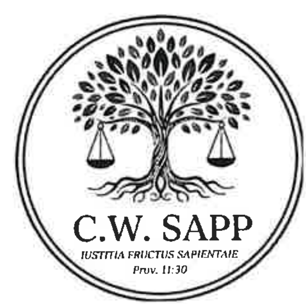

No. ADM2025-01403

At the risk of sounding froward and bombastic, the current system is desperately in need of reform where it currently alienates and/or denies equal protection and access to justice to the average working class citizen of Tennessee.

While the Open Court's Clause found at Article I, § 8 of our Tennessee Constitution declares that, "all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay", this guarantee, in practice, rings hollow as a mere parchment right for the overwhelming majority of Tennesseans who are neither independently wealthy nor so desperately impoverished as to qualify as paupers utterly dependant upon the charity and goodwill of the state.

The desperately poor gain access to the Courts through the taking of a Pauper's oath. The rich have always enjoyed access to the Courts by means of their wealth. Those in the middle, and the working poor, are too shut out and unable to obtain justice in civil settings due to their lack of education, lack of credit, inability to hire an attorney, and refusal to mortgage or pledge whatever modest assets they do possess in order to afford an attorney who may or may not adequately represent them even if hired.

In addition to the various reforms others have offered in response to this Court's request for public comment, I respectfully offer two novel solutions for the Court's consideration that would ensure greater affordability and greater access to justice for the overwhelming majority of Tennesseans hailed into court as defendants or unfortunate enough to require the assistance of the Court as plaintiffs.

I. Constitutional Recognition of Council-of-Choice

The first opportunity the Court has, is simply to recognize the rights and liberties secured to each individual by our very own Tennessee Constitution. As a free People, Tennesseans have long reserved unto themselves the freedom of association, the liberty of conscience, the right of revolution, petition and remonstrance in pursuit of peace, safety, happiness, and the common good. As such, we each enjoy an absolute, unalienable, and indefensible right to appoint and license another to speak and act on our behalf, not only in social, financial, and political circles, but also in our Courts of Law.

Art. I, § 9 declares in part, "That in all criminal prosecutions, the accused hath the right to be heard by himself and his ***counsel***..." [emphasis mine]

Notice that the word chosen was "counsel" not "attorney." The word "attorney[s]" is used elsewhere in our state Constitution so if this phrase is interpreted according to the rule of meaningful variations, the word "counsel" arguably means more than simply a duly licensed attorney. If the framers of 1796 intended the right to be limited strictly to licensed "attorneys," they had the vocabulary to say so. By choosing the broader term "counsel," they arguably protected a more fundamental right to advocacy and advice from any trusted source, not just those licensed by the state.

Through the passage of time, the word "counsel" has slowly become synonymous with the retention of a duly licensed attorney, but this has not always been the case – nor should it remain so today. Like most polysemantic words, the word "counsel" has various meanings and definitions. Counsel can indeed be a reference to a state-licensed attorney, it can refer to advice that one heeds or rejects, or it can also refer to a friend, family member, or confidant that one entrusts himself to in times of peril, such as when King David took counsel from his circle of trusted advisors and confidants.

In ancient times, when one faced a trial by combat or a duel to the death, participants were free to elect a champion to fight in their stead or to, at minimum, have their choice of a squire or "second" to aid and assist them in preparation for armed combat. Sometimes the chosen assistant was a paid professional, sometimes it fell to whomever was willing and/or trusted...a personal choice and election left to the accused and his aide-de-camp. When Tennessee became a state, our founders ensured that the criminally accused would be afforded and guaranteed the same right to whatever counsel was best calculated to provide an adequate defense and counter-argument to the state's prosecution, whether that counsel and advice had its origins in a paid professional or came from a trusted friend or family member.

Today, criminal defendants who lack the financial wherewithal to retain a hired gun (private attorney) must either represent themselves *pro se*, or rely on the counsel and "advice" of an overworked and grossly underfunded public defender or private attorney whose pay or financial resources are capped or restricted by the state. Neither option is optimal or advantageous, but the Public Defender option typically results in a some form of negotiated plea bargain or "deal" brokered out of concern for costs, personal inconvenience, or detriment to livelihood and personal economics. The result is often a term of probation with additional fees that can scarcely be afforded.

A criminal defendant or civil litigant may also not be educated or articulate enough to present their own case, but a family member, priest, or other close trusted friend/confidant could be and should be allowed by the Court if so chosen. By allowing unpaid Counsel-of-Choice, this Court would acknowledge and affirm several of the constitutional guarantees already secured by Article I Declaration of Rights, namely:

1. Article I, § 1 - The inherent, unalienable, and indefeasible power of the People to exercise individual sovereign will and right of authority over how and by whom they will be assisted and represented in securing their peace, safety, and happiness, whether in civil or criminal court proceedings.

2. Article I, § 2 - The right to

Key requirements:

- Representation & Advocacy must remain entirely voluntary and unpaid
- Litigant proceeds *pro se* with Counsel-of-Choice as a constitutionally recognized advocate but waives any all future claim to ineffective assistance of counsel or lack of state-appointed counsel.
- Counsel-of-Choice can serve in any Tennessee Court, but is bound by the same candor requirements and ethical considerations as any other attorney would be.
- Council-of-Choice enjoys the same attorney/client privilege afforded to an ordinary attorney.

II. Limited Practice Advocacy

The second recommendation is to create and allow a system of "for hire" limited practice advocacy in the inferior courts by trained paraprofessionals. Since most cases arise in Traffic Court, Small Claims, Juvenile Court, and General Sessions rather than Circuit and Chancery, there is a case to be made that such matters are minor in nature and not of such complexity so as to exclude paid advocacy by appropriately trained non-attorney's who demonstrate skill and proficiency.

An elementary curriculum would first be required with regard to criminal and civil procedure, rules of evidence, etc. establishing a baseline of knowledge upon which to further build. Additional specialties could be studied and pursued without the necessity of a full four-year college degree or completion of law school. Areas of specialty or competency could receive "certification" no differently than one qualifies for endorsements on a driver license. Advocates would be restricted to limited practice in the areas of certification.

Limited Practice Advocates would be limited to cases falling within the dollar limit threshold of the General Sessions Courts, but could also practice in Court's of Record on de novo appeal from actions arising in the inferior courts.

Respectfully submitted,

CHRISTOPHER SAPP
Domiciliary and Stakeholder
White County, TN

April 30, 2026

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

Noella Sudbury, Chief Executive Officer
Rasa Legal
180 E 2100 S, Ste 206
Salt Lake City, UT 84115

Re: No. ADM2025-01403 Comments on Potential Regulatory Reforms

Dear Justices:

Rasa Legal writes in strong support of the Court's September 16, 2025, Order. We urge the Court to consider adoption of the following reforms: nonlawyer ownership of law firms, a limited license for legal paraprofessionals, and an updated unauthorized-practice-of-law ("UPL") framework, including clear rules for using artificial intelligence to deliver legal help. We are not writing in the abstract. Rasa is a public benefit corporation that makes record clearance, expungement, and rights restoration affordable for everyday Americans. We participate in Utah's legal regulatory sandbox and operate a licensed Alternative Business Structure ("ABS") law firm in Arizona. We have built our practice inside the very reforms the Court is now considering, and we can tell the Court what they make possible in the real world.

Each reform opens a different path to scale and scale is what closes the access gap. Law firm ownership reforms attract investment and business talent, while also allowing for the incentive structures needed to build the technology and operations that scaling affordable services require. Paraprofessional licensure allows different service providers to meet the demand for help. And UPL reform removes the legal uncertainty that keeps responsible innovators out of the legal services market today. Together, they make economies of scale drive access to legal help.

I. The Problem Is Real & The Traditional Model Has Failed

The Court's order requesting comment matches what every serious national study has found. About 92% of the major civil legal problems of low-income Americans get no help, or not enough help—the worst figure ever recorded by the Legal Services Corporation.[1] Like many states

[1] Legal Servs. Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* (2022), https://justicegap.lsc.gov/.

Tennessee's rural counties are legal deserts without enough attorneys to meet demand. And, according to researchers, volunteer lawyers will never be able to bridge the gap.

Only changing the economics of how legal services get delivered will result in an appreciable waning of the justice gap. In our experience, the reforms below do that, and if implemented by the Court Tennessee will have the advantage of real-world data and experiences learned through the reform programs in Utah and Arizona. In these markets we have reached nearly 30,000 people in need of record clearing services to pursue better employment opportunities, housing options, and outcomes.

II. Allow Nonlawyer Ownership: Capital is the Fuel of Legal Innovation

Rasa's Arizona ABS firm exists because Arizona got rid of Rule 5.4 and allowed nonlawyer ownership in 2021. That one rule change makes something possible that a traditional firm cannot do: it lets a mission-driven legal services business raise capital, hire engineering and operations talent, and use equity to attract talent to advance Rasa's mission. We charge $500 for basic record clearance services. This is a price no traditional law firm model can match and with outside investment we could not develop technology to drive down the costs and automate workflows.

Our experience thus far matches what the best independent studies have found. Stanford's five-year study of Arizona's ABS program and Utah's sandbox shows that nonlawyer-owned firms and sandbox participants have produced new business models, new pricing, and new legal service market entrants serving consumers and small business. None have resulted in any measurable rise in consumer harm.[2] The international evidence agrees. England and Wales, now running the longest experiment with outside investment in law firms, have seen ABS law firms beat their peers on innovation, technology adoption, and price transparency, with no greater risk to consumers.[3]

While some incorrectly assert that ABS law firms are literally and figuratively the wild west, in fact, ABS firms operate under more oversight than any traditional firm. We disclose our ownership and governance to regulators. We have a compliance lawyer responsible for ethics and who is accountable to the state bar. We are subject to ongoing review by the Arizona ABS Committee and the Court. None of that is true of a conventional law firm. The idea that capital itself threatens professional integrity is not supported by the evidence. What we see in practice is the opposite: capital, paired with proper oversight, is what makes it possible to build services for the people the traditional market does not reach.

We urge the Court to repeal or substantially rewrite Tennessee's Rule 5.4 and allow nonlawyer ownership and fee-sharing in Tennessee law firms—whether through a licensing program like Arizona's, a sandbox like Utah's, or a mix of the two. The exact design matters less

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[2]David F. Engstrom et al., *Legal Innovation After Reform: Five Years of Data on Regulatory Change* (Stanford Law Sch., Deborah L. Rhode Ctr. on the Legal Profession, June 2025, rev. Nov. 2025).

[3]Solicitors Regulation Auth., *Impact Evaluation of the Regulatory Reform Programme* (2018).

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than the decision to act and the commitment to build the program so capital flows to help underserved Tennesseans.

III. Allow Alternative Legal Providers & Limited-Licensed Paraprofessionals: The People Pathway

Capital by itself is not the cure for all that ails the legal market. Different types of professionals must meet the public where they are, in service delivery models they are already familiar with. Rasa's Utah sandbox authorization is what lets us hire, train, and deploy nonlawyer expungement service providers called Alternative Legal Providers. These nurse practitioners of record clearing work do the volume of work needed to make an impact. Without our Utah sandbox authorization, a lawyer must spread their bandwidth thin across matters that don't truly need a lawyer's attention. With it, lawyers are freed up to focus their judgment on more complex matters, while trained allied professionals handle eligibility determinations, filings, client communication, and even negotiations prosecutors all subject to attorney supervision.[4] That model is what makes our Utah practice work, and it is the design that has actually moved the needle with respect to helping underserved people across Utah.

Additionally, Tennessee can design a paraprofessional license regime to allow providers focused on certain practices and see real access gains. The Court should: (a) keep the list of authorized practice areas narrow and tied to documented unmet need—expungement, landlord-tenant, debt-collection defense, uncontested family-law matters, simple estate documents, and benefits eligibility are where other states have started; (b) require a credential, through some combination of coursework, an exam, and supervised hours; (c) hold paraprofessionals to ethical duties that mirror those for lawyers—competence, confidentiality, conflicts avoidance, and candor; (d) require clear disclosure to clients about what the paraprofessional can and cannot do; and (e) run the program through an existing or new body under the Court's authority.

To be clear, alternative providers and limited paraprofessional licensures do not compete with the legal profession—it complements it. The same thing happened in medicine: physician assistants and nurse practitioners expanded access without displacing doctors. A well-designed paraprofessional license grows the market and alternative providers free lawyers up for the work that actually requires complex legal judgment.

IV. Update the UPL Rules for Software, AI, and Lay Assistance

The Court has been a national leader here. In 2012, it approved guidelines, developed by the Tennessee Supreme Court Access to Justice Commission, drawing the line between legal information (which nonlawyers can give) and legal advice (which takes a lawyer).[5] That line is still the right one. The problem is not the rule. It is the uncertainty around it. Uncertainty is what

[4] Utah Sup. Ct. Standing Order No. 15 (Aug. 14, 2020, am. Sept. 21, 2022); Utah Sup. Ct. R. Prof'l Prac. 4-802(b)(14)(d).

[5] Tenn. Sup. Ct. Access to Justice Comm'n, *General Guidelines for Distinguishing Legal Information from Legal Advice* (2012).

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scares off the very people best positioned to expand access, while doing nothing extra to protect the public. To more proactively respond to the pace of change created by rapidly advancing artificial intelligence, the Court should consider a safe harbor for software and AI tools. The Court could make clear, by rule or by recommended legislation, that designing, publishing, distributing, or providing software—including AI tools—that delivers legal information, generates documents, or helps users with legal issues is not UPL, as long as the tool clearly tells users (i) the provider is not a lawyer; (ii) no attorney-client relationship is created; (iii) communications are not privileged or confidential; and (iv) the tool is not a substitute for a lawyer's advice. Texas has had a statute that does this for two decades, and there is no evidence it has hurt consumers.[6]

Additionally, consider providing UPL enforcement guidance while the Court works on the rule changes. Tennessee's UPL enforcement authorities could publish interim guidance modeled on the policy Colorado's Office of Attorney Regulation Counsel adopted in 2025: list categories of low-risk nonlawyer help and AI tools that will not be enforcement priorities; require clear disclosures and lawyer involvement in design or compliance where it makes sense; and save enforcement resources for real consumer harm.[7]

Conclusion

Rasa Legal owes its ability to scale record clearing services to two state supreme courts who were willing to act. The result is affordable and accessible record clearing services that change the lives of our clients. The Court can create pathways to these types of outcomes for all Tennesseans through the types of reforms being considered. We are grateful for the Court's leadership, and we are happy to help the Court, its working groups, or any Tennessee stakeholders who would find our experience useful as the Court considers the right path forward.

Respectfully submitted,

Noella Sudbury
Chief Executive Officer
Rasa Legal

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[6] Tex. Gov't Code Ann. § 81.101(c) (West 2024).

[7] Colo. Office of Att'y Regulation Counsel, *Non-Prosecution Policy Regarding the Unauthorized Practice of Law by Nonlawyers* (Sept. 2025).

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April 30, 2026

Via E-mail & U.S. Mail

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, Tennessee 37219-1307
Jim.hivner@tncourts.gov

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

To the Honorable Justices of the Tennessee Supreme Court:

We write in response to the Court's Order dated September 16, 2025, soliciting public input on potential regulatory reforms to increase access to quality legal representation. We submit this comment in response to Question 5 of this Court's order to advocate for modifying the requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility. Specifically, we support the "Proposal to Increase Lawyer Mobility by Amending Tennessee Rule of Professional Conduct 5.5" submitted by Lucian Pera of Adams & Reese, LLP and Brian S. Faughnan of Faughnan Law, PLLC filed on April 20, 2026.

The practice of law has changed dramatically over the past two decades. Advances in computer technology, along with expanded access to Internet service, electronic communications, and digital research databases, have made it possible for attorneys to work effectively from virtually anywhere. The COVID-19 pandemic accelerated this transformation, requiring millions of attorneys to work remotely and appear before courts virtually or telephonically. These changes have proven both convenient for lawyers and beneficial for clients.[1]

The practice of law is uniquely suited to remote work. Much of an attorney's work—independent legal research, writing, and client communications—can be performed from any location without loss of quality or efficiency. Moreover, remote work arrangements benefit law

[1] According to Clio's 2020 Legal Trends report, 56% of consumers would prefer videoconferencing over a phone call and 69% prefer working with a lawyer who can share documents electronically through a web page, app, or online portal. 2020 Legal Trends Report (Clio), https://www.clio.com/resources/legal-trends/2020- report/.

firms by reducing overhead expenses, which help lower the costs of legal services to clients. One study estimates that the availability of remote work options has facilitated the interstate relocation of nearly 24 million Americans.[2] Reflecting this reality, in 2022, the Association of Professional Responsibility Lawyers—the nation's leading organization for legal ethicists—urged the ABA to amend Model Rule 5.5 to permit lawyers to provide services to clients regardless of the geographic location of the lawyer or the client.[3] Like the proposed amendments here, that reform recognizes the reality that legal services can and should be delivered without artificial geographic constraints.

Tennessee's current rules do not meaningfully account for the realities of modern legal practice, the interstate flexibility that remote work enables, or the benefits interjurisdictional practice provides to clients, lawyers, and law firms. Under existing rules, an attorney who handles matters in different states generally must be licensed or admitted *pro hac vice* in each jurisdiction or in each matter. To avoid professional and criminal sanctions, attorneys must therefore seek admission to multiple state bars and courts—an undertaking that entails significant additional costs, delays, and administrative burdens. These barriers discourage attorneys from expanding their services, limit the availability of competent counsel, and ultimately drive up the cost of legal services.

The proposed amendment to Rule 5.5 complements the general protections for the right to earn a living in the Tennessee Constitution and in the Tennessee Right to Earn a Living Act.

Article I, section 8, of the Tennessee Constitution protects the right to earn a living against unreasonable government interference. That section states "[t]hat no man shall be … deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land." This language (the Law of the Land Clause), dates back to Magna Carta, which included a Law of the Land Clause long understood to protect the right to earn a living free from unreasonable or arbitrary restrictions. That is not just a curiosity of legal history. This Court has long understood Tennessee's Law of the Land Clause as protecting an individual's right to earn a living. For example, in *Campbell v. McIntyre*, 52 S.W.2d 162, 164 (Tenn. 1932), and *Wright v. Wiles*, 117 S.W.2d 736, 738–39 (Tenn. 1938), this Court struck down licensing regulations that impermissibly burdened the right to earn a living. It even applauded the Oklahoma Supreme Court's explanation that the right to earn a living is a fundamental right. *See Livesay v. Tennessee Bd. of Exam'rs in Watchmaking*, 322 S.W.2d 209, 213 (Tenn. 1959) (citing *State ex rel. Whetsel v. Wood*, 248 P.2d 612 (Okla. 1952)). These decisions were correct. The right to earn a living cannot be anything but a fundamental right, and it does not disappear just because an individual enters a highly regulated profession, such as the legal field.

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[2] Scott Lincicome and Ilana Blumsack, *Remote Work*, Cato Institute (Dec. 15, 2022), https://www.cato.org/publications/remote-work.

[3] Debra Cassens Weiss, *Lawyers Should be Able to Practice Law in Any State, Says Group Urging ABA Model Rule Change,* ABA Journal (Apr. 20, 2022), https://www.abajournal.com/web/article/lawyers-should-be-able-to-practice-law-in-any-state-says-group-urging-aba-model-rule-change.

Tennessee's Right to Earn a Living Act reaffirms that the right to earn a living is fundamental. *See* Pub. Ch. No. 1053 (2016). That Act declares that the public policy of Tennessee is that the right to earn a living should not be infringed unless doing so is necessary to protect the public health, safety, and welfare. The Act provides a useful guidance on the desire of Tennesseans to make licensing regulations less burdensome, a goal that would be achieved by the proposed changes to Rule 5.5.

We ask the Court to adopt the proposed amendment to Tennessee Rule of Professional Conduct 5.5 to help increase lawyer mobility which will assist Tennesseans to have access to more affordable legal services and recognize the realities of the legal profession in a post-Covid-19 world.

Sincerely,

Jon Riches
Vice President for Litigation
Scharf-Norton Center for
Constitutional Litigation
At the Goldwater Institute

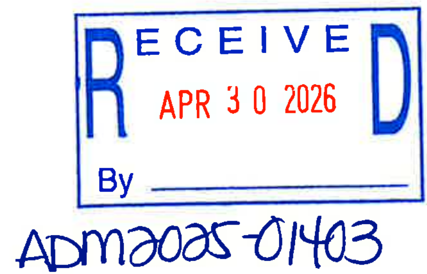
Adam Shelton
Senior Staff Attorney
Scharf-Norton Center for
Constitutional Litigation
at the Goldwater Institute

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of Policy Planning
Bureau of Competition

U.S. Department of Justice, Antitrust Division
U.S. Attorney's Office for the Middle District of Tennessee

April 30, 2026



Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219-1407
(615) 253-1470
By email

Re: Potential Regulatory Reforms to Increase Access to Quality Legal Representation

To the Honorable Chief Justice and Justices of the Supreme Court of Tennessee:

We are the Directors of the Federal Trade Commission's (FTC or Commission) Office of Policy Planning and Bureau of Competition,[1] the United States Attorney (USAO) for the Middle District of Tennessee, and Deputy Assistant Attorneys General at the U.S. Department of Justice's Antitrust Division (DOJ Antitrust Division or the Division).[2] The FTC's Office of Policy Planning engages with state legislatures, regulatory boards, and other government officials on competition and consumer protection issues to champion the interests of the American people. The FTC's Bureau of Competition and the DOJ Antitrust Division enforce America's antitrust laws.

Competition is the lifeblood of the American economy, spurring innovation, expanding output and employment, lowering prices, improving quality, and increasing access to goods and services. Promoting competition and enhancing consumer choice are central goals for the Commission. Eliminating regulatory barriers that raise prices, prop up entrenched monopolies, or otherwise restrain the competitive economy is key to achieving these goals.

We write this letter to advance those objectives and respond to the Tennessee Supreme Court's ("Court") September 16, 2025 Order ("Order") soliciting public comments to inform its effort to "reassess[] its approach to regulation of the legal profession," including the Court's reliance on American Bar Association (ABA) law school accreditation.[3] The Commission has substantial experience evaluating the competitive effects of professional licensing and related

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[1] This comment expresses the views of staff of the FTC's Office of Policy Planning and Bureau of Competition. It does not necessarily represent the views of the Federal Trade Commission or of any individual Commissioner. The Commission has, however, voted to authorize the submission of this comment.

[2] The U.S. Attorney's Office for the Middle District of Tennessee and the U.S. Department of Justice's Antitrust Division sign this letter in support of the positions the Federal Trade Commission articulates herein.

[3] In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, at 4, Dkt. No. ADM2025-01403 (Tenn. Sup. Ct. Sept. 16, 2025) [hereinafter Order].

RECEIVED
APR 30 2026
By

ADM2025-01403

Kim Meador

From: txrun95@yahoo.com
Sent: Thursday, April 30, 2026 11:03 PM
To: appellatecourtclerk
Subject: IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION

Warning: Unusual sender <txrun95@yahoo.com>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

My comment is as follows:

I am not in agreement with this lessening or loosening of the requirements at all. First of all, I have seen no news stories or "emergency" calls for help in any kind of meaningful way publicized in the state of Tennessee that suggests this is even a problem to be solved. There are plenty of attorneys looking for jobs and opportunities and a good life and it's my understanding there are too many attorneys, not too few.

If there are too few attorneys in some areas and too many in others, there are less drastic and even more effective ways to combat this. Marketing. Publication. Go to the big cities and have the bar associations advertise and promote a gathering to reveal the wonderful opportunities in small towns to all who attend. Do the same at all the law schools in Tennessee -recruit and inform of all the opportunities and towns that will value an attorney starting a practice there. Have a job board specifically designed for rural or legal desserts. I have searched the legal aid websites that serve rural towns throughout Tennesee after I saw this request for comment - AND THERE ARE NO large job openings and few requests for volunteers, when I was even able to find a volunteer section! How is that if we are to believe the motivation for this proposal? For that reason, I am incredulous and in shock about this entire proposal and leaves me wondering "what is really going on."

This is also no doubt to some lawyers paying back student debt, supplied with many memories of the gauntlet of law school, **who are angry and betrayed that all that hard work is by implication reduced to "evaporating standards and lowered requirements to engage in what was a very difficult profession to enter - and for good reason, it carries great responsibilty to the public."**

If this proposal is seriously considered- can attorneys have their student debt cancelled or paid by the state of Tennessee, since others can enter this licensed profession we earned with NONE of that investment and compete with myself and my colleagues for jobs?

I agree with others that the responsibilities and duties of this profession weigh **completely** against this proposal.

There are ways to combat this supposed problem of regions lacking legal professionals, and until attorneys see any effort made to expose this lack of staffing in parts of Tennessee, I am tremendously suspicious that this entire proposal is part of some larger Trojan Horse to effect some change that I am too naive and idealistic to fathom or conceive at this time. Out of the blue, with no initiatives or programs to highlight towns and cities in need of attorneys, which by implication would be small or MAYBE medium towns where the barrier to entry is low and cheaper - I am very confused

where this sudden desire to lower standards that ARE WELL TESTED AND WORK is suddenly coming from.

If areas need attorneys - and again, the reality is there are likely more attorneys than jobs -- then work on that in a meaningful way. When a "solution" to a problem is suddenly proposed, that the profession was largely unaware of, I believe it creates unnecessary and heightened concern that some force or agenda is pushing this, and the only reason for a "solution that has no problem" is one that is nefarious and insidious.

I do not want to include my name, but I do want my comment included. Please advise if this is an issue. I am an attorney, licensed and working in Tennessee, but want to feel free to leave my real opinion with complete freedom to express where I stand on this issue, without fear or anxiety about pressure for any source.

Kim Meador

RECEIVED
APR 30 2026
By ______
ADM2025-01403

From: Lowe, Hannah Sylvia <hslowe0@tva.gov>
Sent: Thursday, April 30, 2026 10:06 PM
To: appellatecourtclerk
Subject: Docket No. ADM2025-01403, Comments regarding Supreme Court Order

Warning: Unusual sender <hslowe0@tva.gov>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Mr. Hivner:

I write to provide comments in response to TN Supreme Court Order No. ADM2025-01403. ***Please note that I am an employee of the Tennessee Valley Authority (TVA), but these comments are made in my personal capacity as a Tennessee attorney and not in any official capacity as an employee or agent of, or on behalf of, TVA. All views and opinions expressed are my own.***

My comments concern issues (4), (6), and (7), as follows:

(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.

If the Court is to consider allowing applicants to the Tennessee Bar to satisfy the minimum educational requirements and/or examination requirement by completing an apprenticeship or serving with a legal aid organization, I suggest the Court consider incorporating some of the excellent programming that already exists in Tennessee's law schools. In my final year of law school at the University of Tennessee (now Winston) College of Law in 2009-2010, I completed a judicial externship in one semester and a legal clinic in another semester. I understand the law school offers even more of those types of opportunities now. These experiences within law school gave me an opportunity to develop real, practical experience that undoubtedly better equipped me for law practice than any doctrinal law school class or Bar exam. I know the other law schools in Tennessee offer similar practical skills opportunities such as legal clinics and professional externships. Professional externships, internships, and legal clinics both serve the mission of access to justice and also prepare students to practice law. Extra-curricular activities such as law review, journals, moot court and trial teams similarly provide many of the skills that prepare students for the practice of law. I would support allowing law students to use those experiences as part of the requirements for admission to practice. This could also help to serve the interests of access to justice, as legal clinics and some professional externships often offer services to individuals who could not otherwise afford legal services.

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

I have practiced civil defense litigation for the last 15 years, in more than half of Tennessee's 95 counties. I am concerned that if the Court allowed paraprofessionals to offer certain legal services, the Court should do so with caution. For example, if paraprofessionals were to be permitted to handle certain aspects of tort litigation, it could lead to an increase in frivolous lawsuits from out of state law firms. This will not serve the interests of access to justice as in my experience plaintiffs are better represented by a local lawyer familiar with the jurisdiction. I am also concerned that insurance companies might use paraprofessionals to execute court pleadings or orders if permitted to do so. This could impact both the plaintiffs and the defense bar. Tort claims and litigation should be handled by lawyers who can explain to their clients the risks and benefits of a particular course of action. I therefore support imposing restrictions on paraprofessionals handling certain legal services (typically handled by lawyers) in the tort litigation field.

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

I am a member of the Tennessee Defense Lawyers Association (TDLA) and DRI, which are both civil defense organizations and both contributed to a public comment with other civil defense organizations and business entities to the Court on issue (7), opposing modification or elimination of the longstanding regulations prohibiting nonlawyer ownership of law firms or fee sharing with nonlawyers. I support the comment made on behalf of TDLA and DRI. Eliminating the restrictions on nonlawyer ownership of law firms or fee sharing with nonlawyers raises ethical concerns as to the impact of such on the professional judgment of attorneys.

Thank you for considering these comments.

Sincerely,

Hannah S. Lowe
Attorney, Claims and Litigation
Office of the General Counsel

Phone: 865-385-4724 **Email:** hslowe0@tva.gov
400 West Summit Hill Drive, Knoxville, TN 37902
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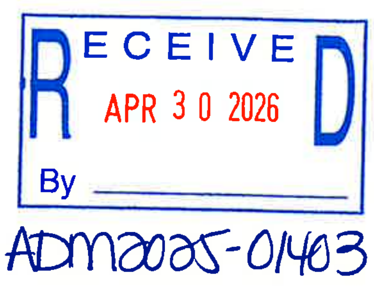
April 30, 2026



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

Re: No. ADM2025-01403

Comment of the Alliance for Legal Access in Support of Regulatory Reform to Increase Access to Quality Legal Representation Through Non-Lawyer Ownership of Law Firms

Introduction

The Alliance for Legal Access submits this comment in response to the Court's September 16, 2025 Order soliciting public comments on potential regulatory reforms to increase access to quality legal representation. The Alliance is a coalition of over a dozen ABS law firms and individuals advocating for broader access to legal services across the United States. Taylor Bell, a licensed Arizona attorney and member of the Arizona Supreme Court's Committee on Alternative Business Structures, served as principal author. He writes in his individual capacity. Nothing in this comment represents the position of the Committee, the Arizona Supreme Court, or any other body.

The Court has identified a real and pressing problem. Tennesseans face an access-to-justice crisis that mirrors what Arizona confronted before launching its Alternative Business Structure program in January 2021.[1] Arizona's experience over five years offers the Court a working model for how regulated nonlawyer ownership of law firms can improve disenfranchised Tennesseans' access to justice and make Tennessee a leader in legal innovation without compromising on the quality of legal services or client satisfaction.[2] We write to share what Arizona has built and how Tennessee can improve on that foundation.

I. Tennessee and Arizona: Parallel Challenges

Tennessee and Arizona share similar demographics and, with them, similar access-to-justice problems. Tennessee is home to about 7.3 million people. Arizona has 7.6 million.[3] Both states

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[1]Ariz. Code of Judicial Admin. § 7-209 (eff. Jan. 1, 2021).

[2]David Freeman Engstrom, Natalie Knowlton & Lucy Ricca, *Legal Innovation After Reform: Five Years of Data on Regulatory Change* (Stanford Law School, Deborah L. Rhode Center on the Legal Profession, June 2025).

[3]U.S. Census Bureau, QuickFacts: Tennessee, https://www.census.gov/quickfacts/TN; QuickFacts: Arizona, https://www.census.gov/quickfacts/AZ.

have large populations spread across wide geographies, with attorneys concentrated in one or two metropolitan areas.

In Tennessee, the legal profession clusters around metropolitan areas[4]. The Court's own Order notes the "growing concern regarding the lack of access to legal services in rural areas."[5] The Court cited data showing that twenty Tennessee counties have fewer than ten lawyers each. The accepted benchmark for a "legal desert" is one lawyer per 1,000 residents.[6] By that measure, a rough comparison of Board of Professional Responsibility data against county population estimates suggests that more than half of Tennessee's 95 counties may qualify as legal deserts, home to over a million Tennesseans.

Arizona faced the same pattern before its ABS program launched. Lawyers were concentrated in Phoenix and Tucson while rural counties went underserved and the access gap widened year over year. In 2021, the Arizona Supreme Court responded by creating the Alternative Business Structure program.

The numbers tell a national story. The Legal Services Corporation's 2022 Justice Gap Report found that low-income Americans do not receive any or adequate legal help for 92 percent of their substantial civil legal problems.[7] In 75 percent of civil cases filed nationally, at least one party has no lawyer.[8] That figure was 20 percent or less in the 1970s. Over the same decades, research from William Henderson's Legal Evolution project documents a steady withdrawal of private attorneys from individual and small-business representation, even as the overall number of lawyers has grown.[9]

The gap is not a problem lawyers can donate their way out of. Professor Gillian Hadfield calculated that closing it through pro bono alone would require every attorney in America to contribute over 900 hours of free work per year, close to half a year's billable hours.[10] The traditional model was not built to reach these populations, and it has not..

Tennessee's Court recognized this when it framed the goals of its inquiry: lowering barriers to entry into the legal profession, ensuring the availability of affordable legal services, and safeguarding the public. Those goals match the ABA's Model Regulatory Objectives for the

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[4] Tennessee Board of Professional Responsibility, Online Attorney Directory, https://www.tbpr.org/for-the-public/online-attorney-directory (last accessed Apr. 28, 2026)

[5]Order, at 3, In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Sept. 16, 2025).

[6]Committee on Legal Education and Admissions Reform (CLEAR) Report and Recommendations 12 (Nat'l Ctr. for St. Cts. July 27, 2025).

[7]Legal Servs. Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* (2022), available at https://justicegap.lsc.gov/.

[8]Paula Hannaford-Agor et al., *The Landscape of Civil Litigation in State Courts* (Nat'l Ctr. for State Cts. 2015).

[9]William Henderson, *Eight Updated Graphics on the US Legal Services Market* (Jan. 23, 2022), Legal Evolution.

[10]Gillian K. Hadfield, *Changing the Way Courts Regulate Legal Markets*, 143 Daedalus 83, 87 (2014).

Provision of Legal Services, adopted in 2016.[11] They are also consistent with Arizona's experience. Arizona built a program to pursue those same objectives, and five years of data show the program is working.

II. How Arizona's ABS Framework Operates

Arizona's ABS program, established under Arizona Code of Judicial Administration § 7-209, allows entities other than traditional law firms to provide legal services, so long as they operate under a defined set of regulatory requirements. The program permits non-lawyer ownership and investment in legal services entities while keeping the Arizona Supreme Court's authority over lawyer conduct and client protection intact.

The compliance architecture has several components worth the Court's attention.

- **Compliance Lawyers.** Every ABS entity must designate at least one Arizona-licensed attorney as its compliance lawyer. That attorney bears personal responsibility for ensuring the entity meets its ethical and regulatory obligations. The compliance lawyer answers to the State Bar's disciplinary authority, which creates a direct line of accountability between the entity and the court system. They have an active duty to report ethical violations within their firm directly to the Bar. No traditional law firm faces a comparable structural requirement.
- **Biannual Audits.** ABS entities conduct internal compliance audits covering operations, client files, fee structures, and adherence to the Rules of Professional Conduct. These give the regulator a recurring window into how each entity operates in practice, not just on paper.
- **Renewal Certifications.** ABS licensure is not a one-time approval. Entities must renew their licenses on a set schedule, certifying continued compliance with all regulatory requirements. The renewal process includes updated disclosures about ownership, services offered, and any material changes to operations.
- **Individually Vetted Ownership.** Owners, investors, and all key decision-makers in an ABS entity are subject to background review. Traditional law firms have no comparable ownership-vetting requirement. The ABS framework gives the regulator visibility into who stands behind the entity providing legal services. Senior management at traditional law firms who exercise quasi-executive functions have no comparable vetting process or assurance they will not interfere with attorneys' legal judgment.
- **Mandatory Malpractice Insurance.** ABS entities must carry malpractice insurance. Many traditional solo and small-firm practitioners in Arizona (and Tennessee) do not.

[11] Am. Bar Ass'n, House of Delegates, Resolution 105 (Feb. 8, 2016) (approving ABA Model Regulatory Objectives for the Provision of Legal Services).

Taken together, these requirements create a regulatory structure more rigorous than what traditional law firms face. A solo practitioner in Arizona or Tennessee can open a law practice, handle client funds, and represent individuals in court without any of these ongoing compliance checkpoints. An ABS entity cannot.

III. The Evidence: Arizona's Program Is Working

Five years of operational data from Arizona's ABS program point in one direction: the program has expanded access to legal services without increasing consumer harm.

The best and most recent independent evaluation of Arizona's program to date comes from a June 2025 report by the Deborah L. Rhode Center on the Legal Profession at Stanford Law School.[12] That study reviewed five years of data from both Arizona's and Utah's reformed legal services programs. Its conclusion on Arizona: "remarkably little evidence of consumer harm." In the program's entire history, only two ABS entities and their compliance lawyers faced formal disciplinary action, and those cases involved procedural and oversight issues, not systematic consumer injury.

Bar complaint data reinforces the finding. Complaints filed against ABS-licensed firms, measured on a per-attorney basis, run well below the aggregate complaint and disciplinary rates for traditional law firms.[13]

Over this same period, the program grew from 19 authorized ABS entities in 2022 to about 150 as of early 2026, an eight-fold increase. That growth has not produced a corresponding surge in complaints or disciplinary actions. The ratio has moved in the opposite direction.

Isolated instances of misconduct have occurred, as they do in every legal services market, traditional or reformed. Investigative reporting has identified ABS licensees accused of harming clients or violating consumer protection laws. While those cases matter, they are also evidence that the oversight mechanisms are functioning, not that the program has failed. The ABS framework, with its mandatory compliance lawyers, audits, and active regulatory oversight, is built to detect misconduct, respond to it, and remove the offending entity. Enforcement action is the program working as designed.

The contrast with Utah is instructive. Utah launched its Regulatory Reform Sandbox Project around the same time as Arizona's ABS program. When Utah tightened eligibility criteria and imposed more restrictive requirements, participation dropped from 39 sandbox entrants in 2022 to

[12] Supra note 2.

[13] Bar complaint and discipline rate data for ABS licensees and traditional law firms is available through the State Bar of Arizona's Lawyer Regulation Annual Reports, accessible at https://www.azbar.org/for-legal-professionals/lawyer-regulation/records/lawyer-regulation-annual-reports.

just 11 as of April 2025.[14] The Utah Supreme Court closed the ABS-only portion of the Sandbox entirely, effective December 31, 2024. At least 27 participants left or were terminated. Arizona, which kept its flexible framework, grew. Overly restrictive standards do not just screen out bad actors. They hollow out the program and leave consumers with fewer options than they had before.

IV. Lessons from Arizona: Where Tennessee Can Improve

Arizona built the first ABS program in the country that has lasted. It works. But five years of operation have also exposed areas where the framework can be strengthened. Tennessee has the advantage of learning from Arizona's experience and building a better version from the start.

Better Data Collection. The improvement that would matter most is building data collection into the regulatory framework from day one. Arizona's program has produced good consumer protection outcomes, but the state has been slower than it should have been to collect and publish the data that tells that story. Complaint rates, client satisfaction, access metrics, demographic data on consumers served, geographic reach of services: all of this should be collected at the point of licensure and renewal. When the program's defenders have to piece together success stories from scattered public records and independent academic studies, the program is harder to defend against critics who substitute anecdote for evidence. Tennessee can avoid that problem by requiring standardized reporting from the start, publishing annual data summaries, and building the evidentiary case for regulatory reform in real time.

No State-Residency Requirements for ABS Licensure. Tennessee should not require that ABS licensees be headquartered in Tennessee or that the benefit of their services flow exclusively to Tennessee consumers. Building a new legal services model requires substantial capital investment, operational infrastructure, and enough clients to sustain the model over time. A state-limited market of 7.3 million people, while real, is a fraction of the national market. If Tennessee restricts licensure to entities whose benefit is local only, the firms capable of building at scale will go elsewhere, or will never form at all.

The better approach is to let the market work in Tennessee's favor. An ABS firm that needs a larger customer base to justify its capital investment will build a platform that serves consumers across multiple states. Tennessee consumers benefit from that platform. And every ABS firm that applies for Tennessee licensure is a firm that Tennessee gets to regulate, supervise, and set standards for. The state gains oversight it would not otherwise have.

Arizona learned this lesson through its own internal debates. Proposals to require that ABS firms demonstrate a primary in-state benefit threatened to shrink the applicant pool and push firms to other jurisdictions. The firms that stayed would have been less well-capitalized and less capable of reaching underserved populations. Tennessee should adopt a framework that welcomes

[14] Debra Cassens Weiss, *Nearly 30 Legal Entities May Leave Utah's Regulatory Sandbox After State Tightens Rules*, ABA Journal; see also Engstrom et al., supra note 2.

national-scale participation while maintaining strong compliance standards for all licensees operating within its jurisdiction.

A Higher Licensure Fee to Fund Access. Tennessee should consider setting ABS licensure fees at a level well above standard law firm registration costs, with the additional revenue directed toward specific access-to-justice programs and the maintenance of its ABS framework. Two candidates stand out: direct funding for Tennessee legal aid organizations, and seed funding for a rural paraprofessional training program.

Legal aid organizations in Tennessee operate on limited budgets and serve populations that ABS firms, even well-designed ones, may not reach. A licensure fee structure that channels revenue from ABS applicants into legal aid creates a direct, measurable connection between regulatory reform and expanded access for the state's most underserved residents.

A rural paraprofessional training program would address the legal desert problem from a different angle. If more than half of Tennessee's counties lack adequate attorney coverage, training non-lawyer professionals to provide defined legal services under attorney supervision could extend the reach of the legal system into communities where attorneys are unlikely to establish practices. Arizona has explored related concepts through its Licensed Legal Paraprofessional program. Tennessee could pair ABS licensure revenue with a targeted rural training initiative, creating a pipeline of qualified service providers for the counties that need them most.

V. Contingency Fee Services and the Active Practice Requirement

Arizona's experience has surfaced a recurring question about ABS entities that offer contingency-fee legal services: should licensure in that category require that the entity maintain an active practice of law, rather than operating as a marketing or referral platform?

The concern is easy to state. Some entities structured as ABS firms do not actually practice law at all, they simply generate contingency-fee cases through advertising and client intake, then refer those cases to outside attorneys or firms for the actual legal work. The ABS entity collects a share of the fee. The client may not understand who is providing their legal representation, or that the entity they contacted is not the firm handling their case.

This model raises legitimate questions about transparency, accountability, and the division of fees between entities that acquire clients and attorneys who represent them. It is not unethical on its face, but it warrants specific regulatory attention.

Tennessee could address this by requiring that any ABS entity offering contingency-fee legal services maintain an active legal practice: employing attorneys who carry caseloads and provide direct legal representation to clients. This would distinguish between entities that use the ABS framework to build and deliver legal services and entities that use it as a client-acquisition channel. The requirement would not ban referral relationships or marketing activities. It would require that

the licensed entity itself be in the business of practicing law, not just in the business of generating legal business for others.

VI. The Policy Case for an ABS Framework in Tennessee

The traditional law firm model has governed the delivery of legal services in every American state for over a century. Its consumer protection rationale is sound: lawyers should be subject to ethical rules, clients should be protected from conflicts of interest, and the attorney-client relationship should be free from outside interference. **None of those principles require that only lawyers may own or invest in entities that deliver legal services.**

The ownership restriction was never the consumer protection measure it is often described as. It was a market structure rule. And the market it produced has failed a large majority of Americans who need legal help. The data cited above and in the Court's own Order make that case clearly.

An ABS framework does not abandon consumer protection. It reorients it. Instead of relying on a single structural restriction (lawyer-only ownership) as a proxy for quality and ethics, an ABS framework builds layered oversight: designated compliance lawyers, audits, renewal certifications, ownership vetting, mandatory insurance. Arizona's experience shows that this approach produces better consumer outcomes than the traditional model, at least as measured by complaint and disciplinary rates.

Tennessee's Court has stated its goals: lower barriers to entry, ensure affordable legal services, safeguard the public. An ABS framework is among the most direct paths to all of them. It allows capital and operational expertise from outside the legal profession to flow into legal services delivery, reducing costs and enabling models the traditional structure cannot support. It brings new entrants under the Court's regulatory authority, rather than leaving them outside it. And it creates a compliance infrastructure that gives the Court more visibility into how legal services are delivered, not less.

The question before this Court is not whether regulatory reform carries risk. All regulation involves tradeoffs. The question is whether the current system's failure to serve millions of Tennesseans is an acceptable status quo, and whether an alternative can do better. Arizona's five years of data say it can.

Conclusion

The Alliance for Legal Access urges this Court to adopt an Alternative Business Structure framework for Tennessee. Arizona's program provides a tested model: a compliance-based regulatory structure that has expanded access to legal services while maintaining strong consumer protections. Tennessee has the opportunity to learn from Arizona's successes and its mistakes,

building a program with better data collection, broader geographic reach, and a funding mechanism that directs licensure revenue toward the communities hit hardest by the access-to-justice crisis.

The access gap in Tennessee is real, documented, and growing. The traditional regulatory model has not closed it. A carefully designed ABS framework can. We encourage this Court to act.

Respectfully submitted,

Alliance for Legal Access

The views expressed in this comment are those of the Alliance for Legal Access and do not represent the position of the Committee on Alternative Business Structures, the Arizona Supreme Court, or any other body. Taylor Bell's service on the Arizona Committee has informed his perspective on these issues, but this comment is submitted in his individual capacity.

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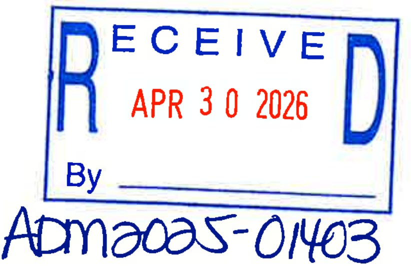
April 30, 2026



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

RE: Public Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403

Dear Justices of the Supreme Court of Tennessee:

We write as the leaders of Stanford Law School's Deborah L. Rhode Center on the Legal Profession (Rhode Center) to provide public comment in response to Tennessee Supreme Court Order No. ADM2025-01403 regarding potential regulatory reforms to increase access to quality legal representation. Specifically, our comment addresses nonlawyer legal service providers and nonlawyer ownership of law firms. We hope that the Rhode Center's research on these subjects will be helpful to you and your colleagues as you consider whether and how to move forward with regulatory innovation efforts.

Thank you for the opportunity to share our perspective.

Nonlawyer Legal Service Providers

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the system's day-to-day reality. The justice gap statistics detailed in Tennessee Supreme Court Order No. ADM2025-01403 are shocking but no longer surprising.[1] Worse, the underserved populations that appear in courts without any

[1] In re. Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403, at 2–3 (Tenn. 2025). *See also* NAT'L CTR. FOR STATE CTS., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 31 (2015) (noting that "the average percentage of cases in which both sides were represented by counsel was only 24 percent"); NAT'L CTR. FOR STATE CTS. ET AL., FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURT 20 (2018) (finding that both the petitioner and respondent in divorce and separation cases were represented in 20% of cases). For the fact these statistics represent a significant uptick from prior decades, see DIST. OF COLUMBIA COURTS CIVIL LEGAL REGULATORY REFORM TASK FORCE, JULY 2025 REPORT 9 (2025) ("The earliest studies of self-representation date from the mid-1970s and found self-representation rates ranging from 2.7% of cases to approximately 20% of cases. As of 2015, according to the National Center for State Courts, more than three-quarters of civil cases in state courts involved at least one self-represented litigant.")

legal help are only a relatively small part of the story. They are eclipsed by the tens of millions of additional Americans we do not see because, although they may be confronting a significant legal problem—and, although they may well have a valid entitlement to relief under the formal law—they are taking no steps to protect their interests.[2]

When individuals are on the receiving end of a lawsuit, the story is similar. Many would-be defendants also take no action, and this failure to act frequently results in default judgments.[3] In some areas of the country, and for some kinds of claims (chiefly, debt collection actions), default judgment rates approach or even exceed 90%.[4] A substantial portion of these default judgments are undeserved, meaning that the underlying claim was invalid.[5] Regardless, once these judgments issue, they frequently kick off their own dismal spiral of wage garnishments and home evictions.[6]

The brutal reality is that many Americans do not have any access to justice at all.[7]

What explains this?[8] The simplest answer relates to cost and the lack of affordable legal

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[hereinafter D.C. TASK FORCE REPORT]; Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. 146, 150 (2024) (tracing the "significant growth in the proportion of [self-represented litigants] in state courts"). For a helpful compilation of additional evidence, see Judith Resnik et al., *Lawyerless Litigants, Filing Fees, Transaction Costs, and the Federal Courts: Learning from SCALES*, 119 NW. L. REV. 110, 110 n.3 (2024). In federal courts, one-fourth of plaintiffs—and about half of those who seek appellate review—"navigate the system without lawyer assistance." *Id.* at 110–11.

[2] *See* LEGAL SERV. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 8 (2022) (reporting that low-income Americans "do not get any or enough legal help for 92% of the problems that have a substantial impact on them"); Nora Freeman Engstrom, *She Stood Up: The Life and Legacy of Deborah L. Rhode*, 74 STAN. L. REV. ONLINE 1, 8 (2021) (explaining that the "pro se litigants we see in court are merely the tip of the iceberg").

[3] *See* DAVID FREEMAN ENGSTROM ET AL., A BLUEPRINT FOR EXPANDING ACCESS TO JUSTICE IN LOS ANGELES SUPERIOR COURT'S EVICTION DOCKET 8 (2025) ("In consumer debt collection cases, multiple jurisdictions report default-judgment rates as high as 90–95%. In eviction, default-judgment rates range widely but several jurisdictions report rates from 20–40%.").

[4] *Id.*

[5] *Id.* at 8–9 (detailing the prevalence of "unjust resolution[s]" including debt collection judgments that "involve[e] debts that were paid off, never incurred, inflated, time-barred, or discharged in bankruptcy").

[6] For the fact default judgments often result in wage garnishments, see FREDERICK F. WHERRY & HANNAH HILL, DEBT COLLECTION LAB, HOW STATE POLICIES AFFECT COURT JUDGMENTS IN DEBT COLLECTION LAWSUITS: A COMPARATIVE STUDY ACROSS FOUR STATES 7 (2024); *see also* HAZEL GENN, PATHS TO JUSTICE 35 (1999) ("Certain types of situations can have a cascade effect. For example, threatened repossession of the family home can lead to marital strain and breakdown, marital health problems, leading to difficulties at work and problems in caring for children.").

[7] Experts estimate that Americans experience more than 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 (2020). At least 120 million of those problems go unresolved. *See* INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. & HAGUE INST. FOR INNOVATION OF L., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021).

[8] For a deeper dive into this "why?" question, see generally Engstrom & Engstrom, *supra* note 1.

services, including free or subsidized help.[9] People don't hire lawyers because people cannot afford lawyers. And, legal services are so expensive, in part, because modern unauthorized practice of law (UPL) rules—which tend to be both vague and capacious[10]—force a person seeking help with a legal problem through one of two doors: hire Cadillac counsel or forgo representation (and action) entirely.[11] UPL laws exist, it is said, to protect consumers from "unqualified and incompetent practitioners."[12] They also exist, as one of us has demonstrated, because, under the shadow of the Great Depression, the organized bar undertook a coordinated and explicitly protectionist campaign against unlicensed individuals, as well as corporate entities providing legal services.[13]

As the Tennessee Supreme Court Order notes, over the past half-century, well-intentioned policymakers have introduced a bevy of reforms to fill the yawning justice gap. Most of them have been lawyer-centric: Policymakers have tried to encourage (or, more controversially, require) deeper commitments to pro bono; advocated for increased funding for legal aid; and championed the creation of more moderate-means programs. But these policy efforts have

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[9] *See id.* at 156 ("When asked why they are representing themselves, pro se litigants don't typically highlight their distrust of lawyers; they more often point to economic necessity."); Gillian K. Hadfield, *Legal Markets*, 60 J. ECON. LIT. 1264, 1291 (2022) ("The principal reason that so few individuals and small businesses avail themselves of legal services is cost and availability."). Some people, of course, refrain from hiring lawyers for noneconomic reasons. *See, e.g.*, Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1266–68 (2016). For the gaps in access to subsidized legal services see LEGAL SERV. CORP., *supra* note 2, at 9 (explaining that LSC-funded organizations do not have the resources necessary to meet individuals' demand for services and, as a result, one in two otherwise-eligible Americans who actually seek help are turned away).

[10] As Justice Douglas lamented as far back as 1967: "The line that marks the area into which the layman may not step except at his peril is not clear." Hackin v. Arizona, 389 U.S. 143, 150 (1967) (Douglas, J., dissenting). More recently, Justice Gorsuch observed that "the definitions states have adopted, usually at the behest of local bar associations, are often breathtakingly broad and opaque." Neil M. Gorsuch, *Access to Affordable Justice*, 100 JUDICATURE 46, 48 (2016). For further discussion, see Bruce A. Green, *Should State Trial Courts Become Laboratories of UPL Reform?*, 92 FORDHAM L. REV. 1285, 1289 (2024); Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 YALE L.J.F. 637 (2022).

[11] Engstrom, *supra* note 2 (remembering Deborah Rhode's work in civil access to justice and broader impact on the legal profession).

[12] Model Code of Prof'l Responsibility EC 3-1 (1980) (declaring that "[t]he prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence"); Matthew Longobardi, *Unauthorized Practice of Law and Meaningful Access to the Courts: Is Law Too Important to Be Left to Lawyers?*, 35 CARDOZO L. REV. 2043, 2048–49 (2014) ("Several different rationales have been put forward in defense of UPL rules, but the main justification is that UPL prohibitions protect consumers from unqualified and incompetent practitioners."); Donald T. Weckstein, *Limitations on the Right to Counsel: The Unauthorized Practice of Law*, 1978 UTAH L. REV. 649, 650 (1978) ("The most frequently stated purpose of prohibiting non-lawyers from practicing law is to protect the public from incompetent and unethical performance").

[13] Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access-to-Justice Crisis*, 134 YALE L.J. 123 (2024) (surfacing the lost history of America's auto clubs and the rotten roots of today's UPL bans). For a multifaceted look at the lawyers' monopoly see RETHINKING THE LAWYERS' MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES (David Freeman Engstrom & Nora Freeman Engstrom eds., 2025).

generally fallen short.

Nontraditional solutions, too, have sputtered. Prepaid legal services and legal insurance, for example, were once seen as a promising solution to cover unmet legal need. At one time, thousands of plans were in operation. But they did not—and will not—make a dent in the access to justice crisis.[14]

This is not to say that we are completely lacking solutions involving other providers. A robust ecosystem of self-help resources for unrepresented litigants has developed in courts and community organizations. Similarly, legal and justice technology companies now dot the DIY landscape. But there remain millions of Americans who need help beyond legal information.[15] They need legal *services*. They aren't getting the services they need. And, into this landscape, a growing number of jurisdictions are turning to new, nonlawyer providers to help.

Yet, many policymakers are still uncertain: is it sensible to invite nonlawyers into the fold? Evidence suggests it is.

To assist policymakers as they explore ways that nonlawyers could help to close the civil justice gap, two of us have spent hundreds of hours compiling the best evidence currently available on the issue of whether nonlawyers can furnish legal services with competence and integrity. Here is what we know, in brief: Consumers want legal help, including from nonlawyers.[16] And qualified nonlawyers can be competent and effective. Indeed, a battery of studies, assessing different settings, at different times, and using different metrics, finds that trained nonlawyers can perform as well as, or sometimes better than, their JD-toting counterparts.[17]

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[14] *See* Nora Freeman Engstrom, *Legal Insurance and Its Limits*, 124 MICH. L. REV. 1 (2025) (exploring the county's first experiment with legal insurance in the 1970s and arguing that, while "it is undeniably seductive to think the access-to-justice crisis can be addressed in a way that benefits lawyers . . . those who actually want to address the access-to-justice crisis need to look somewhere else").

[15] For how UPL laws restrict the provision of legal advice by courthouse personnel, see David Freeman Engstrom & Nora Freeman Engstrom, *Courthouse UPL* (forthcoming 2026). For how UPL laws impede the development of litigant-facing technology, see Engstrom & Engstrom, *supra* note 1, at 163.

[16] *See, e.g.*, NATALIE ANNE KNOWLTON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CASES WITHOUT COUNSEL: OUR RECOMMENDATIONS AFTER LISTENING TO THE LITIGANTS 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. FOR SOC. JUSTICE 66, 97–100 (2024); Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J. CIV. RTS. & CIV. LIBERTIES 283, 289–97 (2020).

[17] *See, e.g.*, MARY E. MCCLYMONT, GEO. JUST. LAB, NONLAWYER NAVIGATORS IN STATE COURTS: AN EMERGING CONSENSUS (2019); REBECCA L. SANDEFUR & THOMAS M. CLARKE, AM. B. FOUND., NAT'L CTR. FOR STATE CTS. & PUB. WELFARE FOUND., ROLES BEYOND LAWYERS: EVALUATION OF THE NEW YORK CITY COURT NAVIGATORS PROGRAM (2016); DAVID KRAFT ET AL., FIVE YEAR REVIEW OF PARALEGAL REGULATION: RESEARCH FINDINGS. FINAL REPORT FOR THE LAW SOCIETY OF UPPER CANADA 6 (2012); HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NONLAWYERS AT WORK (1998); Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315 (2021); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in*

We briefly summarize key research on nonlawyer service providers and have attached to this comment our newly published law review article, "Unauthorized Practice: Assessing Available Evidence," which goes into much more detail on these, and other, research efforts.[18]

I. Evidence on Nonlawyer Legal Service Providers

We place the evidence on nonlawyer providers into three categories: (1) anecdotal accounts, mostly from federal agency assessments of their own nonlawyer practice; (2) rigorous empirical research comparing nonlawyers to lawyers; and (3) recent studies assessing the value of nonlawyer representation in community justice worker (CJW) and licensed legal practitioner (LLP) programs.

A. Anecdotal Agency Assessments

The most prominent area of nonlawyer practice has been, and continues to be, before federal administrative agencies.[19] We have compiled historical appraisals of nonlawyer activity which suggest that, in the following agencies, nonlawyer practice has enhanced, rather than impeded, administrative processes: the Veterans' Administration,[20] the then-Federal Security Agency,[21] the then-Interstate Commerce Commission,[22] the U.S. Patent Office,[23] the Board of Veterans' Appeals,[24] and the Social Security Administration (SSA).[25]

England and Wales, 37 LAW & SOC'Y REV. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, JOTWELL, Oct. 31, 2022.

[18] Nora Freeman Engstrom & Natalie Anne Knowlton, *Unauthorized Practice: Assessing Available Evidence*, 67 B.C. L. REV. 1307 (2026).

[19] Some agencies, for example the U.S. Patent Office, have *always* permitted nonlawyer practice. *See* Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 388 (1963) (noting that "nonlawyers have practiced before the [U.S. Patent] Office from its inception" and that this authority was formalized in 1869). The lay representation of veterans dates back to at least 1862, and nonlawyers' (primarily accountants') representation of taxpayers has a similar historical pedigree. *See, e.g.*, AM. BAR ASS'N COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW-RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 25 (1995); *Practice Before Government Agencies: Hearing Before Subcomm. No. 2 of the H. Comm. on the Judiciary*, 80th Cong. 85 (1948) [hereinafter 1948 Hearing] (statement of Spencer Gordon, Counsel, American Institute of Accountants) ("[A]ccountants from earliest times have been admitted to practice before the Treasury Department, and they practice there now.").

[20] ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, MONOGRAPH OF THE ATTORNEY GENERAL'S COMMITTEE ON ADMINISTRATIVE PROCEDURE, IN 13 PARTS, PART 2: VETERANS' ADMINISTRATION 38 (1940).

[21] 1948 Hearing, *supra* note 19, at 445–46 (statement of Maurice Collins, Acting Administrator, Federal Security Agency).

[22] *Id.* at 191, 195, 452–53 (containing statements of the ICC's then-Chairman and representatives of the Association of ICC Practitioners).

[23] Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 403 (1963).

[24] Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 327 (1985).

[25] Jacob M. Wolf, *Nonlawyer Practice before the Social Security Administration*, 37 ADMIN. L. REV. 413, 415 (Fall 1985).

The Administrative Conference of the United States (ACUS), back in the 1980s and again very recently, has affirmed the value of nonlawyer representation and explicitly encouraged agencies to facilitate broader practice by nonlawyers in different adjudication types.[26] ACUS Recommendation 2024-7, published in late 2024, calls on agencies to (among other things) "permit nonlawyers . . . to assist participants throughout the adjudicative process" and to "encourage and expand opportunities for nonlawyer assistance through programs that authorize, educate, and/or certify individuals to provide participants with information, support, and dedicated assistance."[27]

B. Empirical Research Comparing Nonlawyers to Lawyers

On the other end of the spectrum, a more rigorous tranche of empirical research offers quantitative comparisons between nonlawyer representatives, lawyers, and pro se litigants. Here, we have evidence both from the U.S. and overseas.

1. Evidence from the United States

The first study that pits lawyers against nonlawyers was undertaken in 1933 by Charles Clark, then Dean of Yale Law School, and Emma Corstvet, at the behest of the Association of American Law Schools.[28] Exploring the question of lawyer's service to the general public and how legal needs were being met, researchers interviewed 412 individuals and 61 businesses, about half of which had at least one legal transaction in the past year.[29] Of the individuals experiencing such a transaction, 35% sought some sort of outside advice, mostly from a lawyer (86%) but some from a nonlawyer adviser (14%). Those seeking outside advice were more likely to be satisfied by the outcome, but interestingly, the individuals turning to nonlawyer advisers expressed a *higher* level of satisfaction than did those who consulted lawyers.[30]

Two additional sources come from the 1980s. At that time, Professors Donald Duquette and Sarah Ramsey sought to assess representation of children in child abuse and neglect cases, wherein a range of specially trained nonlawyer providers—including law students and lay

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[26] Nonlawyer Assistance and Representation (Recommendation No. 86-1), 51 Fed. Reg. 25641, 25641-25642 (July 16, 1986) (citations omitted). In December 2024, ACUS expanded on this and related recommendations by issuing best practices "for incorporating and increasing representation and assistance by permitting broader practice by nonlawyers in different types of adjudicative systems." Nonlawyer Assistance and Representation in Agency Adjudications (Recommendation 2024-7), 89 Fed. Reg. 106409, 106409 (Dec. 30, 2024) [hereinafter ACUS Recommendation 2024-7).

