-archive/legal-access-challenge-launch-may-2019/

[30] *Id.*

[31] Memorandum from Jasminka Kalajdzic to Linda Langston, Ontario Trial Lawyers Ass'n, on ABS Research, at 10–11.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] Wash. Admission & Practice R. 28 (Limited License Legal Technician Rule) (2024).

[36] Sam Skolnik, *By the Numbers: 10 States Allowed Non-Lawyers to Offer Services*, Bloomberg Law (Dec. 28, 2023).

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ALAS supports efforts to increase access to legal representation for all middle- and low-income individuals, but we have found no reliable evidence that fee sharing with nonlawyers or nonlawyer investment in law firms furthers that goal.

Because the Tennessee Supreme Court's stated objectives, namely affordable legal services and consumer protection, will not be served by modifying, reducing, or eliminating the provisions of Rule 5.4, and there is a risk that any proposed changes will erode attorney independence and client service, ALAS opposes the modification, reduction, or elimination of Rule 5.4 and any other regulations governing the manner in which lawyers and law firms function concerning this rule.

## IV. Conclusion

ALAS thanks the Tennessee Supreme Court for its consideration of these comments and recommendations. They do not necessarily reflect the views of all ALAS member firms. The Tennessee Supreme Court has permission to reference these comments as being made by a major American legal malpractice insurer.

Nesheba Kittling
*Senior Vice President—Loss Prevention*

Givonna St. Clair Long
*Vice President—Senior Loss Prevention Counsel*

Collette Woghiren
*Senior Loss Prevention Counsel*

**MaryBeth Lindsey**

**To:** appellatecourtclerk
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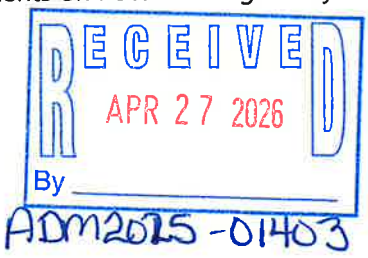


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Dear Clerk Hivner,
Please find attached the response of Attorneys' Liability Assurance Society Ltd. to the request of the Tennessee Supreme Court for comments on whether the court should modify, reduce, or eliminate regulations prohibiting nonlawyer ownership of law firms or fee sharing with nonlawyers. Please let me know if you have any questions or any additional information is needed.

Thank you,
Collette

**Collette Woghiren**
Senior Loss Prevention Counsel
Attorneys' Liability Assurance Society Ltd
(312) 697-7026 direct
CWoghiren@alas.com
www.alas.com

ALAS