[27] ACUS Recommendation 2024-7, *supra* note 26, at 5.

[28] Charles E. Clark & Emma Corstvet, *The Lawyer and the Public: An A.A.L.S. Survey*, 47 YALE L.J. 1272 (1938).

[29] *Id.* at 1273, 1276.

[30] *Id.* at 1277–79, 1281. According to Clark and Corstvet, "[t]he reasons given for dissatisfaction with the lawyer were various: Many charged him with fraud, incompetence, delay; one that he lost the case." *Id.* at 1281.

volunteers—represented children.[31] Their work yielded two striking findings. First, trained nonlawyers significantly outperformed untrained court-appointed lawyers on various process measures (e.g., investigation, contact with child and family, advocacy) and outcomes measures (e.g., more specific court orders for treatment and assessment, quicker case resolutions, and fewer court hearings taken to resolve the case).[32] Second, although trained nonlawyers performed markedly better than untrained lawyers, they performed just as well as trained lawyers.[33]

In a major study published the following year, Zona Fairbanks Hostetler reached a similar conclusion. For this study, prepared at the behest of the Administrative Conference of the United States, Hostetler focused on the SSA and the Immigration and Naturalization Service.[34] Evaluating outcome data, she found that individuals represented by nonlawyers fared nearly as well as those represented by lawyers and, crucially, substantially better than those without representation.[35] Fortifying her quantitative results with interviews of agency officials and representatives from legal aid and social services agencies, Hostetler discovered: "[T]here is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[36] Interviewees further reported that "their experience indicated that nonlawyers could be trained to perform virtually all functions in administrative agency proceedings."[37]

In 1990, the State Bar of California published a series of surveys concerning "legal technicians" (nonlawyer professionals), one of which compiled the views of California consumers who had appeared in court without a lawyer.[38] Over half of the respondents (53%) reported that, although they formally appeared pro se, "someone helped them prepare their court papers."[39] Of these helpers, one-quarter had been lawyers; three-quarters had been nonlawyers.[40] The researchers found: "64% of those who received some assistance from lawyers were happy overall with the service and 67% would use a lawyer again." Interestingly, though, "of those who received assistance from a [nonlawyer] 76%"—which is to say, a higher

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[31] Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341, 351–58 (1987). The trained nonlawyers included both nonlawyer volunteers and law students.

[32] *Id.* at 342–43, 350–56, 365–66, 389.

[33] *Id.* at 362, 390 (summarizing their finding that "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training").

[34] These were two agencies where nonlawyers can represent individuals. Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 85, 87 (1988).

[35] *Id.* at 88.

[36] *Id.* at 103–04.

[37] *Id.* at 105.

[38] REPORT OF THE STATE BAR OF CAL. COMM'N ON LEGAL TECHNICIANS 14 (1990).

[39] *Id.* Exhibit 2 at 2.

[40] *Id.* at 2–3.

percentage—"were happy with the service and would use such a provider again."[41] This would suggest that California's consumers were comparatively *more* satisfied with services furnished by nonlawyer providers.

Also in the 1990s, Herbert Kritzer, a prominent political scientist and law professor, compared the effectiveness of lawyers and nonlawyers (here, qualified lay agents) in the context of four administrative settings in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration.[42] Through observation, outcome analysis, and supplemental interviews, Kritzer found nonlawyers to be effective in three of the four settings that he studied. He broadly concluded that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[43]

In 2000, Elaine Tackett conducted a rigorous survey of Administrative Law Judges (ALJs) concerning representatives in the SSA.[44] She found that a slight majority of ALJs (60%) ranked nonlawyer representation as good or satisfactory, compared to 88% of ALJs who gave attorneys a passing grade.[45] When asked who furnished *better* representation, 34% said that nonlawyers outperformed lawyers, while 65% said the opposite. All told, Tackett concluded that, in the SSA, nonlawyers, "overall . . . provide competent representation," even though most ALJs also believed that lawyers furnished somewhat higher-quality services.[46]

Then, in 2017, Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan studied legal representation in D.C.'s Office of Administrative Hearings (OAH).[47] Focusing on the employer side of the equation,[48] Carpenter et al. found in the aggregate that lawyer-represented employers outperformed nonlawyer-represented employers across various metrics. Lawyers were more likely to ensure client attendance at hearings, disclose and introduce documents, and present witness testimony.[49] When an unrepresented worker squared off against a lawyer-represented employer, the worker won only 47.6% of the time; the rate jumped to 67.5% when the worker squared off against a nonlawyer.[50] Yet, these disparities vanished in the subset of

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[41] *Id.* at 14.

[42] KRITZER, *supra* note 17, at 21–22.

[43] *Id.* at 100.

[44] Elaine Tackett, *Paralegal Representation of Social Security Claimants: A Study of the Perceptions of Social Security Administrative Law Judges on the Quality of Representation of Social Security Claimants by Paralegals*, 16 J. PARALEGAL EDUC. & PRAC. 67 (2000).

[45] *Id.* at 70.

[46] *Id.* at 73.

[47] Anna E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 LAW & SOC. INQUIRY 1023 (2017). OAH is an administrative court that hears de novo appeals from underlying District determinations regarding a worker's qualification for unemployment benefits.

[48] That is where nonlawyers—who tended to be HR-firm employees—frequently supplied representation.

[49] Carpenter, Mark & Shanahan, *supra* note 47, at 1042.

[50] *Id.* at 1040–41.

cases where a nonlawyer representative actually *appeared* at the hearing.[51] In *those* cases, nonlawyers notched comparable win rates to their JD-toting counterparts, although, even there, nonlawyers were somewhat more constrained in the ways they challenged judges on issues of substantive law or procedure.

2. Evidence from Overseas

In the 1980s, at the request of the then-Lord Chancellor's Department, Professors Hazel Genn and Yvette Genn studied nonlawyer performance and how representatives influenced outcomes for claimants in administrative tribunals in England and Wales.[52] Drawing on over 3,700 case files and nearly 500 observed hearings, the researchers' central finding was that representation, of any kind, significantly increased claimants' odds of success.[53] To fortify their quantitative research, Genn and Genn also conducted 735 interviews; these interviews revealed that "[f]ew . . . believe that lawyers were necessarily best equipped to conduct representation in tribunals."[54]

In the late 1990s, Richard Moorhead, Avrom Sherr, and Alan Paterson took the baton and examined the differences between nonlawyers and lawyers (specifically, solicitors) in welfare benefits, debt, housing, and employment cases in England and Wales.[55] The research effort is notable for its rigor, leveraging quantitative data, an external peer-review process, and anonymous "model clients."[56] Across a broad range of measures, Moorhead et al. found that nonlawyers were not only effective but, in many respects, *outperformed lawyers*. In terms of client satisfaction, nonlawyer advisers scored slightly higher overall: 76% of nonlawyer clients rated their service as excellent or very good compared to 70% of solicitor clients, with statistically significant differences favoring nonlawyers across several dimensions such as emotional attentiveness, having enough time for them, and perceived advocacy.[57] Outcome data further supported nonlawyer effectiveness: clients of nonlawyers were more likely to obtain concrete benefits such as lump sum payments, new or increased regular payments, and the prevention of adverse third-party action.[58]

In 2011, a team of experts in England and Wales assessed the quality of 101 wills prepared by a mix of solicitors and non-solicitor providers. The findings were sobering: 25% of wills were

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[51] In many hearings, the nonlawyer, ostensibly representing the employer, never showed up. *Id.* at 1041, 1044.

[52] HAZEL GENN & YVETTE GENN, THE EFFECTIVENESS OF REPRESENTATION AT TRIBUNALS: REPORT TO THE LORD CHANCELLOR (1989).

[53] *Id.* at 7, 243.

[54] *Id.* at 245.

[55] Moorhead et al., *supra* note 17, at 777. The researchers capitalized on a rare opportunity provided by a large-scale pilot program (the Civil Nonfamily Block Contracting Pilot), which introduced a contested market between solicitors and not-for-profit nonlawyer agencies. *Id.* at 775.

[56] *Id.* at 775–82.

[57] *Id.* at 785–86.

[58] *Id.* at 786–87.

assessed as failing to meet basic quality standards. But critically, the experts found *no difference* in the failure rates; whether prepared by a solicitor or non-solicitor, quality remained constant.[59]

II. Emerging Research on the Value of Nonlawyer Service Delivery

Finally, emerging research from nascent nonlawyer provider programs in the United States is providing new insight into the value of nonlawyer legal service delivery. While these studies are necessarily limited given the early days of the programs, they are nevertheless of interest for legal policymakers looking to pursue similar approaches.

In the context of community justice worker (CJW) programs, our research compiled reports from three jurisdictions. The Alaska Legal Services Corporation's CJW program is perhaps the most well-known of its sort. During the 2022–2023 SNAP crisis in Alaska, approximately 60 CJWs were trained to take SNAP cases, expanding the reach of the then-25 staff attorneys at Alaska Legal Services. Their success rate in resolving clients' SNAP delay issues during this pilot period: 100%.[60] As of 2025, across over 1,400 cases, Alaska's CJWs have assisted clients in recovering $23.6 million in food security benefits.[61]

Authorized through the Utah legal regulatory sandbox, CJWs at the Timpanogos Legal Center helped clients seek a total of 225 domestic violence protective orders.[62] Notably, "clients receiving legal services from an advocate [were] roughly twice as likely to receive a protective order," as compared to individuals generally (who reflected a mix of lawyer-represented and self-represented individuals).[63]

In Delaware, early findings from the Qualified Tenant Advocates (QTA) program showed that across the more than 3,300 cases that closed by the end of 2025, these CJWs assisted tenant-clients in securing or preserving approximately $4.8 million in federal housing assistance.[64] Further, in 38% of these closed cases, QTAs helped tenants achieve "at least one 'substantial outcome,'" such as eviction prevention, subsidies preservation, or rent reduction.[65]

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[59] LEGAL SERVS. CONSUMER PANEL, REGULATING WILL WRITING 2–3 (2011).

[60] Joy Anderson et al., *Community Justice Workers: Part of the Solution to Alaska's Legal Deserts*, 41 ALASKA L. REV. 9, 19–20 (2024). 19–20.

[61] MATTHEW BURNETT ET AL., AM. BAR FOUND., RESEARCH BRIEF: ANALYSIS OF THE SOCIAL AND ECONOMIC IMPACT OF THE ALASKA COMMUNITY JUSTICE WORKER PROGRAM (2021-2025), at 2 (2025); Anderson et al., *supra* note 61, at 12–15.

[62] CHRISTIAN ABASTO ET AL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA 8 (2024).

[63] *Id.* at 9.

[64] JAMES TEUFEL ET AL., AM. BAR FOUND., RESEARCH BRIEF: ANALYSIS OF THE SOCIAL AND ECONOMIC IMPACT OF THE DELAWARE QUALIFIED TENANT ADVOCATES PROGRAM (2022–2025), at 3 (2026).

[65] *Id.*

Meanwhile, researchers have published four studies analyzing Licensed Legal Practitioner (LLP) programs in Washington, Minnesota, and Arizona.

Two of these studies zero in on Washington—and both paint a positive portrait.[66] Indeed, in the second Washington assessment, published in 2021, certain stakeholders that worked with LLLTs (attorneys, judges, and commissioners) reported that "LLLT work product is often higher quality and easier for the court to consume than attorney work product."[67]

Published in 2024, an interim evaluation of Minnesota's Legal Paraprofessional (LP) program (then in a pilot phase), tells a similar story. When surveyed, a majority of LP client-respondents expressed favorable views of LP's services,[68] while a majority of judicial-respondents agreed that "paraprofessionals displayed appropriate decorum in the courtroom," "were aware of applicable court rules," and "observed courtroom courtesies."[69] Notably, supervising attorneys reported being "[*v*]*ery satisfied* with the quality of work provided by paraprofessionals under their supervision, and no respondents reported being dissatisfied."[70]

A 2024 assessment of Arizona's Legal Paraprofessionals found much the same.[71] A majority of judges and attorney-respondents agreed LPs were aware of applicable rules and displayed appropriate decorum.[72] And, a narrow majority of surveyed attorneys and judges agreed "that hearings with a LP take less time than hearings with self-represented litigants" although these respondent groups also agreed that LPs "take longer in hearings than an attorney."[73]

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[66] Thomas Clarke and Rebecca Sanderfur published a study in 2017, evaluating the early implementation of the program. Several years later, in 2021, the Rhode Center conducted a *post mortem* evaluation. THOMAS M. CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 9 (2017) (finding that clients "uniformly reported that LLLTs provided competent assistance" and further that "their legal outcomes were improved by utilizing the services of LLLTs."); JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 9 (2021) (finding that clients described "overwhelmingly positive experiences with LLLTs.").

[67] SOLOMON & SMITH, *supra* note 66, at 13.

[68] STANDING COMM. FOR LEGAL PARAPRO. PILOT PROJECT, MINN. SUP. CT., FINAL REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT 8 (2024) (finding that 15 out of 17 clients were satisfied or very satisfied with the services they received, and the same number were likely or very likely to recommend LP services to their friends or family).

[69] *Id.*

[70] *Id.* at 7.

[71] Indeed, all client respondents (100%) registered satisfaction with the services they received. ARIZ. SUP. CT., ASSESSING ARIZONA'S LEGAL PARAPROFESSIONALS: 2024 PROGRAM SURVEY 22 (2024).

[72] *Id.* at 19. They also agreed that LPs could benefit from additional training on evidentiary and procedural rules. *Id.*

[73] *Id.* at 14.

Lawyers are the beating heart of the legal services ecosystem, and lawyers should remain the beating heart of the legal services ecosystem. But nonlawyers, when assisting and representing clients across a range of legal domains, consistently provide competent, and often high-quality, assistance.

Nonlawyer Ownership of Law Firms

Unauthorized practice rules are one pillar of the regulatory framework that supports the expansive lawyer monopoly over legal services. The second pillar is Rule 5.4—the provision that prohibits lawyers from sharing fees or co-owning an entity with nonlawyers if any aspect of the underlying activity constitutes the practice of law.[74] Rule 5.4 prevents lawyers from practicing law through corporate entities—and also keeps lawyers from seeking funding from outside entities that could support the development of new technology solutions or drive other innovations. As a result, law has not benefited from the technological, financial, and service innovations that have transformed nearly every other industry.

Just as states have experimented with new models of legal service delivery, two states—Arizona and Utah—have experimented with changes to Rule 5.4.[75] In 2020, Arizona did away with restrictions on who may own law firms, establishing a licensure program for nonlawyer-owned providers—dubbed alternative business structures (ABSs). Arizona's reforms also did away with fee-sharing between lawyers and nonlawyers across the state. Utah, for its part, initially authorized nonlawyer ownership and relaxed UPL restrictions on who (nonlawyers) and what (software) may practice law by creating a legal regulatory "sandbox" and then granting what amount to waivers of one or both rules to entrants.[76]

In 2022, the Rhode Center published a first-of-its-kind empirical study on the Arizona and Utah programs: *Legal Innovation After Reform: Evidence from Regulatory Change*.[77] The research sought to answer two primary questions:

- What types of innovations in legal service delivery models do these reform approaches generate?

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[74] *See supra* note 13.

[75] While the traditional regulatory approach for legal services focuses on the individual provider of the service (the lawyer or, in some states, the authorized nonlawyer provider), entity regulation extends regulatory authority to the organization providing legal services, in addition to the authorized providers within it.

[76] Effective early 2025, however, the Utah Supreme Court ended the "ABS-only" portion of the sandbox, drastically reducing the number of authorized entities. Only six entities remain as of March 1, 2026. *Innovation Office Metrics*, UTAH OFF. OF LEGAL SERV. INNOVATION, https://utahinnovationoffice.org/innovation-office-metrics/ (last visited Mar. 1, 2026).

[77] DAVID FREEMAN ENGSTROM ET AL., DEBORAH L. RHODE CTR. ON THE LEGAL PRO., LEGAL INNOVATION AFTER REFORM: EVIDENCE FROM REGULATORY CHANGE (2022), https://law.stanford.edu/wp-content/uploads/2022/09/SLS-CLP-Regulatory-Reform-REPORTExecSum-9.26.pdf.

- Who is served by these innovations?

At the two-year mark, the returns were broadly encouraging. A wide variety of legal innovations had entered the marketplace, spanning a range of legal areas and delivery models, and these innovations were predominantly serving individual consumers, thus achieving a clear aim of reformers.

In June 2025, the Rhode Center released an updated report titled *Legal Innovation After Reform: Five Years of Data on Regulatory Change.*[78] Here, we found that liberalized rules were spurring innovations across many different organizational forms, including traditional law firms; corporate-owned "law companies," such as LegalZoom and other "legal tech" providers; "non-law companies" that have added legal services to complement their non-law service offerings; and "intermediaries" that match clients with legal service providers.[79] And also, encouragingly, we found that publicly available information on consumer complaints and disciplinary actions in Arizona and Utah demonstrated little to no evidence of consumer harm.[80]

Closing

We applaud the Supreme Court of Tennessee for its broad inquiry into opportunities to rethink legal services regulation and move the legal services sector toward a more accessible, affordable, and equitable future.

Sincerely,

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[78] DAVID FREEMAN ENGSTROM ET AL., DEBORAH L. RHODE CTR. ON THE LEGAL PRO., LEGAL INNOVATION AFTER REFORM: FIVE YEARS OF DATA ON REGULATORY CHANGE (2025), https://law.stanford.edu/wp-content/uploads/2025/06/SLS_CLP_LegalInnovation_REPORT_v5.pdf.

[79] *Id.* at 20–26.

[80] *Id.* at 32–33.

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Attachment

UNAUTHORIZED PRACTICE: ASSESSING AVAILABLE EVIDENCE

NORA FREEMAN ENGSTROM
NATALIE ANNE KNOWLTON

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UNAUTHORIZED PRACTICE: ASSESSING AVAILABLE EVIDENCE

NORA FREEMAN ENGSTROM*
NATALIE ANNE KNOWLTON**

Abstract: A debate is now raging concerning whether to relax the rules that govern the provision of legal services, to welcome nonlawyers into the fold. In recent years, roughly a dozen states have taken precisely this step, seeking to expand access to those currently priced out of the legal services marketplace. But in other places, reform efforts have stalled, derailed by claims that lawyers—and lawyers alone—have the training, education, and experience to supply high-quality assistance.

The stakes of this debate are sky high: The legal profession is large and influential, courts are crucial, and the access-to-justice crisis at issue—the problem that has set states' reform efforts in motion—is staggering. But the debate, itself, backstops on a question that is surprisingly straightforward: Can nonlawyers furnish legal services with competence and integrity? Or alternatively, to navigate our labyrinthian legal system, must one have comprehensive know-how of the kind only licensed lawyers possess?

Wading into this debate, we compile the best evidence currently available. After canvassing nearly a century of research conducted at different times, in different places, and using a wide array of methodologies, we conclude that specially trained nonlawyers can, indeed, supply high-quality help. The notion that having a law degree is a necessary predicate to offering legal services with "integrity and competence" may be well ingrained. And, for those of us in the legal profession, it is surely convenient and comforting. But it is an idea that, when empirically tested, simply does not hold up.

INTRODUCTION

Texas, recently, was on the cusp of fundamental change. The change at issue? The Lone Star State was on the verge of permitting "paraprofessionals to represent and assist low-income Texans" with certain matters in certain areas

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of the law.[1] The effort began on October 24, 2022, when the Texas Supreme Court, alarmed by a rising tide of self-represented litigants, asked a Working Group to come up with a responsible way to authorize nonlawyer practice.[2] The Working Group seized the baton and got to work. By December 2023, it had put the finishing touches on a detailed and nuanced plan, and by August of the following year, the Supreme Court seemed ready to enact the proposal.[3]

Yet, there was a catch. Even as the reform was moving forward, a blizzard of blistering comments was pouring in, questioning the notion that nonlawyers could provide high-quality assistance. "The complexity of our legal system," one commenter summarized, "demands the comprehensive education and skills that only licensed lawyers possess."[4] "[N]on-lawyers," another sniffed, would provide mere "pseudo-representation"—a vastly inferior lawyer lite.[5] Critics' claims, essentially, were that the relaxation of the lawyer monopoly might be well-intentioned but would ultimately backfire, perversely hurting the very people reformers were seeking to assist.[6] Ultimately, in the face of this sharp resistance, the paraprofessional idea in Texas was, at least temporarily, shelved.[7]

This Article essentially picks up where that story lets off. It interrogates the claims of the above critics—and it does so because this basic story is playing out, not just in the Lone Star State, but across the country.

Back in 2022, the Texas Supreme Court convened its Working Group because Texas—like other states—is confronting a justice gap that is sizable and scandalous. These days, only about a quarter of cases see lawyers on both sides; three-quarters of the time, at least one side is unrepresented, a significant

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[1] REPORT AND RECOMMENDATIONS OF THE TEXAS ACCESS TO LEGAL SERVICES WORKING GROUP 1 (2023).

[2] Letter from Brett Busby, Just., Tex. Sup. Ct., to Harriet Miers, Chair, Tex. Access to Just. Comm'n (Oct. 24, 2022), https://texasatj.org/wp-content/uploads/2025/03/Materials-Jan-30-Working-Group.pdf [perma.cc/DDS8-LE85].

[3] Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants, No. 24-9050, 2024 Tex. LEXIS 633, at 1–4 (Tex. Aug. 6, 2024).

[4] Written Comments Submitted to the Texas Access to Justice Commission Access to Legal Services Working Group, at 11, TEX. ACCESS TO JUST. COMM'N (Apr. 2, 2024), https://texasatj.org/wp-content/uploads/2025/03/ALL-Written-Public-Comments_April-2-Update.pdf [perma.cc/GRY4-UBW3].

[5] *Id.* at 37.

[6] As one commenter ominously put it: To relax the existing regulatory scheme would "play[] into the hands of people who already take advantage of the poor." *Id.* at 61.

[7] Ryan Autullo, *Texas Pauses Rules Permitting Limited Paralegal Legal Services*, BLOOMBERG L. (Jan. 24, 2025), https://news.bloomberglaw.com/litigation/texas-pauses-rules-permitting-limited-paralegal-legal-services [perma.cc/3E3H-Q6SS]; Ryan Autullo, *Texas Lawmakers Warn Court on Paralegal Services 'Grave Mistake,'* BLOOMBERG L. (Feb. 25, 2025), https://news.bloomberglaw.com/litigation/texas-lawmakers-warn-court-on-paralegal-services-grave-mistake [perma.cc/R5PW-RQDC].

uptick from prior decades.[8] This onslaught of pro se representation has costs. As compared to represented individuals, unrepresented individuals require more judicial hand-holding (which takes time) and are also far more likely to lose, which means that, frequently, "deficiencies in procedure—not the merits of a case—drive outcomes."[9] This, in turn, fuels a pernicious perception that law "applies not to all and not equally, as promised, but only to people of means," which, some believe, "threatens the integrity of the rule of law itself."[10]

Worse, those pro se litigants—the folks we see in courts around the country—are only a relatively small part of the story. They are eclipsed by the tens of millions of additional Americans we do not see because, although they may be confronting a significant legal problem—and although they may well have a valid entitlement to relief under the formal law—they are taking no steps to protect their interests.[11] This inaction has both direct and cascading consequences: A person who cannot vindicate her rights to overtime pay, workers' compensation benefits, or child support obviously suffers economically. And, when laws are not enforced, the cost of disobedience drops.[12]

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[8] PAULA HANNAFORD-AGOR, SCOTT GRAVES & SHELLEY SPACEK MILLER, NAT'L CTR. FOR STATE CTS., CIVIL JUSTICE INITIATIVE: THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 31 (2015) [hereinafter CIVIL LANDSCAPE REPORT] (noting that "the average percentage of cases in which both sides were represented by counsel was only 24 percent"); FAM. JUST. INITIATIVE, THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018) (finding that both the petitioner and respondent in divorce and separation cases were represented in 20% of cases). For data supporting the finding that these statistics represent a significant uptick from prior decades, see D.C. CTS., DISTRICT OF COLUMBIA COURTS CIVIL LEGAL REGULATORY REFORM TASK FORCE REPORT 9 (2025) [hereinafter D.C. TASK FORCE REPORT]; Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. ONLINE 146, 150 (2024), https://www.stanfordlawreview.org/online/the-making-of-the-a2j-crisis/ [perma.cc/3VFA-LMRN]. For a helpful compilation of additional evidence, see Judith Resnik et al., *Lawyerless Litigants, Filing Fees, Transaction Costs, and the Federal Courts: Learning from SCALES*, 119 NW. U. L. REV. 109, 111 n.3 (2024). In federal courts, one-fourth of plaintiffs navigate the system without lawyer assistance, as do half of those litigants seeking appellate review. *Id.* at 110–11.

[9] GA. SUP. CT. STUDY COMM. ON LEGAL REGUL. REFORM, REPORT AND RECOMMENDATIONS 17 (2025) [hereinafter GEORGIA REPORT] (quoting AM. ACAD. OF ARTS & SCIS., ACHIEVING CIVIL JUSTICE: A FRAMEWORK FOR COLLABORATION 28 (2024), https://www.amacad.org/sites/default/files/publication/downloads/2024_achieving-civil-justice.pdf [perma.cc/BUZ7-FH7D]). For further discussion of the long odds self-represented litigants face, see *infra* note 340.

[10] *Closing the Justice Gap: How to Make the Civil Justice System Accessible to All Americans: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. 3 (2024) (statement of Hon. Nathan L. Hecht, C.J., Sup. Ct. of Tex.) [hereinafter *Closing the Justice Gap Hearings*]; *see also* GEORGIA REPORT, *supra* note 9, at 17 ("[Self-representation] can lead to a decrease in trust of the justice system, as people feel that they do not even have a chance at a fair outcome, which can harm the system's legitimacy.").

[11] *See* LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 8 (2022) (reporting that low-income Americans "do not get any or enough legal help for 92% of the problems that have had a substantial impact on them").

[12] *E.g.*, James M. Anderson, Maya Buenaventura, Amy Mahler & Nicholas M. Pace, *Empirical Tort Law (and Theory)—An Essay in Honor of Deborah Hensler*, 17 J. TORT L. 97 (2024) (tracing the dismal consequences that follow from would-be tort plaintiffs' failure to vindicate their rights).

When individuals are on the receiving end of a lawsuit, the story is similar. Many would-be defendants also take no action, and this failure to act frequently results in default judgments.[13] In some areas and for some kinds of claims (chiefly debt collection), default judgment rates approach or even exceed ninety percent.[14] A substantial portion of these default judgments are undeserved, meaning that the underlying claim was invalid.[15] Once these judgments issue, they frequently kick off their own grim spiral of wage garnishments and home evictions.[16]

What explains this?[17] The simplest answer is that even relatively inexperienced lawyers cost roughly $300 per hour, far more than many people can afford.[18] People do not hire lawyers because lawyers are too expensive to be hired.[19] Then, although some free or subsidized legal help is theoretically available, only individuals below certain poverty thresholds tend to be eligible, and, of those who *are* eligible, half are turned away.[20] Legal aid organizations

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[13] *See* DAVID FREEMAN ENGSTROM ET AL., A BLUEPRINT FOR EXPANDING ACCESS TO JUSTICE IN LOS ANGELES SUPERIOR COURT'S EVICTION DOCKET 8 (2025) ("In consumer debt collection cases, multiple jurisdictions report default-judgment rates as high as 90-95%. In eviction, default-judgment rates range widely but several jurisdictions report rates from 20-40%.") (citations omitted).

[14] *Id.*

[15] *Id.* at 8–9 (detailing the prevalence of "unjust resolution[s]," including debt collection judgments that "involve[e] debts that were paid off, never incurred, inflated, time-barred, or discharged in bankruptcy"); Theodora Worledge et al., *AI Assistance for Court Review of Default Judgments* 2 (AI for Access to Just., Disp. Resol., and Data Access 2025 Workshop, Working Paper No. 20, 2025) (on file with author) (finding, in an audit of a sample of 100 debt collection cases from one county court, that "15% of the cases contained significant errors that should have prevented default judgment" and "44% of the cases contained errors that should have at least resulted in amended petitions").

[16] For the fact that default judgments often result in wage garnishments, see FREDERICK F. WHERRY & HANNAH HILL, DEBT COLLECTION LAB, HOW STATE POLICIES AFFECT COURT JUDGMENTS IN DEBT COLLECTION LAWSUITS: A COMPARATIVE STUDY ACROSS FOUR STATES 7 (2024); *see also* HAZEL GENN, PATHS TO JUSTICE: WHAT PEOPLE DO AND THINK ABOUT GOING TO LAW 35 (1999) ("Certain types of situations can have a cascade effect. For example, threatened repossession of the family home can lead to marital strain and breakdown, mental health problems, leading to difficulties at work and problems in caring for children.").

[17] For a deeper dive into this "why?" question, see generally Engstrom & Engstrom, *supra* note 8 (exploring the origins of the access to justice crisis).

[18] *See* Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access-to-Justice Crisis*, 134 YALE L.J. 123, 182–83 (2024) (discussing additional challenges). For the $300 per hour figure, see CIV. DIV., U.S. ATT'Y OFF. FOR D.C., ATTORNEY'S FEES MATRIX—2015–2021.

[19] *See* Engstrom & Engstrom, *supra* note 8, at 156 ("When asked why they are representing themselves, pro se litigants don't typically highlight their distrust of lawyers; they more often point to economic necessity."); Gillian K. Hadfield, *Legal Markets*, 60 J. ECON. LIT. 1264, 1291 (2022) ("The principal reason that so few individuals and small businesses avail themselves of legal services is cost and availability."). Some people, of course, refrain from hiring lawyers for noneconomic reasons. *See, e.g.*, Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1266–68 (2016).

[20] LEGAL SERVS. CORP., *supra* note 11, at 9 (explaining that "LSC-funded organizations do not have enough resources to meet" individuals' demand for services and, as a result, one in two otherwise-eligible Americans who actually seek help are turned away).

simply do not have the resources they need to supply assistance to the millions of Americans who need—and actually seek—help.

Legal services are so expensive, in part, because a person who has a problem and wants help for that problem must get that help from a fully licensed lawyer. And *that* is because, except in discrete areas which we will detail below, unauthorized practice of law (UPL) rules restrict anyone who is not a lawyer from providing legal assistance. These laws tend to be both vague and capacious.[21] For instance, in 1996, in *Darby v. Mississippi State Board of Bar Admissions*, the Mississippi Supreme Court explained that "any exercise of intelligent choice in advising another of his legal rights and duties brings the activity within the practice of the legal profession."[22] Or, in Arizona, legal assistance is defined as any "act[], whether performed in court or in the law office, which lawyers customarily have carried on from day to day."[23] Under these definitions, even if a person wants help doing something simple—filling out a court form, for example—that help must come from a full JD. A nonlawyer who lends a hand is subject to criminal prosecution.[24]

These UPL laws extend not just horizontally, but also vertically, meaning that they apply, not just to "regular" nonlawyers, but also to others, including courthouse staff and technology providers. So, these laws not only restrict a person's ability to seek assistance from a neighbor, friend, social worker, or community center; they also restrict courthouse clerks' ability to supply advice or answer litigants' questions, and they simultaneously stunt the invention and development of litigant-facing technology.[25]

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[21] As Justice Douglas lamented as far back as 1967: "The line that marks the area into which the layman may not step except at his peril is not clear." Hackin v. Arizona, 389 U.S. 143, 150 (1967) (Douglas, J., dissenting). More recently, Justice Gorsuch observed that "the definitions states have adopted, usually at the behest of local bar associations, are often breathtakingly broad and opaque." Neil M. Gorsuch, *Access to Affordable Justice: A Challenge to the Bench, Bar, and Academy*, 100 JUDICATURE 46, 48 (2016). For further discussion, see Bruce A. Green, *Should State Trial Courts Become Laboratories of UPL Reform?*, 92 FORDHAM L. REV. 1285, 1289 (2024). *See generally* Lauren Sudeall, *The Overreach of Limits on 'Legal Advice,'* 131 YALE L.J.F. 637, 637 (2022) (discussing the unnecessarily broad definitions of "legal advice").

[22] 185 So. 2d 684, 687 (Miss. 1966) (citing Or. State Bar v. Sec. Escrows, Inc., 377 P.2d 334 (Or. 1962)).

[23] State Bar of Ariz. v. Ariz. Land Title & Tr. Co., 366 P.2d 1, 9 (Ariz. 1961).

[24] *See, e.g.*, N.Y. JUD. LAW §§ 485, 486 (McKinney 2026) (establishing that certain UPL violations are misdemeanors, while others are felonies); *see also* Drew A. Swank, *Non-Attorney Social Security Disability Representatives and the Unauthorized Practice of Law*, 36 S. ILL. U. L.J. 223, 227 (2012) (cataloging additional penalties).

[25] For how UPL laws impede the development of litigant-facing technology, see Engstrom & Engstrom, *supra* note 8, at 163. For how UPL laws restrict the provision of legal advice by courthouse personnel, see generally David Freeman Engstrom & Nora Freeman Engstrom, *Courthouse UPL* (forthcoming 2026) (on file with authors).

This impoverished ecosystem contrasts sharply with the medical field.[26] There, patients can choose between a range of providers, including MDs *or* optometrists, podiatrists, registered nurses, nurse practitioners, physician's assistants, chiropractors, physical therapists, and midwives. Each of these providers is trained; each is licensed; and each is authorized to deliver medical services within the bounds of his or her licensure.[27] Some of these practitioners (e.g., registered nurses) need to be supervised by physicians.[28] Others do not. In the majority of states, for example, nurse practitioners have full practice authority, meaning that they can diagnose patients, order and interpret diagnostic tests, and initiate and manage treatments—no supervision necessary.[29] In law, by contrast, the closest analog is the paralegal, but paralegals need to be directly supervised by an attorney,[30] and, even when supervised, are restricted in what they can do or say.[31]

Now suddenly, however, this impoverished landscape is in flux. In recent years, state regulators—seeking to "level the playing field for those who have no access to justice"—have started to relax UPL laws to welcome qualified nonlawyers into the fold.[32] That, of course, is what the Texas Working Group was proposing, and, in advocating this reform, that Working Group was not alone. Over the past five years, nearly a dozen states, from all corners of the

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[26] As Gillian Hadfield has observed: "[I]f medical care were regulated in the manner of legal services, it would be illegal for anyone other than a licensed physician to deliver any form of medical care, from drawing a blood sample to performing neurosurgery." Hadfield, *supra* note 19, at 1276.

[27] *See* Bruce A. Green, *Why State Courts Should Authorize Nonlawyers to Practice Law*, 91 FORDHAM L. REV. 1249, 1265–72 (2023). *See generally* Philip G. Peters, Jr., *Lessons from Medicine's Experiment with Nurse Practitioners and Physician Assistants* (exploring lessons from medicine's experiment with mid-level health care providers), *in* RETHINKING THE LAWYERS' MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES 226 (David Freeman Engstrom & Nora Freeman Engstrom eds., 2025).

[28] *See, e.g.*, WASH. REV. CODE § 18.79.260(2) (2025) ("A registered nurse may, at or under the general direction of a licensed physician . . . administer medications, treatments, tests, and inoculations . . . whether or not a degree of independent judgment and skill is required.").

[29] *See* Engstrom & Stone, *supra* note 18, at 129 n.12. Importantly, "[t]here exists significant evidence that, even when 'unsupervised,' nurse practitioners furnish high-quality care—and, in some instances, the quality of care they provide actually eclipses that furnished by primary-care physicians." *Id.*

[30] *See* MODEL RULES OF PRO. CONDUCT r. 5.3; Douglas R. Richmond, *Watching Over, Watching Out: Lawyers' Responsibilities for Nonlawyer Assistants*, 61 U. KAN. L. REV. 441, 447 (2012).

[31] According to the New York City Bar Association: "Paralegals are not allowed to handle any tasks that require the exercise of professional legal judgment. Therefore, paralegals are only authorized to perform ministerial tasks." COMM. ON PRO. RESP., PROHIBITIONS ON NONLAWYER PRACTICE: AN OVERVIEW AND PRELIMINARY ASSESSMENT 13–14 (1995) (citation omitted).

[32] Deno G. Himonas & Tyler J. Hubbard, *Democratizing the Rule of Law*, 16 STAN. J.C.R. & C.L. 261, 263 (2020). In addition to UPL reform, states have also considered—or are actively considering—a relaxation of Rule 5.4 in order to permit lawyers to practice through corporate entities and obtain outside investment. *See* DAVID FREEMAN ENGSTROM, NATALIE KNOWLTON & LUCY RICCA, LEGAL INNOVATION AFTER REFORM: FIVE YEARS OF DATA ON REGULATORY CHANGE 12–15 (2025) (exploring reforms undertaken in Arizona and Utah).

country and from both sides of the political divide, have taken steps to expand the range of who can deliver certain legal services,[33] while, in additional states, change appears to be in the offing.[34] Thus, it is fair to say that the legal profession is on the cusp of the greatest change it has seen in roughly a century.

Predictably, however, not everyone applauds these developments. Just as in Texas, critics insist that the relaxation of UPL rules will unleash all manner of trouble. The rules' relaxation, critics warn, will create a "two-tiered market for legal services whereby only the monied" will be able to retain lawyers, while others will be condemned to a vastly inferior alternative.[35] Critics doubt that *any* matter is simple enough to be entrusted to "untrained individuals."[36] And critics fret that, without robust UPL protection, "vulnerable" consumers will inevitably fall prey to "unqualified and unscrupulous"[37] "opportunists"

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[33] Arizona, Colorado, Minnesota, New Hampshire, Oregon, Utah, and Washington now allow licensed nonlawyers to provide legal services in at least certain case types (for example, family, housing, etc.). Alaska, Arizona, Delaware, Hawaii, Minnesota, Montana, South Carolina, Utah, Washington, and Washington D.C. have community justice worker (CJW) programs focused on meeting limited legal needs of low-income individuals. DEBORAH L. RHODE CTR. ON THE LEGAL PRO., RETHINKING REGULATION OF LEGAL SERVICES: AUTHORIZING COMMUNITY JUSTICE WORKERS 2–5 (2024); ENGSTROM ET AL., *supra* note 32, at 9–12; Proposal to Adopt Rules Authorizing Certified Lay Advocates to Provide Limited Legal Services in Certain Courts, No. AF 11-0765 (Mont. Mar. 27, 2026), https://assets.frontlinejustice.org/msc-order-authorizing-cjw-program.pdf [perma.cc/Y976-S4EV; Order No. M293-26 (D.C. Feb. 5, 2026), https://iprsoftwaremedia.com/364/files/20261/ORD%20M293-26%20Promulgating%20CLRRTF%20proposal_02.2026.pdf [perma.cc/4TP7-Q8BQ]. For further discussion, see *infra* Part I.B.2.

[34] For instance, in California, a coalition of organizations has developed a proposal for CJWs to work within state legal aid organizations. *See generally* LEGAL AID ASS'N OF CAL. ET AL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA (2024). In Georgia, a committee convened by the Supreme Court of Georgia recently issued a report calling for "a phased pilot program that would permit non-attorneys to perform certain limited legal tasks in specific types of cases." GEORGIA REPORT, *supra* note 9, at 6. The Conference of Chief Justices/Conference of State Court Administrators and the American Bar Association House of Delegates released resolutions encouraging states to support and study justice worker programs. CONF. OF C.J.S & CONF. OF STATE CT. ADM'RS, RESOLUTION 1-2025 IN SUPPORT OF EXPLORING ACCESS TO JUSTICE THROUGH AUTHORIZED JUSTICE PRACTITIONER PROGRAMS 1 (2025); A.B.A. STANDING COMM. ON LEGAL AID & INDIGENT DEF. ET AL., REPORT TO THE HOUSE OF DELEGATES 605, at 1 (2025).

[35] Lisa H. Nicholson, *Access to Justice Requires Access to Attorneys: Restrictions on the Practice of Law Serve a Societal Purpose*, 82 FORDHAM L. REV. 2761, 2771 (2014); *see also* Danny Abir, *Ulterior Motive Behind Push for New Legal Service Models?*, DAILY J. (Oct. 22, 2021), https://www.dailyjournal.com/articles/364736-ulterior-motive-behind-push-for-new-legal-service-models [perma.cc/55GV-YV7E].

[36] Danny Abir, *Nonlawyers Practicing Law*, ADVOCATE MAG. (Nov. 2023) https://www.advocatemagazine.com/article/2023-november/nonlawyers-practicing-law [perma.cc/4TMK-WSJF]; *see also* James Podgers, *Legal Profession Faces Rising Tide of Non-Lawyer Practice*, 30 ARIZ. ATT'Y 24, 27 (1994) (quoting California state bar president P. Terry Anderlini: "People don't show up with a nice, simple legal problem in a small neat box. They usually show up with a legal problem with one or two cans tied on its tail.").

[37] Reply Brief for Appellant at 28, Upsolve, Inc. v. James, 155 F.4th 133 (2d Cir. Feb. 8, 2023) (No. 22-1345).

who will "swarm" into the marketplace "with little regard for the ultimate harm they may inflict upon an unsuspecting public."[38]

These punches are landing, and, as in Texas, some moves to relax UPL laws are sputtering, as policymakers worry that the expansion of nonlawyers' activities will backfire and imperil the public, just as critics predict.[39]

This all means that a debate is now raging about whether to relax the rules governing the provision of legal services, and, in this debate, the question of whether nonlawyers can offer high-quality help looms large. UPL laws exist, it is said, to protect consumers from "unqualified and incompetent practitioners."[40] These laws rest on the premise that "[o]nly attorneys possess the education, training, experience, accountability and professional discipline necessary to provide effective legal services."[41] If, however, nonlawyers are *not* necessarily "unqualified and incompetent"—if nonlawyers *can* "provide effective legal services"—the justification for UPL laws, in their absolute form, fades.

This Article seeks to adjudicate this consequential debate. To do so, we compile and analyze the best evidence available on nonlawyer providers—amassing, by far, the most such evidence ever assembled. Ultimately, after sifting through dozens of studies and thousands of pages of records and testimony, we conclude that specially trained nonlawyers can, indeed, supply competent legal assistance across many domains.

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[38] Francis A. Brown, *The Unauthorized Practice of Law*, 14 ME. L. REV. 47, 51 (1962). Some critics also worry that nonlawyer providers will not be subject to ethics rules, apparently unaware that a state could subject licensed nonlawyers to existing ethics rules or adapt various provisions to ensure adequate oversight.

[39] Most recently, bold efforts to relax UPL laws in California and Florida fizzled. For California, see Mary Catherine Tiernan, Comment, *All That Is Golden Does Not Glitter: A Proposed Pilot Program for Increasing Access to Justice in California in the Face of Legislative Resistance*, 50 W. ST. L. REV. 89, 99–103 (2023). For Florida, see Letter from Michael G. Tanner, President, Fla. Bar, to Charles T. Canady, C.J., Sup. Ct. of Fla., at 10 (Dec. 29, 2021) [hereinafter Tanner Letter]. Likewise, in 2021, the Illinois Supreme Court put a reform on the back burner, in the face of lawyer resistance. *CBA/CBF Task Force on the Sustainable Practice of Law & Innovation*, CHI. BAR FOUND., https://chicagobarfoundation.org/advocacy/cba-cbf-task-force-on-the-sustainable-practice-of-law-innovation/ [perma.cc/GEN8-767Q]; Letter from Dennis J. Orsey, President, Ill. State Bar Ass'n, to E. Lynn Grayson & Hon. Mary Anne Mason, Co-Chairs, CBA/CBF Task Force on the Sustainable Prac. of L. & Innovation (Aug. 20, 2020).

[40] *See* Matthew Longobardi, *Unauthorized Practice of Law and Meaningful Access to the Courts: Is Law Too Important to Be Left to Lawyers?*, 35 CARDOZO L. REV. 2043, 2048–49 (2014) ("Several different rationales have been put forward in defense of UPL rules, but the main justification is that UPL prohibitions protect consumers from unqualified and incompetent practitioners.") (citations omitted); MODEL CODE OF PRO. RESP. Canon 3 (A.B.A. 1980) (declaring that "[t]he prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence"); Donald T. Weckstein, *Limitations on the Right to Counsel: The Unauthorized Practice of Law*, 1978 UTAH L. REV. 649, 650 ("The most frequently stated purpose of prohibiting non-lawyers from practicing law is to protect the public from incompetent and unethical performance . . . ."); *see also infra* notes 57–59 (compiling additional justifications).

[41] Mike France, *Bar Chiefs Protect the Guild*, NAT'L L.J., Aug. 7, 1995, at A27, A28 (quoting a letter from Thomas Curtin, President of the New Jersey Bar Association).

The remainder of this Article unfolds in three Parts. Part I offers historical context.[42] We detail the organized bar's Depression-era campaign to create a lawyer monopoly,[43] detail the scattered UPL carve-outs that have long existed,[44] and then inventory the new nonlawyer programs sweeping across the states.[45]

Part II catalogs nearly a century of research that assesses the work of nonlawyer providers.[46] Spanning different areas of law, in different types of tribunals, using different metrics, and deploying different methodologies, this research shows that knowledgeable and specially trained nonlawyers can provide effective legal services. Indeed, in some instances, the services nonlawyers supply surpass the services provided by full JDs.

Part III then pivots to offer five lessons from the above analysis, at varying levels of abstraction.[47] First and most obviously: We show that the existing empirical evidence runs counter to the notion that "[o]nly attorneys possess the education, training, experience, accountability and professional discipline necessary to provide effective legal services."[48] A lawyer monopoly on legal services is simply not necessary to serve the public interest.

Second, we draw on the assembled evidence to offer specific takeaways for those who are actually *creating* licensed paraprofessional programs and trying to define practice areas, prerequisites, and regulatory requirements that will govern these individuals' entry.[49]

Third, and abstracting out, we argue that, although trained nonlawyers stack up quite well when pitted against their JD-toting counterparts, that head-to-head matchup gets it wrong—and actually gets it wrong in at least two respects.[50] Most obviously, given the stark statistics above, the choice is not lawyer versus nonlawyer.[51] The *real choice*, for millions of Americans, is having the help of a nonlawyer versus going it alone, and there is not a shred of evidence that a person is better off proceeding pro se, as opposed to proceeding with the help of a trained, specialized professional.[52]

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[42] *See infra* notes 62–153 and accompanying text.

[43] *See infra* notes 64–77 and accompanying text.

[44] *See infra* notes 78–125 and accompanying text.

[45] *See infra* notes 126–153 and accompanying text.

[46] *See infra* notes 154–303 and accompanying text.

[47] *See infra* notes 304–356 and accompanying text.

[48] France, *supra* note 41, at A27, A28 (quoting New Jersey Bar Association president); *see infra* notes 310–328 and accompanying text.

[49] *See infra* notes 329–336 and accompanying text.

[50] *See infra* notes 337–347 and accompanying text.

[51] *See* CIVIL LANDSCAPE REPORT, *supra* note 8, at 31 (reporting that, in roughly 75% of civil cases, at least one side is self-represented).

[52] *See infra* note 340 (compiling evidence). Some challenge this idea, insisting that individuals represented by nonlawyers get the worst of both worlds, as they are not given quality representation and they are simultaneously deprived of the courtesies judges extend to self-represented litigants. We

Meanwhile, the current debate about lawyers versus nonlawyers is also misdirected, as it has become myopically quality-centric. Here we mean: Even *if* lawyers *were* superior to nonlawyers along the quality dimension—even if, with the help of a lawyer, as opposed to a trained nonlawyer, one was more likely to prevail or walk away with a sense of satisfaction and accomplishment—that would not tell us whether UPL laws ought to exist in their current form. Generally, when comparing goods and services, one does not look exclusively at "quality," and certainly in the regulation of various goods and services regulators do not outlaw the purchase of anything but the AAA option. Not all cars must be Cadillacs. Not all watches must be Rolexes. Not all medical consults must be with America's Top Docs. Rational consumers, instead, compare (and are permitted to compare) the quality of a purchase alongside a range of other attributes, including availability, convenience, comfort, and cost. It is bizarre to suggest that, in this realm and this realm only, quality ought to matter to the exclusion of all other variables.[53]

Fourth, we move beyond the evidence to an argument about how evidence ought to be deployed in the regulation of legal services.[54] In particular: Who bears the burden of proving what works? Should the burden of proof always and inevitably be on those who support reform? Or, should the burden sometimes fall on those who want to maintain the lawyer-created monopoly?[55]

Last but not least, we end with a plea regarding evidence—and the need for it.[56] UPL restrictions, their champions and critics agree, rest on "one basic . . . premise."[57] That premise is that "the public is best served when only [law-

are not convinced. This argument relies on two shaky predicates. It assumes (1) that nonlawyers provide shoddy representation (and our findings rebut that idea), and (2) that judges are solicitous of self-represented litigants (and many judges are not). Indeed, a growing body of research suggests that judges tend to view pro se litigants with suspicion. *E.g.*, Kathryn M. Kroeper et al., *Underestimating the Unrepresented: Cognitive Biases Disadvantage Pro Se Litigants in Family Law Cases*, 26 PSYCH. PUB. POL'Y & L. 198, 209 (2020) (finding, in the context of a divorce case, that judges and attorney-mediators "devalue the case merit of pro se parties"); Victor D. Quintanilla, Rachel A. Allen & Edward R. Hirt, *The Signaling Effect of* Pro Se *Status*, 42 LAW & SOC. INQUIRY 1091, 1116 (2017) (finding in the federal civil rights context, that "law-trained individuals steeply discounted the value of the unrepresented litigant's claim at virtually every dispute stage" so that pro se litigants "obtained smaller settlement awards and diminished material outcomes"); *accord* Adam Liptak, *An Exit Interview with a Judicial Firebrand*, N.Y. TIMES, Sep. 11, 2017, at A18 (quoting Judge Richard Posner as stating that "most judges regard these people [self-represented litigants] as kind of trash not worth the time of a federal judge").

[53] The notion is doubly bizarre given the slipperiness of "quality" when it comes to legal services. For discussion, see *infra* notes 164–166 and accompanying text.

[54] *See infra* notes 348–350 and accompanying text.

[55] *Accord* Bruce A. Green, *The Disciplinary Restrictions on Multidisciplinary Practice: Their Derivation, Their Development, and Some Implications for the Core Values Debate*, 84 MINN. L. REV. 1115, 1117–18 (2000) (questioning why reformers bear the burden of proof).

[56] *See infra* notes 351–357 and accompanying text.

[57] Michael L. Rigsby, *Virginia: The Unauthorized Practice of Law Experience*, 19 U. RICH. L. REV. 499, 512 (1985).

yers] properly trained in law and licensed by the state are permitted to provide legal services."[58] Those who defend the lawyer monopoly are so confident in this premise that they declare it to be "irrefutable."[59] But the premise, in fact, is *testable.*[60] Evaluating the premise by rigorously analyzing the best evidence currently available, we find that nonlawyers, like lawyers, can supply—and are currently supplying—high-quality services across a range of areas and situations. It is time, then, as a profession, to move beyond old hunches, impulses, and shibboleths, toward empirically informed decision-making.[61]

I. THE RISE AND FALL (AND RISE) OF NONLAWYER PROVIDERS

This Part explores the historical context in which the lawyer's monopoly on legal services emerged. It first details the organized bar's concerted campaign to narrow who could practice law in Section A.[62] It then, in Section B, describes inroads into the resulting monopoly.[63]

A. Early Efforts to Establish a Lawyer Monopoly on Legal Services

In the early years of the Republic, lawyers were more the exception than the rule.[64] According to one commentator, from the early nineteenth century until after the Civil War, "little effort was made . . . either by the bar or by the courts, to prevent nonlawyers from practicing law."[65] Some state high courts had no occasion to weigh in on UPL—at all—until the 1930s.[66] Likewise, although the American Bar Association (ABA) was founded in 1878, it did not

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[58] *Id.*

[59] *Id.* The word "irrefutable" is the word that we omit from the prior above-the-line sentence and replace with ellipses.

[60] We, of course, are not the first to evaluate the premise. This piece is based on and draws from the hard and time-consuming work of dozens of empirically minded scholars who have come before. We do, however, assemble much *more* evidence than has ever been assembled.

[61] *See generally* Elizabeth Chambliss, *Evidence-Based Lawyer Regulation*, 97 WASH. U. L. REV. 297 (2019) (arguing in favor of evidence-based lawyer regulation); *see also* Leslie C. Levin, *The Monopoly Myth and Other Tales About the Superiority of Lawyers*, 82 FORDHAM L. REV. 2611, 2629 (2014) ("The legal profession's claims about lawyers' superiority rest largely on rhetoric rather than on empirical evidence.").

[62] *See infra* notes 64–77 and accompanying text.

[63] *See infra* notes 78–153 and accompanying text.

[64] It was largely an "informal bar" of untrained practitioners. Barlow F. Christensen, *The Unauthorized Practice of Law: Do Good Fences Really Make Good Neighbors—or Even Good Sense?*, 1980 AM. BAR FOUND. RSCH. J. 159, 162.

[65] *Id.* at 174. For a discussion of states' piecemeal efforts to restrict UPL prior to 1930, see Laurel A. Rigertas, *The Birth of the Movement to Prohibit the Unauthorized Practice of Law*, 37 QUINNIPIAC L. REV. 97, 105–55 (2018). Even lawyers were lightly regulated; as of 1891, only a minority of states required lawyers to possess any formal legal training, and none imposed a law school graduation requirement. Hadfield, *supra* note 19, at 1277.

[66] *See, e.g.*, Rigsby, *supra* note 57, at 500 (reporting that the Virginia Supreme Court "first addressed the issue" in 1933).

establish its Unauthorized Practice Committee until 1932.[67] Perhaps as a consequence, through the early years of the last century, nonlawyers performed a wide range of services. They represented clients before a number of state and federal administrative agencies,[68] offered legal advice, provided transactional services,[69] settled clients' injury claims,[70] and drafted wills,[71] deeds, mortgages, and bills of sale.[72]

But then, under the shadow of the Great Depression, the organized bar undertook a coordinated and explicitly protectionist campaign against unlicensed individuals, as well as corporate entities providing legal services, and, through a series of actions, brought most of the above efforts to a halt.[73]

Now, the historical record is clear that the bar's crackdown on lay representation was tinged by more than a little self-interest.[74] Indeed, the UPL campaign was waged, one bar leader put it, for the "benefit" of new lawyers coming into the profession who needed work, as well as for "the thousands of men and women who will come into the profession in the future."[75] It was fueled, said another, by a resolve that the bar *needed* to act, lest the lawyer be driven "from the banquet table at which for centuries he has held a distinguished place."[76] It was not right, said a third, that "the average lawyer in New York

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[67] Davis Grant, *The Fight Against Unauthorized Practice in Texas*, 6 S. TEX. L.J. 163, 164–65 (1962) ("Strange as it may seem, the organized bar in America did not seriously concern itself with the problem of unauthorized practice until the 1930's . . . .").

[68] F. Trowbridge vom Baur, *Administrative Agencies and Unauthorized Practice of Law*, 48 A.B.A. J. 715, 716–17 (1962).

[69] Rigertas, *supra* note 65, at 142.

[70] Nora Freeman Engstrom, *Sunlight and Settlement Mills*, 86 N.Y.U. L. REV. 805, 843 (2011).

[71] Frederick C. Hicks, *Practice of Law by Laymen and Lay Agencies*, 6 CONN. BAR J. 31, 34 (1932).

[72] *See* Christensen, *supra* note 64, at 183–84.

[73] *See* A.B.A. COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW-RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 17 (1995) [hereinafter A.B.A. NONLAWYER REPORT] ("The Great Depression was a catalyst for increased enforcement of unauthorized practice of law prohibitions."); JAMES WILLARD HURST, THE GROWTH OF AMERICAN LAW: THE LAW MAKERS 328 (1950) ("The bar became concerned with lay competition, largely under the spur of lawyers' economic distress; it then busied itself with attempts to suppress its lay competitors . . . ."); Paul H. Sanders, *Procedures for the Punishment or Suppression of Unauthorized Practice of Law*, 5 LAW & CONTEMP. PROBS. 135, 135 (1938) ("The development of effective legal remedies for use against the unauthorized practitioner, and their adoption on a widespread scale, are, in the main, events of the present decade."); *see also* Engstrom & Stone, *supra* note 18, at 191–98 (tracing these activities). Another effect of the bar's Depression-era UPL campaign was to enshrine the inherent powers doctrine, which cemented courts (not legislatures) as the exclusive source of regulation of the legal services industry. *See* Engstrom & Stone, *supra* note 18, at 171–76; Rigertas, *supra* note 65, at 163–64.

[74] *See* Engstrom & Stone, *supra* note 18, at 191–98.

[75] Jack B. Dworken, *An Open Letter*, 35 OHIO L. REP. 2, 4 (1931).

[76] Sol Weiss, *Legal Entrenchments and Lay Encroachments*, 37 COM. L.J. 19, 19 (1932).

City" was consigned to "net[] less than $3,000 a year," while "every year laymen are taking millions of dollars from the lawyers."[77]

Alas: Although the bar's motivations were questionable, the campaign's success was undeniable. Within a decade, in most areas, nonlawyer legal practice was obliterated.

Yet, in a few places, as we explain below, nonlawyers toiled on.

B. UPL Carve-outs and Contemporary Expansions

1. Longstanding Exceptions

The most prominent area of lay practice is, and has long been, before federal administrative agencies. Some agencies have *always* permitted nonlawyer practice. The U.S. Patent Office, for instance, has authorized nonlawyer representation since its inception.[78] The lay representation of veterans dates back to at least 1862,[79] and nonlawyers' (primarily accountants') representation of taxpayers has a similar historical pedigree.[80]

This nonlawyer representation has long infuriated the organized bar. Throughout the middle years of the last century, the ABA repeatedly tried to get Congress to enact some version of its "Administrative Practitioners' Act" to "eliminate the present evils" that inevitably arose when "so-called practitioners" attempted to represent clients before various administrative agencies.[81]

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[77] Joseph D. Stecher, *Unauthorized Practice and the Public Relations of the Bar*, 23 A.B.A. J. 606, 608 (1937).

[78] *See* Sperry v. Fla. *ex rel.* Fla. Bar, 373 U.S. 379, 388 (1963) (noting that "nonlawyers have practiced before the [U.S. Patent] Office from its inception" and that this authority was formalized in 1869).

[79] A.B.A. NONLAWYER REPORT, *supra* note 73, at 25.

[80] William H. Sager & Leslie S. Shapiro, *Administrative Practice Before Federal Agencies*, 4 U. RICH. L. REV. 76, 77–78 (1969); C. John Muller IV, *Circular 230: New Rules Governing Practice Before the IRS*, 1 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 284, 292–94 (2011) (describing the history of Circular 230, which governs practice before the Treasury Department); *Practice Before Government Agencies: Hearing Before Subcomm. No. 2 of the H. Comm. on the Judiciary*, 80th Cong. 85 (1948) [hereinafter *1948 Hearing*] (statement of Spencer Gordon, Counsel, Am. Inst. of Accts.) ("[A]ccountants from earliest times have been admitted to practice before the Treasury Department, and they practice there now."); F. TROWBRIDGE VOM BAUR, STANDARDS OF ADMISSION FOR PRACTICE BEFORE FEDERAL ADMINISTRATIVE AGENCIES 9 (1953) ("Practice by laymen in a representative capacity before Government agencies, prosecuting claims and in contested litigation, appears to be a development which, on any noteworthy scale, originated principally with the aftermath of the Civil War.").

[81] *Report of the Standing Committee on Unauthorized Practice of the Law*, 74 ANN. REP. A.B.A. 249, 249 (1949) [hereinafter *1949 A.B.A. Report*]. *See generally* George B. Shepherd, *Fierce Compromise: The Administrative Procedure Act Emerges from New Deal Politics*, 90 NW. U. L. REV. 1557 (1996) (discussing the history of the Administrative Procedure Act).

So dogged were the ABA's efforts that, as of 1948, "twenty-two bills prohibiting lay practice" in federal administrative agencies had been introduced.[82]

Yet, these efforts went nowhere. When enacting the Administrative Procedure Act (APA) in 1946, Congress declined to impose minimum representation requirements, instead leaving the matter to agency discretion.[83] And in the ensuing years, even in the face of the ABA's insistent demands that a ban on lay administrative practice was "necessary in the public interest,"[84] Congress steadfastly refused to revisit that determination.[85]

Undaunted, in the 1960s, state bar associations tried to make an end-run around Congress and the APA by targeting individuals licensed to practice in federal administrative agencies, charging them with state-level UPL violations. In one famous case, for instance, the Florida Bar "went after" nonlawyer Alexander Sperry, a recent Florida transplant, who, for four decades, had been successfully practicing before the U.S. Patent Office.[86] The bar's theory: Although Sperry could practice before the U.S. Patent Office, he could not do so from an office in Florida (or, presumably, in any state).[87]

The Florida Supreme Court agreed and enjoined Sperry's activities.[88] But the U.S. Supreme Court saw it differently. Citing the Supremacy Clause, the Court put the brakes on this branch of the bar's UPL campaign, ruling that state UPL law, when up against "incompatible" federal legislation, had to "yield."[89]

The upshot: Although as early as 1940, the ABA proclaimed that "the time has come in America when practice before federal administrative agencies in legal matters should be limited to lawyers"—that idea has never gained traction.[90] As a consequence, numerous federal agencies authorize—and have long authorized—nonlawyer practice. These include, in addition to the U.S. Patent Office and Treasury Department,[91] the Social Security Administration

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[82] Note, *Proposed Restriction of Lay Practice Before Federal Administrative Agencies*, 48 COLUM. L. REV. 120, 124 (1948).

[83] A.B.A. NONLAWYER REPORT, *supra* note 73, at 42.

[84] *1949 A.B.A. Report*, *supra* note 81, at 249.

[85] Note, *Attorney Versus Accountant: A Professional Jurisdictional Dispute in the Field of Income Tax Practice*, 56 YALE L.J. 1438, 1446 n.29 (1947) (chronicling the ABA's numerous unsuccessful legislative efforts to fence lay representatives off from administrative practice).

[86] F. Trowbridge vom Baur, Sperry *Revisited—Unauthorized Practice and the Modern Patent Attorney*, 30 UNAUTHORIZED PRAC. NEWS 305, 310 (1965) ("[T]he Florida Bar went after him."). Sperry was first admitted to appear before the U.S. Patent Office in 1928. State *ex rel.* Fla. Bar v. Sperry, 140 So. 2d 587, 588 (Fla. 1962) *vacated*, 373 U.S. 379 (1963).

[87] vom Baur, *supra* note 86, at 310.

[88] *Sperry*, 140 So. 2d at 591.

[89] *See* Sperry, 373 U.S. at 384. *See generally* Keller v. Wis. *ex rel.* State Bar of Wis., 374 U.S. 102 (1963) (involving an individual permitted to practice before the Interstate Commerce Commission, targeted by the Wisconsin State Bar).

[90] *Report of the Special Committee on Administrative Law*, 65 ANN. REP. A.B.A. 215, 220 (1940).

[91] *1948 Hearing*, *supra* note 80, at 85.

(SSA),[92] the National Labor Relations Board,[93] the Department of Justice (which houses, among other things, the Board of Immigration Appeals),[94] the Department of Homeland Security (which includes U.S. Citizenship and Immigration Services),[95] the Department of Veterans Affairs,[96] the U.S. Department of Labor,[97] and the Department of Agriculture.[98] Of these, some impose special certification, education, training, or insurance requirements; others have more of an open-door policy.[99]

States, too, sport and have long sported a hodgepodge of carve-outs and exceptions.[100] Some states, for example, allow nonlawyer tax professionals to provide legal advice.[101] Others let nonlawyers prepare certain bankruptcy filings.[102] The majority of states let licensed "public adjusters" represent clients in property damage negotiations with their own ("first-party") insurers.[103] More than a dozen states let nonlawyer advocates assist and advise survivors of domestic violence.[104] All states permit nonlawyer insurance adjusters to ne-

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[92] *See* 42 U.S.C. § 406(e)(2); 20 C.F.R. § 404.1705(b) (2026); Swank, *supra* note 24, at 234–35 (estimating that nonlawyers represent individuals in "77,000 to 98,000 cases per year").

[93] *See* John C. Gall, *Practice by Non-Lawyers Before the National Labor Relations Board*, 15 FED. BAR J. 222, 222 (1955); Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 85, 124 (1988).

[94] AMY WIDMAN, NONLAWYER ASSISTANCE AND REPRESENTATION: REPORT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES 18 (2024) (discussing nonlawyer practice before the Board of Immigration Appeals).

[95] Careen Shannon, *To License or Not to License? A Look at Differing Approaches to Policing the Activities of Nonlawyer Immigration Service Providers*, 33 CARDOZO L. REV. 437, 447 (2011) (detailing the various levels of accreditation and nonlawyer practice before the Department of Justice versus the Department of Homeland Security).

[96] ATT'Y GEN.'S COMM. ON ADMIN. PROC., ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, S. DOC. NO. 186, at 38 (3d Sess. 1940) (explaining that the bulk "of the actual representation of claimants before the various Administration boards . . . is performed by nonlawyers") [hereinafter ADMINISTRATIVE PROCEDURE IN GOVERNMENT].

[97] WIDMAN, *supra* note 94, at 20 ("The VA authorizes and encourages nonlawyers to assist veterans. At the initial claims level, the vast majority of claimants are represented by nonlawyer representatives . . . .").

[98] Bruce A. Green & M. Ellen Murphy, *Replacing This Old House: Certifying and Regulating New Legal Services Providers*, 76 WASH. U. J.L. & POL'Y 45, 72 (2025).

[99] *See* WIDMAN, *supra* note 94, at 40 ("Agencies vary immensely in the specificity and depth of the qualifications necessary to represent someone before them."); Green & Murphy, *supra* note 98, at 73–74 (providing examples).

[100] *See* Green, *supra* note 27, at 1269 ("[T]he courts' authorization of nonlawyer professionals has been piecemeal, highly selective, haphazard and, in some places, unofficial."). For additional examples, see Green, *supra* note 21, at 1291–92.

[101] *E.g.*, UTAH CODE JUD. ADMIN. r. 14-802(d)(12)(F) (2023).

[102] 11 U.S.C. § 110 (setting forth the standards for the "bankruptcy petition preparer").

[103] Engstrom, *supra* note 70, at 843.

[104] *Landscape Analysis: What Services Domestic Violence Organizations Currently Provide*, I4J, https://uplpolicytoolkit.org/?page_id=40 [perma.cc/54B2-78GB] (explaining that sixteen states have UPL exceptions permitting domestic violence advocates to offer some legal help); *cf.* Jessica K. Steinberg, Anna E. Carpenter, Colleen F. Shanahan & Alyx Mark, *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315, 1315–17 (2021) (suggesting that, beyond the above,

gotiate personal injury claims (even though, when a nonlawyer negotiates those very same claims on behalf of an injured individual, it is a crime).[105] A majority of states allow nonlawyers to handle real estate closings.[106] Still others permit nonlawyers to represent injured workers in workers' compensation claims.[107] And finally, some permit nonlawyers to negotiate union contracts.[108]

Some of these exclusions are of relatively recent vintage. In 2003, for instance, Arizona gave the go-ahead to "[l]egal document preparer[s]," permitted "to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter."[109] Meanwhile, in 1998, California gave the green light to "legal document assistants," who are permitted to prepare court documents (although not furnish legal advice).[110] Other identified exceptions, such as the allowance for insurance adjusters, have existed for nearly a century.[111]

How did these statewide carve-outs come to be? Some are the result of political action. Arizona offers a case in point. In 1961, in *State Bar v. Arizona Land Title & Trust Co.*, the Arizona Supreme Court interpreted the state's UPL laws to bar real estate agents from preparing purchasing agreements.[112] Real estate brokers—furious about this new restriction—responded by launching a successful ballot initiative to secure a state constitutional amendment to au-

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more states informally permit nonlawyer practice in this domain); *see also* GEORGIA REPORT, *supra* note 9, at 30–31 ("[F]or over 30 years, Georgia law has allowed certain non-attorneys who are designated by the court to assist victims of family violence with applying for domestic violence protective orders.").

[105] *See* Engstrom, *supra* note 70, at 842 (discussing this double standard).

[106] Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 FORDHAM L. REV. 2581, 2590 (1999) (reporting that a majority of states allow real estate brokers to prepare or fill out documents for a real estate transaction where no charge for the service is made); Letter from Anne K. Bingaman, Assistant Att'y Gen., U.S. Dep't of Just. & William J. Baer, Dir., Fed. Trade Comm'n, to Hon. Thomas A. Edmonds, Exec. Dir., Va. State Bar 3 (Sep. 20, 1996) [hereinafter Bingaman & Baer Letter].

[107] *E.g.*, WIS. SUP. CT. r. 23.02(2)(c) (2012) (excepting and excluding from the state's UPL statute persons "[a]ppearing in a representative capacity before an administrative tribunal or agency to the extent permitted by such tribunal or agency"); *see also* Deborah L. Rhode, *Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 STAN. L. REV. 1, 103–04 (1981) (illustrating that, as of 1981, twenty out of fifty Workers' Compensation Boards permitted lay representation).

[108] *E.g.*, *Unauthorized Practice Rules: Exceptions*, VA. STATE BAR, https://vsb.org/Site/01_About/RulesRegulations/Unauthorized-Practice-Rules.aspx [perma.cc/4UGC-B4RQ] (stating that nonlawyers may engage in, among other activities, "[p]articipating in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements").

[109] ARIZ. CODE JUD. ADMIN. § 7-208(A) (2025).

[110] S.B. 1418, 1997–98 Leg., Reg. Sess. (Cal. 1998); CAL. BUS. & PROF. CODE § 6400(c)–(d) (West 2026). Green, *supra* note 27, at 1268; Levin, *supra* note 61, at 2615.

[111] *See generally* Nora Freeman Engstrom & James Stone, *Insurance Company Exceptionalism* (forthcoming 2026) (on file with authors) (discussing the fact that nonlawyer insurance adjusters are allowed to settle claims—and have been for nearly a century).

[112] 366 P.2d 1, 14 (Ariz. 1961).

thorize their activities.[113] Indeed, so lopsided was the resulting popular vote that one commentator dubbed it "the most resounding debacle in the history of the organized bar's assault upon the 'unauthorized practice of law.'"[114]

Other carve-outs are the result of legislative activity. Virginia offers an exemplar. On October 17, 1996, the Virginia State Bar issued a proposed opinion, advising that only lawyers should be allowed to conduct real estate closings.[115] While court approval was pending, the Federal Trade Commission and the DOJ registered concern.[116] Then, the Virginia Legislature got involved and asked the bar to quantify the incidence of error in real estate closings conducted by lawyers and nonlawyers, respectively.[117] Apparently unsatisfied with the bar's response, in 1997, the legislature enacted the Consumer Real Estate Settlement Protection Act, establishing that real estate brokers and others can furnish residential real estate settlement services, no law license required.[118]

Other carve-outs are traceable to negotiation. Insurance companies, for instance, got an exemption for insurance adjusters by reaching an early détente with the organized bar.[119] Likewise, California's Legal Document Preparer Program was born of a "compromise between many segments of the bar that adamantly opposed any legislation legitimizing or recognizing nonlawyer practice and groups that advocated broad recognition of law workers other than lawyers."[120]

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[113] Weckstein, *supra* note 40, at 649; Merton E. Marks, *The Lawyers and the Realtors: Arizona's Experience*, 49 A.B.A. J. 139, 141 (1963).

[114] Robert E. Riggs, *Unauthorized Practice and the Public Interest: Arizona's Recent Constitutional Amendment*, 37 S. CAL. L. REV. 1, 1 (1964); *see also* Marks, *supra* note 113, at 141 (reporting that "the constitutional amendment was passed by an overwhelming majority of the voters").

[115] *See* UPL Opinion 183, 47 VA. LAW. 40, 40 (Va. 1998); Joyce Palomar, *The War Between Attorneys and Lay Conveyancers—Empirical Evidence Says "Cease Fire!,"* 31 CONN. L. REV. 423, 434–36 (1999).

[116] Bingaman & Baer Letter, *supra* note 106, at 1, 3 (warning that the position would "deprive Virginia consumers of the choice to use a lay settlement service," which would, in turn, "likely increase the cost of real estate closings for consumers").

[117] Palomar, *supra* note 115, at 428 n.6, 431 n.14.

[118] *Id.* at 435; *see* Rigertas, *supra* note 65, at 159–63 (chronicling events in Washington state during the 1970s regarding the preparation of legal documents in real estate transactions); *see* VA. CODE ANN. § 55.1-1002 (2026). It appears that the bar was able to identify thirty-one examples of harm that lay settlement services had allegedly caused to consumers. This, the DOJ and FTC pointed out, represented "a minuscule fraction of the tens of thousands of lay settlements in Virginia during the past 15 years and suggests a safety record that other industries might envy." Letter from Joel I. Klein, Acting Assistant Att'y Gen., U.S. Dep't of Just. & William J. Baer, Dir., Fed. Trade Comm'n, to David B. Beach, Clerk of Ct., Sup. Ct. of Va. 5 (Jan. 3, 1997).

[119] *See generally* Engstrom & Stone, *supra* note 111 (tracing the origins of the insurance adjuster exemption). Helping to cement this agreement was a declaratory judgment action filed by six of the country's prominent insurers. *See generally* Liberty Mut. Ins. Co. v. Jones, 130 S.W.2d 945, 961–62 (Mo. 1939) (holding that lay adjusters could settle insurance claims).

[120] Herbert M. Kritzer, *The Future Role of "Law Workers": Rethinking the Forms of Legal Practice and the Scope of Legal Education*, 44 ARIZ. L. REV. 917, 927 (2002).

Some, meanwhile, came about because of state supreme court determinations.[121] In New Jersey, for instance, the state supreme court ruled in 1995, in *In re Opinion No. 26 of the Committee on the Unauthorized Practice of Law*, that nonlawyers could conduct closings, after finding that real estate closing fees were lower in southern New Jersey, where lay closings were commonplace, than in the northern part of the state, where lawyer representation was the norm.[122]

Finally, other carve-outs are traceable to federal intervention,[123] reflect a consideration of the relative informality of the tribunal,[124] or were created in light of the simplicity of the work at hand.[125]

2. The Modern Movement

Now, we are in the midst of a new push to relax the lawyer's monopoly.[126] In recent years, nearly a dozen states have taken steps to expand access to an array of legal services.[127] Particularly relevant here: A number of states have authorized nonlawyers to deliver legal services, roughly akin to nurse practitioners in medicine.[128]

This modern effort dates back to 2015, when Washington launched its Limited License Legal Technicians (LLLTs) program. These LLLTs, who be-

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[121] *See, e.g.*, ARIZ. CODE JUD. ADMIN. § 7-208(C) (2003) (stating that, in creating the legal document preparer program, the Arizona Supreme Court intended to "[p]rotect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner").

[122] 654 A.2d 1344, 1348–51 (N.J. 1995).

[123] Bingaman & Baer Letter, *supra* note 106, at 1. *See generally* United States v. Allen Cnty. Bar Ass'n, No. F 79-0042, 1980 U.S. Dist. LEXIS 14680, at *1 (N.D. Ind. Oct. 7, 1980) (involving the DOJ's successful action against the Allen County Bar for discouraging the use of title insurance companies).

[124] *See, e.g.*, Harkness v. Unemployment Comp. Bd. of Rev., 920 A.2d 162, 168 (Pa. 2007) (holding that "non-attorney employer representatives at unemployment compensation proceedings are not engaging in the practice of law" because, inter alia, unemployment compensation proceedings are "informal" and only "minimal amounts" are at issue). *See generally* Gregory Zlotnick, *Inviting the People into People's Court: Embracing Non-Attorney Representation in Eviction Proceedings*, 25 MARQ. BENEFITS & SOC. WELFARE L. REV. 83 (2023) (discussing Texas's authorization of nonlawyer representation in eviction matters, where lay judges preside and evidentiary and procedural rules are relaxed).

[125] Numerous UPL carve-outs are justified by the availability and mandated use of state-sanctioned, lawyer-created preprinted forms. *See* William M. Dishman, Note, *Unauthorized Practice of Law by Realtors and Title Insurance Companies*, 49 KY. L.J. 384, 385 (1961) (exploring the argument that lawyers may be unnecessary when pre-printed forms are widely available).

[126] As Leslie Levin has aptly put it: "The U.S. legal profession's so-called monopoly on the practice of law is under siege." Levin, *supra* note 61, at 2611.

[127] *See supra* note 33.

[128] For a helpful catalog of existing programs, see GEORGIA REPORT, *supra* note 9, at 116–35. For the nurse practitioner analogy, see, for example, Press Release, Ariz. Sup. Ct., Arizona Supreme Court Makes Generational Advance in Access to Justice 1–2 (Aug. 27, 2020) [hereinafter AZ August 2020 Press Release].

came licensed after earning (at least) an associate-level degree, logging 1,500 hours of work experience, and passing a bar exam-like test, were permitted to assist clients out of court in certain family law matters (but not beyond that).[129]

In the ensuing years, several other states followed, and some of these efforts expanded on the LLLT model. Fueled by a desire to create "a market based solution for the unmet needs of litigants," the Utah Supreme Court authorized a paraprofessional program in 2018.[130] These paraprofessionals, who have to hold a college degree, amass 1,500 hours of experience, and pass an exam, are permitted to advise clients on a range of matters (not just family law) and accompany clients into court (but not supply active representation).[131] Two years later, Arizona and Minnesota followed suit; indeed, in these states (unlike in Utah), nonlawyers can even represent clients in court.[132] In 2022, the Oregon Supreme Court approved the Licensed Paralegal program which launched in 2024.[133] Also in 2022, the New Hampshire legislature passed a paraprofessional pilot project, which moved into its second phase at the beginning of 2025.[134] Colorado's Licensed Legal Paraprofessionals program went live in 2024.[135]

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[129] WASH. ADMISSION & PRAC. r. 28 (2024). For more on Washington's LLLT program, see generally JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM (2021) (discussing the LLLT program); Benjamin H. Barton, *The LLLT Conundrum*, 76 WASH. U. J.L. & POL'Y 5 (2025) (evaluating the viability and efficacy of these programs in addressing the justice gap). The Washington Supreme Court decided to sunset the LLLT program in 2020, citing the overall costs of sustaining the program and the small number of interested individuals. The then-licensed LLLTs were authorized to continue providing services. Letter from Debra L. Stephens, C.J., Wash. Sup. Ct., to Stephen R. Crossland, Chair, Ltd. License Legal Tech. Bd., Terra Nevitt, Interim Exec. Dir., Wash. State Bar Ass'n & Rajeev Majumdar, President, Wash. State Bar Ass'n 2 (June 5, 2020); Lyle Moran, *How the Washington Supreme Court's LLLT Program Met Its Demise*, A.B.A. J. (July 9, 2020), https://www.abajournal.com/web/article/how-washingtons-limited-license-legal-technician-program-met-its-demise [perma.cc/6SF3-N8SE].

[130] *Licensed Paralegal Practitioner*, UTAH STATE CTS., https://www.utcourts.gov/en/about/miscellaneous/legal-community/lpp.html [perma.cc/88QZ-Y6FF]. A Utah State Bar survey conducted at the time found that "people are often interested in self-representation with some support from a legal practitioner." *See, e.g.*, Catherine J. Dupont, *Licensed Paralegal Practitioners*, 31 UTAH BAR J. 16, 18 (2018).

[131] UTAH CODE JUD. ADMIN. r. 15-703(c)-(f) (2025). While in court, paraprofessionals can sit with clients and provide emotional support, take notes, and answer the client's factual questions. *Id.* r. 14-802(c)(1)(L).

[132] AZ August 2020 Press Release, *supra* note 128; Order Implementing Legal Paraprofessional Pilot Project, No. ADM19-8002 (Minn. Sep. 29, 2020). For in-court representation, Minnesota requires attorney supervision, but this does not necessarily mean that the attorney must accompany the paraprofessional. *Legal Paraprofessional Program—Frequently Asked Questions*, MINN. JUD. BRANCH, https://mncourts.gov/help-topics/Legal-Paraprofessional-Program/faq [perma.cc/C97U-PV43].

[133] *See generally* OR. STATE BAR, SUPREME COURT OF THE STATE OF OREGON RULES FOR LICENSING PARALEGALS (2025) (setting forth the rules framework for licensed paralegals in Oregon).

[134] H.B. 1343, 2022 Leg., Reg. Sess. (N.H. 2022) (enacted); Tom Jarvis, *Newly Enacted Paraprofessional Pilot Program Helps Promote Access to Justice*, N.H. BAR ASS'N, https://www.nhbar.

Pioneered in Alaska, a related approach—the Community Justice Worker (CJW)—is also gaining momentum.[136] Compared to the above programs that license paraprofessionals, CJW programs have a lower barrier to entry. Whereas paraprofessionals, who can typically work without attorney supervision, have to satisfy onerous education, training, and examination requirements, CJWs, who are employed by and subject to the supervision of nonprofit community organizations or legal aid offices, merely receive training in very specific aspects of legal process (e.g., how to complete public benefits forms).[137] In this way, CJWs permit perennially overwhelmed legal aid organizations to enhance their capacity and expand their reach.[138]

In 2020, Arizona authorized its first CJW program. Initially focused on domestic violence, that program was subsequently expanded to a range of areas.[139] Utah has, likewise, authorized a smattering of CJWs,[140] and, in 2022,

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org/newly-enacted-paraprofessional-pilot-program-helps-promote-access-to-justice/ [perma.cc/F2Z9-YWRH].

[135] *Licensed Legal Paraprofessionals—Background*, OFF. OF ATT'Y REGUL. COUNS., https://www.coloradolegalregulation.com/future-lawyers/llpgeneraloverview/ [perma.cc/6CA2-MYWK]; Workplace Culture Initiative, *Licensed Legal Paralegals—Changing the Face of the Legal Profession*, COLO. CTS., https://judicialwci.colorado.gov/licensed-paralegals-changing-the-face-of-the-legal-profession [perma.cc/495C-BCEJ].

[136] The CJW program in Alaska was the brainchild of a 2016 Alaska Supreme Court committee convened to address, among other things, the resource deficits afflicting rural communities. *See* Nikole Nelson, *Alaska Legal Services Corporation: Moving Beyond Lawyer-Based Solutions with Community Justice Workers*, LEGAL SERVS. CORP., https://lsc-live.app.box.com/s/4m9rcenmeu46uxvqe4d4gko0s528pu3t [perma.cc/KF3L-GDEM]; Talk Justice, *Taking Community Justice Workers Nationwide*, LEGAL TALK NETWORK (Jan. 9, 2024), https://legaltalknetwork.com/podcasts/talk-justice/2024/01/talk-justice-an-lsc-podcast-taking-community-justice-workers-nationwide/ [perma.cc/KH64-STFN] (interviewing former Alaska LSC Executive Director Nikole Nelson).

[137] Once trained and supervised, some CJWs can do more than traditional paralegals, sometimes even offering in-court assistance. *E.g.*, *Community Justice Worker Program*, ALASKA LEGAL SERVS. CORP., https://www.alsc-law.org/cjw/ [perma.cc/XY6R-CMNC] (indicating plans to prepare CJWs to represent clients in court). For the traditional constraints on paralegals, see *supra* note 30 and accompanying text.

[138] *See, e.g.*, *Closing the Justice Gap Hearings*, *supra* note 10, at 4 (statement of Nikole Nelson, CEO, Frontline Justice).

[139] Initially, Arizona limited this effort to a single organization (namely, Emerge! Center Against Domestic Abuse) and a single jurisdiction (Tucson). In 2023, Arizona expanded the program statewide. Cayley Balser & Stacy Rupprecht Jane, *The Diverse Landscape of Community-Based Justice Workers*, IAALS BLOG (Feb. 22, 2024), https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers [perma.cc/84F7-Y9C5]. In early 2023, it authorized a second CJW program focused on housing issues. *In re* Authorizing a Hous. Stability Legal Advoc. Pilot Program, No. 2023-19 (Ariz. 2023). Then, in 2025, it expanded the program to six additional areas. ARIZ. CODE JUD. ADMIN. § 7-211 (2025); Press Release, Ariz. Sup. Ct., Arizona Supreme Court Approves Expanding Community-Based Justice Worker Programs (Mar. 26, 2025).

[140] Three examples include the Timpanagos Legal Center (that provides services in the area of domestic violence), Holy Cross Ministries (that provides services in the area of consumer medical debt), and Community Justice Advocates (that provides services in the areas of consumer medical debt, housing, and domestic violence). As of mid-2025, the Timpanogos Legal Center Certified Advocate Partners Program and Holy Cross Ministries Medical Debt Legal Advocate Program have

Delaware launched a CJW program specifically to serve tenants in eviction proceedings.[141] In Hawaii, the Rural Paternity Advocate Pilot Project authorizes supervised nonlawyers to assist in paternity, custody, and visitation matters.[142] Meanwhile, South Carolina has recently authorized what amounts to a CJW program to help those facing eviction actions; a nonprofit in New York had proposed the same for debt collection actions, but the program's fate is currently uncertain. Both programs came about, not organically, but as a result of impact litigation.[143] The figure below provides context.

transitioned to Community Justice Advocates of Utah, another sandbox entity. Press Release, Cmty. Just. Advocs. of Utah, Holy Cross Ministries Strengthens Medical Debt Legal Advocacy Through Strategic Collaboration with Community Justice Advocates of Utah (July 21, 2025), https://cdn.prod.website-files.com/65d56a42731a65e4a29863ef/687db336b8feb22dc4f1b787_HCM%20_%20CJAU%20Press%20Release.pdf [perma.cc/5US8-4LCK]; Press Release, Cmty. Just. Advocs. of Utah, Community Justice Advocates of Utah to Manage the Certified Advocate Partners Program (Aug. 14, 2025), https://cdn.prod.website-files.com/65d56a42731a65e4a29863ef/68b1cf14128856d78e8a4201_CAPP%20Press%20Release.pdf [perma.cc/88GV-XHAK]; *Authorized Entities*, UTAH OFF. OF LEGAL SERVS. INNOVATION, https://utahinnovationoffice.org/authorized-entities/ [perma.cc/SHH7-TMQ9]; Balser & Jane, *supra* note 139. Utah authorized these programs through the state's regulatory sandbox—a space where entities can apply for a waiver of UPL rules to allow nonlawyers to deliver legal services. For more on the Utah regulatory sandbox, see *Innovation Office Metrics*, UTAH OFF. OF LEGAL SERVS. INNOVATION, https://utahinnovationoffice.org/innovation-office-metrics/ [perma.cc/9D79-JFYT].

[141] Balser & Jane, *supra* note 139.

[142] Order Establishing a Rural Paternity Advocate Pilot Project in the Third Circuit, *In re* Rural Paternity Advoc. Pilot Project, No. SCMF-23-0000343 (Haw. May 15, 2023); Order Extending the Pilot Project, *In re* Rural Paternity Advoc. Pilot Project, No. SCMF-23-0000343 (Haw. May 28, 2025).

[143] For more on the New York litigation, see generally Upsolve, Inc. v. James, 155 F.4th 133 (2d Cir. 2025), *cert. denied*, No. 25-948, 2026 WL 858427 (U.S. Mar. 30, 2026) (vacating the trial court's preliminary injunction barring enforcement of state UPL statutes against Upsolve's Justice Advocates program). Andrea Keckley, *2nd Circ. Allows NY AG to Curb Nonprofit's Debtor Coaching*, LAW360 (Sep. 9, 2025), https://www.law360.com/articles/2385874/2nd-circ-allows-ny-ag-to-curb-nonprofit-s-debtor-coaching [perma.cc/5GNJ-XMUD] (discussing the Second Circuit's decision in *Upsolve*); Nick Rummell, *2nd Circuit Seems Unlikely to Allow Nonprofit to Keep Offering Legal Advice*, COURTHOUSE NEWS SERV. (May 29, 2024), https://www.courthousenews.com/2nd-circuit-seems-unlikely-to-allow-nonprofit-to-keep-offering-legal-advice/ [perma.cc/4HBS-E4DA] (discussing the Second Circuit's disposition in *Upsolve*). For more on South Carolina, see Sara Merken, *South Carolina Court Says NAACP Program Doesn't Violate Legal Practice Curbs*, REUTERS (Feb. 14, 2024), https://www.reuters.com/legal/legalindustry/south-carolina-court-says-naacp-program-doesnt-violate-legal-practice-curbs-2024-02-13/ [perma.cc/CTA9-C9RC] (discussing the South Carolina Supreme Court's approval, on a provisional basis, of the South Carolina NAACP program).

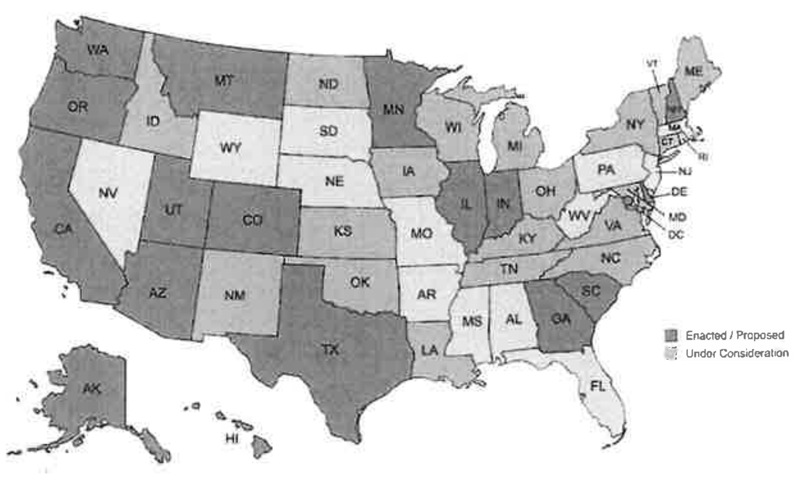

Figure 1: Nonlawyer Assistance Enacted/Proposed or Under Consideration, Apr. 2026

These recent reforms vary on the particulars. They were instituted at different times, via different processes, in different places. Some attempt to reach the middle class; others serve low-income individuals.[144] Some, such as the programs in Delaware and South Carolina, restrict providers to particular subject-matter areas (e.g., eviction).[145] Others, such as the programs in Arizona, Alaska, and Utah, cover the waterfront.[146] Some, such as the pending CJW program in New York, limit providers to simple, discrete tasks.[147] Others, such as the paraprofessional program in Minnesota, permit providers to engage in a

[144] *E.g.*, *Unlocking Legal Regulation: Knowledge Center*, IAALS, https://iaals.du.edu/projects/unlocking-legal-regulation/knowledge-center [perma.cc/WT6D-A9CL] (describing "[a]llied legal professionals" as including "a market-based model that targets middle and low-income individuals" and "community-based justice worker models" as "target[ing] low-income individuals").

[145] DEL. SUP. CT. r. 57.1 (2022) (setting the rules for Qualified Tenant Advocates representing tenants in actions for summary possession in Justice of the Peace Courts); Merken, *supra* note 143 (describing the South Carolina NAACP program for low-income individuals in eviction cases).

[146] For the multidisciplinary scope of Arizona and Utah's allied legal professional programs, see MICHAEL HOULBERG & JANET DROBINSKE, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., THE LANDSCAPE OF ALLIED LEGAL PROFESSIONAL PROGRAMS IN THE UNITED STATES 19–26 (2022). For an overview of the legal areas in which Alaska's community justice workers are authorized to provide services, see 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 (2025).

[147] *Upsolve*, 155 F.4th at 136 ("Upsolve intends to train nonlawyer 'Justice Advocates,' such as Rev. Udo-Okon, to advise *pro se* New Yorkers on how to complete the state's check-the-box form for answering debt-collection claims.").

wide range of activities.[148] Some, like the LLLT program in Washington, draw the line at in-court assistance.[149] Others, like the paraprofessional program in Arizona, permit even this type of representation.[150] Some, like Colorado's paraprofessional program, impose strict education, examination, and regulatory requirements.[151] Others, as in states that have adopted the CJW model, have lower barriers to entry.[152] Yet in all of these states, and across all of these programs, authorized nonlawyers are permitted to engage in activities that would otherwise constitute the practice of law.

In this swirl of activity—and, particularly, at this moment, as various states that have not yet relaxed their UPL rules are considering whether to follow suit—one question looms large: How, exactly, do nonlawyer providers fare? Do these individuals provide high-quality legal services? Or is it true, as many still insist, that having a JD remains necessary to ensure that legal services are furnished with "integrity and competence"?[153]

That is the question to which we now turn.

II. Empirical Research on Nonlawyer Providers

Part I demonstrated that, for well over a century, nonlawyer professionals have engaged in activities that technically constitute the practice of law. What can we learn from this experience?

Mining available evidence, this Part shows that knowledgeable, trained nonlawyers can be effective advocates across a variety of domains. Section A sets the stage by offering caveats about the diverse scenarios in which nonlawyer providers have been studied and the different methodologies that these

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[148] *See* MICHAEL HOULBERG & NATALIE ANNE KNOWLTON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., ALLIED LEGAL PROFESSIONALS: A NATIONAL FRAMEWORK FOR PROGRAM GROWTH 15–17 (2023) (describing the roles and responsibilities across active and proposed state allied legal professional programs).

[149] WASH. ADMISSION & PRAC. r. 28(H)(5) (2024) (including among the prohibited acts the representation of clients "in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process").

[150] HOULBERG & KNOWLTON, *supra* note 148, at 19 ("Arizona and Minnesota permit full in-court representation for specific types of cases, allowing ALPs to represent their clients as attorneys do, including presenting their client's case and questioning/cross-examining witnesses. Arizona ALPs can carry out these actions without supervision by an attorney . . . .").

[151] R. GOVERNING ADMISSION TO THE PRAC. OF LAW IN COLO. 207.8(3)–(7) (2025) (requiring all Colorado LLP applicants to have achieved certain education or work requirements, to have passed an examination, and to have demonstrated 1,500 hours of substantive legal experience, among other things).

[152] *See* HOULBERG & KNOWLTON, *supra* note 148, at 21–26 (detailing differences across state programs with respect to, inter alia, eligibility, education, practical training, testing, licensing, and fee-sharing).

[153] MODEL CODE OF PRO. RESP. Canon 3 (A.B.A. 1980) ("The prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence . . . .").

studies employ.[154] Then, Section B canvasses half a century of empirical evidence from the United States,[155] while Section C looks beyond the United States to assess evidence from the United Kingdom.[156]

A. Research Scope and Methodology

A number of scholars from a range of disciplines have evaluated nonlawyer legal service delivery. Some have evaluated various state court proceedings, where (as explained above) UPL carve-outs allow—and have long allowed—nonlawyers to operate.[157] Some have zeroed in on administrative tribunals (both federal and state), where, again, certain nonlawyer advocates are, and have long been, authorized.[158] And some have studied nonlawyers overseas, particularly in the United Kingdom, where, thanks to a different regulatory structure, nonlawyers can offer a wide range of assistance.[159]

Meanwhile, just as scholars have studied a range of nonlawyer activity, they have deployed a range of methodologies. Some have engaged in docket and case analysis.[160] Others have learned by observation.[161] Others have conducted interviews.[162] Still others have had experts systematically evaluate lawyer- and nonlawyer-generated work product.[163] But, wherever they have worked and however they have gathered evidence, researchers have tended to

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[154] *See infra* notes 157–169 and accompanying text.

[155] *See infra* notes 170–280 and accompanying text.

[156] *See infra* notes 281–303 and accompanying text.

[157] *E.g.*, Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987).

[158] *E.g.*, HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NONLAWYERS AT WORK (1998) (discussing research on nonlawyer advocates in different administrative settings); Hostetler, *supra* note 93 (same).

[159] *E.g.*, Richard Moorhead, Alan Paterson & Avrom Sherr, *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 LAW & SOC'Y REV. 765 (2003) (testing the assumption that lawyers are more competent than nonlawyers). Although it may be tempting to dismiss research from England and Wales as involving sufficiently different legal systems, Deborah Cantrell notes, at least in regard to Richard Moorhead et al.'s work, that "the systemic differences are modest enough that the study's results remain relevant to discussions about nonlawyer practice in the United States." Deborah J. Cantrell, *The Obligation of Legal Aid Lawyers to Champion Practice by Nonlawyers*, 73 FORDHAM L. REV. 883, 890 (2004).

[160] *E.g.*, Anna E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 LAW & SOC. INQUIRY 1023 (2017) (presenting findings from research on lawyers and nonlawyers in unemployment insurance appeal hearings).

[161] *E.g.*, KRITZER, *supra* note 158 (employing a research design that consists of observations and reviews of quantitative indicators of outcome).

[162] *E.g.*, Charles E. Clark & Emma Corstvet, *The Lawyer and the Public: An A.A.L.S. Survey*, 47 YALE L.J. 1272 (1938) (discussing results from a survey of the public's attitude toward lawyers).

[163] *E.g.*, LEGAL SERVS. CONSUMER PANEL, REGULATING WILL-WRITING 2–3 (2011) (investigating the quality of will-writing services between solicitors and nonlawyer will-writing companies).

focus on two core questions: Are nonlawyers effective (outcome-based metrics)? And, if they are effective, why (process-based metrics)?

Before proceeding, two points bear mention. First, what some of these studies try to do (implicitly or explicitly) is to compare the representation furnished by nonlawyers to the representation furnished by lawyers. Yet, to do that well, we would need a good sense of the quality of representation that lawyers provide. Just how good are lawyers along various dimensions? How satisfied are clients with the representation they receive? How often do lawyers drop the ball or breach their professional obligations? We also, perhaps, would have a good sense of what clients actually *want* when they go to lawyers—as that is at least arguably key to knowing how to assess "quality" in the first instance.[164] (For example, a lawyer who maximized the value of a client's claim by engaging in protracted, bare-knuckled litigation has not served the client well if the client actually just wanted a speedy, no-fuss recovery.) Unfortunately, our collective understanding of what clients want[165]—and whether lawyers satisfy (or fail to satisfy) clients' objectives—is unbelievably thin.[166]

Second, what is missing from this compilation of research on nonlawyers—because there are none available—are randomized controlled trials, the

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[164] Individuals, logically, do not want the same thing when they go to lawyers. Personal injury client A, for instance, may want to maximize her monetary recovery, no matter the cost. Personal injury client B might want to obtain a fair sum, for a minimum of time and trouble. Divorce client A might want to inflict as much pain as possible on her former spouse. Divorce client B might want the opposite. In these scenarios, a lawyer who served client A well might not serve client B well at all. This variability, based on client preferences, contrasts sharply with the medical sphere, where we can confidently compare doctor A with doctor B, as most patients, most of the time, want the same thing (to recover from illness or injury fully and expeditiously—and not die). Further, when medical professionals err, deaths sometimes follow, and these deaths are comparatively easy to count and hard to hide. When lawyers err, the error can be more easily swept under the rug and chalked up to the difficulty of the underlying case. For a compilation of existing research about client desires, see Nora Freeman Engstrom & Lisa Qian, *The Injunctive Effect of Tort Law* (forthcoming 2026) (on file with authors).

[165] *See* Deborah R. Hensler, *A Glass Half Full, a Glass Half Empty: The Use of Alternative Dispute Resolution in Mass Personal Injury Litigation*, 73 TEX. L. REV. 1587, 1626 (1995) ("We do not really know what . . . claimants want from the civil justice system, what they expect, or what they think of what they get.").

[166] *See, e.g.*, Carpenter et al., *supra* note 160, at 1024 ("[S]cholars . . . know little about the mechanisms of lawyer representation, or what lawyers do that actually helps parties in civil litigation.") (citations omitted); Nora Freeman Engstrom & Brianne Holland-Stergar, *Competition and Contingency Fees*, 114 GEO. L.J. (forthcoming 2026) ("[T]he market for legal services is marked by a near total absence of objective information bearing on provider quality.") (manuscript at 25) (on file with authors); Herbert M. Kritzer, *Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 101 (1997) (recognizing that "we know almost nothing about the frequency of 'legal error,' a term that parallels the idea of "medical error"); Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J.C.R. & C.L. 283, 298 (2020) ("Vanishingly few systematic empirical studies assess the quality of lawyers' work . . . ."). For a more general discussion, see generally William H. Simon, *Where Is the "Quality Movement" in Law Practice?*, 2012 WIS. L. REV. 387 (discussing how the quality movement has seemed to bypass law).

gold standard in empirical research. There have only been a few such randomized controlled trials exploring the effects of lawyer representation more broadly,[167] and those studies, in the view of some, raise more questions than they answer.[168] Although we wish it were otherwise, we do not yet have a single randomized controlled trial that evaluates how those represented by lawyers versus nonlawyer professionals fare.[169]

B. Evidence from the United States

Below, we compile evidence from the United States in three parts, moving, essentially, from least rigorous to most rigorous. We begin with a set of anecdotal accounts. Next, we turn to more recent empirical research. Finally, we present a third, more rigorous tranche of evidence drawn from quantitative comparisons between nonlawyer representatives, lawyers, and pro se litigants. All three buckets of evidence point in the same direction: Nonlawyers, when assisting and representing clients across a range of legal domains, consistently provide competent—and often high-quality—assistance.

1. Anecdotal Evidence

The first constellation of evidence consists mostly of agency assessments of their own nonlawyer practice. These overwhelmingly positive reports consistently suggest that nonlawyer representation enhances, rather than impedes, administrative processes.

The first appraisal we have surfaced comes from 1940, when the Veterans Administration offered an evaluation of its nonlawyer practitioners. According to the agency, these nonlawyer practitioners, who were generally affiliated with service organizations, tended to be "expert," "learned," "experienced in matters pertaining to veterans affairs," and to offer representation "of the highest calibre."[170]

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[167] *E.g.*, D. James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. 2118, 2125 (2012) (finding that a law student's offer of representation delayed the resolution of an individual's claim without increasing the individual's odds of success, although cautioning that the study "come[s] to no firm conclusion regarding a use-of-representation effect on the win rate" in the unemployment insurance context); D. James Greiner, Cassandra Wolos Pattanayak & Jonathan Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*, 126 HARV. L. REV. 901, 934 (2013) (finding that tenants furnished access to representation fared better than their unrepresented counterparts).

[168] *E.g.*, Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 PEPP. L. REV. 881, 900–02 (2016).

[169] *See* Michael Pusic, *Student Voices: Non-Lawyer Legal Services in Agency Immigration Litigation*, A2J LAB (June 30, 2025), https://a2jlab.org/non-lawyer-legal-services-in-agency-immigration-litigation/ [perma.cc/TZ8W-88AS] (making this point).

[170] ADMINISTRATIVE PROCEDURE IN GOVERNMENT, *supra* note 96, at 38.

The story at the Federal Security Agency was similar. In 1948, the agency's administrator reported that "[r]epresentation by nonattorneys is the rule, rather than the exception," and relayed that this situation had led to "no abuses or problems."[171] According to the administrator, "the liberal and informal policy" that the agency had adopted when authorizing lay practitioners had "paid dividends in good public relations and in encouraging representation which" had "proved helpful both to the claimants and to the agency."[172]

The experience at the Interstate Commerce Commission (ICC) (now subsumed into the Department of Transportation), was much the same. As of 1948, the ICC reported that 3,142 individuals were authorized to practice before the Commission; a little over half of these authorized practitioners (1,678) were nonlawyers.[173] According to the ICC's then-Chairman, these nonlawyers tended to be "well informed."[174] Concurring, representatives of the Association of ICC Practitioners reported that the presence of nonlawyers "discourage[d] undue formalism, and legalistic technicalities" and ensured that "all interested parties" had "a reasonable opportunity . . . to be heard."[175] In sum: "[T]here appears to be lacking any evidence of abuses or injury to the public by reason of practice by nonlawyers."[176]

Next up, in 1957, in *Conway-Bogue Realty Investment Co. v. Denver Bar Ass'n*, the Supreme Court of Colorado considered whether real estate brokers should be enjoined from preparing legal instruments.[177] In declining to enjoin the brokers' conduct, the court was swayed by testimony that showed that the majority of Coloradans had used lay services for "at least 50 years."[178] Yet, the bar had come forward with not even a shred of "evidence of any instance in which the public or any member thereof, layman or lawyer has suffered injury" as a consequence.[179]

Then, in 1963, the U.S. Supreme Court, in *Sperry v. Florida ex rel. Florida Bar*, weighed in on the activities of nonlawyer patent agents.[180] It observed that in response to inquiries, the U.S. Patent Office had reported that "there is no significant difference between lawyers and nonlawyers either with respect to their ability to handle the work or with respect to their ethical conduct."[181]

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[171] *1948 Hearing*, *supra* note 80, at 445–46 (statement of Maurice Collins, Acting Adm'r, Fed. Sec. Agency).

[172] *Id.* at 446.

[173] *Id.* at 191 (statement of Warren H. Wagner & Granville Curry, Ass'n of ICC Pracs.).

[174] *Id.* at 452–53 (statement of Walter M. W. Splawn, Chairman, ICC).

[175] *Id.* at 196 (statement of Warren H. Wagner & Granville Curry, Ass'n of ICC Pracs.).

[176] *Id.* at 195.

[177] 312 P.2d 998 (Colo. 1957).

[178] *Id.* at 1007.

[179] *Id.*

[180] 373 U.S. 379 (1963).

[181] *Id.* at 402.

In 1978, the Supreme Court of New Mexico, in *State Bar v. Guardian Abstract & Title Co.*, offered a similar assessment.[182] The underlying case arose when the New Mexico bar brought UPL charges against two title companies, seeking to enjoin their practices.[183] In evaluating these charges, the court noted that, at the time of trial, evidence demonstrated that nonlawyers had been handling "approximately ninety percent of" the county's "real estate loan closings" and had been "performing the acts complained of for approximately twenty years."[184] In all this time, the court observed, no evidence surfaced to indicate that the reliance on nonlawyers was "accompanied by any great loss, detriment or inconvenience to the public."[185] Yet, on the other side of the coin, there existed "uncontroverted evidence . . . that using lawyers for this simple operation considerably slowed the loan closings and cost the persons involved a great deal more money."[186]

The U.S. Supreme Court, in 1985, in *Walters v. National Ass'n of Radiation Survivors*, considered nonlawyer service representatives appearing before the Board of Veterans' Appeals (BVA).[187] The Court found compelling the "[r]eliable evidence" presented to the District Court that, collectively, nonlawyer representatives from four service organizations had a 16.6% success rate before the BVA, compared to an 18.3% success rate when represented by attorneys, and only a 15.2% success rate when unrepresented.[188]

Also in 1985, Jacob Wolf of the Social Security Administration (SSA) shared that nonlawyers frequently represented individuals before the SSA, also without incident. "[W]e have very few problems with nonlawyer representations before the Social Security Administration," he explained, "and we find the overall quality of their representation to be high."[189] Indeed, according to Wolf, even when claims are complex, lawyers did not "perform significantly better than experienced nonlawyers."[190]

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[182] 575 P.2d 943 (N.M. 1978).

[183] *Id.* at 945.

[184] *Id.*

[185] *Id.* at 949.

[186] *Id.*

[187] 473 U.S. 305, 327 (1985).

[188] *Id.* The service organizations and their individual success rates are as follows: American Legion (16.2%); American Red Cross (16.8%); Disabled American Veterans (16.6%); Veterans of Foreign Wars (16.7%). *Id.*

[189] Jacob M. Wolf, *Nonlawyer Practice Before the Social Security Administration*, 37 ADMIN. L. REV. 413, 415 (1985) (discussing nonlawyers in the SSA as part of the *Colloquium on Nonlawyer Practice Before Federal Administrative Agencies*). Wolf was, at the time, the Assistant to the Director of the Office of Policy and Procedure in the Office of Hearings and Appeals in the Social Security Administration. Donald J. Quigg, *Nonlawyer Practice Before the Patent and Trademark Office*, 37 ADMIN. L. REV. 409, 411 (1985).

[190] *Open Discussion*, 37 ADMIN. L. REV. 423, 426 (1985) (capturing the open discussion portion of the *Colloquium on Nonlawyer Practice Before Federal Administrative Agencies*); *see also* HERBERT M. KRITZER, THE JUSTICE BROKER: LAWYERS AND ORDINARY LITIGATION 170 (1990) (stating

The following year, the Administrative Conference of the United States (ACUS) added its voice to the chorus. After observing that a "substantial number of individuals involved in Federal 'mass justice' agency proceedings need and desire assistance in filling out forms, filing claims, and appearing in agency proceedings, but are unable to afford assistance or representation by lawyers," ACUS expressly encouraged lay representation.[191] Bolstering that recommendation was its finding that "experience and statistics indicate that qualified persons who are not lawyers generally are capable of providing effective assistance to individuals in mass justice agency proceedings."[192]

Finally, in 1995, when the New Jersey Supreme Court considered nonlawyer real estate broker practices in South Jersey, it explained that the "record fails to demonstrate that the public interest has been disserved" by that practice.[193] The court went on to state: "the absence of proof is particularly impressive, for the dispute between the realtors and the bar is of long duration, with the parties and their counsel singularly able and highly motivated to supply such proof as may exist."[194]

2. Studies Assessing the Value of Nonlawyer Representation (But That Lack Clear Comparisons to Lawyer Performance)

This next tranche of research sheds light on the value of nonlawyer representation, although it comes with two caveats: (1) Many of the studies in this part are limited owing to various methodological challenges or deficiencies; and (2) these studies do not offer a head-to-head matchup of lawyers versus nonlawyers.[195] Like the accounts above, they instead bear more broadly on the value of nonlawyer representation.

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that "nonlawyer representatives are used in a variety of administrative tribunals" and observing that, although "cases in some of these agencies can frequently involve technical interpretations of complex legal issues, there is no evidence that nonlawyer advocates fare any differently than licensed attorney advocates").

[191] Nonlawyer Assistance and Representation (Recommendation No. 86-1), 51 Fed. Reg. 25641, 25641–42 (July 16, 1986) (citations omitted). In December 2024, ACUS expanded on this and related recommendations by issuing best practices "for incorporating and increasing representation and assistance by permitting broader practice by nonlawyers in different types of adjudicative systems." Nonlawyer Assistance and Representation in Agency Adjudications (Recommendation 2024-7), 89 Fed. Reg. 106409, 106409 (Dec. 30, 2024).

[192] Recommendation No. 86-1, *supra* note 191, at 25642.

[193] *In re* Opinion No. 26 of the Comm. on the Unauthorized Prac. of L., 654 A.2d 1344, 1346 (N.J. 1995).

[194] *Id.*

[195] Most notably, some of these studies do not report response rates. This failure to report response rates raises concerns, including that the study's results may be affected by nonresponse bias. Typically, the extent to which we can generalize from respondents to the full sample of respondents *and* nonrespondents depends on both (a) the response rate and (b) the degree of difference between respondents and nonrespondents on relevant outcomes. Regarding the former, some survey methodologists caution that response rates below 50% or 60% may impair reliability and generalizability. *See*

The first study in this vein dates back to 1985 and involves an ABA survey of nonlawyer practice before federal administrative agencies.[196] To get a handle on then-existing lay practice, the ABA sent a questionnaire to all agencies, garnering a response rate of ninety-seven percent.[197] The ABA reported that "the overwhelming majority of agencies studied permit nonlawyer representation in both adversarial and nonadversarial proceedings," although, in practice, some "seem to encounter lay practice very infrequently."[198] The report continued:

> Most [agency respondents] reported they had not encountered any problems with misconduct by nonlawyers or any inability of nonlawyers to meet appropriate ethical standards . . . . Of those that voiced complaints about nonlawyers' skills in representation, most indicated that the problem they encounter most frequently is nonlawyers' lack of familiarity with procedural rules and tactics. The majority of responses suggest that nonlawyers do not pose any special practice problems, nor do they receive any special disciplinary consideration.[199]

All other studies in this Section are more recent. Of these, Thomas Clarke and Rebecca Sandefur conducted the first, evaluating the early implementation of Washington's LLLT program, which, as noted above, authorizes certified nonlawyers to assist clients with defined family law matters.[200] Drawing on structured interviews with LLLTs' clients (among others), Sandefur and Clarke found that "[c]lients uniformly reported that LLLTs provided competent assistance" and that this assistance improved their legal outcomes.[201]

In a 2021 study, Jason Solomon and Noelle Smith reached roughly the same conclusion after interviewing more than twenty key stakeholders (including lawyers, judges, educators, clients, and LLLTs themselves) and reviewing

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JoLaine Reierson Draugalis, Stephen Joel Coons & Cecilia M. Plaza, *Best Practices for Survey Research Reports: A Synopsis for Authors and Reviewers*, 72(1) AM. J. PHARM. EDUC. 1, 4 (2008). Others avoid naming strict numeric thresholds, noting that low response rates can still yield credible findings when respondent and nonrespondent differences are small, and that high response rates can still produce bias when such differences are large. *See* ROBERT M. GROVES & MICK P. COUPER, NONRESPONSE IN HOUSEHOLD INTERVIEW SURVEYS 6–7 (1998); DON A. DILLMAN, JOLENE D. SMYTH & LEAH MELANI CHRISTIAN, INTERNET, PHONE, MAIL, AND MIXED-MODE SURVEYS: THE TAILORED DESIGN METHOD 6 (4th ed. 2014).

[196] AM. BAR ASS'N, RESULTS OF THE 1984 SURVEY OF NONLAWYER PRACTICE BEFORE FEDERAL ADMINISTRATIVE AGENCIES 1 (1985).

[197] *Id.*

[198] *Id.*

[199] *Id.*

[200] THOMAS M. CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 5–6 (2017).

[201] *Id.* at 6, 9.

additional client testimonials that the LLLT board had gathered.[202] Clients, Solomon and Smith found, described "overwhelmingly positive experiences with LLLTs."[203] Attorneys who worked with LLLTs in a variety of contexts likewise reported high satisfaction with the practitioners' work.[204] The same was true for many judges and commissioners, some of whom reported efficiency gains in cases involving LLLTs and "that LLLT work product is often higher quality and easier for the court to consume than attorney work product."[205]

Similar evidence of nonlawyer effectiveness has emerged from Minnesota, which recently made its licensed paraprofessional program permanent.[206] The Minnesota Supreme Court committee tasked with overseeing the program surveyed paraprofessionals' clients as part of the interim pilot evaluation, and "15 of 17 respondents were satisfied or very satisfied with the services they received."[207] The same number "were likely or very likely to recommend the services of a legal paraprofessional to their family or friend."[208] Further, supervising attorneys who responded to the survey (twelve out of thirteen) reported being "[*v*]*ery satisfied* with the quality of work provided by paraprofessionals under their supervision, and no respondents reported being dissatisfied."[209] Of the fourteen judge-respondents, nine "agreed that paraprofessionals displayed appropriate decorum in the courtroom," eight "reported paraprofessionals were aware of applicable court rules," and eleven "agreed paraprofessionals observed courtroom courtesies."[210] Notably, however, the samples were small, and response rates were not especially high (34% for invited judicial officers, 48% for invited supervising attorneys, and an undisclosed response rate for clients), so these findings should be taken with a grain of salt.[211]

Data from Utah tells a similar story. In particular, between June 2021 and June 2024, CJWs at Utah's Timpanogos Legal Center helped clients seek a total of 225 domestic violence protective orders; the court issued an ex parte order in 205 cases and denied the order in only 20.[212] Of the 205 cases with ex

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[202] SOLOMON & SMITH, *supra* note 129, at 5–6.

[203] *Id.* at 9.

[204] *Id.* at 12.

[205] *Id.* at 13. Unfortunately, Solomon and Smith do not report the response rates of interviewed stakeholders, limiting our ability to assess the generalizability of their findings. For how nonresponses can generate nonresponse bias that can skew results, see *supra* note 195.

[206] Order Amending Rules Governing Legal Paraprofessional Pilot Project, No. ADM19-8002, at 2 (Minn. Sep. 16, 2024).

[207] STANDING COMM. FOR LEGAL PARAPROFESSIONAL PILOT PROJECT, FINAL REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT 8 (2024).

[208] *Id.*

[209] *Id.* at 7.

[210] *Id.* at 8.

[211] *Id.* at 5–6. For a discussion of response rates, and how low response rates affect the reliability and generalizability of results, see *supra* note 195.

[212] LEGAL AID ASS'N OF CAL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA 8 (2024).

parte orders issued, the court denied final orders in only 17.[213] Notably, this success rate stacked up favorably as against the statewide average: "[C]lients receiving legal services from an advocate [were] roughly twice as likely to receive a protective order," as compared to individuals generally (who reflected a mix of lawyer-represented and self-represented individuals).[214]

Alaska's CJW program, too, is demonstrating initial successes, based on data collected between 2018 and 2024, which focused on CJWs' impact on Supplemental Nutrition Assistance Program (SNAP) benefit denials. Due to a confluence of events, between 2022 and 2023, the Alaska Legal Services Corporation (ALSC), which pioneered the CJW concept, saw a 2,000% increase in SNAP benefits delay and denial cases.[215] These cases came to comprise one-third of ALSC's entire caseload.[216] During this SNAP crisis, approximately sixty CJWs were trained to take SNAP cases, expanding the reach of the then-twenty-five staff attorneys at ALSC.[217] Their success rate in resolving clients' SNAP delay issues during this pilot period: one hundred percent.[218] As of 2025, across over 1,400 cases, Alaska's CJWs have assisted ALSC clients in recovering $23.6 million in food security benefits.[219]

In late 2024, the Arizona Administrative Office of the Courts gathered qualitative and quantitative data on its Legal Paraprofessional (LP) program, administering four separate surveys: to attorneys; to judicial officers; to clients who had been served by LPs; and to LPs themselves.[220] Responses were encouraging. Most judges who responded to the survey agreed or strongly agreed that LPs were "aware of applicable court rules" (88%) and that LPs "displayed appropriate courtroom decorum" (90%).[221] Many attorneys likewise agreed or strongly agreed to these points as well: 55% and 59%; respectively.[222] Similar percentages of judges (58%) and attorneys (59%) agreed "that hearings with a LP take less time than hearings with self-represented litigants," although judges and attorneys (65% and 67%; respectively) also agreed that LPs "take long-

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[213] *Id.*

[214] *Id.* at 9; *see also* LUCY RICCA & ERIC HELLAND, RAND INST. FOR CIV. JUST., CONFERENCE ON ACCESS TO JUSTICE IN CALIFORNIA: CHALLENGES AND POLICY INNOVATIONS 19 (2024) (noting that discussion during the conference proceedings indicated that the Timpanogos Legal Center CJW program "has been very well received and that advocates, agencies, and clients love it" and that "[t]he program's success has been buoyed by victims' trust of advocates who already work within their community").

[215] Joy Anderson, Sarah Carver & Robert Onders, *Community Justice Workers: Part of the Solution to Alaska's Legal Deserts*, 41 ALASKA L. REV. 9, 12–15 (2024).

[216] *Id.* at 14.

[217] *Id.* at 14, 19.

[218] *Id.* at 19–20.

[219] MATTHEW BURNETT ET AL., *supra* note 146, at 2.

[220] ARIZ. SUP. CT., ASSESSING ARIZONA'S LEGAL PARAPROFESSIONALS: 2024 PROGRAM SURVEY 4 (2024). For discussion of Arizona's program, see *supra* note 132 and accompanying text.

[221] ARIZ. SUP. CT., *supra* note 220, at 19.

[222] *Id.*

er in hearings than an attorney,"[223] and that LPs could benefit from additional training on rules of procedure and evidence.[224] Client opinions on LPs were very high: 100% of the thirty-four client-respondents were satisfied or highly satisfied with the services they received and with "how their LP responded to their case and their needs."[225] With respect to LP communication skills, 97% of clients were satisfied or highly satisfied.[226] Much like with the Minnesota study discussed above, however, response rates were not especially high (38% for judicial officers, and an undisclosed response rate for attorneys' clients),[227] so these findings similarly should be viewed with caution.

Finally, in 2026, early findings from Delaware's Qualified Tenant Advocates (QTA) program showed that these advocates, working within the Civil Legal Aid Society (CLAS), were involved in 78% (3,755 cases) of the organization's total housing cases (4,829 cases)—providing a range of services, from limited advice to full representation in court.[228] Across the more than 3,300 cases that had closed by the end of 2025, QTAs had "assisted tenant-clients in securing or preserving approximately $4.8 million in housing-related financial assistance, primarily by maintaining access to housing subsidies or vouchers."[229] Further, in 38% of these closed cases, QTAs helped tenants achieve "at least one 'substantial outcome,'" such as eviction prevention, subsidies preservation, or rent reduction.[230]

3. Studies Comparing Nonlawyers to Lawyers

The third tranche of evidence more expressly compares the value of lawyers to their nonlawyer counterparts. The studies we catalog here, in our view, bear most directly on the matter at hand. That said, each of these studies is observational, and in each, there is a real possibility of selection effects. Clients may intentionally choose nonlawyer providers for cases that appear simpler or easier to win, which could help explain why outcomes for lawyer- and nonlawyer-representation look similar.[231] In addition, when clients hire lawyers, as op-

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[223] *Id.* at 14.

[224] *Id.* at 14, 19.

[225] *Id.* at 22.

[226] *Id.*

[227] *Id.* at 5, 7.

[228] JAMES TEUFEL, MATTHEW BURNETT & REBECCA L. SANDEFUR, AM. BAR FOUND., RESEARCH BRIEF: ANALYSIS OF THE SOCIAL AND ECONOMIC IMPACT OF DELAWARE QUALIFIED TENANT ADVOCATES (2022–2025), at 3 (2026).

[229] *Id.*

[230] *Id.*

[231] Crucially, we do not know what would happen if representation were randomly assigned—hence the need for the gold standard randomized controlled trial, as discussed above. *See supra* notes 167–169 and accompanying text. Even so, logically, many of the same selection problems would also afflict (most) studies comparing represented and unrepresented parties; yet those studies find a benefit

posed to nonlawyers, they may have higher expectations for professional practice, which might help to explain findings concerning client satisfaction.

With those caveats, the first study pitting lawyers against nonlawyers was published in the *Yale Law Journal* in 1938. The underlying survey was started five years before, when, at the behest of the Association of American Law Schools, Charles Clark, then Dean of Yale Law School, partnered with Emma Corstvet to "look into the question of the lawyer's service to the general public"[232] and to assess "how the needs of the community for legal service were being met."[233] For leverage on the question, a team of supervised researchers interviewed 412 residents along with 61 businesses (473 individuals total) from New Haven and Hartford, Connecticut; about half of these respondents had "had legal transactions of one sort or another during the past year, . . . [and] some had more than one."[234] Of the residents, 35% sought some sort of outside advice: 86% from a lawyer, and 14% from a nonlawyer adviser, such as an insurance company, realtor, auto club, or bank. Generally, those who sought some sort of outside advice were more satisfied than those who did not (satisfaction rates ranged from 48% to those who consulted someone, versus 28% for those who did not).[235]

From there, however, the data took what Clark and Corstvet characterized as an "intriguing but strange" turn:

> If we deal with practicing lawyers alone, we find that . . . the extent of dissatisfaction was somewhat higher than for all advisers. To put it in another way, where advice was sought of other than lawyers, it was almost invariably reported as satisfactory, whereas the dissatisfied interviewees had consulted lawyers in all cases but one. The reasons given for dissatisfaction with the lawyer were various: Many charged him with fraud, incompetence, delay; one that he lost the case.[236]

Ultimately, they reported: "When people seek outside advice they are much more apt to be satisfied than dissatisfied by the outcome, but when they seek it of a practicing lawyer, satisfaction, while still much greater than dissatisfaction, is not quite as high as for other advisers."[237]

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from representation. *See infra* note 340 and accompanying text. *But cf.* Greiner & Pattanayak, *supra* note 167 (concerning an offer of representation in a study deploying random assignment).

[232] Clark & Corstvet, *supra* note 162, at 1272 n.2 (quoting ASS'N AM. L. SCHOOLS, HANDBOOK 125 (1933)).

[233] *Id.* at 1272.

[234] *Id.* at 1273, 1276. Because some had more than one legal "transaction" there were 557 transactions in all. *Id.* at 1276–77. According to the researchers, "[r]efusals to answer were negligible—too few to cast doubt upon the results." *Id.* at 1274.

[235] *Id.* at 1277–80.

[236] *Id.* at 1281.

[237] *Id.*

The next major study was published in 1987. In it, Donald Duquette and Sarah Ramsey assessed the representation of children in abuse and neglect cases.[238] In particular, Duquette and Ramsey zeroed in on a National Center for Child Abuse and Neglect demonstration project in Genesee County, Michigan, wherein a range of specially trained nonlawyer providers—including law students and lay volunteers—represented children in civil protection proceedings.[239]

Their work yielded two striking findings. First, trained nonlawyers significantly outperformed untrained court-appointed lawyers on various process measures (e.g., investigation, contact with child and family, advocacy) and outcomes measures (e.g., more specific court orders for treatment and assessment, quicker case resolutions, and fewer court hearings taken to resolve the case).[240] Second, although trained nonlawyers performed markedly better than untrained lawyers, they performed just as well as trained lawyers.[241] In short, although the study offers compelling evidence that specialized training enhances the quality of representation, it casts doubt on whether a law license alone has the same effect.

In a major study published the following year, Zona Fairbanks Hostetler reached a similar conclusion. For this study, prepared at the behest of the Administrative Conference of the United States, Hostetler focused on the SSA and the Immigration and Naturalization Service (INS) (two agencies where nonlawyers can represent individuals).[242]

First, Hostetler evaluated outcome data. Crunching the numbers, Hostetler found that individuals represented by nonlawyers fared nearly as well as those represented by lawyers and, crucially, substantially better than those without representation.[243] For example, SSA statistics from 1983 showed that "[c]laimants represented by nonlawyers were more likely to win their cases than they were if unrepresented. Moreover, representation by nonlawyers resulted in reversal rates after hearings that were almost as high as those achieved by lawyers."[244] The reversal rate was 43.7% when the claimant was

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[238] Duquette & Ramsey, *supra* note 157, at 341–42.

[239] *Id.* at 350–58.

[240] *Id.* at 342–43, 350–56, 365–66, 389. The trained nonlawyers included both nonlawyer volunteers and law students.

[241] *Id.* at 362, 390 (summarizing their finding that "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training").

[242] Hostetler, *supra* note 93, at 86.

[243] *Id.* at 88. This conclusion was supported by both quantitative data on hearing outcomes and qualitative interviews with agency officials and representatives from relevant legal aid and social services agencies. *Id.* at 87.

[244] *Id.* at 103–04.

unrepresented, 54.5% when represented by a nonlawyer, and 59% when represented by a lawyer.[245]

Hostetler then fortified her quantitative results with interviews of agency officials and representatives from legal aid and social services agencies. In these conversations, agency personnel gave nonlawyer representatives high marks.[246] According to Hostetler: "[T]here is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[247] Non-profit employees expressed a similar sentiment. In interviews, these employees—with boots-on-the-ground experience—emphasized the value of nonlawyers' specialized training in filling out agency forms and answering claimants' questions and also reported that "their experience indicated that nonlawyers could be trained to perform virtually all functions in administrative agency proceedings."[248]

Next up, in July 1990, the State Bar of California published a series of surveys concerning "legal technicians," another word for nonlawyer professionals.[249] The survey that is most relevant for our current purposes compiled the views of California consumers who had appeared in court without a lawyer. Researchers sent the survey to 27,450 individuals; of these, 292 responded, yielding a response rate of 1.1%.[250] Over half of the respondents (53%) reported that, although they formally appeared pro se, "someone helped them prepare their court papers."[251] Of these helpers, one-quarter had been lawyers and three-quarters had been nonlawyers.[252]

Where it gets interesting is when it comes to satisfaction. In particular, when assessing satisfaction between the two cohorts, the researchers found: "While 64% of those who received some assistance from lawyers were happy overall with the service and 67% would use a lawyer again, of those who received assistance from a [nonlawyer] 76% were happy with the service and would use such a provider again."[253] This would suggest that (like in Connect-

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[245] *Id.*

[246] *Id.* at 103 (reporting on "a high level of satisfaction with nonlawyer representatives").

[247] *Id.*

[248] *Id.* at 105. By contrast, they opined that lawyers "rarely, if ever, received any training in these functions as part of their law school curricula." *Id.*

[249] CAL. BAR, REPORT OF THE STATE BAR OF CALIFORNIA COMMISSION ON LEGAL TECHNICIANS 1 (1990) [hereinafter CALIFORNIA REPORT].

[250] *Id.*, Exhibit 2, at 1, 2. Contemporary survey-methods scholarship cautions against using absolute response-rate thresholds as validity tests. *See, e.g.*, Robert M. Groves & Emilia Peytcheva, *The Impact of Nonresponse Rates on Nonresponse Bias: A Meta-Analysis*, 72 PUB. OPINION Q. 167, 168–69 (2008). Still, because this was a single-wave administrative mailing with no weighting or follow-up, we cannot be especially confident about the representativeness of respondents, and the results should be interpreted as suggestive rather than necessarily representative of all California pro se litigants.

[251] CALIFORNIA REPORT, *supra* note 249, Exhibit 2, at 2.

[252] *Id.* Exhibit 2, at 2–3.

[253] *Id.* at 14 (main report).

icut), California's consumers were comparatively *more* satisfied with services furnished by nonlawyer providers.[254] Also interesting, when consumers were asked why they sought the assistance of a lawyer as against a nonlawyer (or vice versa), consumers identified "cost (69%), convenience (39%), expertise/knowledge (37%), sensitivity/communication (31%) and control of the case (22%)."[255] These results tend to suggest that consumers care about quality—but they care, perhaps even more, about other variables.

Next, in the 1990s, Herbert Kritzer, a prominent political scientist and law professor, compared the effectiveness of lawyers and nonlawyers—here, qualified lay agents—in the context of four administrative settings in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and "labor grievance arbitrations."[256] Kritzer's methodology involved both observing hearings in each of the four venues and assessing quantitative outcomes. He then supplemented this research with participant surveys and stakeholder interviews. Broadly, Kritzer concluded that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[257]

Kritzer found nonlawyers to be effective in three of the four settings that he studied. First, in unemployment compensation appeals, Kritzer analyzed the likelihood of appellant success and found "no indication that, overall, lawyers are more successful than [nonlawyer] agents."[258]

Similarly, in Social Security appeals, Kritzer identified a "small but consistent difference between attorney and nonattorney representatives," but found it "striking how small that difference actually is."[259] Where he detected "a clear difference" between representatives was "with regard to the specialized expertise they bring."[260]

Likewise, in labor grievance arbitrations, Kritzer observed that "it is not the simple lawyer/nonlawyer distinction that accounts for the difference [in likelihood of winning]. Rather, it appears to be more a function of specializa-

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[254] *Id.* It is curious that respondents consulted a lawyer, but then appeared in court pro se. It could be that some were so dissatisfied with their lawyers that they fired their lawyers and appeared on their own—and that could explain the relatively high rates of dissatisfaction with the services furnished by lawyers. By comparison, many nonlawyers, it seems, were providing services in contravention of California's UPL laws (essentially under the table), and so they could not have accompanied many of these clients into court.

[255] *Id.*, Exhibit 2, at 3.

[256] KRITZER, *supra* note 158, at 21–22. For the unemployment compensation appeals and the tax appeals, Kritzer also included a comparison to unrepresented parties. *Id.*

[257] Kritzer, *supra* note 166, at 100.

[258] KRITZER, *supra* note 158, at 51.

[259] *Id.* at 148–49. According to Kritzer, "the big difference in Social Security appeals appears between the represented and unrepresented claimant." *Id.* at 148.

[260] *Id.*

tion. Specialist nonlawyers and specialist lawyers appear to be better advocates than nonspecialist lawyers."[261]

Where Kritzer perceived issues with nonlawyer advocacy was in the tax appeals setting. Here, it was not the nonlawyer practitioners' lack of "substantive expertise," but rather their "lack of procedural expertise."[262] The nonlawyers he deemed problematic, who generally did not handle large numbers of cases before the Tax Appeals Commission, did not appear to understand evidentiary procedures and hearing formalities.

Then, in 2000, Elaine Tackett conducted a rigorous survey of Administrative Law Judges (ALJs) concerning representatives in the SSA.[263] Tackett sent the survey instrument to 350 randomly selected ALJs and received responses from 146, yielding a response rate of 42%.[264] Ultimately, she found that the majority of ALJs (60%) ranked nonlawyer representation as good or satisfactory.[265] (In comparison, 88% of ALJs gave attorneys a passing grade.)[266] When asked who furnished *better* representation, 34% said that nonlawyers outperformed lawyers, while 65% said the opposite.[267] Of the ALJs who believed that "[m]ost paralegals perform better, or significantly better, than most attorneys," most chalked nonlawyers' superiority up to their more diligent preparation.[268] Of those who believed "[m]ost paralegals perform[] less, or significantly less, well than most attorneys," most attributed lawyers' superiority to the fact that "most paralegals are less familiar with the relevant substantive law."[269] All told, Tackett concluded that, in the SSA, nonlawyers, "overall . . . provide competent representation," even though most ALJs also believed that lawyers furnished somewhat higher-quality services.[270]

In 2017, Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan studied legal representation in another institutional setting where nonlawyers are expressly authorized to practice: DC's Office of Administrative Hearings (OAH).[271] An administrative court that hears de novo appeals from underlying District determinations regarding a worker's qualification for unemployment

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[261] *Id.* at 185.

[262] *Id.* at 108.

[263] Elaine Tackett, *Paralegal Representation of Social Security Claimants: A Study of the Perceptions of Social Security Administrative Law Judges on the Quality of Representation of Social Security Claimants by Paralegals*, 16 J. PARALEGAL EDUC. & PRAC. 67, 67 (2000).

[264] *Id.* at 68.

[265] *Id.* at 70. In the survey, Tackett specifically dubbed nonlawyers "paralegals."

[266] *Id.*

[267] *Id.*

[268] *Id.*

[269] *Id.*

[270] *Id.* at 73.

[271] Carpenter et al, *supra* note 160, at 1023, 1030.

benefits,[272] the OAH permits either the employer or employee to be represented by lawyers or nonlawyers, at their discretion.[273]

Focusing on the employer side of the equation (because that is where nonlawyers—who tended to be HR-firm employees—frequently supplied representation), Carpenter et al. present a complex set of findings.[274] In the aggregate, they found that lawyer-represented employers outperformed nonlawyer-represented employers across various metrics. Lawyers were more likely to ensure client attendance at hearings, disclose and introduce documents, and present witness testimony.[275] When an unrepresented worker squared off against a lawyer-represented employer, the worker won only 47.6% of the time; the rate jumped to 67.5% when the worker squared off against a nonlawyer.[276]

Yet, these disparities vanished in the subset of cases where a nonlawyer representative actually *appeared* at the hearing. (In many hearings, the nonlawyer, ostensibly representing the employer, never showed up.)[277] In *those* cases, nonlawyers notched comparable win rates to their JD-toting counterparts, although, even there, nonlawyers were somewhat more constrained in the ways they challenged judges on issues of substantive law or procedure. The authors concluded that the reason for nonlawyers' overall underperformance rested not so much in individual capability, but in institutional design: the HR firms that employ nonlawyers—as opposed to the nonlawyers themselves—were making cost-driven decisions to avoid hearings altogether.[278] Thus, the authors found that nonlawyers, when permitted to fully participate, could offer representation of comparable quality, but their effectiveness was structurally constrained.[279]

The most recent available empirical evidence comes from the Board of Veterans' Appeals (BVA) 2024 Annual Report. Echoing Hostetler's findings from the 1980s, this assessment found that persons represented by nonlawyers tended to fare slightly worse than someone represented by a lawyer and slightly better than someone without representation. In FY2024, the BVA—the administrative tribunal that renders appellate decisions on veterans' benefits claims—granted relief in 42.7% of cases where the appellant was represented by an attorney,

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[272] *Id.* at 1033.

[273] *Id.* at 1032–33; D.C. Mun. Regs. tit. 1, § 2982.1 (2024).

[274] Carpenter et al., *supra* note 160, at 1032, 1036 (explaining that, whereas workers were almost exclusively represented by lawyers or supervised clinical law students, employers were represented more than twice as often as workers (42% vs. 18%) and were more frequently represented by nonlawyers employed by third-party HR firms).

[275] *Id.* at 1042.

[276] *Id.* at 1040–41.

[277] *Id.* at 1041, 1044.

[278] *Id.* at 1044–45.

[279] *Id.* at 1044.

37.5% of cases where the appellant was represented by an accredited nonlawyer agent, and 29.7% of cases where the claimant was unrepresented.[280]

C. Evidence from Overseas

The evidence from outside the United States arrives at the same basic conclusions. In the 1980s, at the request of the then-Lord Chancellor's Department, Professors Hazel Genn and Yvette Genn studied nonlawyer performance in administrative tribunals in England and Wales: Social Security Appeal Tribunals, Immigration Adjudicators, Industrial Tribunals, and Mental Health Review Tribunals.[281] Drawing on over 3,700 case files and nearly 500 observed hearings, the researchers examined how representatives influenced outcomes for claimants.[282] Their central finding was that representation, of any kind, significantly increased claimants' odds of success.[283]

The researchers also conducted 735 interviews where they probed the value of lawyers as against nonlawyers.[284] These interviews revealed that "[f]ew . . . believe[] that lawyers were necessarily best equipped to conduct representation in tribunals."[285] Similar to Kritzer and Hostetler, Genn and Genn concluded that, when it came to quality representation, "specialisation and experience were the most important qualifications."[286]

Also in the 1980s, W.A. Bogart and Neil Vidmar undertook an empirical study into nonlawyer independent paralegals in Ontario, Canada, at the request of the Ontario Task Force on Paralegals.[287] In their assessment, the researchers created an empirical profile of paralegal activity drawn from various sources, including surveys and interviews with stakeholder groups.[288] The most perti-

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[280] DEP'T OF VETERANS AFFS. (VA) BD. OF VETERANS' APPEALS, ANNUAL REPORT 46 (FY 2024) [hereinafter VA 2024 STUDY]. Nonlawyer agents are individuals who have passed a VA-administered exam and fulfilled continuing legal education requirements. 38 C.F.R. § 14.629 (2026).

[281] *See generally* HAZEL GENN & YVETTE GENN, THE EFFECTIVENESS OF REPRESENTATION AT TRIBUNALS: REPORT TO THE LORD CHANCELLOR (1989) (reporting on research relating to the effectiveness of representation in administrative tribunals).

[282] *Id.* at 7.

[283] *Id.* at 243. This finding endured "when other measurable factors related to outcome" were held constant. *Id.* at 107.

[284] *Id.* at 7–9.

[285] *Id.* at 245.

[286] *Id.* at 245–46. That said, the study does not offer a direct, *quantitative* comparison of outcomes between lawyers and nonlawyers. The strongest comparative conclusion the authors offer is that many tribunals and stakeholders do not view lawyers as inherently more effective.

[287] W.A. Bogart & Neil Vidmar, *An Empirical Profile of Independent Paralegals in the Province of Ontario*, *in* REPORT OF THE TASK FORCE ON PARALEGALS 145–75 (Ron W. Ianni ed., 1990) (on file with author). At the time of the study, independent paralegal practice in Ontario was largely unregulated. *Id.* at xii. The Attorney General of Ontario convened the Ontario Task Force on Paralegals to assess paralegal activities and to make recommendations on their future regulation. *Id.* at xiii.

[288] Bogart and Vidmar conducted interviews with paralegals (n=45), clients of paralegals (n=39), and others with knowledge of paralegals (for example, government officials and lawyers), in addition

nent line of inquiry explored client use of, and satisfaction with, paralegals.[289] Here, the researchers interviewed thirty-nine clients, about half of whom also had experience using a lawyer; these individuals believed paralegals were less costly than lawyers and more responsive and attentive.[290] These clients frequently mentioned "paralegals' speed, care with detail, attention to their clients, and their practice of not delegating matters so that clients deal only with the paralegals whose services are retained and not with underlings."[291]

In the late 1990s, Richard Moorhead, Alan Paterson, and Avrom Sherr examined the differences between nonlawyers and lawyers (specifically, solicitors) in England and Wales.[292] Their inquiry considered welfare benefits, debt, housing, and employment cases, where nonlawyers are permitted to supply certain types of assistance.[293]

This effort is notable for its rigor. Namely, to study the effectiveness of nonlawyers versus lawyers, the researchers capitalized on a rare opportunity provided by a large-scale pilot program (the Civil Nonfamily Block Contracting Pilot), which introduced a contested market between solicitors (lawyers) and not-for-profit nonlawyer agencies (NFPs).[294] They then employed a multifaceted, triangulated methodology to study the performance of these professionals. First, they gathered detailed quantitative data on 82,705 closed cases.[295] Second, they implemented an external peer-review process, wherein trained solicitor reviewers assessed closed case files from both solicitor firms and NFPs using a standardized five-point competence scale.[296] Third, they deployed anonymous "model clients" to pose as real clients and assess adviser performance in live interactions.[297] Finally, to gather client satisfaction data, they conducted a postal survey of over 3,000 real clients, yielding 867 usable responses.[298]

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to conducting surveys of the community and administrative agencies. *Id.* at 149–50. With the possible exception of the telephone survey of the community, however, their findings do not support population-level inferences. *Id.* at 151. The researchers also consulted Law Society files alleging substandard work by paralegals. *Id.* at 158. Among other findings, this assessment suggested that "the great majority of complaints about paralegals come mostly from lawyers." *Id.* at 175.

[289] *Id.* at xi. The study did not address the issue of comparability with lawyer performance and quality of service.

[290] *Id.* at 150, 158. Public submissions to the Task Force and a telephone survey of households also revealed public satisfaction with paralegal services. *Id.* at 164. The telephone survey of households is more readily generalizable, having been based on a random sample of Ontario households. *Id.* at 151.

[291] *Id.* at 158.

[292] Moorhead et al., *supra* note 159, at 777.

[293] For the ins and outs of the assistance that nonlawyers can supply, see *id.* at 773.

[294] *Id.* at 774–75.

[295] *Id.* at 778.

[296] *Id.* at 779.

[297] *Id.* at 780–81.

[298] *Id.* at 782.

Remarkably, across a broad range of measures, Moorhead et al. found that nonlawyers were not only effective, but, in many respects, *outperformed lawyers*. In terms of client satisfaction, nonlawyer advisers scored slightly higher overall: 76% of nonlawyer clients rated their service as excellent or very good compared to 70% of solicitor clients, with statistically significant differences favoring nonlawyers across several dimensions such as emotional attentiveness, having enough time for them, and perceived advocacy.[299] Outcome data further supported nonlawyer effectiveness: clients of nonlawyers were more likely to obtain concrete benefits such as lump sum payments, new or increased regular payments, and the prevention of adverse third-party action.[300]

Summarizing their findings, the authors wrote:

> [T]hese results indicate a statistically significant difference between solicitors and [nonlawyers] in terms of the quality of their contracted work. [Nonlawyers] had clients with slightly higher satisfaction ratings and got significantly better results, and their work on cases was more likely to be graded at higher levels of quality by experienced practitioners working in their field.[301]

Last but not least, in 2011, a team of experts, also in England and Wales, assessed the quality of 101 wills prepared by a mix of solicitors and non-solicitor providers. The findings were sobering: twenty-five percent of wills were assessed as failing to meet basic quality standards. [302] But critically, the experts found no difference in the failure rates; whether prepared by a solicitor or non-solicitor, quality remained constant.[303]

III. LESSONS FROM NONLAWYER PRACTICE

Above, we cataloged a range of evidence that gauges whether nonlawyers can competently supply some legal services. What can we learn from this exercise? Below, we highlight five lessons. In Section A, we observe that trained nonlawyers can be effective advocates,[304] and in Section B, we review the importance of specialized training.[305] Section C argues that the lawyer-versus-nonlawyer framework for comparing efficacy is inappropriate given the reality that lawyers, in state courts across the country, are the exception, not the rule.[306] Finally, Section D poses questions about who should bear the burden of

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[299] *Id.* at 784–86.
[300] *Id.* at 786–87.
[301] *Id.* at 789.
[302] LEGAL SERVS. CONSUMER PANEL, *supra* note 163, at 2–3.
[303] *Id.*
[304] *See infra* notes 309–328 and accompanying text.
[305] *See infra* notes 329–336 and accompanying text.
[306] *See infra* notes 337–346 and accompanying text.

proof in regulatory reform discussions,[307] and Section E argues that it is time to stop basing decision-making on untested assumptions of consumer harm.[308]

A. Nonlawyers Can Supply Legal Services with Competence and Integrity

The first obvious takeaway is that trained nonlawyers can deliver a wide range of legal services competently and professionally.[309] Having a JD may be helpful, but in many domains, it simply is not necessary. The chart below offers a summary.

[307] *See infra* notes 347–349 and accompanying text.

[308] *See infra* notes 350–356 and accompanying text.

[309] Our conclusion here is on par with the conclusion by others who have similarly sifted through available evidence. *See, e.g.*, Amicus Brief of Professor Rebecca L. Sandefur in Support of Plaintiffs' Motion for a Preliminary Injunction at 11, Upsolve, Inc. v. James (S.D.N.Y. Mar. 2, 2022) (No. 1:22-cv-627-PAC) (explaining that various attempts to measure the value of nonlawyer practice "reflect a consistent theme: nonlawyer providers can be highly effective when they are (1) trained and specialized, and (2) the issues at hand do not raise complex questions of substantive law"); Stefanie K. Davis, *Access to Justice* ("Research suggests that, in certain circumstances, parties who are represented or assisted by a nonlawyer have an equal or better chance of succeeding than either unrepresented parties or even parties assisted by an attorney."), *in* A GUIDE TO FEDERAL AGENCY ADJUDICATION 229, 237 (Jeremy S. Graboyes ed., 3d ed. 2023) (citation omitted); Recommendation No. 86-1, *supra* note 191, at 25641–42 ("Federal agency experience and statistics indicate that qualified persons who are not lawyers generally are capable of providing effective assistance to individuals in mass justice agency proceedings."); *accord* Letter from Maureen K. Ohlhausen, Dir., Off. of Pol'y Plan., Jeffrey Schmidt, Dir., Bureau of Competition & Michael A. Salinger, Dir., Bureau of Econ., to Carl E. Testo, Couns., Rules Comm. of the Superior Ct. (Conn.) 6 (May 17, 2007) (stating that the FTC is "not aware of evidence of consumer harm arising from [the provision of legal services by nonlawyers] that would justify foreclosing competition"); Walter Gellhorn, *Conference: Law and Lawyers in the Modern World: Afternoon Session*, 15 U. CIN. L. REV. 176, 208 (1941) ("It has been proved empirically that in certain matters non-lawyers have effectively and honorably served their principals.").

Table 1: Studies that Compare Lawyer and Nonlawyer Performance (from the U.S., U.K., & Canada)

Author(s) and Year Published	**Methodology**	**Takeaway**[310]
Clark & Corstvet (1938)[311]	Surveyed 412 respondents in Connecticut.	Clients were modestly more satisfied with nonlawyers (as against lawyers).
Duquette & Ramsey (1987)[312]	Assessed child abuse proceedings in Michigan.	Performance of trained nonlawyers matched trained lawyers and surpassed untrained lawyers.
Hostetler (1988)[313]	Assessed outcome data and conducted interviews in SSA and INS.	Lawyers notched slightly higher reversals than nonlawyers (and both outperformed pro se litigants by a wider margin). Interviewees found performance to be comparable.
Genn & Genn (1989)[314]	Assessed outcome data, observed hearings, and conducted 735 interviews—three administrative tribunals in England and Wales.	Representation of any kind significantly improved individuals' likelihood of success. Performance comparable between lawyers and nonlawyers.
Bogart & Vidmar (1990)[315]	Surveyed 39 clients of paralegals in Ontario, Canada, about half of whom also had experience with a lawyer.	Clients found paralegals to be less costly than lawyers and more responsive and attentive.
California State Bar (1990)[316]	Surveyed 292 respondents in California.	Clients were modestly more satisfied with nonlawyers (as against lawyers).
Kritzer (1998)[317]	Assessed administrative proceedings in Wisconsin across four kinds of tribunals.	In three of the four settings, no appreciable difference. In one setting (tax appeals), lawyers more effective.
Tackett (2000)[318]	Surveyed 146 ALJs in the SSA.	ALJs reported that lawyers were modestly more effective than nonlawyers.

[310] Of course, these "takeaways" are, by their nature, somewhat coarse, losing nuance and specificity. For a more textured and granular understanding, we encourage readers to read our fuller summaries.

[311] Clark & Corstvet, *supra* note 162, at 1273, 1276, 1281.

[312] Duquette & Ramsey, *supra* note 157, at 390.

[313] Hostetler, *supra* note 93, at 86, 88, 103–04.

[314] GENN & GENN, *supra* note 281, at 7–9, 245–46.

[315] Bogart & Vidmar, *supra* note 287, at xii–xiii, 145–70.

[316] CALIFORNIA REPORT, *supra* note 249, at Exhibit 2 at 2, 14.

[317] KRITZER, *supra* note 158, at 21–22, 51, 108.

[318] Tackett, *supra* note 263, at 68, 70.

Moorhead, Paterson & Sherr (2003)[319]	Examined claims involving welfare benefits, debt, housing, and employment in England and Wales. Evaluated outcome data, engaged in peer review, deployed "model clients," and surveyed 867 clients.	Clients were modestly more satisfied with nonlawyers (as against lawyers). Furthermore, nonlawyers "got significantly better results, and their work on cases was more likely to be graded at higher levels of quality by experienced practitioners working in their field."[320]
UK Legal Services Consumer Panel (2011)[321]	Team of experts reviewed 101 wills prepared by mix of lawyers and nonlawyers in the UK.	No appreciable difference in quality.
Carpenter, Mark & Shanahan (2017)[322]	Assessed performance in the DC Office of Administrative Hearings.	Those represented by lawyers won more often than those represented by nonlawyers—but differences disappeared when nonlawyers actually appeared at hearings.
Board of Veterans' Appeals (2024)[323]	Measured ability to secure reversals in the BVA.	Lawyers slightly more effective than nonlawyers. Both lawyers and nonlawyers more effective than unrepresented individuals.

Again and again, studies show that specially trained nonlawyers can be effective advocates. In Duquette and Ramsey's study, the nonlawyer providers who received specialized training in abuse and neglect cases performed as well as specially trained lawyers and better than lawyers without the training.[324] Many of the nonlawyer advocates in mass justice agencies that Hostetler studied received training on agency forms and rules, and she noted "little perceived difference" in the quality between the nonlawyer group and the lawyer group.[325] Kritzer concluded that trained nonlawyers can be as or more effective than lawyers,[326] while Genn and Genn also found that, when it came to quality representation, specialization and experience mattered most.[327] The most rigorous study to evaluate the question, by Moorhead, Paterson, and Sherr, concluded that nonlawyers were not

[319] Moorhead et al., *supra* note 159, at 773, 777, 782.
[320] *Id.* at 789.
[321] LEGAL SERVS. CONSUMER PANEL, *supra* note 163, at 2–3.
[322] Carpenter et al., *supra* note 160, at 1023, 1030.
[323] VA 2024 STUDY, *supra* note 280, at 46.
[324] *See supra* notes 238–241 and accompanying text.
[325] Hostetler, *supra* note 93, at 103; *see supra* notes 242–248 and accompanying text.
[326] *See supra* notes 256–262 and accompanying text.
[327] *See supra* notes 281–286 and accompanying text.

only effective but, across a range of measures, *outperformed* lawyers—scoring higher on client satisfaction, delivering more favorable outcomes, and receiving higher quality ratings from trained solicitor reviewers.[328]

B. The Value of Specialized Training and Simplicity

Next, embedded in the studies we outline above are two specific lessons for policymakers who are rolling up their sleeves to *create* licensed paralegal programs. First, the evidence highlights the importance of specialized training.[329] For instance, when evaluating child abuse and neglect proceedings, Duquette and Ramsey found that specialized nonlawyers "performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[330] Likewise, Kritzer, studying nonlawyer representatives in administrative settings, emphasized that "the key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process."[331] Too, in Hostetler's study of nonlawyer representation before the SSA and INS, legal aid supervisors emphasized that nonlawyers could be trained to "perform virtually all functions in administrative agency proceedings," provided they received targeted instruction in agency rules, procedures, and forms.[332] In sum, across diverse domains, nonlawyers with specialized knowledge and training performed at or above the level of many of their lawyer counterparts.

A second equally important point relates to the context in which nonlawyers are active and, in particular, the importance of simplicity and informality. When federal agencies authorize nonlawyer representation, they tend to authorize that representation in relatively informal proceedings.[333] And, the evidence suggests that this is where nonlawyers tend to thrive. For instance, two of the settings in which Kritzer studied nonlawyers—unemployment compensation and Social Security disability appeals—involved relatively streamlined and routinized procedures.[334] Carpenter, Mark, and Shanahan found that nonlawyers

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[328] *See supra* notes 292–303 and accompanying text.

[329] Sandefur, *supra* note 166, at 305 ("Studies that compare lawyers to nonlawyers highlight the importance of specialized expertise over generalized legal training.").

[330] Duquette & Ramsey, *supra* note 157, at 390.

[331] Kritzer, *supra* note 166, at 101.

[332] Hostetler, *supra* note 93, at 105.

[333] *See supra* notes 123–125. Indeed, certain agency proceedings have been designed specifically to accommodate nonlawyer providers. *See* Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 321 (1985) (emphasizing that "the system for administering [veteran disability] benefits should be managed in a sufficiently informal way that there should be no need for the employment of an attorney").

[334] KRITZER, *supra* note 158, at 26–27, 127.

were particularly helpful when the procedures were relatively straightforward.[335] Here, more research would be useful, but it appears that when processes are simple, nonlawyers are particularly effective. Conversely, where processes are complex and, for example, a jurisdiction's general rules of procedure and evidence are in play, lawyers are much more likely to outperform nonlawyer advocates—and, at the least, nonlawyers need intense, particularized training.[336]

C. "Head-to-Head" Lawyer versus Nonlawyer Matchups Are Reductive and Rigged

A third lesson abstracts out, to address the proper comparison. The evidence we assemble suggests that in a range of domains, trained and licensed nonlawyer advocates perform legal services on par with the services provided by lawyers. That is what Hostetler, Kritzer, Genn and Genn, and Moorhead et al., among others, found. Yet, even while we show that nonlawyers pass this test, we also believe that this test is both rigged and unduly reductive.[337]

The test is rigged because, as we explained at the outset, the reality is that today, *lawyers are the exception, not the rule*. In three-quarters of cases, at least one side is currently muddling through, entirely without help.[338] Thus, the right test is not whether nonlawyers stack up well as against their JD-toting counterparts; it is whether having the assistance of a trained nonlawyer is markedly better than going it alone.[339] And critically, *every study* we identified

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[335] Carpenter et al., *supra* note 160, at 1046.

[336] Sandefur, *supra* note 166, at 306. Recognizing this distinction, in England and Wales, for instance, one must possess a law license to engage in certain "reserved activities." Hadfield, *supra* note 19, at 1278. These primarily involve "appearances in higher courts and the conduct of litigation." *Id.* Recall, too, that in Arizona's survey on LPs, a majority of judge and attorney respondents agreed that hearings with LPs took longer than hearings with attorneys, and further that LPs could benefit from additional training on rules of procedure and evidence. ARIZ. SUP. CT., *supra* note 220, at 14, 19.

[337] The test is rigged in another important way, too. Many studies compare *specialized* nonlawyers to *specialized* lawyers. Yet, given the importance of specialization (discussed above) coupled with the realities of representation, the more appropriate comparison is arguably between *specialized* nonlawyers (e.g., those who, day-in-and-day-out, help folks submit workers' compensation claims or respond to eviction notices) as against *generalist* lawyers (as lawyers, unlike many licensed paraprofessionals, may operate far outside their own areas of expertise). This is significant because there is good reason to think that specially trained nonlawyers, at least sometimes, outperform JD-toting generalists. Such an idea is consistent with common sense. *See, e.g.*, Upsolve, Inc. v. James, 604 F. Supp. 3d 97, 118 n.13 (S.D.N.Y. 2022) (observing that "there is some common-sense truth to the notion that a nonlawyer 'who has handled 50 debt collection matters, for example, would likely provide better representation than a patent lawyer who has never set foot in small claims court and last looked at a consumer contract issue when studying for the bar exam'"), *vacated*, 155 F.4th 133 (2d Cir. 2025); *1948 Hearing*, *supra* note 80, at 66–67 (statement of Herschel A. Hollopeter, Traffic Dir., Ind. State Chamber of Com.) (offering a similar perspective).

[338] *See supra* notes 8–20 and accompanying text.

[339] This is a point the trial court recognized in *Upsolve*, noting that individuals assisted by nonlawyer advocates with "limited legal training" would "logically" be better off than individuals condemned to "complete their own forms pro se, with no legal training at all." 604 F. Supp. 3d at 118

that compares pro se litigants to nonlawyer-represented litigants finds the latter fare better than the former; one is significantly better off hiring a nonlawyer than forging ahead without assistance.[340]

At the same time, there is data showing that when legal assistance is available, individuals with legal problems are more likely to address those legal problems, as opposed to letting those problems fester.[341] And, there is some evidence suggesting that when individuals represent themselves, efficiency—not just accuracy—takes a hit: "Hearings with people who represent them-

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n.13; *accord* Weckstein, *supra* note 40, at 667 ("It may be laudable to require that for one's own benefit, he must seek legal services only from qualified counsel, but it is untenable to insist upon such a requirement when qualified legal counsel is not available.").

[340] *See* Hostetler, *supra* note 93, at 103–04; VA 2024 STUDY, *supra* note 280, at 49; Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 327 (1985); *cf.* GENN & GENN, *supra* note 281, at 107, 243 (documenting that representation, of any kind, significantly increased claimants' odds of success, though not directly comparing the subset of nonlawyer representatives to no representation); Hilary W. Hoynes, Nicole Maestas & Alexander Strand, *Legal Representation in Disability Claims* 4, 11–14, 17–18 (Nat'l Bureau of Econ. Rsch., Working Paper No. 29871, 2022) (analyzing data on 7.4 million social security disability applications from 2010 to 2014 and finding that representation—which, in the sample, was furnished by a mix of lawyers and nonlawyers—increased the probability of an initial award by 23%, from a base rate of about 32% to 55%). *But cf.* Greiner & Pattanayak, *supra* note 167 (concerning an offer of representation).

This baseline determination is consistent with the broader literature, which persuasively shows that *lawyer*-represented individuals fare better than those who go it alone. *See, e.g.*, Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise Through Lawyers' Impact*, 80 AM. SOCIO. REV. 909, 915–16, 918, 921 (2015) (drawing on eighteen empirical studies covering more than 18,000 adjudicated cases and concluding that having a lawyer increases the likelihood of a favorable outcome relative to proceeding pro se); David A. Hyman, Mohammad Rahmati, Bernard S. Black & Charles Silver, *Medical Malpractice Litigation and the Market for Plaintiff-Side Representation: Evidence from Illinois*, 13 J. EMPIRICAL LEGAL STUD. 603, 604, 611 (2016) (reporting in the medical-malpractice context that "[h]aving a lawyer has a large impact on both the likelihood of 'winning' (i.e., receiving a positive recovery) and the amount recovered, conditional on success"); Carroll Seron, Martin Frankel & Gregg Van Ryzin, *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment*, 35 LAW & SOC'Y REV. 419, 419, 425–26 (2001) (concluding, based on a randomized experiment, that "the provision of legal counsel produces large differences in outcomes for low-income tenants in housing court, independent of the merits of the case"); Jane C. Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 AM. U. J. GENDER SOC. POL'Y & L. 499, 505, 511–12 (2003) (finding that, among a sample of 406 Baltimore women who sought intervention for domestic violence 83% of women who were represented obtained a protective order, compared to 32% of the unrepresented). *But cf.* Leandra Lederman & Warren B. Hrung, *Do Attorneys Do Their Clients Justice? An Empirical Study of Lawyers' Effects on Tax Court Litigation Outcomes*, 41 WAKE FOREST L. REV. 1235, 1239 (2006) (examining the results of Tax Court cases and finding that "attorneys obtain significantly better results in tried cases than unrepresented taxpayers do" although, when cases were settled, the result did not hold).

[341] *See* Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L.J. 129, 136–38 (2010) (collecting evidence).

selves, especially in family-law cases, tend to last much longer because of the need for the court to redirect parties or work through difficulties."[342]

Meanwhile, in proceeding on the assumption that, to pass muster, the quality of legal services supplied by nonlawyers must be on par with the quality of legal services supplied by lawyers, the debate is also unduly reductive. The problem is that the debate's myopic focus on "quality" to the exclusion of other values and attributes, distorts the relevant inquiry.

Generally, when a consumer, patient, or client evaluates goods or services, the consumer, patient, or client evaluates the quality of the good or service *alongside other characteristics*. When buying even important things—like cars or infant car seats—or when seeking the services of professionals—including medical providers—we tolerate substantial quality differentiation, even when that means that some options in the marketplace are more dangerous and others are less dangerous.

Consider automobiles. The Mitsubishi Mirage sees 205 deaths per million registered vehicles, while the Mercedes-Benz E-Class sees zero.[343] But, nobody bans the Mitsubishi Mirage and, with its $18,250 price tag, many consumers quite reasonably buy it, compared to the Mercedes, which costs roughly four times as much.[344] Indeed, many consumers probably compare, in their own minds, the Mirage to the bicycle, which is much more dangerous still (and also perfectly legal).[345]

We authorize the sale of the Mirage *and* the bicycle—and we also let patients visit anyone from a nurse practitioner to a podiatrist to a midwife to a

[342] GEORGIA REPORT, *supra* note 9, at 88; *Closing the Justice Gap Hearings, supra* note 10, at 2 (statement of Hon. Nathan L. Hecht, C.J., Sup. Ct. of Tex.) ("The increase in *pro se* litigation not only produces results without regard to the merits of the claims presented but makes court processes less efficient."); Recommendation No. 86-1, *supra* note 191, at 25642 ("[U]nassisted individuals are more likely than those who are assisted to cause a loss of agency efficiency by requiring more time, effort, and help from the agency."). *But see* JOHN M. GREACEN & PAMELA A. GAGEL, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., FAMILY LAW IN FOCUS: A RETROSPECTIVE STUDY OF COLORADO'S EARLY EXPERIMENTS WITH PROACTIVE CASE PROCESSING 17 (2013) (finding that "cases with self-represented litigants resolve more quickly than those with two attorneys").

[343] Sean Tucker, *The Deadliest and Least Deadly Cars*, KELLEY BLUE BOOK (July 18, 2023), https://www.kbb.com/car-news/the-deadliest-and-least-deadly-cars/ [perma.cc/ELK7-GHTX] (reporting on cars with the highest and lowest driver death rates from 2017 through 2021; in addition to the Mercedes, other cars with a zero death rate included the BMW X3, the Lexus ES, and the Nissan Pathfinder).

[344] *Compare* Eric Brandt, *2024 Mitsubishi Mirage Review*, KELLEY BLUE BOOK, https://www.kbb.com/mitsubishi/mirage-g4/ [perma.cc/5XDZ-K29] (Jan. 30, 2025), *with* Colin Ryan, *2025 Mercedes-Benz E-Class Review*, KELLEY BLUE BOOK, https://www.kbb.com/mercedes-benz/e-class/2025/ [perma.cc/P3ZW-77BQ] (Jan. 30, 2025).

[345] *See* Laurie F. Beck, Ann M. Dellinger & Mary E. O'Neil, *Motor Vehicle Crash Injury Rates by Mode of Travel, United States: Using Exposure-Based Methods to Quantify Differences*, 166 AM. J. EPIDEMIOLOGY 212, 213–14 (2007) (reporting that U.S. bicyclists face a fatality rate of 21.0 deaths per 100 million person-trips—where person-trip is defined as "a one-way journey between two points"—while car occupants face a rate of 9.2 per 100 million person-trips).

surgeon—because there is, generally, an understanding that (1) competent adults should be able to choose for themselves among various offerings; and (2) the quality of a good or service is appropriately balanced against other variables, such as cost, comfort, and convenience. There is no reason to depart from those general understandings here.[346]

D. Who Should Bear the Burden of Proof?

Fourth, we have painstakingly compiled and analyzed available evidence concerning the quality of legal services supplied by nonlawyers because various bar leaders have suggested that this is the evidence they want to see. The President of the Florida Bar has declared, for instance, that the rules that govern the legal profession should be changed if and only if reformers can show, with "clear and compelling empirical data" that the reforms they champion would be salutary with "little or no risk to the public."[347] And, the Bar President has staked his opposition to various reforms because of the asserted "absence of such data."[348] In his view, then, reformers bear the burden of proof, and it is an elevated burden (of "clear and compelling" evidence), to boot.

Unanalyzed is a deeper question. Who *ought* to bear the burden of proving what works or does not? Should the burden of proof always and inevitably rest on those who support reform? Or, particularly considering the "rotten roots" of modern UPL restrictions, coupled with the practical difficulty of empirically demonstrating the value of something (lay representation) that is still criminalized in most parts of the country, should the burden perhaps fall on those who support a status quo that is so extravagantly failing to serve so many low- and middle-income Americans?[349]

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[346] Relevant here: In the UK, one study finds that, as compared to solicitors, nonlawyers who write wills tend to be cheaper and more convenient. *See* LEGAL SERVS. CONSUMER PANEL, *supra* note 163, at 3. Indeed, attorneys are not immune to this balancing, and prospective clients frequently choose among various providers. Consider that Neal Katyal of Milbank is an exceptionally good lawyer, and he is expensive; he clocks in at $3,250 per hour. Meanwhile, some "inexperienced" lawyers charge as little as "$300 per hour." Debra Cassens Weiss, *BigLaw Partner Won't Charge His $3,250 Hourly Rate to Defend New Jersey Cities in Trump Administration Suits*, A.B.A. J. (July 31, 2025), https://www.abajournal.com/news/article/biglaw-partner-wont-charge-his-3250-hourly-rate-to-defend-new-jersey-cities-in-trump-administration-suits [perma.cc/APD8-G8FR]; Aaron Hall, *Which Lawyers Have the Highest Rates? How Much Do They Charge?* (July 2, 2025), https://aaronhall.com/which-lawyers-have-the-highest-rates-how-much-do-they-charge/ [perma.cc/PG99-MGME]. We assume that clients seeking legal services can decide for themselves whose services to seek. We do not preclude clients from seeking the services of inexperienced lawyers just because another higher-quality (and more expensive) lawyer might be available.

[347] Tanner Letter, *supra* note 39, at 10.

[348] *Id.*

[349] Engstrom & Stone, *supra* note 18, at 188, 191–98.

E. The Value of Evidence

Fifth and finally, the above exercise, which sifts *through* evidence, points to the value *of* evidence. In particular, we offer a plea that it is high time to move beyond untested assumptions and toward empirically informed decision-making.[350] The legal monopoly was created almost a century ago based on the bare assumption that nonlawyers would harm clients.[351] Throughout the 1940s, 1950s, and 1960s, the bar tried doggedly to fortify that monopoly, claiming that, without reform, nonlawyers would harm clients.[352] Now, some members of the bar oppose efforts to relax the professional monopoly because the relaxation of the monopoly will, they claim, assertedly harm clients.[353]

In all this time, the bar has had plenty of time to show that nonlawyers, in fact, harm clients. It has not.[354] Over this span, judges and policymakers have repeatedly *asked* the bar for evidence that nonlawyer representation harms clients.[355] Again and again, the bar has failed to bring the receipts. The profession may be excused for not having the tools and frameworks for rigorous empirical inquiry at the turn of the twentieth century. But an adherence to unfounded assumptions—that are testable today—is no longer sustainable.[356]

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[350] Chambliss, *supra* note 61, at 299 ("Historically, courts have required little evidence in support of lawyers' monopoly claims."); Green, *supra* note 27, at 1273 (explaining that, when it comes to the "regulation of law practice," courts have tended to "eschew the collection of data and experimentation, relying instead on anecdotes, impressions, received wisdom, and analogies").

[351] *See supra* note 40 (collecting sources).

[352] *See supra* notes 81–85 (collecting sources); *see also, e.g.*, Thomas J. Boodell, *Admission to Practice Before Administrative Agencies, in Our Leading Article*, 20 UNAUTHORIZED PRAC. NEWS 3, 11 (June 1954) (statement of F. Trowbridge vom Baur) (advocating the restriction of lay practice before administrative agencies because, inter alia, "[a]ny form of short cutting legal education . . . is not in the public interest").

[353] *See supra* notes 1–7, 33–41.

[354] *See* Christensen, *supra* note 64, at 203 (noting that "there is comparatively little in the history of unauthorized practice, either in the literature or in the cases, by way of hard evidence of substantial actual injury to the public through the activities of unauthorized practitioners"). This absence of evidence did not keep the New York Attorney General from recently doubling down on the specious claim that "no measure short of prohibition would adequately protect [New Yorkers] from the dangers posed by . . . unlicensed and unregulated law practice." Brief for Appellant at 59, 70–71, Upsolve, Inc. v. James, 155 F.4th 133 (2d Cir. Oct. 5, 2022) (No. 22-1345). Many opponents of nonlawyer providers are quick to mention *notarios* in illustrating the dangers of nonlawyer practice. But *notarios* are unlicensed and unregulated, which is the precise opposite of the nonlawyer legal service providers we are discussing and endorsing here. *See supra* note 36.

[355] *See, e.g.*, *1948 Hearing*, *supra* note 80, at 120 (statement of Mathias F. Correa, Couns., N.Y. State Soc'y of Certified Pub. Accts.) (pointing out that, even as the ABA sought to strip nonlawyers of the right to practice before administrative agencies, it failed to marshal even a shred of evidence of harm from existing nonlawyer practice).

[356] This is particularly so given the evidence showing that UPL complaints are typically lodged by aggrieved lawyers, not aggrieved clients. *See* Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587, 2591–93 (2014).

CONCLUSION

Sixty years ago, in the midst of President Johnson's War on Poverty, Attorney General Nicholas Katzenbach gave a speech on access to justice, with a rousing call to action. "There has been long and devoted service to the legal problems of the poor by legal aid societies and public defenders," he observed, "[b]ut, without disrespect to this important work, we cannot translate our new concern into successful action simply by providing more of the same."[357] Instead, Katzenbach argued, it was time to expand the frame: "Not every injury requires a surgeon; not every injustice requires an attorney."[358] "We need what is, in effect, a new profession—a profession . . . made up of human beings from all professions, committed to helping others who are in trouble. That job is too big—and, I would add, too important—to be left only to lawyers."[359]

For a very long time, Katzenbach's idea has been shelved, for fear that relaxing UPL restrictions to permit representation by those "unschooled" in the law would backfire. Nonlawyers, many have long insisted, would prey upon the unsuspecting, hurting the very people they were hired to help.

Here, we have tackled that persistent fear head-on. After canvassing available research assessing the quality of legal services furnished by nonlawyers against those furnished by lawyers we find that, just as Attorney General Katzenbach suspected, while lawyers have cornered the market on the provision of legal services, they have no monopoly on legal know-how. The need is too vast to be met by lawyers alone. The consequences of insisting otherwise are measured not in abstractions or hypotheticals, but in evictions, lost benefits, foreclosures, and wage garnishments. It is past time to drop the fiction that only lawyers can help, and to welcome in those who are already proving otherwise.

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[357] Nicholas B. Katzenbach, Acting Att'y Gen., Dep't of Just., Address to the Conference on Extension of Legal Services to the Poor 3 (Nov. 12, 1964).

[358] *Id.* at 5.

[359] *Id.*

restrictions across the U.S. economy.[4] Through its advocacy program, the Commission regularly advises states and localities regarding the competitive effects of various professional and occupational licensing requirements.[5] The Commission's prior advocacies highlight the risks of entrusting market participants to act as gatekeepers for their profession or to set the terms on which they and their fellow competitors may compete.[6] Two recent advocacy letters supported actions by the Texas Supreme Court and Florida Supreme Court to end their dependence on ABA law school accreditation.[7] The Commission has also brought enforcement actions in this realm, in one of which the U.S. Supreme Court affirmed that the antitrust laws limit the ability of market incumbents to suppress competition through professional boards.[8]

The USAO for the Middle District of Tennessee is the chief federal law enforcement agency where the Tennessee Supreme Court is located.[9] Although also responsible for the prosecution of federal crimes, the USAO represents the federal government in actions that arise in the jurisdiction, including as plaintiff in potential antitrust actions.[10] U.S. Attorneys collaborate with other federal agencies such as the FTC, as well as divisions in the main office of the Department of Justice, to enforce federal law in the district. The United States Attorney for the Middle District has written at great length on the history of government-backed monopolies and antitrust law in the State of Tennessee.[11]

The DOJ Antitrust Division, similar to the FTC, regularly engages in advocacy regarding occupational licensing requirements and accreditation standards.[12] The Division recently filed a

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[4] *See, e.g.*, MAUREEN K. OHLHAUSEN, FED. TRADE COMM'N, PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION ON COMPETITION AND OCCUPATIONAL LICENSURE BEFORE THE JUDICIARY COMMITTEE SUBCOMMITTEE ON REGULATORY REFORM, COMMERCIAL AND ANTITRUST LAW 10–15 (Sept. 12, 2017) [hereinafter Ohlhausen House Statement], https://www.ftc.gov/system/files/documents/public_statements/1253073/house_testimony_licensing_and_rbi_act_sept_2017_vote.pdf.

[5] *See, e.g.*, MAUREEN K. OHLHAUSEN, FED. TRADE COMM'N, PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS "LICENSE TO COMPETE: OCCUPATIONAL LICENSING AND THE STATE ACTION DOCTRINE" 1–2 (Feb. 2, 2016) [hereinafter Ohlhausen Senate Statement], https://www.ftc.gov/system/files/documents/public_statements/912743/160202occupationallicensing.pdf; *Selected Advocacy Relating to Occupational Licensing*, Fed. Trade Comm'n, https://www.ftc.gov/policy/advocacy-research/advocacy/economic-liberty/selected-advocacy-relating-occupational-licensing (linking to over 20 such advocacies).

[6] *See* Ohlhausen Senate Statement, *supra* note 5, at 1 ("[W]hen regulatory authority is delegated to a board composed of members of the occupation it regulates," their "private interests may lead to . . . restrictions that discourage new entrants, deter competition among licensees and from providers in related fields, and suppress innovative products or services that could challenge the status quo.").

[7] Fed. Trade Comm'n, FTC Staff Comment to the Texas Supreme Court Regarding Proposed Amendment to Rule 1 of the Rules Governing Admission to the Bar of Texas (Dec. 1, 2025), https://www.ftc.gov/news-events/news/public-statements/ftc-staff-comment-texas-supreme-court-regarding-proposed-amendment-rule-1-rules-governing-admission; Fed. Trade Comm'n, FTC Staff Comment to the Florida Supreme Court Regarding Amendment to Rule 4-13.2 of the Florida Supreme Court's Rules Relating to Admissions to the Bar (Mar. 31, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/FloridaABALetterFinal.pdf.

[8] *See N.C. State Bd. of Dental Exam'rs v. FTC*, 574 U.S. 494, 513–14 (2015).

[9] Middle District of Tennessee, Department of Justice, https://www.justice.gov/usao-mdtn.

[10] Offices of the United States Attorney, Department of Justice, https://www.justice.gov/usao.

[11] Braden H. Boucek, *Reclaiming the Genius of a Free State, Tennessee's Forgotten Anti-Monopolies Clause*, 13 BELMONT L. REV. 1 (2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6198398.

[12] *See, e.g.*, Letter from Robert Potter, Chief, Legal Pol'y Sec., Antitrust Div., U.S. Dep't of Justice, to Hon. Peter MacGregor, Mich. State Senate (Nov. 29, 2016), https://www.justice.gov/atr/page/file/913866/dl?inline (encouraging

statement of interest in a private lawsuit, affirming that professional associations are subject to the antitrust laws when establishing accreditation standards and assessing compliance with those standards. In its statement, the Division explained that accreditation societies cannot impose barriers that limit the number of entrants into a profession.[13] The Division also encouraged a state legislature to consider the competitive benefits of expanding scope-of-practice laws in a joint letter with the FTC.[14]

Further, the DOJ Antitrust Division brought an enforcement action to prevent gatekeeping in professional licensing. That action sought to prevent the ABA from engaging in anticompetitive practices, which restrained competition among ABA-accredited law schools and between ABA- and non-ABA accredited law schools.[15] That action resulted in a ten-year consent decree.

Based on this experience, we laud the Court's decision to revisit the fact that it "has come to rely heavily on accreditation by the [ABA] in establishing minimum educational requirements for applicants to the Bar."[16] Allowing the ABA to monopolize the determination of the education requirements for taking the bar examination and practicing law in Tennessee is inimical to the principles on which competition law rests. The ABA is dominated by practicing attorneys, who have strong incentives to limit the supply of lawyers competing to provide legal services. And its accreditation group is dominated by law school faculty and administrators with strong incentives to thwart lower cost alternatives for legal education. Therefore, Tennessee's reliance on ABA accreditation raises serious competitive risks by broadly delegating to the ABA the state's authority to set eligibility requirements for admission to the Tennessee bar.

The stakes are real. The Court correctly observed that "the current supply of legal services in the United States is insufficient to meet the needs of many Americans," with particular harm to low income and rural residents.[17] The ABA's incentive to impose overly onerous law school accreditation requirements only makes the problem worse. We encourage the Court to reduce its reliance on the ABA and collaborate with other states that are working towards opening up law school accreditation to competition.

I. The Court wisely questioned whether its heavy reliance on ABA accreditation unnecessarily limits the supply of legal services in Tennessee and increases costs.

The Order explained that the Court "is interested in reassessing its approach to regulation

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a state legislature to consider the competitive effects of restrictive regulations that reduced the delivery of professional services); Letter from Robert Potter, Antitrust Div., U.S. Dep't of Justice, to Hon. Dan K. Morhaim, Md. House of Dels. (Sept. 10, 2018), https://www.justice.gov/archives/atr/page/file/1092791/dl?inline (recommending expanding the list of state-approved certifying bodies that can serve as competitive alternatives to the dominant certifying organization).

[13] Statement of Interest of the United States, Lincoln Mem. Univ. v. Am. Veterinary Medical Ass'n, No. 3:25-cv-00282 (Dec. 15, 2025), https://www.justice.gov/atr/media/1420886/dl?inline.

[14] Letter from Marina Lao, Dir., Office of Pol'y Planning, Fed. Trade Comm'n, & Robert Potter, Antitrust Div., U.S. Dep't of Justice, to Hon. Bradley H. Jones, Jr., Mass. House of Representatives (Feb. 18, 2016), https://www.justice.gov/archives/opa/file/826371/dl.

[15] *See* Compl., United States v. Am. Bar Ass'n, No. 95-cv-01211 (D.D.C. filed June 27, 1995), https://www.justice.gov/atr/case-document/file/485696/dl; Competitive Impact Statement, United States v. Am. Bar Ass'n, No. 95-cv-01211 (D.D.C. filed July 14, 1995), https://www.justice.gov/atr/case-document/file/485691/dl.

[16] Order, *supra* note 3, at 1.

[17] *Id.* at 2, 3.

of the legal profession to ensure that all Tennesseans have access to affordable quality legal services."[18] The Court recognized that "requirements for admission to practice law established by the Court . . . necessarily limit the supply of legal services and increase their cost."[19] It solicited comment on seven issues,[20] including two involving its reliance on ABA accreditation. The Court noted that "[c]omments should take into consideration the Court's goals of lowering barriers to entry into the legal profession and ensuring the availability of affordable legal services to Tennesseans, while also ensuring the competency of Tennessee's attorneys and safeguarding the public."[21]

Currently, pursuant to its "inherent power 'to regulate and supervise the practice of law' " in Tennessee,[22] the Court permits any person who "graduated with a J.D. Degree from a law school accredited by the ABA" to take the Tennessee bar examination.[23] The Court also authorizes the Tennessee Board of Law Examiners to approve unaccredited Tennessee law schools—but not law schools located in other states—so that their graduates may take the Tennessee bar examination.[24] The rule directs the Board to approve unaccredited Tennessee schools, in part, based on whether they "meet[] educational standards similar to those defined in the ABA Standards."[25] Only one law school, Nashville School of Law, currently has such approval.[26] So the Court does indeed "rely heavily on accreditation by the [ABA] in establishing minimum education requirements for applicants to the [Tennessee] Bar."[27]

The ABA is the largest voluntary professional organization in the world; its "mission is to be the national representative of the legal profession," serving a membership filled with practicing attorneys.[28] The ABA's Council of the Section of Legal Education and Admissions to the Bar ("ABA Council") establishes the standards that law schools must meet to become accredited, covering areas such as faculty, admissions, curriculum, governance, and the library and other facilities.[29] It also determines whether law schools have complied with these standards and warrant

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[18] *Id.* at 4.
[19] *Id.* at 2.
[20] *Id.* at 4–5.
[21] *Id.* at 5.
[22] *Id.* at 1 (quoting Manookian v. Bd. of Pro. Resp., 685 S.W.3d 744, 801 (Tenn. 2024)).
[23] Tenn. Sup. Ct. R. 7, § 2.02(a).
[24] *Id.* In addition, the rules identify limited circumstances in which applicants can take the Tennessee bar examination without meeting either of these education requirements. *See* Tenn. Sup. Ct. R. 7, § 2.02(d).
[25] Tenn. Sup. Ct. R. 7, § 17.02(a). Other provisions require law schools to adopt a mission statement and an independent governing board and cover the school's (a) organization and administration, (b) faculty, (c) facilities, (d) library, (e) curriculum and admissions standards, and (f) publication of certain information. *See id.* at 17.02(b).
[26] In Re: Tennessee-Approved Law Schools, Dkt. No. ADM2025-01335 (Tenn. Sup. Ct. Sept. 4, 2025) (renewing approval of Nashville School of Law); E-mail from Tenn. Bd. of Law Exam'rs Admin. to Austin King, Attorney Advisor, Fed. Trade Comm'n (Apr. 10, 2026, 4:00 p.m. ET) (stating that Nashville School of Law is the only law school currently approved by the Tennessee Board of Law Examiners) (on file with FTC).
[27] Order, *supra* note 3, at 1.
[28] *Consumer FAQs*, ABA, https://www.americanbar.org/groups/professional_responsibility/resources/resources_for_the_public/consumer_faqs/ (last visited Apr. 24, 2026).
[29] *See* ABA Section of Legal Education and Admissions to the Bar, *Standards and Rules of Procedure for Approval of Law Schools—2025–2026*, https://www.americanbar.org/groups/legal_education/accreditation/standards/standards-rules (last visited Apr. 24, 2026) [hereinafter ABA Standards].

ABA accreditation.[30] The ABA Council has twenty-one members, who are predominantly current or former law school or other university administrators or faculty; the remainder include practicing lawyers, judges, a law student, and a Senior Fellow at a trade association that represents universities' interests.[31] These ABA Council members are selected by an ABA Section largely composed of law school faculty and administrators.[32]

The Court sought public comment on two questions specifically related to its reliance on ABA accreditation. The first asked, "[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."[33] Yes, the Court should reduce its reliance on ABA accreditation. Allowing the ABA to monopolize the determination of the education requirements for taking the bar examination and practicing law in Tennessee effectively delegates state power to private actors with potential anticompetitive interests. As described in Section III below, the attorneys who dominate the ABA have strong incentives to limit the supply of lawyers who compete with them to provide legal services.[34] And the law school and university faculty and administrators who dominate the ABA's accreditation group have strong incentives to thwart lower cost alternatives to the legal education they provide. Therefore, Tennessee's reliance on ABA accreditation raises serious competitive risks by broadly delegating the state's authority to set education requirements for admission to the Tennessee bar to bodies controlled by individuals with anticompetitive incentives.

The second question posed by the Court asked, "[w]hether there are any practicable alternatives to ABA accreditation that the Court should consider."[35] Addressing this question is complicated by the current strength of the ABA accreditation monopoly. However, as discussed in Section IV below, there are steps the Court could take to reduce its reliance on ABA accreditation and open up the accreditation market to competition. The Court already enables the

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[30] *Schools Seeking Council Approval*, ABA, https://www.americanbar.org/groups/legal_education/accreditation/ (last visited Apr. 24, 2026). The law school accreditation application process is lengthy, including payment of a fee, preparation of studies by the applicant, collection of data, and a site evaluation team visit and report. *See id.*

[31] *Section of Legal Education and Admissions to the Bar Leadership*, ABA, https://www.americanbar.org/groups/legal_education/about/leadership/ (last visited Apr. 24, 2026) (showing the professional titles of the 21 Council members, with 14 listing current or former positions at law schools or universities and Daniel Madzelan listing his position with the American Council on Education).

[32] The ABA's Section of Legal Education and Admissions to the Bar has over 17,000 members, including practicing lawyers, judges, and legal educators. *About the Section of Legal Education and Admissions to the Bar*, ABA, https://www.americanbar.org/groups/legal_education/about/ (last visited Apr. 24, 2026); *New to Bar Admissions? What You Might Like to Know About: The ABA's Connection to Bar Admissions*, 90 THE BAR EXAMINER 86 (Spring 2021), https://thebarexaminer.ncbex.org/article/spring-2021/new-bar-admissions-aba-connections/ (reporting that the Section's "membership is generally composed of legal educators and bar examiners" but "is open to any ABA member").

[33] Order, *supra* note 3, at 4.

[34] In its comment, the ABA Council argues that its "work in accreditation matters . . . is separate and independent from the general ABA." *See* Comment, Council of the American Bar Association Section of Legal Education and Admissions to the Bar to the Tennessee Supreme Court, In re: Comments on Law School Accreditation Component of Tennessee's Bar Admission Requirements 9 (Mar. 16, 2026). However, the broader ABA House of Delegates still has the authority to review Council decisions and remand for further consideration, though it must accept ABA Council decisions after two remands. *See* United States v. Am. Bar Ass'n, 135 F. Supp. 2d 28 (D.D.C. 2001); Part III, *infra*. Further, the ABA Council is dominated by other interested parties—higher education faculty, their trade association, and practicing lawyers—and is also subject to influence by the attorneys who dominate the ABA.

[35] Order, *supra* note 3, at 4.

Board of Law Examiners to approve unaccredited Tennessee law schools, so that its graduates may apply for admission to the Tennessee Bar.[36] The Court could open this process to schools located outside of Tennessee, and it could eliminate its direction that the Board utilize educational standards similar to the ABA. The Court could also work with other states and the federal government to promote the entry of new law school accreditors to compete with the ABA and provide options to schools that balk at the ABA's costly mandates.

II. Professional boards or trade associations often have strong incentives to restrain competition and may misuse delegated state power to exclude competitors.

Antitrust law has long recognized that professional boards and trade associations frequently have inherent incentives to undermine competition. As Adam Smith observed, "[p]eople of the same trade seldom meet, even for merriment or diversion, but the conversation ends in a conspiracy against the public or in some contrivance to raise prices."[37] Professional and trade associations thus have often been found to violate the antitrust laws when they enter into agreements restricting competition among themselves,[38] or interfering with the ability of others to compete.[39]

Some conduct by professional associations can generate important benefits. For example, the adoption of voluntary standards governing product safety or professional qualifications, promulgated with "meaningful safeguards" around the process for developing such standards, can have "significant procompetitive advantages."[40] Voluntary industry standards are therefore generally assessed under the rule of reason, which weighs a restraint's procompetitive and anticompetitive effects.[41] Yet courts recognize the inherent anticompetitive incentives in many standards organizations that may lead to abuse of the standards process, particularly where "many of [the standards organization's] officials are associated with members of the industries" it regulates.[42]

The potential for competitive harm increases when state legislation or regulation gives the force of law to restrictions on competition advanced by professional or trade associations. Antitrust law respects the authority of states to promote their policy goals through regulation, even when

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[36] Tenn. Sup. Ct. R. 7, § 2.02(a).

[37] United States v. Realty Multi-List, Inc., 629 F.2d 1351, 1370 (5th Cir. 1980) (quoting Note, *Arbitrary Exclusion from Multiple Listing: Common Law and Statutory Remedies*, 52 CORN. L.Q. 570 (1967)); *see* ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 55 (Great Books 1952) (1776).

[38] *See, e.g.*, Goldfarb v. Va. State Bar, 421 U.S. 773, 783 (1975) (holding that a county bar association rule establishing a minimum fee schedule enforced via potential disciplinary action was "a classic illustration of price fixing" by the state bar); FTC v. Ind. Fed'n of Dentists, 476 U.S. 447, 456–65 (1986) (affirming an FTC order that an Indiana Federation of Dentists policy requiring its members to withhold x-rays violated the antitrust laws).

[39] *See, e.g.*, E. States Retail Lumber Dealers' Ass'n v. United States, 234 U.S. 600, 611–14 (1914) (affirming Sherman Act violation against associations of retail lumber dealers who conspired to prevent competition from wholesale dealers); Fashion Originators' Guild, Inc. v. FTC, 312 U.S. 457, 463–65 (1941) (affirming FTC order that a trade association of garment manufacturers cease an organized boycott designed to thwart the sale of lower-priced garments that are similar to the trade association members' original styles).

[40] Allied Tube & Conduit Corp. v. Indian Head, Inc., 486 U.S. 492, 501 (1988) (quoting Am. Soc'y of Mech. Eng'rs v. Hydrolevel Corp., 456 U.S. 556, 572 (1982)); *see also* Ohlhausen Senate Statement, *supra* note 5, at 1 (stating that the Commission "recognize[s] that occupational licensing can offer many important benefits," such as "protect[ing] consumers from health and safety risks").

[41] *See, e.g.*, *Allied Tube*, 486 U.S. at 500–01.

[42] *Hydrolevel*, 456 U.S. at 571.

such actions inhibit competition. It thus affords immunity from antitrust liability when two conditions are met: (1) the challenged restraint must be "clearly articulated and affirmatively expressed as state policy," and (2) "the policy must be 'actively supervised' by the State itself."[43] There is a particular danger of competitive harm when a state professional board is composed of unsupervised industry competitors. In *North Carolina State Board of Dental Examiners v. FTC*, for example, the Supreme Court refused to extend immunity to the decision of a state board dominated by licensed dentists to adopt a regulation prohibiting dental hygienists from offering teeth whitening services.[44]

The Commission has emphasized harm to competition arising when "entrants are effectively required to obtain permission from incumbent competitors to enter or expand within a particular market."[45] These harms from "unnecessary occupational regulation" include "dampening incentives for innovation in products, services, and business models" and "creating barriers to entry or repositioning by providers."[46] Legal scholars agree, stressing that boards composed largely of incumbent members of the profession can serve as "cartels by another name" that are "deputized to regulate and to outright exclude their own competition."[47] This "inherent conflict of interest and a risk of anticompetitive abuse" arises "in any accreditation program where market participants wield the power to exclude"—"for even the most selfless and well-intentioned decision makers" may be influenced when decisions "direct[ly] implicat[e] their own status . . . and well-being."[48]

In engaging with state officials regarding occupational licensing, the Commission "ask[s] that they consider whether: (1) any licensing regulations are likely to have a significant adverse effect on competition; (2) those restrictions are targeted to address actual risks of consumer harm; and (3) the restrictions are narrowly tailored to minimize burdens on competition, or whether less restrictive alternatives are available."[49] This inquiry is designed to "help alleviate unnecessary licensing burdens" that harm competition.[50] When professional licensing restrictions fall short of these principles, they may not serve the public interest—they may instead further the anticompetitive goals of market participants who influence and set the standards. Based on these principles, the Commission has argued against restrictions that would undermine competition by imposing certification or educational requirements on suppliers beyond what is needed to properly

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[43] Cal. Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc., 445 U.S. 97, 105 (1980) (quoting City of Lafayette v. La. Power & Light Co., 435 U.S. 389, 410 (1978) (Brennan, J.) (footnote omitted)).

[44] 574 U.S. 494, 507 (2015).

[45] *See* Maureen K. Ohlhausen & Gregory P. Luib, *Brother, May I?: The Challenge of Competitor Control over Market Entry*, 4 JOURNAL OF ANTITRUST ENF'T 111, 111 (2016), https://doi.org/10.1093/jaenfo/jnv028; Ohlhausen House Statement, *supra* note 4, at 3 ("Occupational regulation can be especially problematic when regulatory authority is delegated to a board controlled by active market participants," since "there is a risk that the board's decisions will serve the private economic interests of its members, not the policies of the state or the well-being of its citizens.").

[46] Ohlhausen Senate Statement, *supra* note 5, at 1.

[47] Aaron Edlin & Rebecca Haw, *Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?*, 162 U. PA. L. REV. 1093, 1093–94 (2014). The authors contend that "[l]icensing boards are largely dominated by active members of their respective industries who meet to agree on ways to limit the entry of new competitors." *Id.* at 1095–96.

[48] Marina Lao, *Discrediting Accreditation?: Antitrust and Legal Education*, 79 WASH. U. L. Q. 1035, 1036–37 (2001).

[49] Ohlhausen House Statement, *supra* note 4, at 4.

[50] Maureen Ohlhausen, Acting Chairman, Fed. Trade Comm'n, Transcript of the Economic Liberty Taskforce Roundtable: The Effects of Occupational Licensure on Competition, Consumers and the Workforce: Empirical Research and Results 4 (Nov. 7, 2017), https://www.ftc.gov/system/files/documents/public_events/1252903/11_07_2017_the_effects_of_occupational_licensure_transcripts.pdf.

perform the service. For example, the Commission has frequently advised against restrictions on those permitted to provide medical or dental services that would exclude qualified suppliers.[51] The Commission has also recommended caution in imposing costly educational requirements to qualify for professional licensure.[52]

III. The Tennessee Supreme Court's heavy reliance on ABA accreditation to determine eligibility to take the Tennessee bar examination may stifle competition among law schools and among lawyers.

As it stands, the ABA has a monopoly on the accreditation of American law schools.[53] It is the sole law school accreditor currently recognized by the Department of Education and the only one to operate on a national level across multiple states. This monopoly power is protected by rules and regulations in most states that make eligibility for their respective bars depend either entirely or heavily on graduation from an ABA-accredited school.[54]

The ABA, unfortunately, has a long history of using its law school accreditation monopoly to harm competition. As mentioned previously, thirty years ago, the DOJ Antitrust Division brought a Sherman Act complaint against the ABA and challenged conduct that dated back to 1973.[55] The Division alleged that the ABA allowed "[l]egal educators" to capture the accreditation process, "at times act[ing] as a guild that protected the interests of professional law school personnel."[56] The complaint stated that ABA "salary standards and their application . . . unreasonably restricted competition in the law school labor market and" forced accredited schools

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[51] *See, e.g.*, FED. TRADE COMM'N, POLICY PERSPECTIVES: COMPETITION AND THE REGULATION OF ADVANCED PRACTICE NURSES (2014), https://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition-regulation-advanced-practice-nurses/140307aprnpolicypaper.pdf (cautioning against restricting the scope of practice of advanced practice registered nurses or subjecting them to excessive physician supervision); Fed. Trade Comm'n, FTC Staff Comment Letter on Likely Competitive Impact of House Bill 684 to Amend GA Code § 43-11-74 (Jan. 29, 2016), https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-georgia-state-senator-valencia-seay-concerning-georgia-house-bill-684/160201gadentaladvocacy.pdf (supporting a bill permitting dental hygienists to provide certain services without the direct supervision of a dentist).

[52] Fed. Trade Comm'n, FTC Staff Comment Letter on Washington Administrative Code 4-25-710, § IV (Mar. 18, 1996), https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-honorable-jean-silver-concerning-washington-administrative-code-4-25-710-require/v960006.pdf (cautioning that requiring 150 hours of undergraduate coursework to sit for the CPA examination could "increase the cost of entry and may raise prices to consumers of CPA services," and recommending that the state "seek persuasive evidence that, notwithstanding these concerns, the net effect of the amendment on consumers would be positive").

[53] *See* George B. Shepherd & William G. Shepherd, *Scholarly Restraints? ABA Accreditation and Legal Education*, 19 CARDOZO L. REV. 2091, 2198 (1998) ("The ABA accreditation system creates almost complete monopoly control over each of the three markets for hiring law faculty, for legal training, and for legal services."); Workgroup on the Role of the American Bar Association in Bar Admission Requirements, Final Report 16 (Oct. 27, 2025) [hereinafter Florida Workgroup Report], ("the [ABA], through its Council, holds a near monopoly over legal education accreditation in the United States"), https://www-media.floridabar.org/uploads/2025/10/Final-Report-of-the-Workgroup-on-the-Role-of-the-ABA-in-Bar-Admission-Requirements.pdf. The Florida Supreme Court established the Workgroup to study Florida's reliance on ABA accreditation in determining eligibility to take the Florida bar examination. *See id.* at 5.

[54] *See, e.g.*, Nat'l Conference of Bar Exam'rs, Comprehensive Guide to Bar Admission Requirements, https://reports.ncbex.org/comp-guide/charts/chart-3/ (last visited Apr. 24, 2026) (summarizing the requirements in each state); Florida Workgroup Report, *supra* note 53, Attachment B: Chart of Educational Requirement to Sit for the Bar Examination in the United States (same).

[55] See Compl., *supra*, note 15, ¶ 35.

[56] Competitive Impact Statement, *supra* note 15, at 2, 4.

to "ratchet[] up law school salaries."[57] According to the Division, other restrictions "deterr[ed] effective competition from [non-ABA-accredited] law schools."[58] The ABA settled, resolving the lawsuit through a consent decree.[59] In 2006, the U.S. District Court for the District of Columbia found that "on multiple occasions the ABA ha[d] violated clear and unambiguous provisions" of that consent decree; it ordered the ABA to comply and pay $185,000 to compensate the DOJ Antitrust Division for the costs of the investigation.[60]

Nonetheless, the ABA continues to wield its law school accreditation monopoly in a manner that harms competition. When it strikes the right balance, accreditation can be procompetitive and serve the state's interest in "safeguard[ing] a baseline of legal educational quality and support."[61] The ABA takes a different approach. It forces every law school to follow its preferred costly, elitist model of legal education.[62] Over twenty years ago, Professor Marina Lao scrutinized the ABA's accreditation standards. She concluded that they were "unreasonable and, therefore, anticompetitive," because they "reflect the profession's preference for the elite-model law school," and exclude schools providing a "nonelite legal education [that] is perfectly adequate for many types of legal practice."[63]

Secure in its state-protected monopoly position, the ABA has brushed off such calls for a commonsense approach that sets baseline requirements.[64] It instead insists on excessive restrictions that unnecessarily "drive up costs for law schools"[65] and protect the interests of

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[57] Compl., *supra* note 15, ¶ 16.

[58] Competitive Impact Statement, *supra* note 15, at 6–7.

[59] The consent decree prohibited standards relating to compensation paid to law school faculty and administrators, restricted the collection and dissemination of information regarding compensation, and eliminated certain restrictions on accepting transfer credits from state-accredited law schools or enrolling graduates of such schools in post-J.D. programs. It also included structural provisions designed to insulate the ABA Council's conduct from influence by interested parties such as legal educators. *See* United States v. Am. Bar Ass'n, 934 F. Supp. 435, 436–37 (D.D.C. 1996). The decree was modified in 2001 to limit the ability of the ABA House of Delegates to overrule ABA Council decisions, in order to conform with Department of Education regulations. United States v. Am. Bar Ass'n, 135 F. Supp. 2d 28, 30, 32 (D.D.C. 2001).

[60] United States v. Am. Bar Ass'n, No. 95-cv-1211, 2006 U.S. Dist. LEXIS 42645, at *2 (D.D.C. June 26, 2006); Petition by the United States for an Order to Show Cause Why Defendant ABA Should Not Be Found in Civil Contempt ¶¶ 11–17, United States v. Am. Bar Ass'n, No. 95-cv-1211 (D.D.C. filed June 23, 2006), Dkt. No. 101.

[61] Florida Workgroup Report, *supra* note 53, at 17 (footnote omitted).

[62] *See, e.g.*, Letter from Robert Chesney, Dean of the University of Texas School of Law, to the Honorable Chief Justice and Justices of the Supreme Court of Texas § 2 (June 30, 2025) (on file with FTC). *See also* Shepherd, *supra* note 53, at 2114 ("The present accreditation system arose out of successful efforts during the Great Depression by a combination of elite law professors, elite law schools, and elite lawyers to limit competition in each of the three related markets for law faculty, legal training, and legal services.").

[63] Lao, *supra* note 48, at 1102. *See also* Shepherd, *supra* note 53, at 2103 ("Formal study at an elite-style law school is certainly one way to train lawyers. But it is not necessarily the best or most cost-effective method for all potential lawyers.").

[64] Despite its contrary actions, the ABA this past August claimed that its "Standards are minimum standards for ensuring a quality legal education, but law schools should seek to exceed the Standards consistent with their mission and goals." *Core Principles and Values of Law School Accreditation*, ABA, 1 (Aug. 2025), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/2025/core-principles-and-values-of-law-school-accreditation.pdf (last visited Apr. 24, 2026).

[65] Florida Workgroup Report, *supra* note 53, at 21.

incumbent higher education institutions and their faculty.[66] By increasing the costs of legal education, the ABA's excessive accreditation standards may also limit the supply of new lawyers.[67] With fewer lawyers available, consumers may struggle to access legal services and pay more dearly when they do. Thus, ABA accreditation serves the interests of lawyers and law school faculty who dominate the ABA and Council, while potentially injuring consumers of legal services and saddling law students with high costs.[68]

The excesses of ABA accreditation take various forms. There are longstanding concerns that the ABA standards "focus on inputs" that increase costs " 'rather than educational outputs' " that ensure the schools provided actual educational benefits.[69] For example, the ABA requires physical libraries that offer limited value to students preparing for contemporary legal practice that relies on online research.[70] ABA standards also severely limit online courses and programs that could provide lower cost education to rural consumers.[71] In addition, critics have questioned the ABA's demands for full-time (rather than adjunct) law faculty, strict limits on faculty teaching loads, and the emphasis on faculty research.[72] While these dictates clearly promote the interests of

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[66] *See* Shepherd, *supra* note 53, at 2096 (explaining that "faculty control the law schools, and, consciously or not, they operate them to maximize benefits for faculty"). Moreover, ABA Council members from colleges or universities without law schools have an interest in the ABA's insistence that law school students obtain an undergraduate degree prior to starting law school.

[67] *See, e.g.*, FTC Staff Comment Letter on Washington Administrative Code 4-25-710, *supra* note 52, § III (explaining that an increase in the course work hours required for CPA exam eligibility can increase the costs of entry into the profession, and therefore serve the "economic self-interest" of incumbent suppliers); Press Release, Fed. Trade Comm'n, *FTC Announces Investigation of American Medical Association* (Apr. 13, 1976) (on file with Fed. Trade Comm'n) (announcing that the FTC had "commenced an investigation to determine whether the American Medical Association may have illegally restrained the supply of physicians and health care services through activities relating to . . . accreditation of medical schools and graduate programs").

[68] Many law students, as consumers of legal education, are likely injured by the ABA's costly and unnecessary standards. However, current law students are unlikely to experience the benefits of more flexible accreditation standards that could lower costs of legal education in the future. Indeed, current law students expect to soon become lawyers who may reap the benefits from the reduced competition in the supply of legal services resulting from the ABA's costly standards. This dynamic likely makes student representation on accreditation bodies insufficient to incentivize downward pressure on costs. Rather than current students, the harm from excessive accreditation standards may be concentrated on potential future students, particularly those prospective students who might only go to law school if unnecessary accreditation standards did not raise tuition or impose barriers limiting the availability of legal education (*e.g.*, through restrictions on online education or requirements for extensive library facilities).

[69] Florida Workgroup Report, *supra* note 53, at 18 (quoting Benjamin M. Lepak, *Breaking the ABA's Law School Cartel: A Proposal to Make Oklahoma Top-Ten in Innovative Lawyer Education*, 1889 INSTITUTE (Mar. 2020), https://1889institute.org/breaking-the-abas-law-school-cartel-a-proposal-to-make-oklahoma-top-ten-in-innovative-lawyer-education/); *id.* at 19 (including criticisms from a former ABA Accreditation Committee member that input requirements "have no real connection to the quality of education").

[70] Florida Workgroup Report, *supra* note 53, at 19.

[71] Generally, ABA accreditation requires that law schools offer no more than half their courses online. *See* ABA Standards, *supra* note 29, at 26–27 (Standard 306). Institutions seeking to exceed this threshold must obtain an acquiescence from the Council. *See id.* The ABA announced plans to consider changing the standards to make fully online law schools eligible to receive accreditation two years ago, but it has not taken action. *See* Comment of Purdue Global Law School to the Honorable Justices of the Tennessee Supreme Court, 4–5, In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Dec. 23, 2025).

[72] Florida Workgroup Report, *supra* note 53, at 18–21; Lao, *supra* note 48, at 1040–43, 1074–78 (describing the wide range of law school operations covered by the ABA's "elite-style law school" standards and their anticompetitive impact); John S. Elson, *Why and How the Practicing Bar Must Rescue American Legal Education from the Misguided*

certain faculty members, they impose high costs without clear indication that they are needed to ensure educational quality. Finally, ABA standards require that a law school's course of study include a minimum of 83 credits to graduate, with the result that nearly all ABA-accredited law schools require three years of study.[73] The Order recognized concerns that longer study requirements raise costs and sought comment on whether the "traditional three-year degree" is truly necessary.[74]

Moreover, in recent years, the ABA has even dictated that law schools enact measures that conform to controversial ideological views prevalent among the legal elitists, notwithstanding public opposition and the measures' irrelevance to ensuring a baseline level of legal education. Of particular concern is the ABA's imposition of DEI requirements on American law schools as a requirement of accreditation,[75] which the DOJ and Attorneys General of over 20 states (including Tennessee) regard as illegal under the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023).[76] Tennessee Attorney General Jonathan Skrmetti concluded that ABA Standard 206 "all but *compels* law schools to consider race in both the admissions and employment contexts" and thereby "to defy the Court's clear directive."[77] These actions are recent additions to a long list that have buried the antiquated "perception that [the ABA] is an impartial and objective professional association"[78] and fueled views that it has become "more of a political organization."[79]

Absent its monopoly bolstered by delegated state power, the ABA's insistence on an

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Priorities of American Legal Academia, 64 TENN. L. REV. 1135, 1141–42 (1997) (noting that these standards "keep out of the legal education market schools that would prefer to focus their resources on preparing students for practice").

[73] ABA Standards, *supra* note 29, at 29 (Standard 311).

[74] Order, *supra* note 3, at 4.

[75] *See* ABA Standards, *supra* note 29, at 17 (Standard 206).

[76] *See* Letter from Pamela Bondi, Att'y Gen., U.S. Dep't of Justice, to David A. Brennen, Council Chair, ABA Section of Legal Education and Admissions to the Bar, (Feb. 28, 2025), https://www.justice.gov/ag/media/1392081/dl?inline; Letter from State Attorneys General to David A. Brennen, Council Chair, ABA Section of Legal Education and Admissions to the Bar (Jan. 6, 2025), https://www.scag.gov/media/ru4dwwfm/multistatecomment-re-standard-206-filed.pdf. The ABA temporarily suspended Standard 206 pending review of its consistency with the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023). *See* Florida Workgroup Report, *supra* note 53, at 25. The Council has not withdrawn the standard, *see id.*, although it recently recommended its repeal, *see* Memorandum from Daniel Thies, Council Chair, ABA Section of Legal Education and Admissions to the Bar (Feb. 26, 2026), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/2026/notice-comments/2026-february-standard-206-repeal-notice-comment-memo.pdf.

[77] Letter of Jonathan Skrmetti, Att'y Gen., State of Tenn., to the Council of the American Bar Association 2 (June 3, 2024), https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2024/pr24-47-letter.pdf.

[78] Florida Workgroup Report, *supra* note 53, at 25 (quoting Letter from William Barr, Att'y Gen., U.S. Department of Justice, to Talbot D'Alemberte, President, American Bar Association (Aug. 7, 1992)).

[79] Barry Currier, *Is the American Bar Association the Optimal Home Base for the Regulation of Legal Education?*, (June 13, 2025), https://barrycurrier.substack.com/p/is-the-american-bar-association-the); *see also* John S. Baker, *Seeking Competition in Law School Accreditation*," 11 TEX. REV. OF L. & POL. 385, 387, 388 (2007) (declaring that "[t]he fact is that the ABA is an ideological organization forcing its ideology into the standards on accreditation" and that due to "the lack of adequate competition" "the whole process has become very politicized"); Comment of Jonathan Skrmetti, Att'y Gen., State of Tenn., to the Honorable Justices of the Tenn. Sup. Ct., In re: No. ADM2025-01403; Recommendation to Revise Rule 7, Article II to Eliminate Reliance on ABA Accreditation for Law Schools 3 (Mar. 16, 2026) [hereinafter Skrmetti Comment] (concluding that, due to its "ideological advocacy," the ABA has "forsak[en] its high responsibility as an objective professional accrediting body, and has, as a result, squandered its credibility as an accreditor").

expensive, ideologically biased legal education might not raise competitive concerns.[80] It could even offer a useful signal to prospective law students seeking such an experience. If other, differentiated law school accreditors existed, schools that wished to compete by offering a distinct, more affordable product could seek accreditation from those ABA alternatives. Competitive market forces could thus spur innovation in the stagnant market for legal education. And competition between accreditors could help to discipline attempts by the ABA to impose costs or ideological mandates that serve little educational purpose. Even the ABA's allies, including a former managing director for the ABA Council, recognize that alternative accreditors could offer valuable options to "[s]chools that think that the current ABA process is too expensive, too slow, too burdensome, or too intrusive on matters that should be left to schools to determine."[81] But no other law school accreditors exist, and the ABA's monopoly remains secure—shielded from competition, in part, by many states' delegations of authority to it.

Thankfully, the tide may be shifting. The Supreme Courts of Texas and Florida recently recognized the harm of provisions that expressly granted the ABA the sole authority to set minimum standards for eligibility to take their bar examinations. Both states modified their rules accordingly. Last year, the Texas Supreme Court determined that "the ABA should no longer have the final say on whether a law school's graduates are eligible to sit for the Texas bar exam,"[82] and on January 6 issued an order "re-asserting its authority over the approval of law schools."[83] On January 15, the Florida Supreme Court similarly concluded that "it is not in Floridians' best interest for the ABA to be the sole gatekeeper deciding which law schools' graduates are eligible to sit" for the Florida bar examination, and it issued an order to encourage the entry of competing accreditors.[84]

This Court's Order showed that it is grappling with the same concerns. And it should come to the same conclusion. The ABA's standards for accreditation go beyond what is reasonably necessary to assure adequate preparation to practice law in Tennessee. Reliance on ABA accreditation likely causes Tennessee law schools to incur unnecessary expenses, which increases legal education costs and contributes to the Tennessee Bar admitting fewer qualified lawyers who could provide needed legal services to the public. The Court should act to reduce this reliance.

IV. We encourage the Court to expand the avenues for approval of non-ABA-accredited law schools and promote the entry of alternative accrediting agencies.

Today, there likely are, unfortunately, no practical options to *fully* eliminate the Court's reliance on ABA accreditation. There are over 200 law schools in the United States, and the ABA

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[80] Whether the ABA's actions would still raise other concerns (e.g., constitutional, moral, etc.) is another question.

[81] Letter from Barry Currier to Justices of the Tx. Sup. Ct., Comments on the Court's Reliance on the ABA Law School Accreditation System 4 (June 23, 2025) (on file with Fed. Trade Comm'n). Mr. Currier "wr[o]te as the former Managing Director of Legal Education and Accreditation at the American Bar Association (2012–2020), which manages the law school regulatory process for the Council." *Id.* at 1.

[82] Preliminary Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Tx., ¶ 2, Misc. Dkt. No. 25-9070, 2025 LX 489157 (Tex. Sup. Ct. Sept. 26, 2025).

[83] Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Tx., ¶ 6, Misc. Dkt. No. 26-9002, 2026 LX 95888 (Tex. Sup. Ct. Jan. 6, 2026) [hereinafter Tx. Sup. Ct. Order].

[84] In Re: Amendments to Rules Regulating the Fla. Bar and Rules of the Supreme Court Relating to Admissions to the Bar, at 2, Dkt. No. SC2025-2064, 2026 LX 27933 (Fla. Sup. Ct. Jan. 15, 2026) [hereinafter Fla. Sup. Ct. Order].

accredits over 80% of them.[85] It would be a substantial burden for the Court to replicate this work. Indeed, despite recognizing the excesses of ABA accreditation, the Supreme Courts of Florida and Texas reduced, but did not eliminate, their reliance on the ABA. In both states, ABA accreditation remains a sufficient condition for permitting a law school's graduates to take the bar examination. As an entrenched monopolist, the ABA currently has no meaningful competitors for the accreditation of most law schools.

There are, however, options for the Court to reduce its reliance on ABA accreditation and expand the opportunities for graduates of non-ABA-accredited law schools to take the Tennessee bar examination. The Court already enabled the Tennessee Board of Law Examiners to determine whether the education provided by unaccredited Tennessee law schools is sufficient to enable graduates to take the bar examination.[86] Currently, only one school has such approval.[87] The Court could potentially modify this program to make it easier for other law schools to obtain approval. In particular, the Court could enable the Board to grant approval to law schools without ABA accreditation located outside of Tennessee. And the Court could eliminate its direction that the Tennessee Board of Law Examiners utilize educational standards similar to the ABA.[88]

The Court might benefit from processes that other states have implemented to approve unaccredited law schools. Several other states have rules or statutes that allow for approval of non-ABA-accredited law schools, including Alabama, California, Connecticut, Massachusetts, and Texas.[89] The Court could leverage these states' work to reduce its burden and expedite its approval process.[90]

The Court could potentially rely on these other states to quickly expand the supply of applicants eligible to take the Tennessee bar, while ensuring that they received an adequate legal education. For example, the Court could amend its rules to allow graduates of an unaccredited law school to take the Tennessee bar if the school is (1) approved by another state supreme court and

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[85] *See* ABA, Section of Legal Education and Admissions to the Bar, Council-Approved Law Schools (reporting that 198 law schools have ABA accreditation), https://www.americanbar.org/groups/legal_education/accreditation/approved-law-schools (last visited Apr. 24, 2026); Law School Admission Council, Other Law Schools (listing 32 non-ABA accredited law schools in the United States), https://www.lsac.org/choosing-law-school/find-law-school/other-law-schools) (last visited Apr. 24, 2026).

[86] Tenn. Sup. Ct. R. 7, §17.

[87] *See supra*, note 26.

[88] Tenn. Sup. Ct. R. 7, § 17.02(a).

[89] *See* Ala. Code § 34-3-2.1; Cal. Bus. & Prof. Code § 6060(e)(1); Tx. Sup. Ct., Order, *supra* note 83; State of Conn. Jud. Branch, Rules & Regulations of the Connecticut Bar Examining Committee, Art. II-1(B), https://ctbaradmissions.jud.ct.gov/regulations (last visited Apr. 27, 2026); Mass. Bd of Higher Educ., Academic Program Approval: Independent, New in Massachusetts, and Out-Of-State Institutions (describing authority to grant approval to institutions of higher education in Massachusetts), https://www.mass.edu/foradmin/academic/independentprogramapproval.asp (last visited Apr. 27, 2026).

[90] For example, like Tennessee, the California Committee of Bar Examiners can approve in-state schools, and graduates of these schools may sit for the bar exam. The California State Bar Board of Trustees has adopted standards for accreditation and rules governing this process. The State Bar of Cal., Rules of the State Bar, Title 4. Admissions And Educational Standards, Division 2, Accredited Law School Rules, https://www.calbar.ca.gov/legal-professionals/rules/rules-state-bar/title-4-admissions-and-educational-standards/division-2-accredited-law-school-rules (last visited Apr. 24, 2026). Currently nearly 20 non-ABA-accredited law schools have obtained this accreditation, accounting for approximately one-quarter of the students in California law schools. *See* The State Bar of Cal., California Law Schools: An Overview, https://publications.calbar.ca.gov/law-school-profile/overview-california-law-schools (last visited Apr. 27, 2026).

(2) has an adequate bar passage rate in that state.[91] Other state supreme courts may follow with similar reciprocity and provide a more efficient pathway for unaccredited law schools to qualify their graduates for bar admission in multiple states.

Separately, in the longer run, new law school accreditation agencies might emerge to enhance competition by challenging the ABA's monopoly. The Court could look for ways to facilitate market entry. The Florida Supreme Court recently amended its rules to "create the opportunity for additional entities to carry out an accrediting and gatekeeping function."[92] The Tennessee Court could consider similar steps or offer other encouragement to potential new accreditors.[93] For example, the Texas Supreme Court expressed interest in utilizing "a multistate accrediting entity other than the ABA should a suitable entity become available."[94] As more states choose to reduce their reliance on ABA accreditation, new law school accreditors may seize the opportunity to enter and challenge the ABA's monopoly.

Other recent developments may enhance the odds that a new law school accreditor enters. Last April, President Trump issued Executive Order 14279, Reforming Accreditation to Strengthen Higher Education, to "reform our dysfunctional accreditation system so that colleges and universities focus on delivering high-quality academic programs at a reasonable price."[95] EO 14279 specifically directed the Department of Education to "resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes."[96]

The Department of Education has taken a series of actions to implement Executive Order 14279 and promote competition among accreditors. In May 2025, the Department issued a "Dear Colleagues" letter to higher education institutions that "re-establishe[d] a simple process" for switching accreditors, "that will remove unnecessary requirements and barriers to institutional innovation."[97] In late 2025, the Department of Education identified "Supporting the Creation of New Accrediting Agencies" and "Supporting Institutions in Changing Accrediting Agencies" as two "Absolute Priorities" for its grantmaking.[98] It awarded $14.5 million to fund new accreditors seeking recognition and institutions seeking to switch accreditors.[99] In February, the Department reexamined its regulation requiring that "an agency seeking initial recognition . . . must have

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[91] The Court could retain the right to disallow any school, effectively providing a veto if it disagrees with the accreditation decision by another state or the ABA. *See* Purdue Global Comment, *supra* note 71, at 11.

[92] Fla. Sup. Ct. Order, *supra* note 84, at 2, 7.

[93] Attorney General Skrmetti suggests that the Court look to "new accrediting bodies, such as the Commission for Public Higher Education, [that] could expand their scope to include law schools." Skrmetti Comment, *supra* note 79, at 7.

[94] Tx. Sup. Ct. Order, *supra* note 83, ¶ 6(f).

[95] Exec. Order No. 14279, § 1, Reforming Accreditation to Strengthen Higher Education, 90 Fed. Reg. 17529, 17530 (Apr. 23, 2025).

[96] *Id.* § 3(b)(i).

[97] Dep't of Educ., Office of Postsecondary Education, Changes to the Approval Process for Changing Accrediting Agencies, at 3 (May 1, 2025), https://www.ed.gov/media/document/dear-colleague-letter-changes-approval-process-changing-accrediting-agencies-may-1-2025-109941.pdf.

[98] Dep't of Educ., Applications for New Awards; Fund for the Improvement of Postsecondary Education—Special Projects (FIPSE—SP), 90 Fed. Reg. 50861, 50864 (Nov. 12, 2025).

[99] Katherine Knott, *The Trump Admin. Put $169M Toward Its Priorities. Here's Where the Money Went*, INSIDE HIGHER ED (Jan. 6, 2026), https://www.insidehighered.com/news/government/2026/01/06/new-accreditors-civic-discourse-programs-win-fipse-grants.

'[c]onducted accrediting activities . . . for at least two years prior to seeking recognition.' "[100] The Department explained that the resulting "cumulative four-to-five year timeframe" for recognition "creates a significant barrier to entry for new institutional accrediting agencies" and clarified that a variety of "accrediting activities" trigger the start of the two-year period to shorten the delay required for new entry.[101] Finally, and most notably, the Department initiated a broad negotiated rulemaking to "[s]implif[y] and streamlin[e] the Department's regulations for [] recognition and review of accrediting agencies."[102] That rulemaking is ongoing, and we look forward to its results.

We applaud these important changes and hope they lead to new accreditors that finally bring competition to law school accreditation. In the meantime, we encourage the Court to reduce its reliance on ABA accreditation and work with other states that recognize the harms that flow from the ABA's monopoly control of the legal education requirements for aspiring lawyers.

V. Conclusion

The Court wisely recognized that "rely[ing] heavily on accreditation by the [ABA] in establishing minimum educational requirements for applicants to the Bar" may "limit the supply of legal services and increase their cost."[103] While accreditation standards serve a purpose, the ABA goes far beyond what is reasonably necessary "to protect the public and to ensure competent representation."[104] Instead, the ABA's onerous requirements appear to protect the incumbent lawyers and university faculty who dominate the ABA and its accreditation body.

We urge the Court to take action to reduce its reliance on ABA accreditation and expand the pathways for law schools to obtain approval for their graduates to be eligible to take the Tennessee bar examination. The Court could, for example, change its rules to allow the Board of Law Examiners to approve unaccredited law schools located outside Tennessee. Or the Court could work with other states to encourage the entry of alternative law school accreditors. Such actions would help to undermine the ABA's monopoly and resulting power to impose costly, overly burdensome law school accreditation requirements. It is no coincidence that in its 1995 lawsuit challenging the ABA's anticompetitive conduct, the DOJ Antitrust Division stressed that the ABA's power over law schools comes, in part, from state mandates: "ABA approval is critical to the successful operation of a law school" because the "bar admission rules in a large majority of states require graduation from an ABA-approved law school in order to satisfy the legal education requirement for taking the bar examination."[105] We commend the Court for scrutinizing its reliance on ABA accreditation and its interest in alternatives. We encourage other states to take similar steps to weaken the ABA's hold on its law school accreditation monopoly and bring us closer to genuine competition.

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[100] Dep't of Educ., Regulatory Guidance Relating to the Criteria and Process for Initial Recognition of an Accrediting Agency, 91 Fed. Reg. 9709, 9709 (Feb. 27, 2026) (quoting 34 C.F.R. § 602.12(a)).
[101] *Id.* at 9709–11.
[102] Dep't of Educ., Intent to Establish Negotiated Rulemaking Committee, 91 Fed. Reg. 3403, 3404 (Jan. 27, 2026). The revisions will "emphasiz[e] criteria and standards requirements that effectively focus on student achievement and outcomes, high educational quality, and high-value programs and remov[e] criteria that are anti-competitive, discriminatory, or which contribute to credential inflation and escalating tuition costs." *Id.*
[103] Order, *supra* note 3, at 1, 2.
[104] *Id.* at 2.
[105] Competitive Impact Statement, *supra* note 15, at 2.

Sincerely,

/s/ Brendan Chestnut
Director
Office of Policy Planning
Federal Trade Commission

/s/ Daniel Guarnera
Director
Bureau of Competition
Federal Trade Commission

/s/ Dina Kallay
Deputy Assistant Attorney General
Antitrust Division
U.S. Department of Justice

/s/ G. Charles Beller
Deputy Assistant Attorney General
Antitrust Division
U.S. Department of Justice

/s/ Braden H. Boucek
United States Attorney
Middle District of Tennessee
U.S. Department of Justice

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ADM2025-01403

Comments on: Potential Regulatory Reforms to Increase Access to Quality Legal Representation

Tom Gordon
Executive Director,
Responsive Law

Submitted to the

Tennessee Supreme Court

April 30, 2026

Consumers for a Responsive Legal System ("Responsive Law") thanks the Tennessee Supreme Court for the opportunity to present these comments. Responsive Law is a national nonprofit organization working to make the civil legal system more affordable, accessible, and accountable to its consumers.

Our comments will address some specific proposals to increase access to legal help. However, their main purpose is to provide a consumer perspective on regulatory reform and to suggest principles that the Court can follow as it considers specific regulatory changes.

The Current Regulatory System Has Exacerbated the Justice Gap

The current legal services model has done more to expand the justice gap than to close it. Modern restrictions on unauthorized practice of law and non-lawyer ownership of law firms were born a century ago, leading to an explosion in the scope of services that may only be provided by lawyers and may only be provided in a law firm owned entirely by lawyers.[1]

At the beginning of the 20th century, when auto clubs like AAA were created, they provided their members with a wide range of legal services provided by lawyers who worked for the auto clubs. Auto club members, as part of the price of membership, were entitled to advice from attorneys provided by the club on nearly any matter related to cars.

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[1] Engstrom, Nora Freeman and Stone, James, Auto Clubs and the Lost Origins of the Access-to-Justice Crisis, 134 Yale L. J. 123 (2024) https://ssrn.com/abstract=4728564.

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Similarly, around the same time, other organizations began offering legal services to their customers.

> "Banks started to write wills. Trust companies started to administer estates. Radio programs hired lawyers to advise callers. And trade and protective associations started to provide their members with all manner of services. These included unions that would help members assert tort or workers' compensation claims, cooperatives that would help members collect on unpaid debts, protective corporations that would draft contracts, and even neighborhood homeowners' associations that would help members in the event of home foreclosure."[2]

In the 1920s and 1930s, facing the Great Depression and competition from these new providers, bars enacted the protectionist regulations governing unauthorized practice of law and the corporate practice of law that limit consumer options to this day.

Rather than viewing the regulatory status quo as the default setting for regulation, the Court should consider the implementation of the current regulatory regime a century ago to be the start of an experiment and should view the data from that experiment as an indication of how well these regulations have served the public.

Recent data from this experiment include an average lawyer price in Tennessee of $299 dollars per hour.[3] At this rate, a Tennessean making $100,000 per year must work nearly a whole day to pay for just one hour of a lawyer's time.[4] And if a person with a six-figure salary is priced out of legal help, the situation is even more desperate for the vast majority of Tennesseans at or below the median per capita income of $39,437.[5]

In contrast, before the current regulatory regime started, a Tennessean could have obtained legal advice or representation for

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[2] *Id.* at 128-129

[3] Data from Clio Legal Trends report, available at https://www.clio.com/resources/legal-trends/compare-lawyer-rates/tn/.

[4] Over a 2000-hour year, this equates to $50/hr. Applying a 20% effective tax rate (combining federal income tax and FICA), leaves $40/hr. At this hourly rate, it would take about 7.5 hours to bring home $299.

[5] U.S. Census Bureau, "Quick Facts: Tennessee", https://www.census.gov/quickfacts/fact/table/TN/PST040225

many matters at little to no cost through their auto club, bank, or union.

The hundred-year experiment with our current regulatory system has demonstrated that such a system has a high degree of opaqueness in shopping for legal services and prohibitive costs even when one can find a lawyer. It is a clear disaster for consumers.

Not only has the regulatory regime of the last century made it harder to find and afford a lawyer, but it also doesn't even significantly advance the consumer protection objectives its advocates claimed to be pursuing. Values such as the professional independence of lawyers and lawyers' duties to their clients are upheld directly in numerous other provisions of the Rules of Professional Conduct. Regulations about the ownership of law firms and the business models that lawyers can use are at best a glancing blow at a target that other regulations already strike directly.

Allowing Non-Lawyer Ownership is a Necessary Condition for Making Legal Help Affordable

Allowing non-lawyer ownership is a necessary condition to fill the gap in providing adequate legal help. Just as H&R Block and TurboTax have made navigating the tax code widely accessible and affordable on a national scale, a mass-market law firm could allow millions of people to affordably and accessibly navigate the legal system. The economies of scale that can only be achieved by outside investment would bring down the costs of legal services.

Almost every law firm providing services to middle-income individuals and small businesses on issues such as family law, employment law, housing, and basic corporate and business law is a small business of no more than a dozen attorneys. A large statewide firm specializing in these issues could provide standardized training to the attorneys it works with, perform quality control on services offered to clients, and let lawyers focus on practicing law rather than finding clients, maintaining trust accounts, and collecting fees.

Opponents of eliminating ownership restrictions have cited the importance of protecting lawyers' professional independence. But ownership restrictions are not a good means of protecting that value. Lawyers' professional independence is already protected by other provisions of the Rules of Professional Conduct.

Additionally, the frequent argument that non-lawyers would exercise improper influence over lawyers in their employ simultaneously overstates and understates lawyers' ethical propriety. It assumes that lawyers are saints with no possible motivation to exercise undue pressure on subordinate lawyers to act against their clients' best interests (e.g., padding of hours, pressure to settle a contingency-fee case). At the same time, it assumes that lawyers have so little commitment to their professional obligations that they would ignore all their obligations to their clients if pressured by a non-lawyer employer.

There are a number of models for allowing non-lawyer regulation, including the Utah regulatory sandbox, Arizona's licensure of ABS entities, a nascent program in Washington, and, looking abroad, the experience of England and Wales, where non-lawyer ownership has been allowed for over a decade. In evaluating proposals to reform the rules regarding non-lawyer ownership and fee-sharing, we urge the court to look at the successes of these programs. More important, though, we urge it to adopt regulations based on principles of risk reduction, rather than insisting on rigid one-size-fits all rules.

The Court Should Revise Tennessee Rule of Professional Conduct 5.5 to Maximize Tennesseans' Access to Lawyers Nationwide.

Tennessee uses the Uniform Bar Examination as the basis for qualifying to practice law. Thus, lawyers admitted to practice via the state bar exam are deemed competent to practice in the state without any evaluation of their knowledge of Tennessee-specific law.

Of course, it's a fiction that lawyers are experts in the law of a particular state rather than a subject matter. Lawyers are aware that this is a convenient falsehood bolstering the argument for protecting state monopolies on legal practice. But the public is less aware that silos of legal practice are based on issues rather than geography. Maintaining prohibitions on cross-border practice perpetuates this misunderstanding by sending consumers the message that a lawyer's competence is in "Kentucky law" or "Arkansas law" rather than in landlord-tenant law or employment law.

Although legal competence is not related to geography, legal needs are. And when a resident of an area with a shortage of lawyers is

faced with a legal problem in a practice area that's underserved, they may be entirely unable to find a lawyer who can help them. For example, a small business owner in Lake County seeking the advice of a lawyer regarding Paycheck Protection Program loans during the COVID pandemic might have had trouble finding a local lawyer with expertise in this area, since there are only a small number of lawyers in Lake County and the surrounding counties, few of whom would be likely to have expertise in this area. Eliminating most restrictions on cross-border practice would allow a resident of Lake County to retain a lawyer from neighboring Kentucky or Missouri, or from nearby Arkansas or Illinois, increasing the number of available lawyers by a significant multiplier. Furthermore, given that most legal matters don't require in-person visits, all Tennesseans could benefit from access to lawyers from across the country who have expertise in the types of legal matters with which they need help.

Given the above, we endorse Brian Faughnan's and Lucian Pera's "Proposal to Increase Lawyer Mobility by Amending Tennessee Rule of Professional Conduct 5.5," submitted to the Court on April 20, 2026. Their proposal provides a well-reasoned blueprint for expanding the supply of lawyers available to Tennesseans while maintaining lawyer accountability and consumer protection.

Loosening UPL Restrictions Would Allow Consumers to Seek Legal Help from a Wider Range of Competent Providers

One of the most effective ways to expand access to legal help is to allow consumers access to a wide range of legal service providers to meet the spectrum of legal needs they face. The medical industry provides an apt analogy. Not every health issue requires a surgeon or even a doctor. Nurse practitioners, physical therapists, pharmacists, personal trainers, and diet consultants all provide valuable services to consumers. But in law, the general rule is that if an issue is law-related, only an attorney may help with it.

The Court May Wish to Create New Types of Professional Licenses, but Should Recognize That Consumer Protection in the Absence of UPL Law Doesn't Require New Licensing Schemes

One way in which the Court can increase the number of legal service providers is to create new licenses for providers who are not

lawyers but who have training specific to the tasks they will undertake. The community justice worker model, where people who already work in community organizations are trained and licensed to provide legal services, is one such model.

Another model is the licensure of consumer-facing paraprofessionals, While several states have approved or are in the process of approving such licensing schemes, the most successful example of such a program exists in Ontario, Canada, which has licensed paralegals to provide services directly to consumers since 2008, and which now licenses about as many new paraprofessionals each year as it does lawyers.

However, creation of new licenses is not the only way to expand the availability of competent legal help. When discussing regulation, service providers who aren't subject to industry-specific rules are often mischaracterized as being "unregulated." In fact, such providers have obligations to their consumers under generally applicable tort law. They have contractual obligations to anyone by whom they are hired. Statutory consumer protections can provide another means of holding service providers accountable to their customers. Finally, the marketplace, while not a perfect regulator, generally rewards service providers who provide good services and punishes those who don't.

The existence of generally applicable laws, regulations, and market forces doesn't proscribe a need for additional regulation of non-lawyers through licensure. However, such regulation should be analyzed by balancing its impact on the availability and affordability of non-lawyer help against the marginal consumer protection it would provide above the existing baseline.

Licensed Professionals in Other Fields Could Be Exempted from UPL Restrictions

One simple amendment to the Court's rules that could expand the pool of professional legal helpers would be a rule that any licensed professional acting within the scope of their license is not engaged in the unauthorized practice of law (UPL).

For example, under current UPL law, it's unclear whether a social worker advising a domestic violence victim is committing UPL by advising that client about how to—or even whether to—file for a

restraining order against their abuser. That social worker is undoubtedly more competent to provide that advice than all but a small percentage of lawyers. And the social worker's own professional licensure can reasonably be expected to hold them accountable for providing competent services. With such a small probability of consumer harm, there's no reason for UPL laws to apply to situations like these.

Nonprofit Organizations Could Be Exempted from UPL Restrictions

Another amendment that could greatly expand the number of legal helpers would be an exemption from UPL restrictions for services provided through a nonprofit organization in a substantive area consistent with its mission. Thus, a housing nonprofit and its non-lawyer employees could give legal advice regarding landlord-tenant law; a nonprofit centered on needs of the homeless could assist people with questions about benefits and shelter; a nonprofit knowledgeable about child health and human development could advise families on their questions about regulations and services protecting their special needs children.

Whether assisting others for a fee or for free, a nonprofit is a fiduciary with a mission to deliver quality services and improve the community. There is no profit motive that might lead such organizations to use nonlawyer service providers as a revenue generator without considering the consumer interest. In addition, the nonprofit has a reputational interest in providing competent services, lest its grants and donations dry up because of a scandal. An intriguing possibility of such an approach is that nonprofit organizations, freed of UPL limitations, could prove to be the developers or incubators of far more efficient practices than hitherto seen in the legal services sector.

The Court Should Not Hinder the Free Flow of Legal Knowledge by Putting Undue Restrictions on Technology, Including Artificial Intelligence

Attempts to keep knowledge confined to a privileged elite date back at least as far as the invention of the printing press. With regard to legal knowledge, however, they date back to the mid-20th century.

Over a half-century ago, lawyers from New York attempted to use their unauthorized practice of law restrictions to prevent Norman Dacey from selling the self-help book *How To Avoid Probate*, resulting in a three year legal battle that ultimately vindicated the rights of millions of Americans who chose to use this book rather than hire a lawyer.[6] Later attempts to prosecute software providers for UPL have also faced First Amendment obstacles. This is unsurprising, as software is fundamentally just a ten-thousand-page version of Dacey's book written in computer code. Attempts to regulate software, including software using artificial intelligence, should bear in mind the fundamental right of Americans to receive information about legal matters, even if that information is in the form of electrons rather than dead trees.

Aside from First Amendment principles at play, overregulation of legal software is misguided public policy. Currently, most consumers are not faced with the choice between technology-based legal help and a lawyer. Their choice is between technology-based help and no help at all. Treating technology-based help as UPL won't make its users suddenly switch to using lawyers; it will only leave them with less reliable sources of technology-based help.

The threat of UPL prosecution particularly discourages the creation of AI-based help focused on legal matters. An AI tool that is geared toward solving legal problems is more likely to be reliable for that narrow scope than a more general AI. However, because it is specific to law, it would also be a more likely target of UPL enforcement. Thus, developers are discouraged from creating such tools, leaving consumers primarily with less helpful general AI models.

Conclusion

We appreciate the Court's serious interest in meaningful regulatory reform. We hope to be able to work with the Court as it proceeds with efforts to make the legal system more accessible for all Tennesseans.

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[6] *Dacey v. New York County Lawyers' Association, 423 F.2d 188 (2d Cir. 1970).*

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April 30, 2026

Mr. James Hivner, Clerk
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via email to: appellatecourtclerk@tncourts.gov

Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation - ADM2025-01403

Dear Chief Justice and Associate Justices of the Tennessee Supreme Court:

Please accept these comments on behalf of the Tennessee Justice Center in response to the Court's September 16, 2025 solicitation of public comment regarding possible revision of rules regulating the legal profession. We defer to others to offer recommendations regarding law school accreditation and the credentialing of individuals and firms that provide legal services to the public. We respectfully submit these comments to address the separate but related challenge of how the Court can influence the use artificial intelligence by the millions of Tennesseans who will never be able to afford professional legal assistance, and who will inevitably turn to AI for guidance.

The Tennessee Justice Center is a nonprofit public interest law firm founded by bar leaders in 1996 to provide free civil legal services to low-income Tennessean. TJC serves clients in all 95 counties, working in collaboration with the state's federally funded Legal Aid offices and pro bono colleagues from numerous firms. We assist approximately 5,000 individuals annually, primarily in cases involving access to health care, nutrition and public benefits. As part of Tennessee's network of organizations and programs working to provide access to justice, we are keenly aware of the magnitude of the unmet need for legal services, and of the often dire consequences for those who must fend for themselves without representation. It is from that perspective that we respectfully submit these comments.

Professional legal assistance will never be sufficient to ensure Access to Justice

It has been more than a century since the publication of Reginald Heber Smith's *Justice and the Poor*, which indicted the legal system for its denial of justice to the poor. The book catalyzed reform efforts that led to the establishment of the federally funded Legal Services Corporation, hundreds of local Legal Aid offices and the recognition of pro bono service as a professional responsibility of every lawyer.

Those reforms, as well as technological developments that are advancing with breathtaking speed, bring the legal system to a major inflection point. A century of reforms,

while important and necessary, are not now, and never will be, sufficient. In its September 16, 2025 order, the Court cited the large gap between the civil legal needs of the poor and the legal resources available to them from *pro bono* initiatives and the state's three federally funded Legal Services Corporation grantees. With the state's average hourly rate for attorney services reported to be $299 in 2025, Tennessee's crisis in access to justice now extends well into the middle class and small businesses. There is a growing consensus that "we will never be able to *pro bono* our way out" of that crisis.

The crisis is not just a challenge for the many Tennesseans who need legal counsel but cannot afford it. When a large part of the public faces financial barriers to justice, it breeds cynicism about the legal system and undermines respect for the Rule of Law.

For better or worse, AI will transform the Access to Justice landscape. Proactive judicial leadership will be needed to ensure that AI has a positive impact.

The arrival of artificial intelligence injects a revolutionary new factor into the equation. AI has already begun to affect the administration of justice. It will become profoundly transformative in the future. It has enormous potential to ease the Access to Justice crisis, but only if the judicial system effectively shapes its application as a resource for unrepresented litigants. The TBA's Access to Justice Technology Subcommittee's meetings have identified some modest innovative technology-driven solutions (e.g. chatbots, automated forms, etc.) to increase access to justice, but commercially-available and widely-used AI tools, like ChatGPT, Gemini, Claude, Copilot, and Grok already dwarf these in terms of available, usage, and impact.

AI will affect the ways in which self-represented litigants (SRLs) cope with the need to advocate for themselves in Tennessee's courts. Unable to obtain legal advice from a qualified professional, they will seek guidance from the rapidly proliferating AI tools that are freely available. SRLs will commonly frame their queries in ways that bias the responses in their own favor or generate wildly misleading results. Or they will rely on charlatans who use AI to offer advice that is worse than useless. SRLs will likely place greater confidence in those AI responses than in the competence and integrity of the judges adjudicating their cases. The courts already face a difficult challenge in hearing cases that involve SRLs. It takes little imagination to anticipate the ways in which AI will make their jobs more difficult, and their decisions less respected.

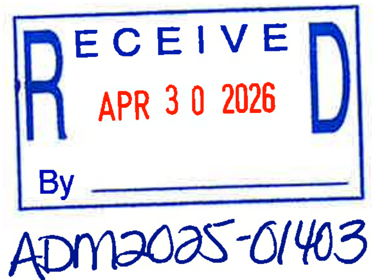
Proactive leadership by the Court can shape a different future, to the benefit of both the judicial system and the many Tennesseans who must represent themselves in court. The Court has been a leader in seeking to improve Tennessee's judicial system, with particular concern for ensuring access to justice. The current reassessment of law school accreditation builds on decades of leadership, as exemplified by the Court's creation of the Commission on the Future of the Tennessee Judicial System decades ago and the Court's establishment and continuing engagement with its Access to Justice Commission. Continuing the Court's leadership role, we respectfully recommend that the Court launch an initiative to develop a plan for the use of AI in the administration of justice.

There are already efforts across the country to harness AI as a valuable resource for SRLs, and to ensure that AI plays a constructive role in the administration of justice. We recommend that the Court seek adequate funding and engage the diversity of experts and stakeholders needed to shape effective policy recommendations. Our primary concern is the use of AI to assist SRLs, but the AI revolution has broader ramifications for the administration of justice, and the Court may wish to invest the initiative with a broader mandate.

Thank you for considering these comments. If there is anything that the Tennessee Justice Center can do to support the Court's efforts to advance the administration of justice, please do not hesitate to call on us.

Respectfully submitted,

Michele M. Johnson
Executive Director



April 30, 2026

Mr. James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Ave. North
Nashville, TN 37219-1407

Re: No. ADM2025-01403 – Potential Regulatory Reforms

Dear Mr. Hivner:

On behalf of Tennessee Farmers Insurance Companies and affiliates ("TFIC") and the Tennessee Farm Bureau Federation, I want to express my appreciation for the Court's request for comments on potential regulatory reforms for the legal profession in Tennessee. We respectfully seek consideration of our comments regarding certain possible reforms and propose some alternate suggestions for some of the concerns raised.

I serve as the General Counsel for both TFIC, which includes Tennessee Farmers Mutual Insurance Company, the insurer of more homes and automobiles than any other carrier in Tennessee, and Tennessee Farmers Life Insurance Company, the number one writer of individual life insurance in Tennessee, and the Tennessee Farm Bureau Federation, which includes over 680,000 family memberships, approximately one-third of all Tennesseans. We serve members and customers in every county in the state; we have offices in every county in the state; and we defend insureds in every judicial district in the state. Our entities and members are active in legislative matters, following and advocating for and against bills each year that could affect agriculture, education, insurance, employment laws, and any number of issues related to the operation of farming and insurance businesses in our great state.

In recent years, we have seen a concern echoed in the Court's order in parts of rural Tennessee where many members of our organizations reside: reduced access to legal services in rural areas. We have encountered farmers seeking assistance with boundary disputes, leases, business planning, estate planning and administration, litigation, and family law matters across the state while referrals for these services have grown ever farther away from the rural areas and nearer more urban parts of Tennessee. In insurance defense practices, we have seen long-time attorneys retire with no local options to take over their work and consolidation of work nearer more urban parts of the state. These changes have occurred as rural areas have seen many other professionals retire without replacements (or move to more urban areas). When many young people from these rural areas decide to locate elsewhere rather than return to rural communities

after completing their education at colleges or technical schools, concern grows for the long-term economic viability of these communities.

We appreciate the extensive and well-researched comments by the Tennessee Bar Association on the topics raised by the Court and will not repeat those here. Like the TBA we suggest that some alternative solutions may be best to increase the availability of legal services.

We write separately to Topic 7, whether the Court should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers. We concur with the TBA's opposition to this possible change. Additionally, we urge caution for any changes in this area after recent years have seen a significant increase in litigation funding by non-lawyers, and such activity has brought to light concerns of participation by non-lawyers in decision-making that limits the effectiveness of lawyers and the efficiency of the justice system. A great example is *Carina Ventures, LLC v. Pilgrim's Pride Corp. (In re Broiler Chicken Antitrust Litig.)*, 167 F. 4th 430 (7th Cir. 2026) in which a settlement acceptable to the initial parties was rejected by the initial plaintiff's litigation funder. Judge Maldonado's concurrence explains that

> Litigation finance no doubt can offer significant benefits such as providing smaller entities and individuals the chance to have their day in court where they would otherwise be kept out by ever-increasing litigation costs. But this case presents perhaps the foremost danger of litigation finance: funders aggressively interfering with, and exerting control over, ongoing litigation, while rejecting the funded party's preferences with the hope of maximizing returns....
>
> I say all of this to flag that **Carina**'s—that is, Burford's—appeal before us is motivated far more by its speculative financial investment than by a desire to seek justice for Sysco, the true injured party. Having turned the courtroom into a trading floor, and calculated that continued litigation was more profitable than settlement, Burford wrested total control over the settlement of Sysco's claims. And but for this legal maneuvering, this litigation could have been resolved long ago.

Carina, 167 F. 4th at 445. To the extent participation by non-lawyers in the business of law wrests control from the litigants, dulls the influence of counsel, and decreases efficiency in favor of speculative returns, it should be approached with caution.

As our members have encountered lack of access to legal services in rural areas, we have looked for possible solutions and write now to share those we are working to implement that could also be utilized or modified by others. First, we are working with the University of Tennessee to fill an extension and teaching position in the Department of Agricultural &

Resource Economics with an agricultural law expert whose role will include educating attorneys on legal issues specific to agriculture, educating extension agents on issues farmers encounter that require legal assistance, and teaching and mentoring undergraduate and graduate students with interest in agricultural law. The role will assist with the Farmland Legacy Program – helping farmers plan for business continuity and connecting them with attorneys and business professionals who can assist in execution of business and estate plans – and work to give UT Extension staff tools to assist farmers across the state.

Second, the newly formed charitable nonprofit Tennessee Farm Bureau Foundation anticipates rolling out an incentive program to recruit attorneys to participate in a Tennessee Farm Bureau Rural Legal Fellowship (the "Fellowship"). The Fellowship will provide a stipend or loan repayment assistance to successful applicants in the first three years of practice who agree to practice in a rural area for five years with an established attorney or an approved mentor and complete required CLE training in legal areas needed in such practices. Training will be provided in estate planning and probate administration, family law, agricultural law, criminal defense, and insurance defense.

The Fellowship is based in part on the state of South Dakota's Rural Attorney Recruitment Program, detailed in *The Rural Lawyer*, by Hannah Haksgaard. For over a decade, South Dakota has sought to address a shortage of rural lawyers with a partnership between the state, the state bar association, and rural communities to provide stipends for rural lawyers for five years. After 10 years, 24 of the 32 participants of the program were still practicing law in their rural communities.

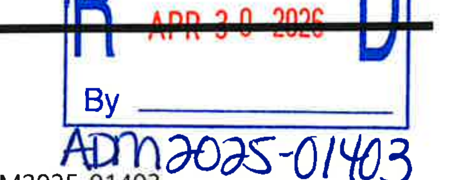
We are hopeful this effort will assist in addressing the need for additional lawyers in rural areas in our state and hope other groups will consider similar models to build long-term economic vitality in these areas for other professions.

Thank you for the opportunity to share our thoughts on this matter with the Court and your efforts to support both our legal profession and residents in all parts of our great state.

Sincerely,

Julie Bowling
General Counsel

Kim Meador



From: Washington Law <akwash64@gmail.com>
Sent: Thursday, April 30, 2026 5:13 PM
To: appellatecourtclerk
Subject: Legal Access & Regulatory Reform - docket No. ADM2025-01403

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Your Honors,

I have been practicing law in Tennessee for over 30 years. I have had great difficulty at times finding employment as a lawyer, so I strongly disagree in allowing non-lawyers to be accredited and allowed to practice law or own any part of the legal profession. I am happy to answer any questions to give further details.

Sincerely,

Angela K. Washington

Washington Law & Government Relations
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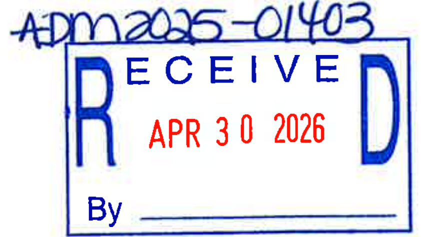

Anthony W. Kirby, President
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April 30, 2026

Via Email: appellatecourtclerk@tncourts.gov
James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

In Re: Tennessee Supreme Court Order No. ADM2025-01403 – **Response For Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation**

QUESTION: Whether the Tennessee Supreme Court should consider alternative pathways to licensure or reassessing its regulations of the legal profession to address lawyer shortages to Tennesseans?

FACTS: The Tennessee Supreme Court has requested public comments from legal professionals on reassessing its approach to regulation of the legal profession to ensure that all Tennesseans have access to affordable quality legal services. The Court has requested commentary on the seven (7) issues presented below. Comments should take into consideration the Court's goals of lowering barriers to entry into the legal profession and ensuring the availability of affordable legal services to Tennesseans, while also ensuring the competency of Tennessee's attorneys and safeguarding the public.[1]

MONTGOMERY COUNTY BAR POSITION ON EACH ISSUE:

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?

To answer this question, an analysis and review of the purpose of the American Bar Association (hereinafter "ABA") accreditation for law schools and how the Tennessee Supreme Court relies on it in its law licensing is essential. Of its many goals, a primary focus is to improve the legal profession in totality.[2] The ABA's objectives are simple but important, to, in part, advocate for the legal profession by "promot[ing] the best quality

[1] Order, *In Re Public Comments On Potential Regulatory Reforms To Increase Access To Quality Legal Representation:* No. ADM 2025-01403, (Tenn. S. Ct. filed September 16, 2025).
[2] *The American Bar Association*, https://www.americanbar.org/about_the_aba/ (last visited April 27, 2026).

legal education, competence, ethical conduct and professionalism." The stated purpose of ABA accreditation is to ensure law schools provide a high-quality, rigorous, and consistent legal education that prepares students for the bar exam and legal practice. The ABA serves as a seal of quality, protecting consumers, setting minimum professional standards, and, in most states, acting as a prerequisite for taking the bar examination. The ABA was established in 1878, at a time when most lawyers became legal professionals through an apprenticeship rather than a law school.[3] In 1921, the ABA promulgated its first standards for legal education which became the basis of law school accreditation in 1952.[4] As such, the ABA has already considered and answered the question of why accreditation is so important.

The Legal Education Section's Council and Accreditation Committee (hereinafter "Council") is recognized by the U.S. Department of Education as the national law school accreditation.[5] The council listed the following reasons for continued reliance on ABA accreditation:

> Accreditation requires that law school maintains a rigorous program of legal education that prepares their students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.
>
> Accreditation protects against the economic exploitation of law students and ensures applicants and the public receive accurate information about the program.
>
> Accreditation protects clients, the public, and the legal system by helping to ensure that lawyers are competent to fulfill their professional responsibilities.
>
> Accreditation Standards must reflect changing forms and methods of law practice.
>
> Accreditation Standards support and promote the rule of law.

In Tennessee, the Supreme Court acknowledges its heavy reliance on ABA accreditation for admission and licensure.[6] However, the Court allows possible admission for graduates who graduated from a non-accredited school outside of Tennessee, on a case-by-case basis.[7] The applicant must also have obtained a degree "from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where the law school exists and which 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

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[3] *About the Bar*, https://www.americanbar.org/about_the_aba/ (last visited April 27, 2026).
[4] *Id.*
[5] *Id.*
[6] *See, e.g., In Re Appalachian School of Law,* 2000 Tenn. Lexis 291 (Tenn. May 30, 2000). "Any applicant seeking admission must have graduated with a J.D. degree from a law school accredited by the ABA at the time of the applicant's graduation." Tenn. Sup. Ct. R. 7, § 2.02(a).
[7] Tenn Sup. Ct. R. 7, §2.02(d).

in Tennessee."[8] Applicants must also pass the Tennessee bar exam or transfer a passing score on the Uniform Bar Examination (hereinafter "UBE") and the Multistate Professional Responsibility Examination (hereinafter "MPRE").[9]

The tougher question is whether Tennessee should modify or reduce its reliance on ABA standards currently in place, specifically as it relates to the requirement of satisfying the educational requirements outlined herein. The answer, like most things in law, is it depends. It is important that law schools do not become solely for profit and maintain standards to not only pass the bar exam, but a tool for its graduates to succeed and become ethical and competent practicing attorneys. To that end, the ABA does help the public through "consumer protection" by ensuring that federal funds are sent to those law schools that provide a certain quality of education.[10]

In conclusion, if the law school is not accredited from out-of-state, then a case-by-case analysis should be conducted to review the curriculum. Rather than accreditation, the Supreme Court might consider reliance on passage of the UBE, character and fitness, and the MPRE. Further discussion on this topic and why it might be a better alternative are provided in the following section(s).

2). <u>Whether there are any practicable alternatives to ABA accreditation that the Court should consider?</u>

Practical alternatives to accreditation may include state-accredited schools, such as accreditation through the Tennessee Bar Association, apprenticeships or law-office study programs, and distance/online learning. Tennessee has already adopted a reliance on passage of the UBE beginning in 2018.[11] Said UBE was adopted, at least in part, on the theory that legal professionals are more mobile now.[12] However, the Supreme Court has stated that a shortage of lawyers still exists for low-income individuals, creating "legal deserts."

Based on experience, we know the process of being sworn in to practice law takes approximately four (4) to five (5) months following the bar examination. If an applicant is seeking admission to Tennessee and looking for employment, that could be a significant amount of time for an employer to consider holding a job. Professionals go where jobs are available. The process is even more lengthy for those seeking admission by comity, taking up to fourteen (14) months, according to the Tennessee Board of Law Examiners.[13]

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[8] Tenn. Sup. Ct. R. 7, §2.02(d)(1).
[9] Tenn. Sup. Ct. R. 7, §1.03.
[10] Theis, Daniel, *From the Chair: Why Does the Council Accredit Law Schools?—The Council's "Core Principles and Values"*; https://www.americanbar.org/groups/legal_education/resources/syllabus/2025-summer/chair-daniel-thies/ (September 4, 2025).
[11] *Tennessee Adopts Uniform Bar Exam*, Tenn. Courts, https://tncourts.gov/news/2018/04/18/tennessee-adopts-uniform-bar-exam (last visited April 28, 2026).
[12] *Id.*
[13] Tenn. Bd. of Law Examiners, *Comity—How to Apply,* https://www.tnble.org/?page_id=328#:~:text=Board%20consideration%20of%20Applications%20for.practice%20of%20law%20and%20exceptions (last visited April 28, 2026).

Therefore, reducing the amount of time it takes for a professional, who has met all criteria, to get a license could improve that person's ability to find employment.

A second option for consideration is a state-accredited law school. Tennessee already has one state-accredited law school – Nashville School of Law. The Nashville School of Law is in Nashville, Tennessee, and allows its students to attend an evening program and have a full-time job. Professors are often practicing attorneys. It is a much less costly alternative to the surrounding law schools, such as Vanderbilt University School of Law and Belmont University College of Law. The current cost of tuition at the Nashville School of Law is $46,640.00 over four (4) years.[14] Belmont School of Law, comparatively, is $55,500.00 per year, for just tuition, totaling an astonishing $166,500.00 for the total program.[15] Vanderbilt University School of Law is even more at $79,116.00 per year for tuition.[16] Most people cannot afford such an expense without extravagant student loans. Said student loans undoubtedly reduce the number of legal professionals financially able to assist low-income individuals.[17]

Tennessee should consider adding another state-accredited school, perhaps closer to Memphis or Knoxville, to reach those areas and make legal education more accessible. Tennessee is a large state, and the Nashville School of Law is not accessible to everyone without significant hardship and commutes. Adding additional law schools would increase access without sacrificing the in-person legal education that is vital to maintaining the competence of the next generation of attorneys. Students at these state-accredited schools would be required to take a ninety (90) hour curriculum, with bar-focused and ethics classes.

This option would allow students freedom and flexibility to live and learn in their community. To address the issue of "legal deserts", state accredited schools could give preference to rural community applicants. Those students will hopefully then continue living in that community and providing legal services to that community following graduation.

Next, we will consider the apprenticeship program. Some states, such as California, allow applicants to study/practice law without going to law school, with Kim Kardashian being the most notorious example.[18] The program requires eighteen (18) hours a week of supervised work for a minimum of forty-eight (48) weeks to receive a year of credit.[19]

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[14] Nashville School of Law, *Tuition and Financial Aid, Learn More for Less*; https://nsl.law/tuition-and-financial-aid/ (last visited April 28, 2026).
[15] Belmont University, *Frequently Asked Questions, College of Law Admissions & Aid*; https://www.belmont.edu/law/admissions/faq.html (last visited April 28, 2026).
[16] Vanderbilt Law School, *J.D. Program, J.D. Costs & Financial Aid*; https://law.vanderbilt.edu/jd-program/costs-financial-aid/ (last visited April 28, 2026).
[17] *See* Lauren E. Goodshell and Meghan E. Smith, *The Law Student Debt Crisis Matters*, 63 La. Bar Journal, 421, 421 (April/May 2016).
[18] Weiss, Debra, *Kim Kardashian completes legal studies - without attending law school*; https://www.abajournal.com/news/article/kim-kardashian-completes-legal-studieswithout-attending-law-school (last visited April 29, 2026).
[19] Dempsey-Klott, Nick, JD Advising, *How to Become a Lawyer Like Kim Kardashian;* https://jdadvising.com/how-to-become-a-lawyer-like-kim-kardashian/ (last visited April 29, 2026).

An apprentice program allows participants to work while gaining real-world experience. It seems undeniable that real-world experience is invaluable for newer attorneys. In this sense, an apprentice program is beneficial. However, the bar passage rates are incredibly low for people utilizing this option.[20] Apart from the struggling bar passage rates, it will be difficult to find practicing lawyers available to supervise within the program, especially without due compensation.

Additionally, the apprenticeship program does not consider the importance of law school education. Lawyers learn the rigorous demands of being on a deadline, researching, adapting to the stresses of this life, and learning how to "think like a lawyer." We analyze, we learn to write like a lawyer, and we learn to stand up on our feet and make arguments. An apprenticeship is highly unlikely to teach these skills in the same manner.

An internship or apprenticeship supplements a lawyer's education, but the same should never be considered as an equal to law school altogether.

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?

Less costly alternatives to the traditional three-year law school are already emerging, such as ABA-approved hybrid law schools and law schools partnering with undergraduate institutions to allow students to graduate both in six (6) years instead of seven (7). Hybrid schools allow students to save on room and board, moving expenses, and the like, as students are allowed to obtain up to fifty percent (50%) of necessary credit hours through distance learning.[21] The list of schools offering this type of education is growing.

Additionally, multiple schools, such as Austin Peay and Belmont Law, have introduced three-plus-three programs, saving students the cost associated with a year of education.[22] Likewise, these programs theoretically allow a new lawyer to begin earning a living sooner. These programs accomplish these feats without diminishing educational standards.

Nothing in this section is meant to undermine the potential impact and proven success of state-accredited law schools as previously discussed herein.

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?

Apprenticeships are excellent supplements during a law school program, but should not be considered equal to, as previously discussed herein. Additionally, most practicing lawyers

[20] *Id.*

[21] ABA, *Council-Approved Law Schools with Acquiescence for Distance Education J.D. Programs*; https://www.americanbar.org/groups/legal_education/accreditation/approved-law-schools/distance-education/distance-education-jd-programs/ (last visited Apr. 29, 2026).

[22] Austin Peay State University; https://www.apsu.edu/political-science-public-management/3-plus-3.php ((last visited Apr. 17, 2026).

focus on only a few areas of practice. It is unlikely that such experience will prepare well-rounded individuals in the same manner as law schools with required credits.

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?

Simply put, yes. The Tennessee Bar Exam no longer tests Tennessee law as Tennessee applicants submit to the UBE. Beginning in 2027, Tennessee intends to change, again, to the NextGen Bar Exam.[23] Nevertheless, currently, experienced attorneys can become licensed without re-taking the bar exam, or on motion, if he/she has a J.D. from an ABA-approved law school, has actively practiced law full-time for at least five (5) of the seven (7) years immediately preceding the application, is a member of good standing in another U.S. jurisdiction, and demonstrates good character and fitness, including passing the MPRE.[24]

If a lawyer passed a bar exam, has years of practicing law, and passes all other criteria, including a character and fitness examination, perhaps Tennessee should reconsider the five (5) year rule. With all of these requirements accomplished, an arbitrary prerequisite of five (5) years seems unnecessary. Further, Tennessee now requires lawyers who passed the bar exam to take a Tennessee Law Course before practicing.[25] The same should be required of those coming from another state or those gaining admittance through motion. If required, this serves as yet another source of education which lessens the need to rely on the arbitrary five (5) year practice history.

One of the major hold-ups for those coming from another state appears to be limited staffing at the Tennessee Board of Law Examiners. From at least 1997, the Board of Law Examiners had nine (9) members. In 2002, that number was reduced to five (5). It appears that all five (5) current members are also practicing lawyers and their role at the Board of Law Examiners is only a part-time endeavor. Because of this staffing issue, the timeline to waive in on motion, even if a candidate has met all the requirements, is approximately fourteen (14) months, according to its own website.[26] This is too lengthy of a process to make it effective.

The last four Tennessee bar exams had 262, 647, 244, and 710 examinees, respectively. The application process opens approximately two (2) months before each exam and closes

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[23] National Conference of Board Examiners, *Tennessee to Administer NextGen Bar Exam in July 2027*; https://www.ncbex.org/news-resources/tennessee-administer-nextgen-bar-exam-july-2027 (last visited April 29, 2026).
[24] Tennessee Board of Law Examiners, *Checklist—Complete First-Time Examination Application*; https://www.tnble.org/?page_id=1711 (last visited Apr. 17, 2026); *See also* Tennessee Board of Law Examiners, *Comity-How to Apply*; https://www.tnble.org/?page_id=328 (last visited April 29, 2026).
[25] Tennessee Courts, *Tennessee Supreme Court Approves Tennessee Law Course for New Lawyers*; https://www.tncourts.gov/press/2018/10/17/tennessee-supreme-court-approves-tennessee-law-course-new-lawyers#:~:text=Justice%20Sharon%20G.%20Lee%2C%20liaison,Court%20Rule%207%20click%20here (last visited April 17, 2026).
[26] Tennessee Board of Law Examiners, *Comity-How to Apply*; https://www.tnble.org/?page_id=328 (last visited April 29, 2026).

approximately six (6) weeks before each exam. Results are then released about the same time as the next exam's application window opens.

Applicants applying via motion occur year-round. The Board of Law Examiners refuses or is otherwise unable to communicate with comity applicants by phone and only allows email communication. To those email requests, the Board of Law Examiners has an automated email response which states, in part, "we are an office of five" and explicitly states the Board of Law Examiners shuts down completely "during a bar examination."

Tennessee wants responsible, competent lawyers who want to practice in Tennessee. This treatment does not seem to align with this goal. This is especially true as Tennessee apparently considers allowing paraprofessionals, who, in general, are far less prepared than those practicing lawyers coming from out-of-state.

To speed up this process, Tennessee should fund more staff. Perhaps additional staff can review waivers on motions while others review bar exam applicants.

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.

This is a suggestion with more problems than solutions. First, it reduces the requirements to licensure. If given the opportunity, most people will choose the cheaper route to practicing. Those paraprofessionals would still be practicing against those with significantly more training. Such a disparity in training will create a disparity in representation as the consumer will be unaware of the significant difference prior to hiring representation.

Second, this suggestion does not resolve the issue of "legal deserts." Arizona is trying a similar program and has found, as somewhat predicted, that paraprofessionals were concentrated in the Phoenix Metro Area and other high-demand, high-cost cities. People go where the jobs take them based on demand. Employment opportunities in the legal community are, in general, the most available, most in-demand, and most financially rewarding in metropolitan areas with denser populations.

Examining Arizona further, the results do not improve. The Arizona Supreme Court permitted non-lawyers to both practice law and own law firms. There, once licensed, non-lawyers can provide legal advice, draft documents, negotiate legal rights in matters such as family litigation, and appear in court without a J.D.[27] In 2024, Arizona reviewed how the paraprofessional program. The average hourly rate of a paraprofessional was $239.00, as compared to the average hourly rate of an attorney at $266.00.[28] As such, the savings passed along to the consumer is negligible. Perhaps more important to this discussion, the

[27] *State Bar of Arizona*; https://www.azbar.org/for-legal-professionals/practice-tools-management/practice-2-0/legal-paraprofessionals/ (last visited April 30, 2026).
[28] *Assessing Arizona's Legal Paraprofessional, 2024 Narrative Summary*, https://www.azcourts.gov/Portals/0/26/Assessing%20Arizonas%20Legal%20Paraprofessionals_2024%20Survey%20--%20Narrative%20Summary_1.pdf (last visited April 30, 2026).

representation of paraprofessionals did not resolve the issue of legal deserts in the rural communities.[29]

The paraprofessionals indicated a need to refer clients to practicing attorneys approximately twenty-eight percent (28%) of the time.[30] These referrals include complicated practice areas, such as appellate work.[31] The issue being that this essentially requires a practicing attorney, who was not involved at the trial court level, to intercede in a complicated matter with no ability to correct errors made during the initial litigation. Such a request is an inequitable burden to place on practicing attorneys. Such a request also hurts the consumer financially, forcing the practicing attorney to spend significant time becoming acquainted with the nuances of a matter with which he/she was previously not involved.

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

"Double, double toil and trouble" chanted the witches in *MacBeth* as they sought to create a potion to intensify chaos. This is the first image that came to mind upon reviewing this question. Non-lawyers owning or holding financial interests in law firms are currently prohibited according to Tennessee Rules of Professional Conduct.[32] This rule was created to protect legal independence. The core of our profession requires undivided loyalty to the client and, within that, the ability to make decisions in the best interests of our client. A non-lawyer owned firm will force the lawyer to make profitable decisions, instead. Moreover, it is highly unlikely an organization trying to make the most profit would have any real interest in increasing access to lower-income individuals or practicing law in locations with sparse populations where the profit margin is not as great.

SUMMATION

Lawyers from the Montgomery County Bar met together and discussed numerous ideas to increase legal access to rural communities and to lower-income populations. Not all of these ideas were covered in the comment section. One idea is to increase the federal poverty line and increase the number of people who could qualify for Legal Aid. A family of four making $32,150 per year can barely afford to eat, much less afford an attorney. Other lawyers mentioned that courts in rural areas could rely more on technology. The strict requirements of not permitting audiovisual court appearances, a lack of e-filing, and paying per fax filing were some of the reasons lawyers could not take on clients in more rural areas or smaller communities outside his/her home county. Such changes would allow more attorneys to take on more clients in surrounding counties without reducing the standards of practice.

Our Bar also recognizes that the heavy cost of law school and the practice of law is a factor. Many professionals cannot take on clients in rural areas because of the hundreds of thousands of dollars of law-school debt. A program in South Dakota is trying a unique

[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] Tenn. R. Prof. Conduct, R. 5.4.

program to address the lack of attorneys in "legal deserts." The South Dakota Rural Attorney Recruitment Program, established in 2013, pays lawyers annual payments of $12,513.60 for a five (5) year commitment, for a total of $62,568.00, to work in underserved counties with populations less than 10,000 or municipalities with a population of less than 3,500.[33] The amount paid is equal to ninety percent (90%) "of one year's resident law school tuition and fees."[34]

Thus far, thirty-six (36) lawyers have participated.[35] Eleven (11) lawyers are actively participating and nineteen (19) have graduated from the program.[36] Fourteen (14) graduates have stayed in their communities.[37] This is a significant return on investment for those in rural communities.

Another, similar possibility is offering attorneys payment of student loans or even student-loan payoff up to a certain amount. This suggestion operates similar to the federal student-loan payoff, which requires ten (10) years of specific service.

The practice of law is rigorous and, oftentimes, stressful. Bypassing or reducing the standards to be an attorney will not align with the Supreme Court's stated goals of increasing access to lawyers in "legal deserts" and protecting the integrity of the profession, as these communities do not need less competent attorneys. Instead, the focus must be on increasing the ability of practicing attorneys to financially compete by providing services to underserved communities. Our state needs more funding for indigent defense, for legal aid, and to increase the staff at the Board of Law Examiners. Applications on motion should not take more than six (6) months. The use of technology should be encouraged, if not required. Tennessee should also expand the use of state-sponsored law schools accredited by the Tennessee Supreme Court. We can find other ways to take care of clients and the legal profession, without sacrificing quality of representation for the consumer. To quote Justice Frankfurter, "Justice must satisfy the appearance of justice."

Respectfully Submitted,

Anthony W. Kirby
Montgomery County Bar Association President

Research and comments included in this correspondence were prepared with the assistance of commission members appointed by the former Montgomery County Bar Association President for the purpose of responding to Tennessee Supreme Court Order No. ADM2025-01403.

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[33] South Dakota Unified Justice System, *Rural Attorney Recruitment Program*; https://ujs.sd.gov/for-attorneys/rural-attorney-recruitment-program/ (last visited April 30, 2026).

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.*

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Kim Meador

From: Russell Johnson <rjohnson7610799@msn.com>
Sent: Thursday, April 30, 2026 2:18 PM
To: appellatecourtclerk
Subject: Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on Legal Ed and Alternate Paths to Admission (Questions 3 and 4)

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Good afternoon. Thank you for the opportunity to comment.

I support seeking "**Legal Education and Alternative Admission Pathways**".

Thank you.
Russell Johnson BPR 012307
901-761-0799
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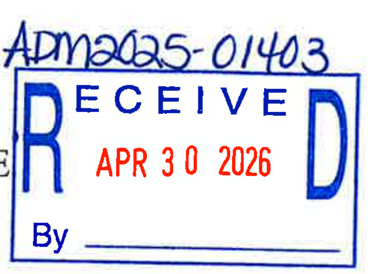

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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

No. ADM2025-01403

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

The Nashville School of Law ("NSL") appreciates the Court's invitation to respond to its September 16, 2025 order inviting comments regarding seven issues involving the regulation of the legal profession in Tennessee. Our school is one of Tennessee's oldest law schools and is also the only law school approved by this Court that has not also been approved by the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar. While NSL fully concurs in the joint comment separately filed by the deans of Tennessee's six law schools, this separate comment reflects our belief that our educational model embodies alternative approaches that could (1) enable more lawyers to pursue careers in government and public service, (2) increase the practice-readiness of new lawyers entering the profession, and (3) expand the availability of affordable legal services to more Tennesseans, particularly those living in rural parts of our state.

NSL does not recommend dramatic departures from Tennessee's traditional two-step admission to practice – obtaining a formal legal education and then passing a bar exam. Rather, it recommends departing from the current one-size-fits-all model of legal education and adopting more flexible standards to promote the creation of cost-saving law schools whose mission is to produce practice-ready lawyers . Kent Syverud, dean of Vanderbilt Law School from 1997-2005, endorsed this approach in 2007 at an American Bar Association Accreditation Committee meeting when he asked: "Can we all exist as Ritz Carlton law schools? Can't we have Motel 6 law schools? There are clean beds in both places, but some of them are just fancier, deeper pile."[1]

Historical Summary of Legal Education in Tennessee

Prior to 1900, the path to practicing law in Tennessee was far from rigorous. Some aspiring lawyers apprenticed themselves to senior lawyers and "read law" while learning the competencies required to practice law successfully. Others took advantage of an 1859 statute that permitted anyone with a college degree to practice law without taking a bar exam.[2] Another pathway, opened in 1867, permitted persons to practice before a justice of the peace by purchasing a $5.25 license.[3]

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[1]New York Law School Dean Richard A. Matasar's paraphrase of Dean Kent Syverud's Jan. 4, 2027 comment at ABA Accreditation Committee Meeting (Jan. 5, 2007), Transcript pp. 57-58 https;//www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_ bar/reports/20070105_ac_task_force_january_open_hearing.pdf.

[2]Chapter 73, 1859 Tenn. Pub. Acts 56.

[3]Lewis Laska, *The Fake Law School: How Today's Written Tennessee Bar Exam Grew From Scandal and Disarray*, 53 Tenn. Bar J. 12, 13 (2017).

Following the Civil War, lawyers began to organize on the national and local levels to recast the practice of law into a "learned profession." They advocated replacing apprenticeships with a law school education leading to a law degree, raising the standards for entry into the profession, and standardizing the process for admission to the practice of law.

Cumberland University opened Tennessee's first law school in 1847 in Lebanon.[4] Vanderbilt University established its law school in Nashville in 1874. The University of Tennessee opened its law school in Knoxville in 1890. These full-time programs mirrored Harvard Law School's approach to legal education as an academic exercise. They employed full-time law professors, adopted the Socratic method, assembled large libraries, and awarded law degrees. They also reduced the focus on the practical competencies needed to practice law because they anticipated that their graduates would learn these skills from the lawyers who hired them.

In 1900, the Tennessee Bar Association's Committee on Legal Education and Admission to the Bar expressed concern about the standards and procedures for becoming a lawyer in Tennessee. The committee's report observed:

> No state requires less, or is more lax in enforcing its requirements, than the state of Tennessee. A license to practice law procured in Tennessee, imports nothing either as to the character of the holder or his professional requirements. The examination for admission to the bar, as conducted in this State,

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[4]Cumberland Law School moved from Lebanon, Tennessee to Samford University in Birmingham, Alabama in 1961.

> are notoriously loose. It is generally accepted that almost any person can, in one way or another, get a license to practice law in the State of Tennessee.[5]

In response, this Court created the Board of Law Examiners in 1903, and the board administered Tennessee's first written bar exam in 1904.

In 1911, four Vanderbilt Law School graduates founded the Nashville YMCA Night Law School – now known as the Nashville School of Law. The school was one of nineteen YMCA-affiliated law schools created in the United States between 1891 and 1924. The founders believed that the school could strengthen the legal profession and expand access to legal services for Tennesseans by providing a high-quality legal education to working men and women. Students attended classes at the YMCA and Cumberland Law School and received their law degrees from Cumberland University until 1927 when the YMCA Night Law School began awarding its own degrees.

By the mid-1930s, legal education in Tennessee had come to mirror that in the United States. In 1938, the Tennessee Bar Association commissioned an independent study of the twelve law schools in Tennessee – three schools affiliated with universities offering full-time programs and nine independent schools offering part-time programs.[6] Two of the full-time programs had been approved by the American Bar Association. The study reported that 915 students were studying law in Tennessee. Almost 60% of these students were enrolled

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[5]Laska, *supra* n.3, at 12 n.1.

[6]Bar Ass'n Section, *The Law Schools of Tennessee: Report of the Survey Committee*, 15 Tenn. L. Rev. 311(1938).

in one of the nine part-time programs. Over 20% of these students were enrolled at the Nashville YMCA Night Law School.

Legal education in Tennessee has changed significantly over the past nine decades. The number of full-time law programs at schools affiliated with a university has increased from 3 to 5, and all these programs have been approved by the ABA's Council of the Section of Legal Education and Admissions to the Bar. The number of part-time programs has decreased from 9 to 4.[7] NSL, Tennessee's only part-time program that offers evening classes,[8] has not sought the Council's approval. Approximately 2,500 students are currently pursuing J.D. degrees, and 15% are enrolled in a part-time program.

During this same period, the tension has continued between viewing legal education primarily as an academic, theoretical discipline and teaching students the practical skills needed to practice law. Many tenured faculty have resisted replacing academic courses with skills courses. At the same time, employers have continued to encourage law schools to teach skills that will better prepare students for practice. This tension should not be resolved by favoring one side over the other. Today's legal education must balance rigorous academic study with meaningful practical training to enable students to think critically and to function as competent, ethical professionals.

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[7]Duncan School of Law offers a part-time, hybrid J.D. program. Cecil C. Humphreys School of Law offers a "reduced-load" J.D. program, and Winston College of Law offers a "flexible schedule JD." The latter two programs require students to attend regularly scheduled day classes, and student enrolled in these programs can expect to graduate in four or five years.

[8]The Cecil C. Humphreys School of Law offered evening classes from 1962 through 1988.

Comments Regarding the Court's Issues

(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.

For the purpose of this comment, NSL respectfully suggests distinguishing between the American Bar Association ("ABA) and the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar ("Council"). The Council, not the ABA, is the current de facto regulator of the legal profession. It performs two functions. First, the Council is the sole accreditor for law schools seeking eligibility to receive student loan funds administered by the U. S. Department of Education.[9] In 2021, Congress extended the Council's jurisdiction to veterans' education benefits administered by the Department of Veterans Affairs.[10] The Council's second function is to set the standards for law schools and to oversee the process for reviewing and approving schools' compliance with those standards. The Council's "approver" role is more important than its "accreditor" role.[11]

For its approval work, the Council operates separately and independently of the ABA. The role of the ABA House of Delegates is limited to concurring in the standards adopted

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[9]The Council has served as the sole accreditor since 1952. Barry Currier, *Should the Council Withdraw From the U.S. Department of Education Accreditation System?*, https://barrycurrier.substack.com/p/should-the-council-withdraw-from.

[10]For approximately seventy years prior to 2021, veterans had been able to use their GI Bill benefits to attend NSL. After Congress restricted the use of veterans benefits to law schools approved by the Council, NSL sought and received a waiver from the Department of Veterans Affairs based on (1) the absence of comparable legal education programs and (2) NSL's compliance with Standard 316's bar passage requirements.

[11]Barry Currier, *Attacks on Law Schools and the Regulation of Legal Education (part 1)*, https://barrycurrier.substack.com/p/attacks-on-law-schools-and-the-regulation.

by the Council. The House of Delegates cannot propose, adopt, or amend a standard on its own motion. It can only refer a proposed standard back to the Council for further consideration. A standard is deemed adopted if the Council adopts it after the House of Delegates has referred it back to the Council twice. In addition, the House of Delegates has no authority to approve, withdraw approval, or otherwise sanction law schools.[12]

As pointed out in the September 16, 2025 order, this Court has always had inherent and broad authority "to regulate and supervise the practice of law in [Tennessee]." *Manookian v. Board of Professional Responsibility*, 685 S.W.3d 744, 801 (Tenn. 2024). Thus, it need not "reclaim" this authority from either the ABA or the Council. This Court has always been in the "driver's seat."[13] However, this Court, like other state supreme courts and licensing authorities, has outsourced or delegated the responsibility to approve law schools to the Council in much the same way it and the Board of Law Examiners have outsourced the preparation of the bar exam to the National Conference of Bar Examiners.

As a result of this nationwide outsourcing, the Council currently plays a central role in shaping and regulating legal education in the United States. It has either fully or provisionally approved 198 of the 229 American law schools. The remaining 31 unapproved law schools are located in Alabama, California, Massachusetts, and Tennessee. Twenty-seven of these schools are in California. Fifty-six jurisdictions (50 states, the District of

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[12]Barry Currier, *Attacks on Law Schools and the Regulation of Legal Education (part 2)*, https://barrycurrier.substack.com/p/attacks-on-law-schools-and-the-regulation-90f.

[13]Barry Currier, *Law School Regulation: Three Truths*, https://barrycurrier.substack.com/p/law-school-regulation-three-truths.

Columbia, and 5 territories) accept a J.D. degree from a Council-approved law school to satisfy their legal education requirement. In many of these jurisdictions, a degree from a Council-approved law school is required.[14] In 2024, 83% of all bar exam takers and 91% of bar passers were J.D. graduates from a Council-approved law school. Excluding exam takers and passers who received their legal educations outside the United States, 95% of the takers and 98% of the passers possessed a J.D. degree from a Council-approved law school.

NSL counsels caution as this Court considers modifying, reducing, or eliminating the Council standards and procedures for approving J.D. degrees. No other satisfactory standards or procedures currently exist, and developing a new set will be difficult and time-consuming. Accordingly, for all the reasons presented in the Joint Comment of the Tennessee Law School Deans, NSL believes that the Court should not alter Tenn. Sup. Ct. R. 7, § 2.02(a) requiring that persons seeking admission to the practice of law in Tennessee "must have completed a course of instruction in and graduated with a J.D. degree from a law school accredited by the ABA at the time of the applicant's graduation, or a Tennessee law school approved by the Board [of Law Examiners] pursuant to section 17.01 of this Rule at the time of the applicant's graduation."

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

While theoretical alternatives to the Council's approval of J.D. degrees exist, NSL believes that pursuing wholesale changes in approval standards and procedures will be, in

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[14]Currier, *supra* n.12.

varying degrees, difficult, contentious, time-consuming, and costly. NSL does, however, strongly favor changes in the standards that (1) mitigate the socio-economic barriers to a legal education, (2) lower the cost of a J.D. degree, (3) provide students with training in skills that will make them more practice-ready, and (4) provide persons who desire to practice law in Tennessee direct, personal exposure to the standards, traditions, and professionalism expected from Tennessee lawyers.

The following are among the alternatives to "ABA accreditation" that the Court may desire to consider:

(A) The least costly, disruptive, and confusing way forward would be to allow the Council to continue as a separate and relatively independent entity and to urge the Council to develop and implement overdue changes in its standards and procedures.

(B) If the concerns about the Council reflect a broader concern that the ABA itself has become a political organization, the Court could consider recommending the removal of the current process permitting the House of Delegates to approve the Council's standards. If this Court decides that further separation is necessary, it could recommend making the Council entirely free-standing by uncoupling it from the ABA.[15]

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[15]Barry Currier, the Council's managing director from 2012 to 2020, has observed that "the Council does not need to be within the ABA to get its work done." Barry Currier, *Is the American Bar Association the Optimal Home Base for the Regulation of Legal Education*, https://barrycurrier.substack.com/p/is-the-american-bar-association-the.

(C) As an alternative to transforming the Council into a free-standing agency, the Court could consider recommending that the Council associate with the National Center for State Courts, the National Conference of Bar Examiners, or another non-profit legal organization.

(D) The most ambitious remedy this Court could consider would be creating an entirely new national entity or regional entities that might co-exist with the Council or eventually replace it.[16]

(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.

NSL believes there are less costly alternatives to the traditional three-year law school curriculum and that its educational model illustrates one of them. NSL's J.D. degree costs much less than other law schools' J.D. degrees, not because its course of study is less rigorous, but because NSL, by controlling its fixed costs, charges significantly less per credit hour than other law schools. The moderated cost of NSL's J.D. degree, coupled with its class schedule that permits students to continue working full-time, enables NSL students to graduate without law school debt. Other state supreme courts, addressing issues similar to those identified in this Court's September 16, 2025 order, have noted that NSL's approach to legal education provides an alternative model worthy of consideration.[17]

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[16]Barry Currier, *Easy Peasy? Simple in Theory. Harder in the Real World*, https://barrycurrier.substack.com/p/easy-peasy.

[17]*See* Attachment A – Arizona Supreme Court's NAU Law School Proposal.

Increased Costs Cause Increased Student Debt

The J.D. degree is expensive.[18] In fact, the degree's cost has increased so much that it discourages many otherwise qualified students from applying to law school.[19] The rate of increase in law school tuition exceeded the rate of inflation between 1985 and 2025. Attending a private ABA-approved law school today is 2.54 times more expensive than it was in 1985. Similarly, attending a public ABA-approved law school today is 5.12 times more expensive than in 1985.[20] While the cost of attending law school has continued to increase during the past ten years, the cost adjusted for inflation has remained relatively unchanged.[21] The cost of their J.D. degree now prompts many law school graduates to question whether their degree is worth the cost.[22]

The high cost of a J.D. degree has forced most law students to take out student loans to pay for their education. [23] Recent data reflects (1) that 85% of students have borrowed

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[18]Committee on Legal Education and Admissions Reform (CLEAR), *Report and Recommendations*, at 98 (July 27, 2025), https://www.https://www.ncsc.org/sites/default/files/media/document/CLEAR_Report.pdf.

[19]Megan M. Carpenter, *Risk-Taking and Reform: Innovation for a Better Education*, 22 U.N.H. L. Rev. 141, 142 (2024).

[20]LawHub, *Cost of Attendance*, https://www.lawhub.org/trends/tuition.

[21]AccessLex Institute, *Legal Education Data Deck*, at 18 (Apr. 23, 2026), https://www.accesslex.org/reseacrch-and-data-tools-and-resources/legal-education-data-deck.

[22] Carpenter, *supra* n.19, at 143 (quoting Zac Auter, Few MBA, Law Grads Say Their Degree Prepared Them Well, https://news.gallup.com/poll/227039/few-mba-law-grads-say-degree-prepared.aspx?g_source=link_NEWSV9&g_medium=NEWSFEED&g_campaign=item_&g_content=Few MBA,LawGradsSayTheirDegreePreparedThemWell.

[23]CLEAR Report and Recommendations, *supra* n.18, at 98.

money to attend law school; (2) that the average amount of law school debt is $137,500;[24] and (3) that, in addition to law school debt, 46% of law students are carrying undergraduate debt.[25]

Debt significantly affects law school graduates entering an uncertain job market. In 2020, a study commissioned by the ABA Young Lawyers Division identified the following effects of debt incurred in law school: (1) for many law school graduates, law school debt grows after graduation; (2) student loans impact the personal lives and decisions of new lawyers; (3) student loans force lawyers to take unwanted career paths; (4) student loans take a disproportionate toll on lawyers of color; and (5) student loans negatively affect mental health.[26] Based on these findings, the study recommended "[addressing] the overly prescriptive nature of the Section of Legal Education's standards for legal education" and "supporting alternative pricing and revenue models for law schools."[27]

The effects of law school debt can be mitigated in several ways. Reducing the cost of obtaining a J.D. degree would necessarily decrease the amount of debt law students incur. Providing more flexible terms for repaying law school debt would make repayment more

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[24]Melanie Hanson, *Average Law School Debt* (Mar. 3, 2026), https://educationdata.org/average-law-school-debt.

[25]AccessLaw Institute, at 24, *supra* n.21.

[26]ABA Young Lawyers Division, *2020 Law School Student Loan Debt: Survey Report*, at 10-12, https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/2020-student- loan-survey.pdf.

[27]*2020 Law School Student Loan Debt: Survey Report*, *supra* n.26, at 25.

manageable. Creating more debt-forgiveness opportunities would encourage law students to choose careers that enable them to pay down their debt more quickly.

Reducing the cost of a J.D. degree is the most direct way to decrease law student debt. However, many Council-approved law schools will find it difficult to reduce tuition and fees due to substantial fixed costs in their budgets. The three highest fixed costs are: faculty compensation and support, construction-related debt, and funds transferred to the law school's university. Faculty compensation and support often account for as much as 70% of a law school's fixed costs.[28] In addition to their salaries, full-time, tenured faculty members receive retirement benefits, health insurance, offices and office equipment, support staff and research assistants, research stipends, paid vacations, and sabbaticals.[29] Many of them enjoy decreased teaching loads.[30]

NSL's Adjunct Professors Broaden Legal Education and Reduce Costs

NSL has always relied on part-time, non-tenured adjunct professors rather than full-time tenured professors. This decision benefits NSL students in two ways. First, because NSL does not believe in separating its students from the real world, our adjunct professors

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[28]Michael J. Madison, *Law Schools' Fistful of Dollars*, https://profmadison.substack.com/p/law-schools-fistful-of-dollars.

[29]T. Markus Funk, et. al., *The Hidden life of Law School Adjuncts: Teaching Temps, Indispensible Instructors, and Underappreciated Cash Cows, or Something Else?*, 102 Tex. L. Rev. Online 44, 58-59 (2023).

[30]Ann Juliano, *Privileging Scholarship and Law School Compensation Decisions: It's Time to Shine Some Light*, 61 U. Louisville L. Rev. 291, 292 (2023).

bring both academic rigor and practical experience into the classroom.[31] Second, the reduced cost of its adjunct professors enables NSL to offer its students a high-quality legal education at a very competitive cost.

Combining Theory and Practice

For many years, traditional legal education in the United States has been entrusted to full-time tenured professors with little interest or experience in the practice of law.[32] Law schools favored academic scholarship over teaching ability.[33] In response to pressure to control costs and demands for more practical skills training, law schools have added adjunct professors to their faculty.[34] Approximately 12,000 persons are currently employed as adjunct law professors, with a ratio of two adjuncts for each full-time professor.[35] They teach

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[31]While scholarship certainly has its place in legal education, it is not central to NSL's mission. There is some evidence that the demand for legal scholarship is shrinking. Chief Justice John Roberts has noted that many law review articles are "more abstract" than practical and are not "particularly helpful for practioners and judges." Former Justice Stephen Breyer likewise observed that "there is evidence that law review articles have left terra firma to soar into outer space." Juliano, *supra* n. 30, quoting Jess Bravin, *Chief Justice Roberts on Obama, Justice Stevens, Law Reviews, More*, Wall St. J. (Apr. 7, 2010, 7:20 PM), https://www.wsj.com/artiles/BL-LB-27402 and David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. Times (Nov. 11, 2011), https://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html.

[32]Christopher Columbus Langdell, dean and professor at Harvard Law School, is credited as the father of the educational model still used by many law schools. When describing the ideal qualifications for a law professor, Dean Langdell noted: "What qualifies a person to teach law is not experience in the work of a lawyer's office, not experience in dealing with men, not experience in the trial or argument of causes – not experience, in short, in using law, but experience in learning law." Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 Penn. L. Rev, 907, 908 (1933).

[33]Juliano, *supra* n. 30, at 292-93.

[34]Funk, *supra* n.29, at 44.

[35]Funk, *supra* n.29, at 53, 56.

between 25% and 45% of all law school classes, including more the 50% of the classes offered in the second and third year of law school.[36] The standard salary for adjunct professors is between $3,000 and $5,000 per class.[37]

Tennessee's bench and bar consider NSL's adjunct faculty to be the driving force behind our school's success. They bring current, real-world experience into every class, thereby balancing the theoretical and practical aspects of the practice of law. Many believe that our adjunct professors help our students become more practice-ready than other law school graduates.

Enabling NSL to Control Costs

Our adjunct professors' value extends beyond their ability to blend academic discipline and practical issues in their courses. Teaching at NSL is not the sole source of income for our adjunct professors. They teach at NSL because they are committed to their students' professional development. As a result, the cost of NSL's faculty is far less than that of other law schools, even though their compensation exceeds that of adjunct professors at other law schools. This difference enables NSL to charge lower credit-hour rates than other law schools.

Based on current data, the average of the total cost to attend and graduate from a Council-approved law school in the United States is $217,480. The average of the tuition cost

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[36]Funk, *supra* n.29, at 56.

[37]Funk, *supra* n. 29, at 57.

alone is $138,088. The average cost per credit hour is $1,785.[38] Without the expense of a full-time faculty, NSL's cost per credit hour is substantially lower than the national average cost per credit hour and the cost per credit hour at other law schools in Tennessee. Our low cost per credit hour decreases our students' need to borrow money to earn their law degree.

	Total Tuition	Cost Per Credit Hour
Vanderbilt	$236,397	$2,686
Belmont	$166,500	$1,850
Duncan	$146,583	$1,629
Tennessee Average	*$116,465*	*$1,288*
Humphreys (in-state)	$55,902	$621
Winston (in-state)	$50,088	$563
NSL	$43,320	$380

NSL's Education Promotes Success on the Bar Exam and In Practice

One measure of the value of a law school's academic program is the success rate of its students who take the bar exam. The Council's 2025-2026 Standards and Rules of Procedure for Approval of Law Schools contains a bar passing standard stating that "[a]t least 75 percent of a law school's graduates in a calendar year who sat for a bar examination must have passed a bar examination administered within two years of their date of graduation." NSL complies with Standard 316 with a bar passage rate of 77%.

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[38]Hanson, *supra* n.24.

The table below, which shows the success rate of NSL's last three graduating classes, demonstrates that NSL is effectively preparing its students to pass Tennessee's bar exam, the same bar exam administered in 38 other states, the District of Columbia, and the U.S. Virgin Islands.

	July 2023	July 2024	July 2025	Average
1st Quarter	86%	100%	100%	95%
2nd Quarter	74%	87%	88%	83%
Top Half	*76%*	*93%*	*94%*	*88%*
3rd Quarter	52%	87%	63%	67%
Top 3/4	*67%*	*91%*	*83%*	*80%*
4th Quarter	25%	7%	25%	16%

NSL graduates can be found in 87 of Tennessee's 95 counties. They work in large law firms in urban areas, in the offices of district attorneys general and district public defenders throughout the state, in solo firms and small practices in Tennessee's rural areas, and in state and local government positions. More than 130 NSL graduates serve as judges in Tennessee's state and local courts. Still other NSL graduates are using their legal education to become successful in business. Because of their professionalism, many NSL graduates have become leaders in state and local bar associations and other legal organizations.

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

While NSL favors retaining the traditional two-step admission to practice – obtaining a formal legal education and passing a bar exam, it encourages the Court to consider

innovative permutations that will (1) enable graduates to be more practice-ready when they graduate, (2) enable graduates with student loans to discharge their debt more quickly, and (3) encourage graduates to make a career in under-served areas in Tennessee.

NSL also commends the Court for creating the 7.5-hour online Tennessee Law Course now required by Tenn. Sup. Ct. R. 7, § 1.07 as a condition for admission. Tennessee is one of only nineteen jurisdictions with a jurisdiction-specific pre-admission requirement.[39] The current course focuses on jurisdiction-specific law that may be unique to Tennessee.

NSL suggests that the Court consider broadening its current pre-admission requirements. While requiring familiarity with unique Tennessee legal principles is important and necessary, NSL believes newly admitted lawyers, particularly if they have not attended one of Tennessee's six law schools, should be required to familiarize themselves with how law is practiced in Tennessee. This topic would cover not only Tennessee's unique array of local and state courts but also Tennessee's professionalism principles found in the Preamble to the Tennessee Rules of Professional Conduct and Tenn. Sup. Ct. R. 8, RPC § 2.1. NSL recommends for the Court's consideration a program similar to the five-month and pre-admission requirements adopted by the Board of Law Examiners of the Supreme Court of Delaware.[40]

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[39]CLEAR Report and Recommendations, *supra* n.18, at 92.

[40]Bd. of Bar Examiners, Clerkship Requirements, https://courts.delaware.gov/bbe/clerkship.aspx. *See also*, Randy J. Holland, *The Delaware Clerkship Requirement: A Long-Standing Tradition*, Bar Examiner (2009), available at https://courts.delaware.gov/forms/download.aspx?id=103428.

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

NSL believes that Tennessee's current requirements and procedures governing admission to the practice of law in Tennessee are adequate. However, in light of the increasing prevalence of lawyers licensed in one jurisdiction who provide legal representation or services to clients in other jurisdictions, NSL recommends that further attention should be paid to the scope and application of Tenn. Code Ann. §§ 23-3-101 to -113 (2021) in these circumstances.

Consistent with Recommendation 6.4 of the CLEAR Report,[41] NSL also recommends that the Court consider advocating to other state supreme courts and licensing authorities for the adoption of rules and procedures that would promote the portability of NSL's law degree. Currently, the Commonwealth of Kentucky has agreed that law graduates with an NSL J.D. degree satisfy the educational requirements for admission to practice law in Kentucky. Likewise, the State of Georgia, considering NSL graduates on a case-by-case basis, permits NSL graduates to apply for admission to the Georgia bar if their application is accompanied by a letter from a dean or former dean of a Council-approved law school stating that NSL legal education is the functional equivalent of the education provided by a Council-approved

[41]Recommendation 6.4 encourages state supreme courts "[t]o support score portability – a current reality in the profession, and the expectation of lawyers in an increasingly interconnected world – state supreme Courts should explore how to accept other jurisdictions' determinations of competence, whether by innovative or bar exam pathways." CLEAR Report and Recommendations, *supra* n.18, at 16.

law school. To date, four deans or former deans at Council-approved law schools in Tennessee have provided this letter for NSL graduates.

NSL recommends that the Court consider inviting other state supreme courts and licensing authorities to adopt standards and procedures similar to Tenn. Sup. Ct. R. 7, §§ 17.01-17.10 that would enable NSL to request these jurisdictions to determine whether NSL's J.D. degree meets their legal education requirements. Like Tennessee's requirement, approval should be based on substantial compliance with ABA Standards 301 -316 (except for Standards 307 and 313) and Standards 502, 503, and 509.[42]

(6) Whether any legal service 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.

NSL has no substantive comment regarding this issue. NSL would, however, respectfully suggest that should the Court entertain authorizing paraprofessionals to provide legal services to clients, the impact of this change on solo practitioners and small firms, particularly those in rural areas, should be carefully considered.

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

NSL has no substantive comment regarding this issue. NSL would, however, respectfully suggest that should the Court entertain authorizing paraprofessionals to provide

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[42]These requirements are similar to the continuing reporting requirement adopted by the Supreme Court of Texas for Council-approved law schools that are already on Texas's list of approved law schools. *See Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas*, Misc. Docket No. 26-9002 (Tex. Jan. 6, 2026), available at https://www.txcourts.gov/ media/1461882/269002.pdf.

legal services to clients, the impact of this change on solo practitioners and small firms, particularly those in rural areas, should be carefully considered.

Respectfully submitted on behalf of the Nashville School of Law,

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ATTACHMENT A
Nashville School of Law

NAU Law School Proposal

The Need

Arizona ranks 49th in lawyers per capita, making it one of the most underserved states in the nation. The shortage is particularly acute in rural communities and in government legal offices, including prosecutors' and public defenders' offices. A new law school at Northern Arizona University would directly address this access-to-justice gap by educating and retaining lawyers in underserved areas.

Approval

The law school would be approved by the Arizona Supreme Court (rather than accredited by the American Bar Association ("ABA")). The model follows the Nashville School of Law, which has operated successfully since 1911 and is led by a former Tennessee Supreme Court Justice. This proven model demonstrates that high-quality legal education can be delivered outside the traditional ABA structure.

Reduced Cost Structure

Arizona Supreme Court proposed standards permit instruction by adjunct practitioner faculty, eliminating the ABA requirement for predominantly full-time, research-focused, tenure track professors in first-year courses. Cost efficiencies include heavy use of experienced practicing attorneys as part-time faculty, use of existing university library resources and online research tools, and no requirement for a separate stand-alone law library. These efficiencies significantly reduce institutional costs, allowing for lower tuition while maintaining rigorous academic standards. Instruction by practicing attorneys also enhances students' practice readiness upon graduation.

The Arizona Supreme Court proposed standards enable Northern Arizona University to offer the law degree program at a lower cost to students. Northern Arizona University will utilize its robust infrastructure and expertise for online education to create a quality program that prepares students for the Arizona Bar Examination and professional success. The program will be designed to prepare graduates for private and public law practice.

Required Core Legal Curriculum

The program would require a strong core legal curriculum not currently required by the ABA standards, including Constitutional Law; Evidence; Torts; Contracts; Civil Procedure; Criminal Procedure; Criminal Law (including Victims' Rights); Professional Responsibility; Legal Writing; Property; Family Law; Trusts and Estates; and Business Associations.

Students would also complete at least six credit hours of experiential learning, which may include a legal externship, law clinic, or other practice-based learning activities.

Online, Part-Time Format

The program would operate as a four-year, part-time program delivered primarily online with limited in-person components. This format serves working professionals and non-traditional students, allows students in rural communities to remain in their hometowns, reduces housing and relocation costs, and increases the likelihood that graduates will continue serving their communities. It is anticipated that the caliber of law students would be similar to those at other Arizona law schools.

NAU's program will be designed to include a Master of Legal Studies ("MLS") milestone credential. The MLS will qualify students to be authorized for practice as Legal Paraprofessionals while they pursue further study for the Juris Doctor degree.

Recent applications to Arizona State University's part-time online law school program exceeded 1,300, demonstrating high demand for a part-time law school program.

Full Arizona Law License

Graduates must pass the Arizona Bar Examination and have sufficient character and fitness for admission to practice. Upon admission, they will receive a full Arizona law license, with authority to practice in any area of law within the state. Reciprocity with other states may be available depending on jurisdictional rules.

The Bar Associations of the Fourth Judicial District

Cocke Grainger Jefferson Sever

Re: Public Comment on Potential Regulatory Reforms to Increase Access to Quality Legal Representation

Docket No. ADM2025-01403

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

Dear Clerk Hivner:

We are writing collectively for the local bar associations for the Fourth Judicial District (Cocke, Grainger, Jefferson, and Sevier Counties), and we respectfully submit this comment in opposition to the proposed regulatory reforms outlined in the Tennessee Supreme Court's Order soliciting public comments regarding potential changes to the regulation of the legal profession.

The Court's goal of increasing access to affordable legal services is commendable—however, we fear that some of the reforms under consideration risk undermining the quality, independence, and integrity of the legal profession in Tennessee.

The Tennessee Supreme Court set forth seven (7) topics for public consideration in its Order. The first four (4) affect the education and licensing of attorneys. Our bar association certainly would welcome new paths for developing attorneys so long as reforms in legal education continue to provide strong ethical guidance.

Our members, however, are more concerned with the Order's consideration of out-of-state and non-lawyer ownership and practice. We doubt this will do anything at all to address the "legal deserts" in the rural community. Indeed, to the contrary, non-lawyer investors or corporate owners would be driven primarily by the goal of maximizing profit rather than ensuring the ethical delivery of legal services or expanding affordable representation for those who cannot afford it. It is inconceivable that such outside investors would prioritize serving underserved communities when the financial incentive is to focus on higher-value, more profitable legal work in larger cities.

Non-lawyer ownership would divert revenue away from locally owned Tennessee law firms and into the hands of outside investors, corporations, or national entities with no connection to the communities they serve. Tennessee attorneys who have built practices within their local communities could find themselves competing with corporate-backed out-of-state lawyers driven by artificial intelligence. Such a shift risks weakening local legal practices and the community-based relationships that currently support Tennessee's justice system.

While the Court correctly recognizes that many Tennesseans face barriers to obtaining legal assistance, opening the door to private equity is not the appropriate solution. The justice gap should instead be addressed through measures that preserve professional competence while expanding services, such as increased support for legal aid organizations and incentives for attorneys to practice in underserved rural communities.

With kindest regards we remain,

Sincerely yours,

Nikolas Kear
President of the Cocke County Bar Association

Evan Newman
President of the Grainger County Bar Association

Rebecca Lee
President of the Jefferson County Bar Association

Bryce McKenzie
President of the Sevier County Bar Association

EXECUTIVE DIRECTOR
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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

COMMENTS OF THE CHATTANOOGA BAR ASSOCIATION

Please accept this letter as the Chattanooga Bar Association ("CBA")'s written response to the Supreme Court's September 16, 2025 Order (the "Order") seeking public comments on potential regulation reforms to increase access to quality legal representation.

With over 900 members, the CBA is the fourth largest metropolitan bar association in Tennessee. Given the number of proposed reforms and the expected differing viewpoints among our diverse membership, the CBA solicited opinions and comments from our members. Subsequently, this response was prepared by a committee of CBA members representing a cross-section of our membership (the "Committee"). This letter provides the Court with an overview of the prevailing viewpoints from our membership.

As an introductory matter, the Committee cautions that sweeping changes to the structure of legal practice and admission standards carry substantial risk. The Committee urges careful, targeted reforms rather than broad restructuring.

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.

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

This is a combined response to Issues #1 and 2 from the Order.

The Committee recommends that the Supreme Court should retain accreditation by the American Bar Association ("ABA") as the primary means of establishing minimum education requirements for applicants to the Bar. The alternative is to establish Tennessee

specific criteria for the Board of Law Examiners for the State of Tennessee (the "Board") to accredit every law school, both in and out of state. The cost of administering such a process will likely be prohibitive without resulting in a significant increase in bar applicants and attorneys in Tennessee.

Additionally, the existing rubric provides alternative methods for the Board to approve applications from graduates of Tennessee and out of state law schools that are not accredited by the ABA. As the Court recognized 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. Graduates of unaccredited law schools outside of Tennessee may be considered for admission to the Bar on a case-by-case basis. Among other requirements, such an applicant must have obtained a degree "from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where the law school exists and which 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." (internal citations omitted)

In addition to relying on the counterpart authority to the Board in foreign states for approval, the Court could consider supplementing this existing process by conditioning approval on objective criteria such as bar passage rates, employment outcomes, etc. The Court might find it useful to tie that to reciprocity with the foreign state.

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.

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 requirements in part by completing an apprenticeship or serving with a legal aid organization.

This is a combined response to Issues #3 and 4 from the Order.

The Committee believes that there are not currently less costly alternatives to the traditional three-year law school curriculum that would adequately prepare individuals for the practice of law in Tennessee.

Traditional legal education provides a unique environment that facilitates: (1) cognitive development while refining the "legal mind" through the Socratic method and rigorous analytical reasoning; (2) professional resiliency while simulating the pressures of practice, including interpersonal management and strict temporal constraints; and (3) clinical experience where many traditional institutions offer robust legal clinics providing supervised, real-world client interactions. This is an experiential component that online-only programs often lack. The Committee also notes jurisdictional limitations are often inherent in online education, as seen in California, where graduates of non-ABA-accredited online programs are frequently restricted to local licensure, severely limiting professional mobility.

Likewise, legal apprenticeships fail to meet the standard of "adequate preparation." The lack of curriculum standardization and the inherent variability of individual mentorship experiences pose significant risks to professional competency. Standardizing such a program would likely necessitate an expansive regulatory

framework to ensure parity in professional development. Such a framework would need to include approved attorney mentors with significant relevant experience; written exams; significant attorney interviews; enhanced continuing legal education; and minimum education requirements.

Additionally, the Committee finds no empirical evidence suggesting apprenticeship-trained or online-educated practitioners disproportionately serve underserved populations.

Instead, the Committee recommends the expansion and continued support of accelerated and condensed degree programs. These "3+3" initiatives, such as the partnership between the University of Memphis Cecil C. Humphreys School of Law and Austin Peay State University, allow students to complete both a baccalaureate and a JD in six years. This model maintains academic rigor while providing a tangible reduction in tuition costs and a faster entry into the practice.

Additionally, the Committee supports the enhancement of flexible law school programs for students with significant current professional or personal commitments. By offering part-time tracks (e.g., The Winston College of Law at the University of Tennessee, Knoxville), the legal profession can remain accessible to a broader demographic without compromising the quality of the legal education.

Finally, the Committee recommends evaluating the Community Justice Worker (CJW) model for implementation within Tennessee. This model utilizes individuals specifically certified in discrete areas of civil law, including SNAP benefits and administrative proceedings. Drawing on precedent in jurisdictions like Alaska, where CJWs have served remote and rural Native American communities, this model may help bridge the perceived access-to-justice gap in Tennessee. The Committee suggests a targeted, rural, county-by-county pilot program limited to practice areas in administrative venues without adverse counsel, such as Social Security representation.

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.

The Committee does not recommend lowering the barrier to entry into the legal profession as a means of expanding access to legal services for Tennesseans. The Committee finds that such proposals would not achieve the stated goal and would, in fact, pose meaningful risks to the public.

The Committee acknowledges that a genuine access-to-justice problem exists in Tennessee. Underserved communities and so-called "legal deserts" lack adequate legal representation, and many legal needs go unmet because they do not translate into economically viable matters for practicing attorneys. However, the Committee finds that simply increasing the number of licensed attorneys will not resolve this problem. The economic conditions that currently deter attorneys from serving these communities would remain unchanged regardless of the size of the attorney pool.

Rather, the Committee recommends consideration of a requirement that licensed attorneys handle a defined number of legal aid matters as a condition of licensure or renewal. The Committee recognizes that, absent such a mandate, market forces will not lead attorneys to voluntarily accept these matters, as they are not economically sustainable without subsidy or obligation.

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.***

The use of trained paraprofessionals to handle certain categories of legal matters under attorney supervision offers a targeted and professionally responsible means of extending legal services to underserved populations. However, the Committee is concerned about the possibility of allowing non-attorneys to handle matters that, unbeknownst to the potential client, involve more significant issues than are readily apparent. Balancing this concern with a clear need to provide greater access to justice than is currently available, the Committee recommends that a study be undertaken to ascertain if it is feasible for paraprofessionals to handle certain areas of law that involve comparatively less complexity and risk in order to improve access to justice. Paraprofessional certifications could be introduced gradually in order to allow for sufficient oversight and careful development of rules related to certification and supervision. Consideration should be given to what role, if any, judges or legal aid might play in ensuring that paralegal representation is appropriate, flagging cases that have been incorrectly evaluated. Further, disclosure to the client when a paraprofessional is performing a task instead of an attorney will be critical and require specific representations and acknowledgments.

Potential legal areas for consideration for this study could include: traffic court cases; general sessions cases, with some consideration to limiting damages to a lower limit; divorces that qualify to use the Tennessee Supreme Court approved divorce forms published on the Administrative Office of the Courts website; debt collection cases below a certain value; advocacy in pre-litigation mediation; and legal triage.

Potential conditions of practice by paraprofessionals could include: supervision and oversight by an attorney; adherence to ethical rules similar to those for attorneys; client intake survey to confirm suitable matter; and consent by all parties to paraprofessional representation.

Low-income clients seeking representation in these areas are often forced to decide between the daunting financial hardship of hiring a licensed attorney or the risk and uncertainty of representing themselves. Some turn to online sources or, more recently, the "legal" counsel of AI. We are already seeing a significant increase in what appear to be AI generated complaints, a trend that is likely to continue.

Tiered legal representation models have been implemented in other states and countries in order to promote the availability of equitable and affordable legal advice (see, e.g., California, New York, Washington, England, and Canada). A study of both the methodology and success of these programs could be done in order to assess the viability of such a program.

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

The Committee does not support permitting non-lawyers to own or hold financial interests in law firms. Such arrangements appear to benefit only the non-lawyer investors and introduce risks to client interests, professional independence, and the integrity of the legal system that far outweigh any potential benefits.

Rule 5.4 of the Model Rules of Professional Conduct, adopted by nearly every state including Tennessee, prohibits lawyers from practicing with or in the form of a professional corporation or association if a nonlawyer owns an interest in the association or if a nonlawyer is a corporate director or officer. Tenn. R. Pro. Resp. 5.4. (d). The intent is to prevent a nonlawyer from having the power to direct or control the professional judgment of a lawyer. Rule 5.4 (d)(3). Lawyers play a role in serving the public that is different

from most professions and is sometimes at odds with earning a profit for the firm they also serve. Rule 5.4 attempts to rectify this conflict.

Because of the special role lawyers play, the Supreme Court has affirmed that a state "bears a special responsibility for maintaining standards among members of the licensed professions" and has a "strong interest in regulating members of the Bar". *Ohralik v Ohio State Bar Ass'n*, 436 U.S. 447,460 (1978). A state's interest in maintaining and assuring the professional conduct of lawyers is "especially great" because the judiciary depends upon the "professionally ethical conduct of attorneys." *Goldfarb v Va. State Bar*, 421 U.S. 773 (1975).

As stated by the preamble to Tennessee's Rules of Professional Conduct: "A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice". See, Tenn. Sup.Ct. R. 8, Preamble and Scope [2]. The primary purpose of the rules of professional conduct is to "resolve the problems that arise between a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living". Rule 8 [10]. Without Rule 5.4, non-lawyer law firm owners enter this relationship and become the primary evaluators of an attorney's performance. The scales of the inherent conflict recognized by our Rules of Professional Conduct become tilted. Not only must lawyers be conscious of being affected by their own profit motives now, they would also be affected by the profit motives of the nonlawyer owners of their firms.

Only a few states diverge from this rule. Arizona is the most far reaching. In 2020, the Arizona Supreme Court abolished Rule 5.4, becoming the first state to do so. The move is intended to drive down the cost of legal services by allowing a more corporate capital structure. By removing Rule 5.4, the Arizona Supreme Court intended to enable law firms to obtain equity-based financing, accelerate legal technology initiatives funded by the tech industry, and allow expanded access to litigation financing. The governing board of an entity controlled by nonlawyers is required to undertake in writing to the Arizona Supreme Court that it will not interfere with the lawyer's exercise of independent professional judgment on behalf of a client or interfere with a lawyer's duties to a court. But these governing boards are not subject to the rules that govern the conduct of lawyers.

Reports out of Arizona are not particularly flattering. Consumer complaints seem to have increased with complaints of lack of supervision and oversight and conflicts of interest. The Committee believes such complaints are virtually unavoidable and strongly rejects any attempt to amend, replace or remove Rule 5.4.

The Committee recognizes that, even with Rule 5.4, law firms are currently, to some extent, driven by profit and lawyers often are judged and compensated by their ability to generate revenues and profits for their firms. But with the present system the governing bodies within law firms that judge and set compensation for a firm's lawyers are subject to the same rules and regulations that govern the lawyers they judge. With Rule 5.4, the Rules of Professional Conduct reach all those within a law firm including those that sit on firm's governing bodies. The inherent conflict still exists, but the rules of professional responsibility and the Tennessee Supreme Court mitigate its effect.

Conclusion

The CBA greatly appreciates the opportunity to respond to the Court's questions on these important issues. Should the Court desire any additional information, the CBA is happy to provide such. Further, should the Court wish to appoint a statewide committee to look further into these issues, the CBA would be interested in participating in such.

Sincerely,

Keith H. Grant, President
Chattanooga Bar Association

RECEIVED
APR 30 2026
By ____________
ADM2025-01403

Kim Meador

From: Russell Johnson <rjohnson7610799@msn.com>
Sent: Thursday, April 30, 2026 2:02 PM
To: appellatecourtclerk
Subject: Comment re: Regulatory Reforms, No. ADM2025-01403 – Initial comment on need for action

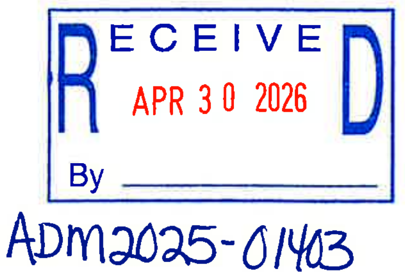
Warning: Unusual sender <rjohnson7610799@msn.com>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Good afternoon. Thank you for the opportunity to comment.

I write to support recognition that the "ACCESS TO JUSTICE IS IN CRISIS IN TENNESSEE".

Respectfully, part of the problem is created by whoever is monitoring-regulating Law Firms who advertise. It appears no one is monitoring-regulating Law Firms who advertise.
Do we have any numbers on how many plaintiffs have not sought a second opinion, or proceeded as pro se, because some law firm has brought them in by clever advertising only to tell them their 'case is *not worth pursuing' - for the law firm*.
Such regulatory misconduct should not be shielded by hiding behind a first amendment claim of "free speech". Besides making attorneys look like clowns, and giving the public a false sense of high-dollar success, it further undermines who to trust.
When these firms that advertise throw out a large net to gather clients, where is the counting those that they throw back because no insurance on the other side, no sufficient personal injury to pursue, etc?!
Yes, these are valid considerations, but the first should be whether a claim appears valid and the well-being of that client invited-encouraged to walk through the door, not the issue of minimum limits or less than 'catastrophic' damages.
Regretfully, I do not know the answers, but letting the advertising firms do clown acts with high uncredentialed dollar signs appears more like a gambling lottery, and then to deflate the rejected client cut loose does not enhance an opinion of "justice".
Good luck. Thank you.

Russell Johnson BPR 012307
901-761-0799
rjohnson7610799@msn.com



April 30, 2026

Via Email (appellateclerk@tncourts.gov)

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

Re: Public Comment on Potential Regulatory Reforms to Increase Access to Quality Legal Representation (Docket No. ADM2025-01403); Comment in Opposition to Nonlawyer Law Firm Ownership and Fee-Sharing

Dear Mr. Hivner and Honorable Justices of the Tennessee Supreme Court:

The undersigned are the leading organizations representing lawyers who primarily represent defendants in civil litigation. In addition, our organizations include significant stakeholders across the business and civil justice communities. Our members and supporters also include numerous Tennessee employers.

We are writing with respect to issue (7) of the Court's public comment request, which addresses potential modification, or even elimination, of longstanding regulations prohibiting nonlawyer ownership of law firms or fee-sharing with nonlawyers. We applaud the Court's efforts to increase access to justice for Tennesseans, but weakening the longstanding safeguards is unlikely to advance that objective and would create many problems.[1] Erosion of the traditional rule would impair lawyers' professional independence and undermine the integrity of the civil justice system by inviting outside financial interests whose primary goal is a return on investment.[2]

I. Restrictions on Nonlawyer Ownership and Fee-Sharing Serve Vital Purposes

As the Court is aware, the Tennessee Rules of Professional Conduct are patterned on the American Bar Association (ABA) Model Rules of Professional Conduct,[3] including the state's restrictions on nonlawyer ownership of law firms and fee-sharing with nonlawyers.[4] The "limitations are to protect the lawyer's independence of professional judgment."[5]

The ABA has reaffirmed this purpose in response to proposals to relax law firm ownership and fee-shifting rules. In 2022, the ABA's House of Delegates adopted Resolution 402, which states that the "sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession."[6] The ABA took this approach to "leave no doubt" that, as state supreme courts and bar associations consider

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[1] For a robust discussion, see William W. Large, U.S. Chamber of Com. Inst. for Legal Reform, *Selling Out: The Dangers of Allowing Nonattorney Investment in Law Firms* (Jan. 2023).

[2] *See* Marta-Ann Schnabel, Thomas J. Hurney, Jr. & Susan Gunter, *Nonlawyer Investment in the Legal Economy*, The Center: The Voice of the Civil Defense Bar (2022), at 9 ("nonlawyer legal service providers are under no obligation to engage in business practices that consider the client ahead of the bottom line").

[3] *See Wright v. Wright*, 337 S.W.3d 166, 178 (Tenn. 2011) (many jurisdictions, "like Tennessee, have a rule of professional conduct based on the corresponding provision in the ABA's Model Rules").

[4] Tenn. Sup. Ct. R. 8, RPC 1.5(e) and RPC 5.4.

[5] Tenn. Sup. Ct. R. 8, RPC 5.4 cmt. 1; ABA Model Rule of Prof'l Conduct 5.4 cmt. 1.

[6] ABA House of Delegates, Resolution 402 (adopted Aug. 8-9, 2022) (reaffirming Resolution 00A10F (2000)).

ways to improve the administration of justice, "there should be no changes to [the] policy against fee splitting with non-lawyers and non-lawyer ownership of entities delivering legal service."[7]

The report accompanying Resolution 402 discussed reasons why "non-lawyer involvement in the practice of law is such a threat to clients and our system of justice."[8] The report raised ethical and accountability concerns where "non-lawyers are not subject to a lawyer's management authority but share in the fee," including the inability to "assure that the twin pillars of confidentiality and conflicts of interest are observed by the non-lawyer."[9] The report further explained that "[t]he practice of law is a profession and not a business," and has "an entirely different set of values," including "core values such as undivided loyalty to the client, competence, and confidentiality" that are not the focus of nonlawyers.[10] The report also cautioned that "[n]on-lawyer involvement may invite, or at least open the door to, regulation of the practice of law and the legal profession by others besides the courts."[11]

Ethical concerns regarding the impact of outside investment on lawyers' professional independence are not hypothetical. The rapid growth of third-party litigation funding (TPLF) by nonlawyer investors already poses serious legal and ethical challenges for the legal profession. Investors are pouring unprecedented sums of money into financing litigation, seeking to turn the courts into investment opportunities.[12] Hedge funds, institutional investors, foreign sovereign wealth funds, and others front money to law firms in exchange for a share of any settlement or judgment from an individual lawsuit or portfolio of lawsuits.[13] Experts have recognized that TPLF is "reshaping every aspect of the litigation process—which cases get brought, how long they are pursued, when are they settled."[14]

This year, the Tennessee General Assembly addressed some of these issues by passing legislation to regulate the commercial litigation financing industry and create transparency into TPLF agreements for courts and parties. The Governor is expected to sign the bill into law soon.[15]

Investments in law firms by nonlawyers create clear conflicts of interest and raise other serious ethical concerns that undermine a lawyer's professional independence. It may be in a

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[7] ABA House of Delegates, Report for Resolution 402, at 3-4 (Aug. 2022).
[8] *Id.* at 4.
[9] *Id.* at 5.
[10] *Id.*
[11] *Id.* at 4.
[12] Donald J. Kochan, Op-ed, *Keep Foreign Cash Out of U.S. Courts*, Wall St. J., Nov. 24, 2022, at A13 (TPLF "turns the American justice system into a financial playground by transforming lawsuits into investment vehicles").
[13] Westfleet Insider, 2024 Litigation Finance Market Report, at 3 (dedicated commercial litigation funders had $16.1 billion in assets under management, and had committed $2.3 billion to new litigation financing in 2024); U.S. Gov't Accountability Office, GAO-23-105210, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends* 11-12 (Dec. 2022) (litigation funding industry "more than doubled" from 2017 to 2021).
[14] Leslie Stahl, *Litigation Funding: A Multibillion-dollar Industry for Investments in Lawsuits with Little Oversight*, CBS's "60 Minutes," Dec. 18, 2022 (interview with Professor Maya Steinitz). A recent book by Prof. Elizabeth Chamblee Burch, *The Pain Brokers: How Con Men, Call Centers, and Rogue Doctors Fuel America's Lawsuit Factory* (2026), details an investigation into the involvement of third-party funders in the Pelvic Mesh multi district litigation. At the center of a scheme to recruit plaintiffs was a law firm formed in Washington, D.C. to facilitate nonlawyer investment. Women were recruited via call centers and referred to hand-picked doctors for surgery to increase the value of their claims with costs paid by a funder. The medical practices performing the removal also sold the unpaid bills at a discount to a related medical funder.
[15] H.B. 2108, 2026 Reg. Sess. (Tenn. 2026).

client's best interest to settle a case, but a funder may push the attorney to reject a reasonable settlement offer in pursuit of a "nuclear verdict."[16] Other times, nonlawyer funders may pressure law firms to accept a settlement "'because the [funder] wants a guaranteed return on its investment,' even though the plaintiff may be able to achieve a larger recovery by working up the case and taking it to trial."[17]

Nonlawyer ownership in law firms or expanded fee-sharing could diminish, not improve, access to justice and the quality of legal services. Capital from nonlawyer investors and owners will inevitably flow to practice areas that are profitable. Pro bono, an important part of the profession, would be threatened.[18]

Weakening nonlawyer ownership and fee-sharing rules also threatens to worsen the practice of law for lawyers. As business owners, lawyers have flexibility in deciding what clients they want to represent, how much they want to charge for their services, what hours they want to work, where they want to work, and even what they want to wear to work. If Tennessee's legal profession were to resemble the model of physicians working for medical corporations, with lawyers becoming salaried employees of legal services corporations, lawyers would become mere revenue producing units for outside business owners.[19] Such a transformation in the practice of law could turn many would-be lawyers away from the profession, undermining access to justice.

II. The Experience of Other Jurisdictions Demonstrates Why Tennessee Should Maintain Its Restrictions on Nonlawyer Ownership and Fee-Sharing

"Perhaps the most prevalent justification offered by the proponents of non-lawyer profit-sharing reform has been that it will lead to greater access to justice."[20] There is, however, "no evidence that nonlawyer ownership actually improves access to justice for the needy."[21] Several jurisdictions have experimented with loosening rules against nonlawyer ownership and fee-sharing but the efforts have not provided compelling evidence that doing so benefits the public. In fact,

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[16] Mark Behrens, *Third Party Litigation Funding: A Call For Disclosure and Other Reforms to Address the Stealthy Financial Product That is Transforming the Civil Justice System*, 34 Cornell J.L. & Pub. Pol'y 1, 7 (2025); *see generally* Cary Silverman & Christopher E. Appel, U.S. Chamber Inst. for Legal Reform, *Nuclear Verdicts: An Update on Trends, Causes, and Solutions*, at 40-43 (May 2024) (study of large verdicts in personal injury and wrongful death cases over 10-year period).

[17] Behrens, *supra*, at 7.

[18] Bailey Cunningham, *Nonlawyer Ownership of Law Firms: A Recurring Debate*, 104 Ill. B.J. 48, 49 (July 2016) ("Investors are likely to put their money where they will see the greatest return, not necessarily where they can do the most good. Investors have little incentive to promote pro bono work or increase access to justice when those projects do not reap financial rewards.").

[19] Melissa D. Mortazavi, *What Lawyers Could Learn From The Corporate Practice of Medicine*, 77 Wash. U. L.J. & Pol'y 212, 212-213 (2025) (stating "that influx of nonlawyer capital is likely to increase the risk of consolidation of services which could impact negatively client access and contribute to professional autonomy disenfranchisement.").

[20] ABA House of Delegates, Report for Resolution 402, *supra*, at 3.

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

momentum has shifted in the opposite direction, with many states tightening restrictions or emphatically rejecting proposals to weaken existing professional responsibility rules.[22]

Utah: In 2020, the Utah Supreme Court authorized a pilot program allowing nonlawyer ownership of law firms through a "regulatory sandbox" designed to test creative alternative business structures (ABS) that reduce "the access-to-justice gap without increasing consumer harm."[23] After four years in effect, including authorization of nearly 70 entities under the program, the Utah Supreme Court decided to "narrow the scope of the Sandbox" because data gathered from the project showed that many of the entities did nothing to improve access to justice.[24] The court found that "low-innovation entities ... consumed a disproportionate amount" of the program's resources, that "[s]ome ABS entities appear to have misused their Sandbox authorization to bolster their credibility or gain access to restricted advertising markets," and that "many ABS entities appear to have misconstrued their authorizations as permitting them to offer legal services provided by non-Utah-licensed attorneys."[25] In short, financially motivated nonlawyers co-opted the program.

The court responded by narrowing its ABS "innovation requirement" to set a "fairly high bar for participation in the Sandbox."[26] "Going forward, all Sandbox entities must demonstrate that their service models will significantly benefit Utah consumers."[27] The court anticipates that this change will cull "low-innovation, Alternative Business Structure-only entities" that comprise approximately three-quarters of the pilot program.[28]

Arizona: In 2021, the Arizona Supreme Court eliminated Ethical Rule 5.4, allowing nonlawyer ownership of law firms and fee-sharing.[29] By the start of 2026, the court had approved more than 150 ABS licenses, rejecting only three.[30] Despite the influx of ABS, there does not appear to be a corresponding improvement in access to justice for Arizona's indigent population.

ABS have, instead, generated widespread concerns.[31] In February 2026, *The Arizona Republic* published a series of articles examining the state's ABS program, finding it has "become

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[22] Mark Behrens & Christopher Appel, *Proposals to Allow Nonlawyer Ownership of Law Firms, Fee Splitting Experience Rejection*, 37:17 Legal Backgrounder (Wash. Legal Found. Oct. 14, 2022). In 1991, the District of Columbia adopted a limited rule allowing an individual nonlawyer, such as a lobbyist, to hold a financial interest in a law firm, provided the nonlawyer "performs professional services which assist the organization in providing legal services to clients," the nonlawyer abides by the D.C. Rules of Professional Conduct, and firm lawyers "undertake to be responsible for the nonlawyer participants." D.C. Rule of Prof'l Conduct 5.4. Because the DC rule forbids corporate or passive investment, it is excluded from this discussion of recent experimentation and state responses.

[23] Sandbox Phase 2, Office of Legal Services Innovation, Utah Supreme Court.

[24] *Id.*

[25] Utah Supreme Court, Letter to the Utah Legal Services Innovation Committee Regarding Regulatory Sandbox, at 3 (Sept. 5, 2024).

[26] *Id.*

[27] Utah Supreme Court Implements Key Changes to Sandbox Project, 37 Utah B.J. 56 (Nov./Dec. 2024).

[28] *Id.* at 57.

[29] Annual Report of the Committee on Alternative Business Structures to the Arizona Supreme Court, at 3 (Apr. 2021).

[30] Laura Gersony, *Bad Actors: An Arizona Program Lets Wall Street Investors and Other Nonlawyers Own Law Firms, and Consumers Are Paying the Price*, Ariz. Republic, Feb. 22, 2026, *available at* 2026 WLNR 5343941.

[31] Rachel Rippetoe, *Arizona's Law Firm Experiment Faces Conflict Question*, Law360, Apr. 21, 2026 (discussing conflicts of interest and recusals by members of Arizona's ABS committee and complaints against ABS firms, including a 200-page complaint alleging an entity's "efforts to establish an ABS firm in Arizona

an epicenter for consumer complaints, leaving a trail of clients across the United States who say they were mistreated, misled, or ... outright 'scammed.'"[32] The investigation reported that "[l]oopholes, a lack of oversight and financial conflicts of interest plague the state's [ABS] program," resulting in a significant portion of licensees being accused of misleading, defrauding, or repeatedly taking advantage of consumers.[33] Several licensees have been accused of "targeting vulnerable people," including those in financial distress or dealing with immigration issues.[34]

The Arizona Republic investigation also found that companies, including Wall Street investors and marketing professionals, "use the program to operate in all 50 states" and that "[i]nvestors—not lawyers—have transformed law firms into call centers, raking in cases that they farm back out to 'partners' across the country."[35] Many of these cases involve personal injury, an already "booming" sector of the state's legal business, leaving the chair of Arizona's Committee on ABS to question, "If we're licensing more personal injury firms, is that really promoting the public interest?"[36] To crack down on referral firms, the Arizona Supreme Court recently adopted more stringent requirements for the state's ABS program. As of March 2026, "ABS law firms must now provide legal services—not just make referrals to other lawyers—and devote part of their business to serving people in Arizona."[37]

California: In October 2025, California enacted legislation to reject "regulatory sandbox" experimentation through 2029.[38] Although ABS law firms were already prohibited from operating in California,[39] the legislation generally prohibits California attorneys from sharing legal fees with an out-of-state ABS-associated attorney. The statute also prohibits fee-sharing with an ABS entity for referral fees or the purchase of leads—a common practice among personal injury law firms. The statute authorizes a $10,000 fine per violation or treble actual damages, permits injunctive relief and the recovery of attorneys' fees, and further mandates that violators shall be disciplined by the California State Bar. In adopting this approach, California has embraced a regulatory framework that ensures the practice of law remains exclusively in the hands of licensed attorneys.

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were improperly driven by the company's private equity backer putting 'revenue over ethics.'"); Valerie Richardson, *Arizona Model Allowing Non-lawyers to Own Law Firms Shakes Legal Profession,* Wash. Times, Apr. 27, 2026 (stating that Arizona's "program has attracted a stampede of Wall Street investors, hedge fund managers and private equity speculators, spurring fears that the business entities will prioritize the bottom line over clients' best interests in pursuit of multibillion-dollar mass-tort verdicts.").

[32] Laura Gersony, *Arizona Lets Investors Own Law Firms. Consumers Pay the Price*, Ariz. Republic, Feb. 8, 2026, *available at* 2026 WLNR 3923396; *see also* Laura Gersony, *Loopholes Let Arizona Law Firm Experiment Spread Nationwide*, Ariz. Republic, Feb. 9, 2026, *available at* 2026 WLNR 3982596.

[33] Gersony, *Bad Actors*, *supra.*

[34] *Id.*

[35] *Id.*

[36] Laura Gersony, *Arizona Supreme Court May Change Law License Rules After Investigation*, Ariz. Republic, Feb. 12, 2026, *available at* 2026 WLNR 4353386 (quoting Appellate Judge Anni Hill Foster, chair of Committee on ABS).

[37] Emily R. Siegel, *Arizona ABS Law Firms Face New Limits on Out-of-State Business*, Bloomberg L., Mar. 12, 2026 (discussing In the Matter of Amending Arizona Code of Judicial Administration Section 7-209: Alternative Business Structures, Admin. Order 2026-31 (Ariz. Mar. 18, 2026)). The Arizona Supreme Court has also acted to address the impact of TPLF by nonlawyer investors. Amendments to the Arizona Rules of Civil Procedure which took effect January 1, 2026, require a party, as part of its initial pleading, to certify whether it has entered into a TPLF agreement and, if so, disclose certain information about the nature of the agreement and potentially disclose all or part of the agreement. Ariz. R. of Civ. Proc. 8(j).

[38] A.B. 931 (Cal. 2025) (codified at Cal. Bus. & Prof. Code § 6156).

[39] Cal. R. Prof'l Conduct 5.4 prohibits nonlawyer equity in law corporations.

Florida: In December 2025, the Florida Supreme Court amended the rules regulating the state bar to reaffirm that "only a person legally qualified to render legal services in Florida may direct the legal services or professional judgement of a lawyer engaged in the practice of law in Florida."[40] The amendment also intends to "clarify that … nonlawyers may not serve in certain positions, have certain titles, or perform policy-making functions" that may imply control or management of business entities authorized for lawyers practicing in the state.[41] As *Bloomberg Law* reported, the amendment "reasserts traditional professional boundaries at a moment when those boundaries are under pressure across the country"—an approach "arguably more powerful" than explicitly rejecting ABS.[42] Previously, the Florida Bar's Board of Governors voted *unanimously* to reject any amendment authorizing nonlawyer law firm ownership or fee-sharing.[43]

South Carolina: In March 2026, South Carolina's Ethics Advisory Committee issued an ethics advisory opinion prohibiting South Carolina lawyers from serving as local co-counsel with an ABS that has nonlawyer owners or partners.[44] The committee noted, "Rule 5.4 prohibits the sharing or splitting of legal fees with a nonlawyer, thus emphasizing South Carolina's strong policy of preserving professional independence."[45]

Other Jurisdictions: Other jurisdictions, including Illinois,[46] Maryland,[47] New York,[48] and Texas,[49] have similarly rejected recent proposals that would threaten lawyer professional independence for the promise of access to justice gains that have not materialized in the jurisdictions that have experimented with ABS.

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[40] *In re* Amendments to Rules Regulating the Florida Bar – Rule 4-8.6, No. SC2025-1173 (Fla. Dec. 18, 2025), at 2.

[41] *Id.*

[42] Aron Solomon, *Florida's Rule Is Subtly Pushing Back on Non-Lawyer Ownership*, Bloomberg L., Jan. 22, 2026.

[43] Gary Blankenship, *Board of Governors Unanimously Opposes Non-Lawyer Firm Ownership, Fee Splitting Ideas*, Fla. Bar News, Nov. 10, 2021.

[44] S.C. Ethics Advisory Comm. Opinion 25-02, at 1 (Mar. 13, 2026).

[45] *Id.* at 2. The Ethics Advisory Committee also concluded that "a South Carolina licensed lawyer may not ethically own or invest in an ABS that practices law." *Id.*

[46] Ill. Bar Ass'n, Prof'l Conduct Advisory Opinion 25-02 (Feb. 2025) (concluding an attorney would violate the Illinois Rules of Professional Conduct by participating in a for-profit, third-party client referral service that shares fixed fees, uses nonlawyer actors in advertising, or requires client communications on a monitored platform lacking confidentiality); *see also* Ed Finkel, *The Nonlawyer Ownership Issue*, 110 Ill. B.J. 22, 23 (Nov. 2022) ("Efforts to allow nonlawyer ownership of law firms, fee sharing with nonlawyers … are often touted as innovative ways to address access-to-justice problems. The [Illinois State Bar Association] and its allies maintain that other innovations would better protect the public's interests and those of attorneys.").

[47] Md. State Bar Ass'n Comm. on Ethics, Opinion 2025-01 (concluding Maryland attorney working for accounting firm "would not be allowed to share any fees resulting from those Maryland legal services with non-attorneys").

[48] N.Y.C. Bar Ass'n, Prof'l Ethics Comm., Opinion 2024-4 (July 18, 2024) (stating "it is well settled that the New York Rules prohibit a lawyer from practicing law in New York through an ABS," though a lawyer may "passively invest" in an ABS firm in a jurisdiction that permits investment by out-of-state lawyers).

[49] *Bending the Rules: Texas Access to Justice Commission Votes "No" on Allowing Limited Legal Services by Non-Attorney-Owned Entities*, Austin Law., Apr. 2024; *see also* Tex. Bar Prof'l Ethics Comm. Opinion 706 (Feb. 2025) (concluding a Texas lawyer may not share fees with a nonlawyer-owned company that provides case management support services); Tex. Bar Prof'l Ethics Comm. Opinion 707 (May 2025) (concluding for-profit companies owned by nonlawyers cannot provide legal services through in-house counsel because it would constitute assisting the unauthorized practice of law and potentially involve impermissible fee-sharing).

Tennessee should reaffirm the existing regulations, safeguard the integrity of the state's civil justice system, protect the public from the influence of profit-driven investors, and ensure that lawyers remain free to exercise independent professional judgment exclusively in service of their clients.

Sincerely,

Tennessee Defense Lawyers Association

DRI – Association of Lawyers Defending Business

U.S. Chamber of Commerce Institute for Legal Reform

NFIB Small Business Legal Center, Inc.

Coalition for Litigation Justice, Inc.

National Association of Mutual Insurance Companies

American Trucking Associations

Tennessee Chamber of Commerce & Industry

International Association of Defense Counsel

Federation of Defense & Corporate Counsel

Association of Defense Trial Attorneys

American Tort Reform Association

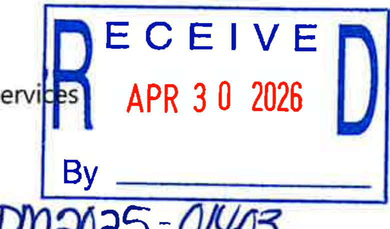
Washington Legal Foundation

American Property Casualty Insurance Association

Tennessee Trucking Association

Kim Meador

From:	Roy Simon <roy.d.simon@gmail.com>
Sent:	Thursday, April 30, 2026 2:30 PM
To:	appellatecourtclerk
Subject:	Comments on nonlawyer ownership and nonlawyer legal services



Warning: Unusual sender <roy.d.simon@gmail.com>
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I am writing in my individual capacity as a professor emeritus to comment on two questions (Nos. 6 and 7) posed by the Court regarding nonlawyer roles in ensuring the availability of affordable legal services to Tennesseans, while also ensuring the competency of those who provide the services.

(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.

In my opinion, many legal services currently provided by lawyers could be competently provided -- at least at preliminary stages of a matter, and perhaps at all stages -- by nonlawyer paraprofessionals. Most people have received health care from nurses or physician assistants. These "non-doctors" Do not perform surgery but they do perform intake, administer basic tests, and diagnose some medical problems.

Patients might prefer to see a doctor, but that would make medical services even less affordable and require longer wait times to get appointments. The legal profession should learn from the medical profession and should allow trained nonlawyers, under some degree of supervision from lawyers, to perform limited-scope legal services in narrow areas of law where public need is greatest. The Court will designate those areas of law, and a training industry will emerge through the fee market (supervised by the state to ensure quality).

In addition, perhaps anyone who has completed the first year of law school and a brief course of specialized training (two months? six months? tailored to the complexity of the field?) would qualify as a paraprofessional, making a career in law more affordable (even if less lucrative, because paraprofessionals will not earn as much as lawyers).

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

Ulitmately, increasing access to justice to require lawyers to increase their efficiency and/or decrease their fees. Outside capital will be necessary to increase efficiency, especially in areas of law where the demand is great but the cost is still too high for many or most middle-class clients. Nonlawyer ownership and/or fee sharing with nonlawyers are tools that may help to lower legal fees (though that will not automatically happen and the Court may need to impose some conditions beyond requiring the conduct of nonlawyers to be compatible with the professional obligations of lawyers).

Summary

I have been a lawyer for decades -- in Illinois, Missouri, and New York -- and the legal profession has constantly been trying to increase pro bono services and increase access to affordable justice for the middle class. Most of these efforts have been sincere and some efforts have been successful -- but if the legal profession really wants to achieve these goals, we are going to need an influx of outside capital via nonlawyer ownership, the ability of lawyers to compensate nonlawyers through a share of legal fees, and an infusion of legal services by trained paraprofessionals supervised (to varying degrees) by lawyers.

Thank you for giving me an opportunity to submit these comments.

Professor Roy D. Simon
New York City, New York
Legal Ethics Advisor to Lawyers
Distinguished Professor of Legal Ethics Emeritus
Author, Simon's New York Rules of Professional Conduct Annotated
Cell: (607) 342-0840

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

No. ADM2025-01403

Response to the Tennessee Supreme Court's Request for Public Comment

The following response with recommendations is submitted on behalf of the Board of Directors of the Memphis Bar Association (MBA) as prepared by a committee tasked with researching, identifying, and summarizing best practices that are responsive to the Court's Order.

I. ABA Accreditation and Educational Standards

The MBA recommends that the Tennessee Supreme Court maintain its current reliance on American Bar Association (ABA) accreditation as the primary standard for setting minimum educational requirements. The ABA began promulgating a standardized legal education in the early 20th century.[1] It has created a cohesive and reliable standard for legal education throughout the United States. While there are valid frustrations regarding the ABA's processes - including the increased cost of tuition for ABA accredited schools, library and size requirements, and course requirements[2] - the MBA believes a uniform, national standard is superior to a fragmented system with potentially piecemeal changing of standards.

First, should standards evolve to become drastically different, reciprocity amongst different states will become laborious. An attorney practicing in Memphis might be barred from practicing in nearby Arkansas cities such as Marion or Jonesboro, or nearby Mississippi cities such as Hernando or Oxford, because other states may require lawyers to take certain classes that Tennessee does not. This could make reciprocity between states almost impossible, significantly affecting attorneys in places like Memphis, which is in close proximity to both Mississippi and Arkansas. Second, there is a real possibility of lawyers being unqualified or under-trained, which could harm the public.[3] While state-specific standards can certainly be implemented, tinkering with the proper balance will take time and resources. And generally, those who will most be harmed by unqualified or under-trained practitioners are those with the least.

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1 https://www.americanbar.org/about_the_aba/

2 https://thedailyeconomy.org/article/end-the-abas-accreditation-power/#:~:text=Yet%20outmoded%20ABA%20standards%20remain,become%20members%20of%20this%20Association.%E2%80%9D

Moreover, local practitioners have had experiences with out-of-state practitioners from law schools with questionable backgrounds, and their stories suggest that lowering these requirements risks admitting individuals who may lack the foundational competence necessary to protect the legal rights of Tennessee citizens. A move away from this standard could invite an influx of for-profit-style institutions that prioritize enrollment over quality legal training.[4]

While some states have explored state-level oversight as an alternative, the consensus among both established practitioners, the MBA, and the TBA is that abandoning the ABA standard would ultimately lead to a decline in educational consistency and professional integrity within the Tennessee bar. As many others have stated for generations – if it ain't broke, don't fix it.[5]

II. Alternative Education and Licensure Pathways: The West Tennessee Justice Fellowship

Regarding alternative pathways to licensure, the MBA proposes a targeted program similar to the "Tennessee Rural Justice Fellowship" as a pilot program to address the state's growing legal deserts. The MBA recognizes that the lack of affordable counsel has reached a crisis point. This fellowship would be a hybrid supervised practice license that draws inspiration from the medical residency model and the Community Justice Worker initiatives seen in states like Alaska and the District of Columbia.

Program Structure

The proposed fellowship draws on elements of:

- Medical residency models (supervised, practice-based training),
- Existing apprenticeship pathways in states like California and Virginia,[6] and
- Community Justice Worker initiatives in jurisdictions such as Alaska and the District of Columbia.[7]

Eligibility would include:

- Completion of at least forty-five (45) credit hours of ABA-accredited legal education **or**
- Completion of a structured four-year legal apprenticeship under a licensed attorney.

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3 https://natlawreview.com/article/dont-break-what-works-why-states-shouldnt-abandon-national-law-school-accreditation?st_source=ai_mode#:~:text=A%20fragmented%20system%20risks%20failing%20the%20public&text=Unless%20an%20applicant%20is%20absolutely,just%20in%20their%20home%20state.%E2%80%9D
4 https://www.reuters.com/legal/government/for-profit-law-schools-once-flourishing-are-nearly-extinct-2023-10-23/
5 https://natlawreview.com/article/dont-break-what-works-why-states-shouldnt-abandon-national-law-school-accreditation?st_source=ai_mode#:~:text=A%20fragmented%20system%20risks%20failing%20the%20public&text=Unless%20an%20applicant%20is%20absolutely,just%20in%20their%20home%20state.%E2%80%9D
6 https://uncommonwealth.lva.virginia.gov/blog/2025/07/23/how-to-become-a-lawyer-in-virginia/
7 https://www.alsc-law.org/cjw/

Participants would receive a limited license authorizing them to represent indigent clients in designated rural or underserved areas. Practice would occur exclusively under the supervision of approved entities such as legal aid organizations, public defender offices, or court-approved indigent representation panels.

Scope and Safeguards

The fellowship is intentionally designed to prioritize day-one competency in high-volume, high-need practice areas such as:

- General Sessions matters,
- Landlord-tenant disputes,
- Family law proceedings,
- Petty/misdemeanor criminal defense cases.

Supervision requirements, geographic limitations, and subject-matter restrictions would ensure that participants operate within clearly defined boundaries, mitigating risks to clients while expanding service capacity.

Assessment and Licensure

Rather than relying solely on a traditional, single-day bar examination, the MBA recommends a portfolio review model administered by the Board of Law Examiners (or some akin body). This review would assess:

- Written advocacy (motions, briefs, pleadings),
- Ethical decision-making,
- Practical courtroom performance, and
- Supervisor evaluations.

Portfolio-based licensure has gained traction as a more practice-oriented method of assessing competence, particularly when combined with supervised experience.[8]

This fellowship model aligns conceptually with initiatives such as the Tennessee Bar Association's Rural Justice Fellow programs and would serve as a measured, data-driven pilot to evaluate whether alternative pathways can responsibly expand access to justice without diluting professional standards.

III. Non-Lawyer Ownership and Fee-Sharing

The MBA strongly opposes any modification to Rule 5.4 that would permit non-lawyer ownership of law firms or fee sharing with non-lawyers. MBA understands that there are financial benefits to clients if non-lawyers with business acumen were able to manage or own law firms. However, there are serious concerns that business owners would rush out work product, cut corners, and harm clients even if it saved them some on the billable hour.[9] The current prohibition is a vital safeguard against the unauthorized practice of law and ensures that legal decisions remain governed by professional ethics rather than a non-lawyer owner's profit motive.

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8 https://www.osbar.org/sppe

There is a profound concern that non-lawyers, if granted ownership stakes, would overstep professional boundaries and would not be bound by the rules of professional responsibility, complicating an already difficult regulatory landscape. Even sophisticated automated service providers acknowledge the necessity of licensed counsel for contested or complex matters, such as criminal defense or family law. Reducing these requirements would potentially prime the pump for the public to be susceptible to individuals professing legal expertise without the accountability of bar licensure. Such a change may challenge both client protection and the long-term standing of the legal profession.

RECEIVED
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By ____________

ADM2025-01403

Kim Meador

From:	Russell Johnson <rjohnson7610799@msn.com>
Sent:	Thursday, April 30, 2026 2:02 PM
To:	appellatecourtclerk
Subject:	Comment re: Regulatory Reforms, No. ADM2025-01403 – Initial comment on need for action

Warning: Unusual sender <rjohnson7610799@msn.com>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Good afternoon. Thank you for the opportunity to comment.

I write to support recognition that the "ACCESS TO JUSTICE IS IN CRISIS IN TENNESSEE".

Respectfully, part of the problem is created by whoever is monitoring-regulating Law Firms who advertise. It appears no one is monitoring-regulating Law Firms who advertise.
Do we have any numbers on how many plaintiffs have not sought a second opinion, or proceeded as pro se, because some law firm has brought them in by clever advertising only to tell them their 'case is *not worth pursuing' - for the law firm*.
Such regulatory misconduct should not be shielded by hiding behind a first amendment claim of "free speech". Besides making attorneys look like clowns, and giving the public a false sense of high-dollar success, it further undermines who to trust.
When these firms that advertise throw out a large net to gather clients, where is the counting those that they throw back because no insurance on the other side, no sufficient personal injury to pursue, etc?!
Yes, these are valid considerations, but the first should be whether a claim appears valid and the well-being of that client invited-encouraged to walk through the door, not the issue of minimum limits or less than 'catastrophic' damages.
Regretfully, I do not know the answers, but letting the advertising firms do clown acts with high uncredentialed dollar signs appears more like a gambling lottery, and then to deflate the rejected client cut loose does not enhance an opinion of "justice".
Good luck. Thank you.
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Kim Meador

From: Markovic, Milan <mmarkovic@law.tamu.edu>
Sent: Thursday, April 30, 2026 2:22 PM
To: appellatecourtclerk
Subject: Regulatory Reform (No. ADM2025-01403)

Warning: Unusual sender <mmarkovic@law.tamu.edu>
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Dear Mr. Hivner,

I am a legal ethics scholar who has written extensively about access to justice. I commend the Tennessee Supreme Court for its consideration of measures to mitigate the longstanding failure to provide legal services to low-and middle-income populations.

While I have opinions on most of the proposals submitted for comment, I write chiefly to oppose non-lawyer ownership of law firms. Extensive research in the United States and abroad supports the idea that paraprofessionals, legal navigators, and other non-lawyer providers can assist with common legal problems. Despite the frequent claims of proponents, no such research supports the salutary effects of so-called alternative business structures ("ABS"). See Nuno Garoupa & Milan Markovic, Deregulation and the Lawyers' Cartel, 43 U. PA. J. INT'L L. 935 (2022). My view is that access to justice has been used and continues to be used as a pretext to facilitate further commercialization of the legal profession.

You have undoubtedly received many comments suggesting that ABS will exploit their clients. In this regard, I highly recommend the outstanding series in the Arizona Republic by Laura Gersony. But what I have sought to demonstrate in recent research is that ABS pose other risks as well. First, an influx of non-lawyer capital is likely to lead to market consolidation in legal practice areas that are currently dominated by small firms. This means that consumers could find themselves with fewer providers from which to choose, especially outside of urban centers. We have already observed the effects of "roll-ups" in medicine, dentistry, and other professional fields.

Second, investors are generally uninterested in subsidizing services to low-and middle-income individuals. Instead, they will be drawn to high-margin sectors of the legal market, such as personal injury work. This is not merely a theoretical claim--non-lawyer capital has been predominantly allocated to this sector in Arizona. Because of the American rule regarding legal fees, there is very little downside for well-funded ABS to pursue litigation that existing firms cannot and would not pursue. The inevitable result will be more frivolous litigation as ABS and existing firms compete for cases and to accumulate enough "assets" to attract additional capital, detracting from bona fide claims. See Milan Markovic & Nuno Garoupa, Legal Market Decartelization, 58 U.C. DAVIS L. REV. 2233 (2025).

In sum, I care deeply about access to justice. This is why I have long opposed non-lawyer ownership of law firms.

Sincerely,

Milan Markovic

Milan Markovic
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View my research on my SSRN Author page:
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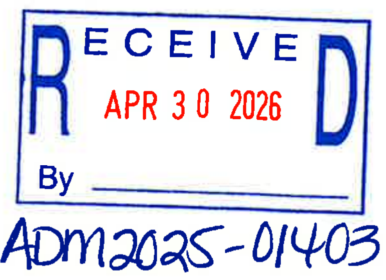

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iaals.du.edu

Submitted via email to the Supreme Court of Tennessee at Nashville

Re: Comments in Support of Potential Regulatory Reforms to Increase Access to Quality Legal Representation

Dear Justices of the Supreme Court of Tennessee,

We write on behalf of IAALS, the Institute for the Advancement of the American Legal System, regarding the Tennessee Supreme Court's call for written comments concerning the wide range of access to affordable quality legal service issues outlined in Administrative Order No. ADM2025-01403 (the "Administrative Order"). IAALS is a national, independent research center at the University of Denver that innovates and advances solutions that make the civil justice system more just. IAALS identifies and researches issues in the legal system; convenes experts, stakeholders, and users of the system to develop and propose concrete solutions; and empowers and facilitates the implementation of those solutions to achieve impact. We are a nonpartisan organization that champions people-first reforms to the legal system and the legal profession. Since 2019, IAALS has had an Unlocking Legal Regulation initiative through which it has worked with leaders in states across the country to rethink how we regulate and deliver legal services to ensure a more robust ecosystem and market of models and providers—one that is competitive, broadly accessible, and better meets the needs of the people. IAALS has developed a robust body of research and implementation work focused on one particular new provider—Allied Legal Professionals—and has developed recommendations on regulating the use of AI and technology in consumer-facing legal services. Additionally, IAALS is currently conducting a comprehensive study of licensure models to assess their effectiveness in ensuring competence, fairness, and

public protection as well as designing an evaluation for Alternative Business Structure programs. We will discuss this work in relation to the issues outlined in the Administrative Order.

Defining the "Access to Justice Gap"

As the legal profession continues to have discussions about closing the justice gap and ensuring that all Americans have access to the legal help they need, it is important that we first use a common definition for the "access to justice gap" in legal services so that we are all on the same page. Some legal professionals define the access to justice gap as limited to people who qualify for free legal aid (usually people who have an income of 125% or less of the federal poverty guidelines and who cannot access legal services). It is well documented[1], however, that people above this income eligibility line—and far into the middle-class—also cannot access the legal help they need. Therefore, at IAALS, we include people and small businesses who would be considered low- or middle-income in this access to justice gap, and we bring this perspective to our comments below.

The Access to Justice Gap Requires an Ecosystem of Legal Service Providers

The breadth and depth of the problem are alarming. It is so extensive and dire that even if the Tennessee Supreme Court moves forward with all the pathways referenced in the Administrative Order, it will still not be enough. This reality is reflected in the Legal Services Corporation's *Rural Justice Task Force Report*, which highlights Tennessee and recommends expanding opportunities for professionals beyond lawyers to help close the rural justice gap.[2] The reality is that we need an entire ecosystem of legal service providers—one that includes each of the pathways referenced in the Administrative Order, as well as many pathways that have yet to be fully explored. Given this reality, IAALS recommends that the Tennessee Supreme Court establish paraprofessional, justice worker, tech-based legal service delivery, and alternative pathways to

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[1] IAALS and Hil, *Justice Needs and Satisfaction in the United States of America* (2021), available at https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf

[2] Legal Servs. Corp., *Rural Justice Task Force Report* 41 (2023), available at https://www.lsc.gov/ruralreport.

licensure programs while also promoting interstate mobility and evidence-based cost-reducing alternatives to the traditional three-year J.D.

The Court Should Move Forward with Implementation of a Paraprofessional Program

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IAALS is thrilled to hear that Tennessee is considering establishing a legal paraprofessional program. Over the past seven years, the number of states adopting these programs has increased significantly, reflecting the need for greater access to justice, especially for those who do not qualify for legal aid but cannot afford an attorney.

IAALS has devoted considerable time and energy to advancing this emerging tier of legal service providers nationwide and, to establish a unified way to refer to both the providers and these programs, coined the term Allied Legal Professional ("ALP"). Allied Legal Professionals function as the nurse practitioners of the legal profession and are trained and licensed to offer legal advice and services to certain case types. This can be a market-based model that targets middle and low-income individuals or a legal aid model. In November 2022, IAALS published *The Landscape of Allied Legal Professionals Programs in the United States* (the "Landscape Report"), which examines why many states have begun creating ALP programs and describes the similarities and differences among them. Also in late 2022, IAALS convened a group of expert stakeholders to review the Landscape Report and discuss best practices and lessons learned from existing programs. Based on those stakeholder discussions, in June 2023 IAALS published *Allied Legal Professionals: A National Framework for Program Growth* that summarizes areas of convergence, divergence, and lessons learned. In August 2024, IAALS convened stakeholders from each of the seven states with ALP programs to discuss reciprocity among programs. In June 2025, IAALS published a report *Building Bridges: Guidelines for Creating Reciprocity between Allied Legal Professional Programs* that shares insights and outcomes from the convening, including a framework for states on what to include in a reciprocity rule.

In November 2025, IAALS re-convened leaders from each of the seven states with ALP programs to discuss what title would best define and unify the profession to build public confidence and consistency across states, during which IAALS presented its monthslong focus group and survey

research on naming completed in the spring of 2025. This convening was grounded in IAALS's 2025 research, which included focus groups with community members and surveys of ALPs across the seven states with existing programs, offering insight into how different titles are perceived in terms of clarity, trust, and role understanding, as well as how current titles support or hinder practice. Based on these findings, along with lessons from analogous professions, stakeholder input, and broader programmatic experience, IAALS will recommend the term "legal practitioner" in a forthcoming 2026 report. Several states working with IAALS are already considering adopting this title for new programs or transitioning from their current titles. Establishing consistent terminology across states is important for building public understanding, strengthening professional identity, and supporting the long-term development of a cohesive national framework for this emerging tier of providers.

In addition, IAALS has created an ALP Knowledge Center[3] on the IAALS website—an up-to-date resource with current state information and recommendations that jurisdictions like Tennessee can draw on as they study and design a paraprofessional program.

The current legal market in Tennessee, as noted by the Court, leaves a significant portion of the population, particularly those in rural legal deserts and those above the poverty line who cannot afford legal representation, without any viable path to legal assistance. Over the years, there have been nationwide, lawyer-centric efforts to close the access to justice gap. A greater push to provide unbundled legal services, along with an increase in pro bono and legal aid efforts, can improve access, but those measures alone will never be enough to truly affect the change this Court is looking for "to ensure that all Tennesseans have access to affordable quality legal services." Decades of research, including IAALS' national U.S. Justice Needs Study, demonstrate that closing the justice gap requires an ecosystem of legal service models and providers, including attorneys, legal aid organizations, court-based assistance, and ALPs. For that reason, we recommend that this Court move away from an attorney-only model and implement a paraprofessional program. The discussion below addresses the Court's questions in turn, drawing

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[3] Allied Legal Professionals Knowledge Center, available at https://iaals.du.edu/projects/allied-legal-professionals/knowledge-center

on evidence from existing ALP programs to inform considerations around competency, qualifications, and scope of practice.

Competency

Evidence from states like Arizona and Washington demonstrates that trained and licensed ALPs can competently provide a variety of legal services on their own. Minnesota's ALP program has demonstrated that with attorney supervision and fewer requirements for entry, ALPs can competently represent clients both in and out of the courtroom. In Arizona[4] and Washington,[5] the percentage of complaints against ALPs has been consistently lower than that of attorneys. In Minnesota,[6] attorneys supervising ALPs have been so impressed with paraprofessionals' competency that they have advocated for an *increase* in responsibilities. Based on this data, the question is not whether ALPs can competently provide legal services, but rather what the qualifications, limitations, and scope of representation should be.

Qualifications

The qualifications for ALPs vary across jurisdictions, reflecting a range of approaches balancing education and practical training. While some states require specific degrees, others accept professional certifications or extensive work experience. Overall, requirements remain broad enough to encompass various backgrounds. Importantly, data indicates that ALPs can competently deliver authorized legal services across a range of entry pathways, suggesting that competency depends less on a single educational model and more on targeted training and oversight.

As the Court considers the design of a new program, it will be critical to avoid unnecessarily restrictive or gatekeeping requirements that could exclude qualified individuals and constrain

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[4] https://www.azcourts.gov/Portals/0/26/2024%20Legal%20Paraprofessional%20Annual%20Report.pdf (pg. 12)

[5] https://www.wsba.org/docs/default-source/licensing/discipline/2024-discipline-snapshot.pdf?sfvrsn=f56e1af1_5 (pg. 2)

[6] https://mncourts.gov/_media/migration/archived-documents/supreme-court-archive/lppp-final-report-and-recommendations.pdf (pgs. 7-8)

program growth without corresponding public protection benefits. The most effective approach for this Court would be to reach out to states with well-established ALP programs—Arizona, Colorado, Minnesota, Oregon, Utah, and Washington—to discuss their specific requirements and learn from their implementation successes.

Limitations

When considering the limitations to be imposed on ALPs, available evidence from existing programs does not indicate that narrowly defined or rigid activity restrictions are necessary to protect the public. On the contrary, existing data from multiple jurisdictions suggest that once ALPs meet established education, training, and licensing standards, they can competently provide a wide range of authorized legal services.

Overly restrictive limitations on ALP practice do not necessarily enhance consumer protection; instead, they often limit the availability of meaningful help for those who need it most. When ALPs are prohibited from performing core functions, such as addressing the court or participating fully in hearings, clients may still be left without effective representation at critical moments, and courts may receive less complete information. As a result, the more narrowly Tennessee constrains what ALPs can do—such as restricting their ability to argue before the court—the less actual assistance Tennesseans will be able to receive in navigating the complexities of the legal system.

Subject Matter Restrictions

In designing an ALP program, the Court's approach to subject matter restrictions will play a significant role in determining how effectively the program can expand access to legal services while maintaining appropriate safeguards. Historically, many states have limited authorized practice to a small number of high-volume civil areas, such as family law, landlord-tenant disputes, and debt collection. However, states like Arizona have pioneered a broader model, proving that paraprofessionals can competently provide services in a much broader range of legal matters when appropriately trained and regulated, including administrative law and limited criminal matters.

Restricting paraprofessional practice to only a narrow set of subject areas risks overlooking the breadth of the justice gap, which affects individuals across nearly every facet of the law. Just as with procedural limitations, excessive subject matter restrictions can reduce the availability of affordable legal assistance without clear public protection benefits. It can also reduce the viability of the program and sustainability of a paraprofessional's practice. For example, while a paraprofessional is in a good position to offer legal services on eviction or consumer debt cases at a lower cost than attorneys, due to the financial limitations these clients have, it would be difficult for most legal professionals, ALPs or attorneys, to create a sustainable practice only offering these services. This would make the program not just ineffective, but unviable. By adopting a broad scope of practice that is inclusive, evidence-informed, and capable of evolving as the program matures, Tennessee can ensure that its citizens have access to a robust tier of legal professionals capable of addressing their diverse needs.

Looking Ahead

IAALS' national research and these jurisdictional lessons show that well-designed paraprofessional programs can play a vital role in closing the justice gap. Still, we continue to gather more data on these programs, including a current project assessing Colorado's paraprofessional program (to be completed in 2027), to better inform jurisdictions like Tennessee as they design and implement their own models.

We applaud the Court's commitment to data-driven exploration and recommend that Tennessee continue to engage with lessons learned from other jurisdictions while considering how paraprofessionals might best serve residents.

The Court Should Explore Establishing a Community-Based Justice Worker Program

While the Tennessee Supreme Court did not explicitly reference community-based justice worker (justice worker) programs in the Administrative Order, justice worker is another promising tier of provider that is an important part of the expanding legal service delivery ecosystem. Justice worker models involve training and certifying or authorizing individuals working on the frontlines

at community-based or legal aid organizations to offer limited scope legal advice and services in certain case types. Think of community-based justice workers as the EMTs of the legal profession. These models target low-income individuals. The Diverse Landscape of Community-Based Justice Workers[7] explores the landscape of this work and the U.S. Justice Worker Program Index[8] provides an overview of authorized programs and the similarities and differences among different forms of justice work in the U.S.

While IAALS has supported the development and monitoring of justice worker programs across the country, we have not worked directly on any of them. Because of this, we recommend that the Tennessee Supreme Court look to the recommendations provided by other organizations (i.e., Frontline Justice for legal aid-based models and Innovation for Justice and Community Justice Advocates of Utah for community-based models) that have worked extensively on creating and monitoring these justice worker programs.

The Court Should Explore Evidence-Based Cost-Reducing Alternatives to the Traditional Three-Year J.D.

IAALS agrees with the Court that the cost of legal education can contribute to barriers to entry into the profession and, in turn, may affect the supply and distribution of legal services. High tuition and associated educational debt can deter qualified individuals from entering the profession, particularly those from lower-income backgrounds or communities historically underrepresented in law.[9] Over time, these barriers can affect not only who becomes a lawyer,

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[7] Cayley Balser and Stacy Rupprecht Jane, *The Diverse Landscape of Community-Based Justice Workers*, Institute for the Advancement of the American Legal System (February 2024), available at https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers

[8] The U.S. Justice Worker Program Index, Institute for the Advancement of the American Legal System, available at https://iaals.du.edu/news/national-justice-worker-program-index-relaunched

[9] See Meghan Dawe, *The Black-White Student Debt Gap Among Law School Graduates*, Center on the Legal Profession Harvard Law School (Sep. 2023), available at https://clp.law.harvard.edu/knowledge-hub/magazine/issues/student-debt/the-black-white-student-debt-gap-among-law-school-

but also where and how lawyers practice, with implications for the overall supply of legal services and the availability of representation in underserved and rural communities.

As the Court considers reforms aimed at expanding access to affordable, high-quality legal representation, it is appropriate to examine whether there are educational models that reduce cost while still ensuring that new lawyers are prepared to practice competently and ethically. In evaluating potential alternatives, the central question should not be the duration of legal education, but whether graduates meet clearly defined standards of minimum competence. In 2014, IAALS conducted its Foundations for Practice study, a national survey identifying the skills, characteristics, and competencies new lawyers need to succeed in practice, which has been widely used over the past decade by law schools, regulators, and other stakeholders to better align legal education with the demands of practice. More than a decade later, as the profession has evolved, IAALS is now revisiting this work through Foundations for Practice 2.0, with a forthcoming report in 2026. Together, this research underscores the importance of aligning legal education with real-world lawyering demands rather than focusing solely on time-based requirements.[10]

A range of models could be explored in this context. These might include accelerated degree programs (including two-year J.D. programs), apprenticeship programs (such as the California Law Office Study Program), or curricula that integrate structured experiential learning in more intensive or streamlined formats. IAALS does not take a position at this stage on any specific model, but supports careful, evidence-based exploration of approaches that may lower costs without compromising quality.

Importantly, any alternative to the traditional three-year curriculum should be evaluated alongside licensure requirements and assessments. Education, licensure, and practice readiness are

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graduates/#:~:text=Scholarly%20research%20and%20public%20discourse,programs%20in%20the%20first%20place.

[10] Inst. for the Advancement of the Am. Legal Sys., *Foundations for Practice*, https://iaals.du.edu/projects/foundations-practice.

interconnected components of a single regulatory system. Changes in one area should not occur in isolation from the others.

IAALS encourages the Court to ensure that any reforms to licensure pathways are accompanied by meaningful data collection and evaluation measures. Systematic tracking of outcomes, including measures of demonstrated competence, disciplinary trends, client impact, and access to justice effects, will be critical to determining whether alternative models achieve the Court's goals of expanding access while safeguarding the public. Ongoing assessment will help ensure that reforms remain aligned with evidence and can be refined as needed to preserve rigor, fairness, and public protection.

The Court Should Support Carefully Designed Alternative Pathways to Licensure

IAALS strongly supports the Court's interest in exploring alternative pathways to admission to the Tennessee Bar as a potential means of expanding access to affordable legal services while safeguarding competence and public protection. As the Court has recognized, regulatory reform must balance lowering barriers to entry with ensuring that Tennessee attorneys are prepared to serve clients effectively.

IAALS research has long examined whether traditional bar examinations fully assess the competencies required for modern legal practice. Through its *Building a Better Bar* project, IAALS developed an evidence-based definition of minimum competence consisting of twelve interlocking "building blocks," including client interaction, legal analysis, professional judgment, workload management, and self-directed learning.[11] The study's findings indicate that closed-book, time-pressured, and multiple-choice examinations offer a poor measure of many of these competencies and bear little resemblance to the cognitive tasks new lawyers perform in practice.

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[11] IAALS, *Building a Better Bar: The Twelve Building Blocks of Minimum Competence* (2020), https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf.

In addition, the design and administration of the bar exam can advantage those with access to costly preparation resources and significant time for study, raising concerns about fairness in the licensure process. These findings suggest that while written exams may assess certain foundational knowledge, they cannot, standing alone, fully evaluate minimum competence for law practice.

Alternative pathways such as structured apprenticeships, supervised practice models, or service-based pathways may offer promising avenues for enhancing practice readiness while broadening access to the profession. When carefully designed, such models can increase early exposure to client-facing work and professional responsibility, expand the pool of competent legal service providers, and help address persistent shortages in rural and underserved communities.

At the same time, IAALS emphasizes that alternative pathways must be built with strong safeguards. Any pathway to licensure should include clear, articulated competency benchmarks aligned with minimum competence standards; structured supervision requirements, where applicable; transparent accountability and oversight mechanisms; and meaningful assessment tools to ensure that candidates meet objective performance criteria before admission.

To support state courts navigating these questions, IAALS has launched its multi-state *Pathways to Legal Licensure: Individualized & Comparative Outcomes* study.[12] This empirical project is examining multiple licensure models across jurisdictions—including states with traditional bar-only systems and states with alternative pathways—to understand more about validity, reliability, fairness, feasibility, and alignment with practice readiness across each studied pathway. The study will provide evidence-based recommendations designed to remove unnecessary barriers while preserving rigor and protecting the public.

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[12] IAALS, *Pathways to Legal Licensure: Individualized & Comparative Outcomes*, available at https://iaals.du.edu/projects/pathways-legal-licensure.

Ongoing data collection, including measures of competence, professional discipline, access to justice impact, and participant outcomes, will be essential to ensuring that any reform advances both accessibility and public protection.

The Court Should Promote Interstate Mobility to Advance Access to Justice

IAALS supports reforms that promote interstate practice and attorney mobility, consistent with the Court's stated goal of ensuring that all Tennesseans have access to affordable, high-quality legal services. Modern legal practice is increasingly multi-jurisdictional, and regulatory frameworks should reflect that reality.

Expanded reciprocity and mobility can help increase the supply of legal services, particularly in rural or underserved communities that struggle to attract and retain attorneys. Greater portability of licensure credentials also reduces unnecessary barriers for experienced attorneys who have already demonstrated competence and ethical fitness in another jurisdiction.

At the same time, mobility reforms should preserve core safeguards, including clear competence standards, ethical accountability, and effective disciplinary oversight. Reciprocity should not diminish public protection but rather streamline admission for attorneys who have already met substantially equivalent standards.

As Tennessee considers reforms, it may also examine developments related to UBE score portability and the forthcoming NextGen UBE. Greater portability of examination scores, where appropriate and consistent with competence thresholds, can further support mobility while maintaining uniform standards. Thoughtful expansion of reciprocity, particularly when aligned with substantially similar licensure requirements, can meaningfully increase service availability without compromising rigor.

Across each of the questions posed, IAALS encourages the Court to pursue reforms that lower unnecessary barriers to entry while preserving minimum competence and robust public protection, consistent with the Court's directive. Licensure reform should be grounded in empirical evidence rather than anecdote or assumption, drawing on research into what actually predicts practice readiness and protects clients. At the same time, the current system may

disadvantage those without access to costly preparation resources and strong support structures, raising important considerations of fairness and accessibility. As Tennessee explores innovation, reforms should be implemented deliberately, with piloting, data collection, and ongoing evaluation built in from the outset to ensure that changes advance both competence and access to justice.

The Court Should Explore Regulatory Reforms to Expand Access to Justice through Technology

Today, people are turning online to solve their legal problems in increasing numbers.[13] For many, online tools are the only tools practically available when a legal issue arises. Given the important role that technology, in particular, Large Language Models (LLMs), are playing in the legal services landscape, a meaningful and comprehensive response to the access to justice crisis should consider these technologies and how they can be harnessed to provide high-quality legal services to the public.

While many Tennesseans may be more likely to turn to Google or ChatGPT when they have legal questions, a small universe of bespoke tools exist that are tailor-made and specifically trained for legal issues. These tools have the potential to provide high-quality legal services at scale, but Unauthorized Practice of Law (UPL) regulations are chilling potential innovation in this space. UPL rules can be broad, sweeping everything from full representation in court arguing complex legal issues to assistance with simple document drafting into its purview.[14] As a result, even developers

[13] In an IAALS-HiiL study, the internet ranked first among resources for legal information and advice: of respondents who encountered a legal issue and sought legal information or advice, 31% reported using the internet, while 29% reported using a lawyer. *See Justice Needs and Satisfaction in the United States of America*, THE HAGUE INST. FOR INNOVATION OF L. AND INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf. A recent survey indicates that 65% of Americans have used AI for legal help. Sarah Hollenbeck, *65% Use AI Legal Advice, But Accuracy Concerns Remain*, Rev (Jan. 28, 2026), https://www.rev.com/blog/ai-legal-advice-index.

[14] In Tennessee, the practice of law is defined as "the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with

with tools that are in fact compliant with UPL rules may be hesitant to release them (or investors hesitant to invest in them) because of the lack of certainty around the rules themselves and their enforcement.[15]

Consumer protection should be a primary concern, but the extent to which these tools would in fact harm consumers is unknown. In states where technology-enabled tools are permitted to provide legal services, like Utah's regulatory sandbox, complaints of consumer harm have been infrequent.[16] Meanwhile, the potential benefits are significant: scores of people who currently cannot access support for their legal issues may finally get the help they need to navigate them.

States are recognizing the importance of exploration in this area. Utah's aforementioned sandbox has allowed entities to use technology-enabled tools to provide legal services, Minnesota is considering a similar sandbox approach,[17] Colorado has adopted a non-prosecution policy for tools that comply with certain requirements and safeguards,[18] and Washington is allowing novel use of tools through its Entity Regulation Pilot Program.[19] IAALS tracks developments in this area

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proceedings pending or prospective before any court, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies, or the soliciting of clients directly or indirectly to provide such services." TN Code § 23-3-101 (2024). Each state defines UPL differently and with varying degrees of broadness and clarity.

[15] Kelli M. Raker, *From Founded to Funded: Challenges & Visions for Justice Tech*, DUKE CENTER ON LAW & TECH (2023), https://law.duke.edu/sites/default/files/images/embed/from_founded_to_funded_challenges_visions_for_justice_tech_oct2023.pdf.

[16] Logan Cornett, Jessica Bednarz & James Teufel, *An Interim Evaluation of Utah's Legal Regulatory Sandbox: Part 3 — Outcomes Evaluation* (Inst. for the Advancement of the Am. Legal Sys. Nov. 2025), https://iaals.du.edu/sites/default/files/documents/publications/utah_interim_outcomes_evaluation.pdf.

[17] *Implications of Large Language Models (LLMs) on the Unauthorized Practice of Law (UPL) and Access to Justice*, Minnesota State Bar Association (June 2024), https://mnbars.org/docDownload/2458601.

[18] Jessica Bednarz & Ericka Byram, *Colorado's New Non-Prosecution Policy Seeks to Balance Innovation, Access, and Consumer Safety*, IAALS (Feb. 23, 2026), https://iaals.du.edu/news/colorados-new-non-prosecution-policy-seeks-balance-innovation-access-and-consumer-safety.

[19] *Entity Regulation Pilot Project*, Washington State Bar Association (updated Jan. 9, 2026).

on its Regulating AI Knowledge Center[20]. IAALS recommends that Tennessee also explore this important avenue for access when it reconsiders its approach to the regulation of legal services.

The Court Should Consider, but Not Prioritize, Establishing an Alternative Business Structure Program

Alternative Business Structures ("ABS")—entities in which people who are not lawyers have an economic interest or decision-making authority in a law firm—exist in Arizona, Utah (via the Sandbox), Washington (via its Entity Regulation Pilot), Washington, D.C. (in a limited capacity), Puerto Rico, and in a few other countries. The programs in Arizona and Utah have generated early insights through annual program reports and two studies by the Deborah L. Rhode Center on the Legal Profession at Stanford Law[21], which analyzed data from initial license applications. While not plentiful or definitive, the data does offer insights into consumer harm, innovation, and the public's perspective. These efforts provide a valuable baseline, but many important questions remain unanswered. For this reason, IAALS is developing an ABS Evaluation Blueprint[22] for how to successfully evaluate ABS programs and to assist leaders in states like Tennessee who are considering whether to develop similar programs.

Because we have scant data on ABS entities and programs at this time, IAALS recommends that the Tennessee Supreme Court prioritizes other initiatives that have more data to support their

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[20] Regulating AI Knowledge Center, available at https://iaals.du.edu/projects/unlocking-legal-regulation/artificial-intelligence-ai

[21] David Freeman Engstrom, Lucy Ricca, Graham Ambrose, and Maddie Walsh, *Legal Innovation After Reform: Evidence From Regulatory Change* (September 2022), available at https://law.stanford.edu/wp-content/uploads/2022/09/SLS-CLP-Regulatory-Reform-REPORTExecSum-9.26.pdf [In the 2022 study, researchers also interviewed entities in Utah and Arizona.]; Legal Innovation After Reform: Five Years of Data on Regulatory Change by David Freeman Engstrom, Natalie A. Knowlton, and Lucy Riccahttps://law.stanford.edu/wp-content/uploads/2025/06/SLS_CLP_LegalInnovation_REPORT_v5.pdf

[22] IAALS ABS Evaluation Blueprint project page, available at https://iaals.du.edu/projects/unlocking-legal-regulation/abs-evaluation-blueprint

effectiveness, such as those listed above, and monitor the progress and learnings from states with ABS programs.

Conclusion

IAALS is grateful to the Tennessee Supreme Court for the opportunity to share our insights on several of the access to justice pathways outlined in the Administrative Order and applauds its leadership in this process. We believe that establishing paraprofessional, justice worker, technology-based legal service, and alternative pathways to licensure programs while also promoting interstate mobility and evidence-based cost-reducing alternatives to the traditional three-year J.D. will help ensure that more low- and middle-income Tennesseans, including those residing in rural areas, are able to obtain the legal help they need. If the Tennessee Supreme Court has any follow-up questions based on our comments, we welcome the opportunity to discuss IAALS' work in these areas in more detail.

Sincerely,

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Ericka Byram
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Logan Cornett
Director of Research, Legal Education & Licensure

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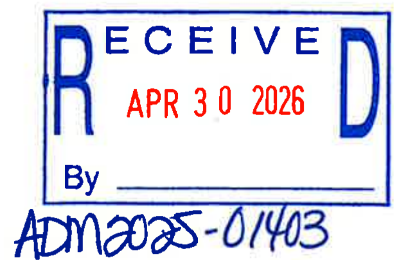

MEMORANDUM

TO: Tennessee Supreme Court
FROM: Legal Aid of East Tennessee, Legal Aid Society of Middle Tennessee and the Cumberlands, West Tennessee Legal Services, and Tennessee Alliance for Legal Services
DATE: April 30, 2026
RE: ORDER Soliciting Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation - ADM2025 - 01403

I. EXECUTIVE SUMMARY

Equal access to justice is a cornerstone of a fair society. Without it, the legal system risks reinforcing and institutionalizing systemic and individual inequalities rather than correcting them. Providing legal redress for those who lack the means to retain private counsel ensures that the courts remain in a place where rights can be upheld regardless of income. It empowers individuals to advocate for themselves, protects vulnerable populations from exploitation, and promotes accountability across institutions.

The provision of free civil legal services is an extremely important, but often overlooked, component of the war on poverty. Lifting people out of poverty requires more than financial assistance; it demands access to systems and services, such as free civil legal assistance, that protects rights, resolves disputes, and creates stability. For many individuals and families, legal challenges, such as eviction, wage theft, domestic violence, or denial of public benefits, can quickly spiral into deeper economic hardship when left unaddressed. Ensuring that those who cannot afford a lawyer still have access to meaningful legal representation helps prevent these crises from compounding.

Expanding and supporting free civil legal services is therefore not simply an act of charity; rather, it is a strategic investment in social and economic equity. By strengthening access to legal assistance, communities can reduce homelessness, improve public health outcomes, and increase overall economic stability. In this way, civil legal aid plays a critical role in breaking cycles of poverty and building a more just and inclusive society.

Tennessee is at a critical juncture in addressing a persistent and widening access-to-justice gap for low-and moderate-income residents. Despite longstanding efforts, including the Tennessee Supreme Court's Access to Justice Initiative, demand for civil legal services far exceeds available resources. In 2025 alone, legal aid organizations served more than 40,000 individuals (about twice the seating capacity of Madison Square Garden), yet approximately 1.2 million Tennesseans qualified for assistance. Chronic underfunding, the absence of dedicated state appropriations, and an uneven distribution of attorneys, particularly in rural "legal deserts," have left legal aid providers unable to meet the need for free, civil legal services in Tennessee. This comment reiterates the fact that Tennessee's three legal aid organizations are the cornerstone of free, civil legal services in Tennessee. These organizations possess the expertise, infrastructure, and proven record of accomplishment to deliver effective, free civil legal services. The foundation of any plan to expand access to justice must include strengthening, expanding, and investing in the existing system rather than creating new, duplicative, and unproven models.

This comment evaluates several proposed reforms, including the use of non-lawyer legal service providers, alternative pathways to bar admission, and reciprocity for out-of-state attorneys. It supports the cautious integration of trained and supervised non-lawyer advocates, such as Community Justice Advocates, to expand capacity in targeted areas like housing and family law, particularly in underserved communities. However, it underscores that such models

require careful planning, intentional design, significant supervision, and dedicated funding to avoid overburdening already strained legal aid organizations or compromising consumer protection. Similarly, alternative licensure pathways tied to public service are recognized as promising but limited tools that should complement and not replace core investments in legal aid.

Finally, this comment identifies reciprocity reform as an immediate and practical opportunity to expand the public interest/access to justice attorney workforce. Streamlining the licensing process for out-of-state attorneys, particularly those entering public interest roles, could increase the number of attorneys available to provide free, civil legal services.

Meaningful progress will require sustained funding, thoughtful regulatory reform, and a commitment to reinforcing the existing legal aid infrastructure. Without increased investment, structural changes alone will be insufficient to close the justice gap and ensure equitable access to civil legal services across Tennessee.

II. INTRODUCTION

This comment is submitted by Deb House, Executive Director, Legal Aid of East Tennessee (LAET); DarKenya Waller, Executive Director, Legal Aid Society of Middle Tennessee and the Cumberlands (LAS); Ashley Holliday, Executive Director, West Tennessee Legal Services (WTLS); and Laura Brown, Executive Director, Tennessee Alliance for Legal Services (TALS). Ms. House has served as the Executive Director of LAET for the past four years, and she has served as a public interest lawyer with LAET since 1988. Ms. House currently

serves on the House of Delegates of the TBA and is the Chair of the Board for the Tennessee Alliance for Legal Services. Ms. Waller joined LAS in 2008 and became the Executive Director in 2018. Ms. Waller served on the Board of Directors for the Nashville Bar Association and as former Chair of the Board of the TN Alliance for Legal Services and currently serves on the Civil Council of the National Legal Aid and Defenders Association (NLADA). Ms. Holliday joined WTLS in 2009 and became the Executive Director in 2024. She is on the Henderson County Family Justice Center Advisory Committee and is the Vice-Chair of the Tennessee Alliance for Legal Services Board of Directors. Laura Brown is the Executive Director of Tennessee Alliance for Legal Services (TALS). She is starting her fifth year at TALS and is currently on the board of the Tennessee Fair Housing Council. TALS was formed in 1977 to support the legal aid organizations and access to justice in Tennessee.

In 2008, the Tennessee Supreme Court launched the Access to Justice Initiative, reaffirming its commitment to ensuring that all Tennesseans have meaningful access to the civil justice system. This commitment has been strongly championed by leaders of the Court, including former Chief Justice Janice M. Holder and current Chief Justice Jeffrey Bivins and their colleagues, who consistently emphasized that access to justice is a fundamental responsibility of the judiciary, not a peripheral concern. Under their leadership and that of their colleagues, the Court elevated access to justice as its number one priority, recognizing that the legitimacy of the legal system depends on whether ordinary people can effectively use it.

Despite this sustained commitment at the highest levels of the judiciary, a substantial justice gap persists. Individuals facing civil legal issues are not guaranteed the right to counsel, and as a result, many are forced to navigate complex legal systems without representation. This disconnect highlights the ongoing challenge: even with institutional prioritization and advocacy

from figures like Justices Holder and Bivins, structural barriers, including cost, limited legal aid resources, and procedural complexity, continue to prevent many Tennesseans from obtaining the legal help they need.

Three primary organizations—Legal Aid of East Tennessee (LAET), Legal Aid Society of Middle Tennessee and the Cumberlands (LAS), and West Tennessee Legal Services (WTLS)—have served as the backbone of civil legal services in the state since the 1960s. LAET was created in 2002 when the Knoxville Legal Aid Society founded in 1965, merged with the Legal Services of Upper East Tennessee. In 2025, LAET celebrated 60 years of providing free, civil legal services in 26 counties in East Tennessee. In 1968, Legal Services of Nashville was created, and it became the Legal Services of Nashville and Middle Tennessee in 1977. In 2002, the Legal Aid Society of Middle Tennessee and the Cumberlands was formed when several legal aid organizations in Middle Tennessee merged. WTLS was founded in 1979 through the tireless efforts of West Tennessee attorneys. For many years, WTLS served mostly rural West Tennessee, but in 2024, WTLS began providing free, civil legal services in all 21 counties in West Tennessee, adding Fayette, Lauderdale, Shelby, and Tipton counties.

Annually, Congress allocates funding to the Legal Services Corporation (LSC), a congressionally created nonprofit organization, whose role is to distribute and monitor funding awarded to civil legal services programs across the US. These three LSC-funded organizations possess the institutional knowledge, infrastructure, and experience necessary to effectively serve low-income Tennesseans.

Daily, legal aid organizations provide essential, free civil legal services that help stabilize housing, preserve employment, and protect families from cascading crises. Their work spans a

wide range of high-impact cases, including eviction defense and landlord–tenant disputes, foreclosure prevention, and assistance with unsafe housing conditions. They represent survivors of domestic violence in obtaining orders of protection, handle family law matters such as custody and child support, and help seniors and individuals with disabilities address issues like benefits denials, nursing home eligibility, guardianship, and protection from financial exploitation. Legal aid attorneys also assist with employment-related cases, including wrongful termination, wage theft, and unemployment benefits appeals, as well as consumer protection matters, including predatory lending, debt collection harassment, and bankruptcy. Additionally, they support access to healthcare and stability by helping clients secure Medicaid or other public benefits, resolve insurance disputes, and address barriers to reentry for individuals with criminal records. Notably, legal aid handles many of the cases that the private bar does not accept for clients that cannot afford private attorneys.

Legal aid organizations in Tennessee already have the knowledge, infrastructure, and statewide reach to deliver these services effectively to low-income residents, including those in rural and underserved communities. Building entirely new systems to expand civil legal services would be unnecessarily cumbersome, duplicative, and inefficient. The more practical and impactful solution is to invest in the existing legal aid network, which has a proven record of accomplishment and deep community trust. However, these organizations remain significantly underfunded, and this resource gap is the primary reason so many Tennesseans who qualify for assistance are turned away. Increasing funding would allow legal aid providers to expand capacity, reduce waitlists, and ensure that more individuals and families receive timely legal help that can prevent small issues from becoming destabilizing crises.

In 2025, the three legal aid organizations closed 18,239 cases for low-income Tennesseans. The organizations provided free, civil legal services to 40,211 individuals (about twice the seating capacity of Madison Square Garden) in 2025. In 2025, Legal Services Corporation (LSC) estimated that 1,209,400 or 17.4% of the Tennessee population was at 125% or below of the Federal Poverty Guidelines and therefore, eligible for free, civil legal services.[1] During 2025, the three legal aids employed 120.5 attorney FTEs and 193.8 total staff FTEs. In 2025, the three legal aid organizations provided 1,265 in-person educational events, and 95 virtual educational events.

In 2025, LSC provided $11,337,987 in funding for free, civil legal services in Tennessee[2]. However, in Tennessee, LSC funding makes up 30-40% of the overall funding for the three legal aid organizations. The remaining funding for civil legal aid in Tennessee is a mix of other federal funding along with some state and local funds, private foundations, and private donations. While this funding does include some funding from state sources, there is no allocated funding included in the annual Tennessee budget promulgated by the governor. Tennessee is one of very few states without dedicated, allocated state level funding for free, civil legal aid.

As noted, there is no allocated funding for free, civil legal aid in Tennessee, and as a result, LSC funding does make up the largest single source of funding for the three legal aid organizations in Tennessee. Traditionally, LSC funded organizations serve individuals who are at or below 125% of the federal poverty level. This financial eligibility threshold percentage is draconian and has not changed in decades. This means that individuals making $19,950 or less per year and a family of four making $41,250 or less qualify for free, civil legal services.

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[1] https://www.lsc.gov/grants/our-grantees/tennessee-state-profile
[2] https://www.lsc.gov/grants/our-grantees/tennessee-state-profile

However, if the legal aid organizations received allocated state funding, this additional funding could be used, in part, to begin providing legal services to Tennesseans who fall into the Asset Limited, Income Constrained, Employed (ALICE) category- residents who fall roughly between 200% and 400% of the federal poverty level. Tennesseans in the ALICE category have just as many legal needs as their lower-income neighbors and very often cannot afford to retain an attorney.

Unfortunately, the scale of need far exceeds available resources. In 2025, while the legal aid organizations served 40,211 people, approximately 1.2 million Tennesseans—17.4% of the population—qualified for civil legal aid based on income. Yet available funding and staffing levels remain insufficient to meet this demand. As a result, legal aid organizations are forced to turn away approximately half of those who seek assistance.

Thes gaps reflect not only a funding shortfall, but also a broader structural issue tied to the distribution of attorneys. Across the United States, significant portions of the population live in what are known as "legal deserts"—areas with few or no lawyers. National data indicates that approximately 41% of counties fall into this category, particularly in rural regions. These shortages disproportionately affect low-income individuals, who already face numerous barriers to accessing legal services. The 2025 Tennessee Civil Legal Needs Assessment demonstrates that legal aid services are provided throughout Tennessee, even in the legal deserts. The legal aid organizations provide free, civil legal services in all 95 counties in Tennessee and frequently handle multiple cases for a single client.

An important concern when considering expanding access to justice in Tennessee, therefore, is not necessarily a lack of innovation in legal service delivery, but a lack of sufficient investment in systems that are already proven to work. Efforts to expand access to justice must

be grounded in strengthening the existing legal aid infrastructure. Legal aid organizations must have a seat at the table as valuable participants for any task forces or study committees formed to strategize, plan, design, and implement any changes to expand access to justice.

The legal aid organizations are completely focused on providing free, civil legal services to as many Tennesseans as possible and the civil legal needs of the client community. Because of this focus and mission, the comments below address three of the regulatory reform proposals outlined in the Court's Order. However, consumer protection should be kept in mind when considering reform of the scale and magnitude outlined in the Court's Order. Overall, it is recommended that task forces or study groups, made up of thoughtfully and carefully selected members that include access to justice practitioners and legal aid organizations, be formed to thoroughly examine each of the seven areas outlined in the Court's Order in depth and draft recommendations and plans for implementation. Other suggestions outlined in the comments below draw on the expertise, knowledge, and vast experience of access to justice practitioners.

III NON-LAWYER LEGAL SERVICES

The Court has requested input on whether expanding non-lawyer legal services could improve access to justice. The Court's Order requested comment on the following:

> 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.

The Need

LSC published *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* in 2022. In this report, data indicated that 92% of low-income Americans did not receive any or enough legal assistance for approximately 92% of the civil legal problems they face annually. Further, the report stated that 75% of households in the Southern United States faced one or more legal problems every year, while 77% of rural households, overall, faced one or more legal problem annually. The 2025 Tennessee Civil Legal Needs Assessment report found that 78.3% of survey respondents experienced at least one civil legal problem, and 51.2% of respondents noted that they experienced two or more legal issues.[3]

A Potential Solution

This response to the Court's inquiry about the provision of legal services by paraprofessionals includes the examination of the potential incorporation of Community Justice Advocates (CJA), also known as Community Justice Workers, into the existing legal aid infrastructure in Tennessee. CJAs have been implemented in Alaska with some success. CJAs can represent a practical response to the well-documented civil justice gap identified by LSC. As previously noted, LSC's national research shows that approximately 92% of the civil legal problems faced by low-income Americans receive inadequate or no legal help, due to a shortage of attorneys and limited legal aid resources. This gap is particularly acute in rural and underserved areas, where traditional attorney-based service models have proven insufficient to meet demand. CJAs directly address this shortfall by expanding the capacity of legal aid organizations through trained, supervised non-lawyer advocates who can handle discrete legal

[3] 2025 Tennessee Civil Legal Needs Assessment

needs, conduct outreach, and provide early intervention. By increasing the number of individuals able to deliver limited legal assistance, CJAs can help legal aid organizations serve more clients without requiring a proportional increase in attorney staffing, making them a cost-effective and scalable solution.

Evidence from Alaska Legal Services Corporation demonstrates that CJAs trained and supervised by legal aid organizations, can produce measurable, high-impact outcomes in addressing legal deserts. Alaska faces some of the most extreme attorney shortages in the country, with only about one legal aid attorney available for every 10,000 eligible residents. In response, Alaska developed one of the nation's first CJW programs, training more than 300 community-based workers to deliver limited legal services in rural and tribal communities. These CJWs work through and with Alaska Legal Services Corporation (ALSC). CJW training is a collaborative partnership between ALSC, the Alaska Native Tribal Health Consortium (ANTHC), the ANTHC's Distance Learning Network, and Alaska Pacific University.[4] CJWs are non-attorneys who are trained and supervised by the legal aid organization in Alaska as they provide very specific legal assistance for specific legal problems[5]. These workers have proven particularly effective in crisis response. One notable example is during a surge in public benefits cases, CJWs helped secure approximately $1.43 million in Supplemental Nutrition Assistance Program (SNAP) benefits for low-income residents. More broadly, the program has helped individuals access millions of dollars in delayed or denied benefits; thereby, demonstrating that CJWs can produce tangible economic and social outcomes while extending the reach of legal aid

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[4] https://lsc-live.app.box.com/s/4m9rcenmeu46uxvqe4d4gko0s528pu3t

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

into communities where attorneys are largely unavailable. Because CJWs are hosted by legal aid, they are in the most rural and remote areas where their services are needed.

Utah and Washington State provide additional evidence that structured, limited-scope non-lawyer legal service models can expand access to justice when carefully designed and supervised. In Utah, the Community Justice Advocate (CJA) program was developed through the state's legal regulatory "sandbox" to address significant, specific unmet civil legal needs, particularly in high-volume areas like debt collection. Data shows that debt claims account for approximately 85% of civil cases in Utah district courts, yet many defendants lack legal representation and 70% of cases result in uncontested judgments. In response, Utah launched a program training non-lawyer advocates—often social workers or other community-based professionals—through a structured curriculum and supervised practice model. Early implementation included the certification of a limited number of Community Justice Advocates to begin delivering limited legal assistance under attorney supervision. This model is specifically designed to target high-volume, low-representation case types, demonstrating how CJW/CJAs can be deployed strategically to address systemic gaps in access to justice.

Washington State's experience with its Limited License Legal Technician (LLLT) program similarly illustrates both the demand for and effectiveness of non-lawyer legal service providers. Washington became the first state to authorize trained non-lawyers to provide limited legal assistance in areas such as family law, including advising clients, preparing legal documents, and assisting with court procedures. The program emerged in response to data showing that as many as 86% of civil litigants were receiving inadequate or no legal help. Evaluations of the program found that it improved access to legal services and served as a national model for other states exploring similar reforms. Although the program was later sunset

for administrative and funding-related reasons, studies and legislative findings continued to recognize its success in safely expanding access to justice and providing meaningful assistance to underserved populations.

A similar model could be particularly valuable in Tennessee, where the justice gap reflects both high demand and insufficient legal aid capacity. While the Utah and Washington models were not necessarily overseen by legal aid organizations, we believe that we can draw from these states and Alaska to create a CJA program in Tennessee that is only available through the legal aid organizations. Together, the Alaska, Utah, and Washington models demonstrate that well-regulated, limited-scope non-lawyer programs, offered through legal aid organizations, can effectively supplement attorney services, particularly in high-need areas, and provide a scalable framework for states like Tennessee seeking to address persistent gaps in legal access. With approximately 1.2 million Tennesseans eligible for civil legal services and legal aid organizations forced to turn away roughly half of applicants, there is a clear need for expanded service delivery. This need is compounded by the presence of rural areas that function as legal deserts, where residents face geographic, financial, and informational barriers to accessing attorneys. Providing legal services in rural areas can be very nuanced, and merely increasing the number of service providers in rural areas does not always mean an increase in the provision of legal services. CJAs, under the guidance, training, and supervision of the legal aid organizations, could help bridge this gap by providing community-based assistance in areas such as housing, public benefits, and uncontested family law matters, particularly in regions where legal aid offices and private attorneys are scarce.

We recommend that CJAs be licensed to provide advice in limited areas of the law, including but not limited to:

- Family law;
- Limited jurisdiction civil law;
- State administrative law; and
- Juvenile law (where no statutory right to counsel exists).

Some services offered by CJAs could include but are not limited to:

- Drafting and filing legal documents;
- Limited court action; and
- Providing advice, opinions, or recommendations about possible legal rights, remedies, defenses, options, or strategies.

We acknowledge that CJAs could provide important services in legal aid organizations for Tennesseans, but that this proposal needs more study before implementation. It is our recommendation that a task force be created to study how CJAs should be implemented in Tennessee. This task force would be charged with drafting guidelines and procedures for the program, creating the training materials and pathway, identifying funding, and implementing a Tennessee pilot program in conjunction with the legal aid organizations. This taskforce could also be charged with creating the certification standards and oversight of the CJAs; the training and supervision requirements; and the scope of practice limitations and restrictions. The Task Force could also study the non-lawyer provision of legal services models from other states and agencies, such as the Internal Revenue Services, Social Security Administration, and Veterans Administration, and determine what portions of those models might work in Tennessee. The pilot implementation should allow time for data collection and independent evaluation to determine if the CJA pilot program works in Tennessee. By embedding trained advocates within communities

and integrating them into existing legal aid organizations, Tennessee could expand access to justice in a targeted, cost-effective manner while maintaining appropriate supervision and consumer protections.

Areas of Concern

Experience from other jurisdictions demonstrates that supervision of non-lawyer providers is very resource intensive. Attorneys must review work, provide guidance, and ensure compliance with ethical and procedural requirements. These responsibilities increase workload and reduce the time available for direct client representation.

Without dedicated funding, expanding non-lawyer participation risks placing additional strain on an already overburdened system. Structural reform alone cannot compensate for resource scarcity. Instead, it may redistribute limited capacity without increasing overall service availability.

The most direct and effective solution is increased funding for legal aid organizations. Additional funding would enable these organizations to hire more attorneys and non-lawyer professionals, expand services, and reduce the number of individuals turned away. Potential funding mechanisms include increased court filing fees, targeted legislative appropriations, and dedicated funding streams for access-to-justice initiatives. Absent such investment, any expansion of service models will remain limited in impact.

Independent non-lawyer systems not connected to legal aid organizations raise concerns regarding consumer confusion, particularly between nonprofit legal aid providers and for-profit service models. In some states that have licensed the practice of law by non-lawyers, the hourly rate charged by the licensed non-lawyers can be as high as $250.00 per hour, as non-lawyer

paraprofessionals often have the same overhead expenses as lawyers. Without clear distinctions and involvement by legal aid organizations, vulnerable individuals may unknowingly rely on services provided by practitioners that lack appropriate oversight or accountability. Additionally, market-driven models may prioritize profit over service, potentially increasing costs rather than reducing them and reducing access to justice.

We have several concerns about implementing wide-scale independent non-lawyer practice models. Independent non-lawyer systems not connected to legal aid organizations raise concerns about distribution of access to justice. Non-lawyer practitioners will practice where profits and case volume are higher—in urban communities—further widening the justice gap for rural Tennesseans. The LSC-funded legal aid organizations already provide services in all 95 counties in Tennessee and will ensure that non-lawyer advocates are strategically deployed in legal deserts to increase access to justice.

More fundamentally, inappropriate non-lawyer practice could risk inconsistent quality of service. Low-income clients often present complex, overlapping legal issues involving housing, personal safety, family stability, employment, and public benefits, such as SNAP/EBT. These areas of law are not lucrative cases accepted by for-profit practitioners. Addressing such legal issues requires not only technical competence, but also professional judgment developed and honed through legal training and experience. Without adequate supervision, there is a heightened risk of harm to already vulnerable populations.

As noted previously, a more effective approach would be to integrate limited non-lawyer assistance within existing legal aid organizations. These organizations already maintain the infrastructure necessary for supervision, training, and accountability. Within this framework, Community Justice Advocates or similar roles could provide targeted support in narrowly

defined areas, such as uncontested matters or administrative proceedings, while remaining under attorney supervision.

Such an approach ensures that non-lawyer assistance complements, rather than replaces, attorney-led services. It also preserves consumer protection while expanding capacity in a controlled and accountable manner.

IV. ALTERNATIVE PATHWAYS TO BAR ADMISSION

The Court's Order requests input as follows:

> Should alternative pathways to bar admission beyond graduating from a traditional law school and passing the bar exam be implemented in Tennessee?

In the United States, several alternative pathways to bar admission exist alongside the traditional bar exam, though the options are limited and vary significantly by state. One significant alternative pathway is known as the diploma privilege. In this alternative pathway, graduates of certain in-state law schools are admitted without taking a bar exam. However, as of right now, this option is available only in the state of Wisconsin. A second pathway is the law office study or "reading the law" apprenticeship model, which allows candidates to qualify for the bar exam without a J.D. by studying under a practicing attorney. This option is available in a small group of states, including California, Virginia, Vermont, and Washington. Finally, an ever-increasing number of jurisdictions have begun experimenting with supervised practice or portfolio-based licensing alternatives that can substitute for the bar exam or can be an option if a law graduate fails the bar examination with a certain score range. This alternative pathway is active or has been recently implemented in states such as Oregon, Washington, Arizona, and South Dakota, and proposals or task forces underway in several other states. Together, these

pathways reflect a gradual shift toward more flexible licensure models, though the bar exam remains the dominant route nationwide.

South Dakota's recently adopted public service pathway to bar admission provides a model for how alternative licensure can be structured to directly address attorney shortages while maintaining professional standards. In 2025, the South Dakota Supreme Court approved a five-year pilot program that allows a limited number of law graduates to obtain licensure without taking the traditional bar exam by completing supervised legal practice and committing to public service. Law students are selected through a competitive process during their second year of law school. Participants must complete extensive hands-on training during law school, including approximately 500 hours of supervised legal work, and, after graduation, commit to at least two years of full-time employment in public service roles such as public defender or state attorney offices. The program is intentionally small and controlled and capped at roughly 10 students per class and about 50 participants over five years. The cap allows for careful evaluation while ensuring rigorous oversight. Early implementation data shows strong interest, with nine students selected from an initial pool of applicants, demonstrating both demand for alternative pathways and the feasibility of targeted, service-based licensure.

The structure of South Dakota's program is particularly significant because it ties licensure directly to public interest work, rather than simply lowering barriers to entry. The pathway requires not only legal education and character-and-fitness review, but also sustained, supervised practice in underserved areas. This design reflects a policy choice to align licensure reform with access-to-justice goals. By requiring at least a two-year public service commitment, the program effectively channels new attorneys into areas of greatest need, including rural communities and under-resourced legal systems. The inclusion of supervised practice and

portfolio-based assessment further ensures that participants demonstrate real-world competency, addressing concerns that alternative pathways might weaken professional standards. In this way, South Dakota's model shifts the focus from testing theoretical knowledge on a single exam to evaluating practical skills developed through sustained legal work.

A similar public interest–based pathway could be highly beneficial in Tennessee, where legal aid organizations face persistent attorney shortages and are forced to turn away a significant percentage of eligible clients. Like South Dakota, Tennessee includes rural and underserved regions that function as legal deserts, where attracting and retaining attorneys is particularly difficult. A pathway that conditions licensure on a defined period of service with legal aid organizations, public defenders, or other public interest entities could help address these shortages in a targeted and immediate way. We would recommend that the public interest lawyers be required to serve at least five years with the host organization. Unlike the South Dakota model, we recommend that at least half of the students accepted into the cohort each year be placed in legal aid/access to justice organizations in Tennessee.

Additionally, by embedding new attorneys within supervised practice settings, Tennessee could ensure that participants develop practical skills while directly contributing to closing the justice gap. Importantly, the South Dakota model demonstrates that such programs can be implemented cautiously through pilot structures, limited enrollment, and ongoing evaluation, allowing the Court to balance innovation with consumer protection. As a result, a Tennessee-specific adaptation of this model could expand the pipeline of attorneys serving low-income communities while reinforcing, rather than bypassing, the existing legal aid infrastructure. We again recommend that a task force be created to study alternative pathways to bar admission and

create a pilot plan of action modeled after the South Dakota program for implementation in Tennessee.

Alternative pathways to bar admission, including supervised practice models, should be approached with due care and consideration. While these programs may increase the number of licensed attorneys, they also impose significant supervisory burdens on existing practitioners. Legal aid organizations, in particular, lack the capacity to absorb these additional responsibilities without corresponding funding. Supervising attorneys must dedicate time to training and oversight, which will detract from direct client services.

To the extent such pathways are implemented, they should be limited in scope and targeted toward public interest settings where supervision structures already exist. However, these pathways should not be viewed as a primary solution to the access-to-justice gap.

V. RECIPROCITY AND ATTORNEY MOBILITY

The Court's Order requests input as follows:

> Should the Court modify requirements for admission of attorneys already licensed and in good standing in other states to promote access to justice as well as interstate mobility?

Reform of Tennessee's reciprocity process presents an immediate and practical opportunity to increase access to legal services. Expanding the pool of licensed attorneys—particularly those willing to engage in legal aid or pro bono work—can directly benefit low-income Tennesseans almost immediately. Modifying reciprocity in Tennessee to make the process more straightforward and streamlined will promote access to justice as well as interstate

mobility. While a change in the pro vice rule might provide some relief, legal aid and access to justice, organizations need Tennessee licensed attorneys to provide legal services to clients.

We examined the lawyer reciprocity process as outlined on both the Michigan and Minnesota official websites. Both states provide straightforward answers to commonly asked questions, details about steps and timelines, and clear contact information for applicants. Currently, the Tennessee reciprocity process lacks transparency and efficiency. Applicants and the legal aid organizations report significant difficulty navigating requirements, identifying points of contact, and obtaining consistent information. Extreme delays in processing applications further exacerbate these challenges, with some applicants waiting almost two years for reciprocity decisions.

Improving the reciprocity system would require clearer guidance, defined eligibility criteria, and more efficient processing timelines. Our recommendations are as follows:

- Create a clear flow chart on the Board of Law Examiners (BLE) website that outlines the step-by-step process and timelines for reciprocity
- A "fast track" reciprocity process for attorneys becoming licensed in Tennessee to work in public interest law
- A clearer definition of the "active practice of law"
- Modification of the rule to permit reciprocity for attorneys who have practiced for three years outside of Tennessee (Minnesota requires 1,000 hours of practice per year for at least 36 of the previous 60 months)
- Including a commonly asked questions and answers section on the BLE website page about reciprocity
- Better and more timely communication with applicants about the status of their application

We recommend that the BLE create a flow chart that outlines the reciprocity process in detail along with milestones and projected timelines. It would be extremely helpful if the BLE conducted an initial assessment of reciprocity applications and provided a preliminary status

update to applicants within three months of receiving the request for reciprocity. This would allow those requesting reciprocity to have as much time as possible to plan to take the bar, if that is what is needed for Tennessee licensure. In one recent case, a legal aid attorney seeking reciprocity waited nine months for a decision only to be informed that they needed to take the bar examination. The attorney missed valuable study time as well as two bar examinations waiting for a decision. The attorney then had an extremely short amount of time to register for the next administration of the bar exam. Establishing a target timeline for application review and implementing early-stage screening for deficiencies would significantly improve the process. We understand that some delays might be outside the control of the BLE; however, exploring ways to expedite those parts of the process should be included in any reciprocity process reform.

Additionally, reciprocity reform could be leveraged to promote access to justice. Incentives such as expedited admission for attorneys committing to pro bono service or fast-track pathways for those joining legal aid organizations, could help address attorney shortages in underserved areas. These efforts should also provide more clarity about what it means to be engaged in the active practice of law with the understanding that there are roles in the access to justice world that are the active practice of law that might look different than private practice.

Currently the rule requires that reciprocity applicants have practiced law for five of the past seven years. That is a very significant practice requirement, and to expand access to justice, a modification of the rule to permit attorneys in good standing who have practiced for three of the past five years should be considered. An up-to-date questions and answers section on the BLE reciprocity webpage would be immensely helpful for providing current information to reciprocity applicants and taking some of the burden off BLE staff to answer frequent questions

about the process. Charging another fee, on top of the current reciprocity application, could be a way to raise additional funds that would be allocated to support the legal aid organizations.

Given the documented decline in available attorneys in certain practice areas and jurisdictions, expanding attorney mobility is a necessary component of any comprehensive access-to-justice strategy. We recommend that the Court create a task force to evaluate the current reciprocity process for inefficiencies and draft a report that includes concrete ways to improve the process.

VI. FURTHER SUGGESTIONS AND IDEAS TO INCREASE ACCESS TO JUSTICE IN TENNEESEE

In Tennessee, pro bono legal service is strongly encouraged but remains voluntary, with the Tennessee Supreme Court promoting a goal of at least 50 hours of service annually and recognizing attorneys who meet that benchmark. Despite legal services organizations and the numerous attorneys who provide pro bono legal services annually, many low-income Tennesseans still face civil legal issues such as housing disputes, custody matters, and employment claims without representation. An increased focus on pro bono service by the Court could help close this justice gap. We believe another way to increase attorney participation in pro bono would be to increase the amount of continuing legal education (CLE) credit attorneys can earn through pro bono services. Right now, attorneys must provide five (5) hours of pro bono service for one (1) hour of CLE credit. Attorneys can receive no more than three (3) CLE credit hours per year through pro bono service. We have repeatedly received feedback from attorneys who do not ask for CLE credit for pro bono hours because the administrative burden of reporting

outweighs the CLE benefit. Other states, including Arkansas, Nevada and West Virgina, allow attorneys to claim one (1) hour of CLE credit for every three (3) hours of pro bono service provided. Wyoming permits attorneys to claim one (1) hour of CLE credit for every two (2) hours of pro bono service provided, up to five (5) CLE credits per calendar year.

Additionally, to provide flexibility, attorneys could be encouraged to contribute their hourly billing rate in leu of pro bono services. These contributions would give financial support to legal aid organizations, effectively funding additional staff or resources to serve more clients. This alternative would ensure that even attorneys with demanding schedules or specialized practices can meaningfully support access to justice while maintaining the overall goal of expanding legal services. By encouraging pro bono, Tennessee could strengthen its commitment to fairness, improve court efficiency, and reinforce the principle that access to justice should not depend on one's ability to pay.

Tennessee could expand access to justice by more fully leveraging emeritus status for retired and recently retired lawyers. Emeritus attorneys can offer pro bono representation through approved legal aid providers without the burden of maintaining a full, active practice. Increasing participation could involve simplifying the certification process, waiving, or reducing fees, offering malpractice insurance coverage, reducing the CLE requirement, and providing targeted training to help retirees reengage with current law and procedures. Outreach efforts, including partnerships with bar associations and retirement networks and advertising the program, could also raise awareness among retired attorneys about the benefits of opting for emeritus status. By tapping into the experience and expertise of emeritus attorneys, Tennessee can meaningfully expand its pool of pro bono providers by helping to meet the growing demand for civil legal

assistance while giving seasoned lawyers a structured and impactful way to continue serving their communities.

VII. CONCLUSION

Tennessee's access-to-justice gap is driven by a combination of insufficient funding, uneven distribution of attorneys, and an ever-increasing demand for civil legal services. The existence of legal deserts and the persistent shortage of legal aid attorneys demonstrate that the problem is structural, not conceptual.

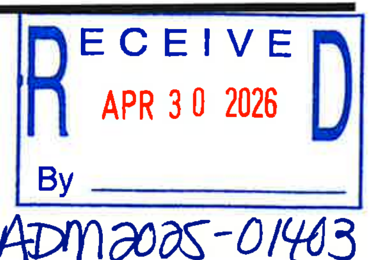
Legal aid organizations remain the most effective and accountable mechanism for delivering civil legal services to low-income Tennesseans. Strengthening these organizations through increased funding and targeted policy reforms offers the most direct path to expanding access.

While limited integration of non-lawyer assistance may provide supplemental support, such efforts must be carefully structured, closely supervised, and adequately funded. Similarly, alternative licensing pathways should be implemented cautiously and not relied upon as primary solutions. By contrast, reciprocity reform offers a practical and immediate opportunity to increase the number of available attorneys, improve access to justice, and create a sustainable minor funding stream.

The Court has a meaningful opportunity to address this issue through reforms that are deliberate, evidence-based, and grounded in the realities of service delivery. Lasting progress will depend not on creating parallel systems, but on investing in and strengthening the institutions already serving Tennessee's most vulnerable populations.

Kim Meador

From:	Raymond F. Runyon <rfrunyon@runyonandrunyon.com>
Sent:	Thursday, April 30, 2026 11:17 AM
To:	appellatecourtclerk
Subject:	Regulation of Legal Profession



Warning: Unusual sender <rfrunyon@runyonandrunyon.com>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Mr. Hivner,

Although I understand that the Montgomery County Bar Association will be filing a response to the proposed changes, I also wanted to send correspondence.

First, I do not believe that we should modify, reduce or eliminate lawyer educational requirements. If anything, I am concerned that we have become too lax in our continuing education requirements. Not only should we keep the current education requirements, but we should revamp CLE requirements and mandate in-person attendance. The online experiment is a failure. We do not need to lower standards. It is impossible to be a good advocate without the broad base of knowledge that a classic legal education provides.

Second, I am not in favor of moving away from ABA accreditation. The ABA provides standards that have been relied upon for years not only for Tennessee, but many other states. On a practical level, however, I am concerned about the State of Tennessee properly funding a commission that would replace the ABA or the value in doing so. It is an embarrassment that we do not properly fund indigent criminal defense. Why would this be any different?

Third, I do not believe we need alternative pathways to bar admission. While we may need more economical avenues to obtain education generally, I do not think that lowering the standards for bar admission is productive. In places where paraprofessionals have been allowed to perform services, it has not done anything to lower the cost. Instead, it has only lowered the quality of services available. This is not what we need in our state.

Fourth, I absolutely believe that we need to streamline the process for lawyers to be admitted in Tennessee. While I have not had direct experience with this issue, I am told that the delay for out of state lawyers is too long. This should not be the case, but it is going to require funding.

Fifth, I am against non-lawyer ownership of law firms or fee-sharing with non-lawyer. This is a profession and we need to treat it that way. If we are going to do away with that portion of it, then we might as well do away with ethics, too. This is a dangerous road.

While I believe that there are problems with legal services in some communities, I do not believe that this is a widespread problem nor a problem that requires the sort of fixes being contemplated. Instead, I think increased funding for law schools (perhaps another state law school would be appropriate) and uniform electronic access to the courts statewide would help solve these problems with the current system.

If I can be of any further assistance, please let me know.

Yours truly,

Raymond F. Runyon

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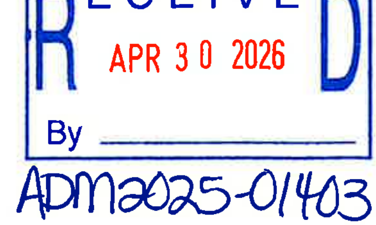

TO:

James Hivner, Clerk
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FROM:

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Murfreesboro, TN 37130

RE: Regulatory Reform – Docket No.: ADM2025-01403

To the Justices of the Tennessee Supreme Court,

As requested by this Court's Order dated September 16, 2025, I am submitting commentary on the questions presented regarding potential changes to regulation of the profession. I am a graduate of Regent University School of Law and was admitted to practice in November of 2022. I have been a solo practitioner since being admitted and my practice focuses on estate planning, probate, and small business matters.

The Court's Order presented seven questions on this topic. I will share my comments on each in turn.

Question 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.

In my view, as a practitioner, the Court is most suited to determine the educational standard required to be admitted to practice law in our state. While the American Bar Association has long been a standard-bearer for legal education, in recent years some have raised concerns that the organization has been too focused on political advocacy. The organization has also been sued for racial discrimination in its scholarship programs, which is a cause for concern.

While there is a place for an organization like the ABA, the admission to practice law in this state is something for which this Court is better suited to set the standards. This would not be a first, as the Texas Supreme Court ruled in 2025 that it would move away from relying on the ABA for accreditation for educational requirements to practice law in Texas.

The ABA has been the standard for many years. But it does not have to be the only standard. In my view, a decentralization of the standards would allow for greater competition among the states, creating a tide that would lift all boats. Monopoly does not lead to better outcomes for providers or consumers. Healthy, robust competition for which the standards are set by this Court is preferable to delegation of that responsibility to one national organization. The Court itself setting the admission standards is a part of this Court's history of regulating the profession, as noted in this Court's Order. I do not believe there is a reason that this cannot be the case again today.

Question 2: Whether there are any practicable alternatives to ABA accreditation that the Court should consider.

ABA accreditation has long been the standard. But that does not mean this has to remain the case. The practice of law is a profession that is known for its resistance to change. We are a group of people who prefer what is predictable, constant, and known.

The tradeoff with too much resistance to change is stagnation and regression. Not that change should be adopted recklessly or just for the sake of change itself. But change ought to be considered when the circumstances that led to a practice becoming the accepted norm have changed such that the practices themselves are outdated or may now even be counterproductive.

As to what the accreditation standards could be, the Court could establish its own required or recommended course program along with practical experience. This would include traditional 1L courses, like contracts, property, and torts. Other core courses from 2L and 3L years may include evidence, constitutional law, business structures, and family law.

Additionally, it may be desirable to have a robust writing course requirement for accreditation that is beyond what the ABA has recommended. A great deal of this profession involves writing, but law schools often only have one or two writing courses. When I was in law school, I took a total of fifteen credits of writing courses, including 1L legal writing, appellate advocacy, advanced appellate advocacy, and an independent study. I am convinced that these writing courses have been critical in helping me to practice well.

The Court may also consider having a practical experience requirement. Core courses are necessary to have foundational knowledge. But there is no teacher like real experience. When I was in law school, I had eight credits of practical experience through externships. Law school classes taught the basics of their respective subject areas. But working on the ground with practicing attorneys, support staff, and clients prepared me to practice in ways that no class ever could. Having a practical

experience requirement as part of accreditation can also help better prepare law students for the real world outside of the classroom.

Question 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.

Question 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.

I will address Questions 3 and 4 in one combined answer.

I have long thought that practical experience teaches things that classroom instruction simply cannot (as I noted in my discussion of Question 2). This is also how the admission process used to be for the practice of law until the 20th century. That is not to say there is no place for classroom instruction, but I believe our profession has perhaps become too reliant on teaching the theory of law when lawyers need to be practicing law.

A proposal I have considered is a hybrid of the old apprenticeship model and the contemporary law school model. The classroom component of legal education likely could be boiled down to 60 credits or fewer (instead of the standard 90 credits). This would allow for the classroom portion of legal education to be a maximum of two years instead of three. If the standard were 45 credits, this could be eighteen months. This portion would cover the core courses that all lawyers should have exposure to, such as contracts, torts, property, constitutional law, family law, and the other core topics that are on the bar exam.

The second portion would be the apprenticeship. The law student would work full-time at a law firm, government agency, or judge's office. This would immerse the law student in real world practice. The law student would also be paid for his or her work, similar to how doctors are paid during residency. This would accomplish the goal of having real training while also significantly reducing the cost of legal education overall.

Upon the law student's completion of the apprenticeship, the admission process to practice would start. This currently involves taking the bar exam and passing character & fitness. But the supervising attorney or judge with whom the law student worked during the apprenticeship would advocate for the law student to be admitted, and this advocacy could either supplement or supplant existing parts of the admission process, like certain sections of the bar exam or the bar exam entirely.

Some may shudder at the thought of admission to practice without passing a bar exam. But in my experience among colleagues, what qualifies us to practice is not having passed a standardized test in the past, but our experience dealing with and solving real problems for real people. If a currently practicing attorney suddenly had to take the bar exam, it is quite likely he or she would fail because it has been so long since taking it. And, as there are few generalists these days, memory of most subjects has likely faded due to non-use.

In my view, real experience with our state's law is what this Court could focus on as part of assessing whether a law student is suited to be admitted to practice law. The details would have to be built out, but I believe this is not only possible, but preferable to the current admission system. A hybrid model would reduce the necessity of having so many expensive credit hours at a traditional law school while also better equipping future lawyers to actually work with their clients.

If new lawyers have lower student loan debt due to an admission program like this, that benefits everyone. When the lawyer is not as stressed due to personal financial struggles, he or she can better focus on work. With less financial stress and struggle, there is likely less temptation to misappropriate funds from client trust accounts. And for newer attorneys who decide to open their own practice out of law school, they can offer competitive and affordable rates because they will often have lower student loan balances to pay off.

Question 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.

Our society is significantly more mobile than in decades past. This is not going to reverse any time soon, especially as more courts adopt electronic filing and permit video conference appearances for many matters. Also of note is the fact that many states have adopted uniform acts, such as the Uniform Commercial Code, Uniform Trust Code, and Revised Uniform Fiduciary Access to Digital Assets Act, that make learning the law of another state much less cumbersome than it used to be.

Also perhaps desirable is reducing the necessity of completing the entire character & fitness process for admission. If an attorney is licensed to practice law in another state and has not had any disciplinary actions taken previously, it seems to make more sense to allow admission more as a matter of course. This could take the form of being admitted into federal courts, where colleagues already admitted to practice here advocate for and recommend admission of that attorney who is applying. This would make the process less burdensome on applicants, but also on those who need to handle the character & fitness process at the Board of Law Examiners.

The Tennessee Law Course likely should remain a requirement for all new attorneys so that there is some basic orientation to our state's laws. But, in my view, if someone is already licensed and in good standing in another state or multiple states, the process to be admitted here should be less cumbersome than it is today. By making the process less burdensome, this means it is less costly. That leads to savings that can then be passed on to clients, putting legal services more within reach.

Question 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.

I believe that professionals like paralegals ought to be able to prepare basic legal documents and provide basic legal advice to those who cannot afford to hire an attorney, but may not qualify for Legal Aid. This may include basic estate planning documents, handling small estate affidavits, assisting with simple and uncontested divorces, and dealing with small claims in general sessions courts.

Oftentimes, it is the paralegals who do a significant amount of the work on a given matter. The attorney supervises the paralegal's work, but a competent and reliable paralegal is an invaluable member of a law firm's staff. If that paralegal is already handling a great number of matters under the attorney in a law firm, it seems reasonable to conclude that some type of independence is not only appropriate, but desirable.

The medical profession is already doing this. Nurse practitioners and physician assistants have been opening their own independent practices to see patients and handle a variety of healthcare matters. There may not even regularly be a physician on the premises, with these non-physician medical professionals largely running day-to-day operations and care for patients.

These clinics have a supervising physician who oversees the PAs, NPs, and other non-physician staff. The physician will review records, charts, and generally ensure that the clinic is properly taking care of its patients. I believe this type of model could be adopted in the legal profession as well. For places where there are "legal deserts," allowing paralegal practices to operate could reduce those gaps significantly.

A paralegal could open his or her own basic legal clinic to handle small legal matters, especially in a location where there are few attorneys. The paralegal would have a supervising attorney review samples of the paralegal's work, including template forms, case outcomes, and intake process. The paralegal would be subject to the rules of competence, diligence, confidentiality, avoiding conflicts of interest, and others that naturally would apply. But by allowing simpler matters to be handled by paralegals, this would relieve some pressure on the need for legal services, open new

opportunities for entrepreneurship, and help people who genuinely need legal assistance but cannot afford an attorney.

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

I do not believe that non-lawyers should be permitted to own law firms. While law firms are a business that must run profitably, we have ethical obligations that take precedence over first making a profit. While I do not believe in there being an inherent conflict between profit and ethical lawyering, non-lawyers may not have the skillset to appropriately balance both goals.

A possible exception to this could be to permit paralegals who work at the firm to own a small stake in it. Some professions, like accounting, permit non-licensed persons to be minority owners of the practice. But if this were to be permitted, it definitely should be a minority share, possibly with some defined limit such as 10% of the overall interests in the firm. That way there are attorneys with the final say over the firm's operations.

As for sharing of fees with non-lawyers, I am not as opposed to this since it does not present the same risks. The rules of professional conduct already permit paid advertising, including payment to professionals who handle marketing for services rendered. Something like a client referral bonus, which is currently not permissible, would help smaller law firms get off the ground while still maintaining independence in the matter.

An example could look something like this: a small firm has a client referral program. For every client who signs an engagement agreement and pays (either a retainer or flat fee upfront), the firm would then send the referring person an appreciation bonus as a thank you for the referral. This could be cash, a gift card, or other consideration. There would not have to be a message on the bonus saying who this was for, merely noting that it is a referral bonus for someone recently sent to the firm.

On the client side, the client likely should be informed of this program in writing if the firm decided to offer it. The client ought to be given the opportunity to decline participation, in which case the firm would not send a referral bonus to the referring person. The client still has a say in whether the referring person receives something in return for the referral. But the firm would have the opportunity to increase its client base and show gratitude to those who trust the firm and send business.

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April 30, 2026

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BY EMAIL

Hon. James Hivner
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Nashville, TN 37219-1307

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

RESULTS OF A PUBLIC OPINION SURVEY OF TENNESSEANS CONCERNING ACCESS TO QUALITY LEGAL REPRESENTATION

To the Honorable Justices of the Tennessee Supreme Court:

For the use and guidance of the Court, I attach the results of a poll of 1200 registered Tennessee voters on subjects pertinent to the Court's Order.

The survey was conducted by Randy Ellison of Targoz Market Research of Nashville. The law firms of Bass, Berry & Sims PLC and Adams & Reese, LLP, funded this survey as a part of their ongoing commitment to access to justice and the continued health of the Tennessee judicial system.

The Court can draw its own conclusions from the responses. However, I submit that the results demonstrate that Tennesseans are broadly open to and, in some instances, firmly support some possible reforms raised in the Court's September Order.

While we just received the results in the last few days, we intend to continue to analyze them. We would also be happy to provide the Court with the data underlying the attached survey results to allow further analysis (for example, allowing analysis of responses based on various demographic factors).

Thank you for your consideration and your work on this important initiative.

Very truly yours,

Lucian T. Pera

Memorandum

To: Lucian T. Pera
From: Randy Ellison, Targoz Market Research
RE: Topline Analysis, Tennessee Voter Attitudes on AI, Online Legal Tools, and Access to Justice

Executive Summary

Tennessee registered voters describe a civil legal system they cannot afford and back a slate of reforms to expand access. The strongest support is for options that pair affordability with attorney oversight. Standalone AI chatbots receive the weakest support among the options tested. Each of the four reforms presented, such as trained non-lawyer providers, modified law-firm ownership rules, alternative paths to licensure, and out-of-state reciprocity, wins majority support, with support rising after voters review information about each proposal.

Overall, there is broad recognition of a serious problem with access to legal services, framed by voters as an affordability gap, and there is broad support for reforms to address it.

Headline Findings

- **Cost is the binding constraint.** 86% agree the costs of hiring a lawyer in Tennessee are too high (50% strongly, 36% somewhat). 41% say they could not afford $5,000 for a civil matter, and another 28% say they could pay only with significant financial hardship. Two in five (40%) registered voters say they are not very confident or not at all confident that they could afford a lawyer for a serious civil matter.
- **Trained non-lawyer providers: 56% support at first read, 74% after information about the issue.** Initial support is 56% (17% definitely, 39% probably). After voters review statements on cost, access, training, and how other states have implemented similar programs, support rises to 74% (26% definitely, 48% probably). Opposition falls from 29% to 16%.

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- **Modified law-firm ownership rules: 59% support at first read, rising to 68% after more information was presented.** Initial support is 59% (16% definitely, 43% probably). After receiving information about innovation, professional partnerships, and safeguards, support rises to nearly seven in ten voters (68%) (21% definitely, 47% probably). 77% want strict rules limiting non-lawyer partners to non-legal services; 79% want safeguards against control by large corporations, venture capital, or hedge funds.
- **Alternative licensure paths and out-of-state reciprocity also win majorities.** 65% support allowing alternative paths to licensure, such as supervised apprenticeships or legal-aid services, so long as competency standards are met. 77% support easier reciprocity for lawyers already licensed in other states, subject to Tennessee's standards.
- **Attorney oversight is key.** Comfort with online or AI-assisted help rises sharply when an attorney is in the loop: 92% comfortable using a licensed attorney, 82% comfortable with an attorney-reviewed online tool, 76% comfortable with a tool that cites checkable legal sources, 67% comfortable with a legal-aid-built tool, 43% comfortable with a standalone AI chatbot, and 39% comfortable with an unsupervised online tool.
- **When a lawyer is out of reach, voters want a supervised online tool rather than no assistance or an unsupervised AI tool.** 64% prefer an online tool reviewed by a lawyer, 19% prefer an unsupervised online tool, 4% prefer no help at all, and 13% are unsure.

1. The Affordability Gap

Voters view legal costs as a structural barrier rather than a personal complaint. 86% agree that the costs of hiring a lawyer in Tennessee are too high, including 50% who strongly agree.

That perception is rooted in their household economics. 41% say they could not afford to pay $5,000 for a lawyer to represent them in a civil matter; 28% say they could pay but only with significant financial hardship; 25% say they could afford it; and 6% are not sure. Asked specifically about a serious civil matter such as eviction, a debt lawsuit, divorce, or child custody, two in five voters (40%) are not very confident or not at all confident they could afford a lawyer; 33% are somewhat confident; and 21% are very confident.

More than half (55%) say lawyers are paid too high a salary; 32% say it is just about right. By contrast, 70% say teachers are paid too low.

2. The Oversight Premium

Voters' comfort with different sources of legal help follows a clear hierarchy. The presence or absence of a licensed attorney is the strongest single factor.

- A licensed attorney: 92% comfortable (68% very, 24% somewhat); 6% not comfortable.
- An online tool reviewed or supervised by a licensed attorney: 82% comfortable (33% very, 49% somewhat); 15% not comfortable.
- An online tool that cites laws, court rules, or legal sources you can check yourself: 76% comfortable (26% very, 50% somewhat); 20% not comfortable.
- An online tool built using legal-aid or court self-help materials: 67% comfortable (19% very, 48% somewhat); 28% not comfortable.
- An online AI chatbot, such as ChatGPT, Grok, or Claude: 43% comfortable (13% very, 30% somewhat); 53% not comfortable.
- An online tool on its own, without attorney review of answers: 39% comfortable (13% very, 26% somewhat); 57% not comfortable.

When asked which providers they would actually be willing to use for a legal problem, 87% pick a licensed attorney, and 57% pick an attorney-reviewed online tool. Standalone AI chatbots draw 26%, friends or family 30%, unsupervised online tools 17%, and self-handling 14%.

Two patterns are associated with this distribution. First, attorney-reviewed and source-cited tools sit within roughly 10 percentage points of comfort with a licensed attorney, while standalone AI and unsupervised tools sit roughly 50 points lower. Second, voters do not treat AI

as categorically different from other unsupervised tools. The comfort floor is set by the absence of a lawyer, not by the underlying technology.

3. The Preferred Backstop When a Lawyer Is Unaffordable

When voters are asked what they would prefer if someone cannot afford a lawyer, the responses concentrate on supervised online tools rather than no help or unsupervised options. Nearly two in three voters (64%) prefer an online tool that helps with legal questions and is reviewed by a lawyer; 19% prefer an online tool even if no lawyer is supervising it; 4% prefer no legal help beyond what the person can find on their own; and 13% are not sure.

Read together with Section 2, the data is consistent with voters treating attorney-reviewed online tools as the closest acceptable substitute for a licensed attorney.

4. Trained Non-Lawyer Providers

Voters were asked twice about a proposal to license trained, tested, and certified non-lawyers to provide limited legal services at a lower cost, once at initial exposure and again after a series of statements for and against. Support rises and intensifies between the two readings.

Initial position: 56% support (17% definitely, 39% probably), 29% oppose (19% probably, 10% definitely), and 15% are not sure.

Position after information: 74% support (26% definitely, 48% probably), 16% oppose (9% probably, 7% definitely), and 10% are not sure. The share strongly supportive of the idea rises by 9 points, and the share intensely opposed falls by 3 points.

Reactions to the underlying statements are largely supportive. 86% agree that costs are too high. 82% agree that low- and moderate-income access is a problem the proposal would help address. 76% agree this would create a nurse-practitioner-style role for legal services. 82% agree that any program should include extensive training, testing, certification, and legal-ethics requirements. 66% agree that Tennessee should follow other states that have established or explored such programs. 73% also agree that the legal system is complex and that few issues should be handled without lawyer supervision, which is a reading consistent with, strong, conditional support: voters back non-lawyer providers as part of a supervised, scoped framework.

Where Non-Lawyer Help Lands

Voters draw clear lines around the subjects they would and would not entrust to a trained non-lawyer. The pattern tracks transactional and lower-stakes matters versus high-stakes family and parenting disputes. (Definitely + Probably should)

- Credit-card debt collection cases: 73% should, 21% should not.
- Small-dollar lawsuits under $10,000: 67% should, 26% should not.
- Creating a family trust: 64% should, 29% should not.
- Unemployment benefit disputes: 63% should, 29% should not.
- Eviction or being forced out of your home: 58% should, 36% should not.
- Post-divorce matters such as child support or visitation: 56% should, 35% should not.
- Disputes with government agencies (benefits, housing, special education): 53% should, 40% should not.
- Divorce: 51% should, 41% should not.
- Child custody: 39% should, 55% should not.

5. Modifying Law-Firm Ownership and Fee Sharing

Voters were also asked twice about a proposal to modify the rules limiting law-firm ownership and fee sharing to lawyers, with safeguards. Support rises after more information was presented to respondents.

Initial position: 59% support (16% definitely, 43% probably), 23% oppose (16% probably, 7% definitely), and 17% are not sure.

Position after information: 68% support (21% definitely, 47% probably), 18% oppose (12% probably, 6% definitely), and 14% are not sure.

Voters' support is conditional. Strong majorities back the safeguards that accompany the proposal: 77% agree that any framework should maintain strict rules limiting non-lawyer partners to non-legal services, with consequences for violations; 79% agree that precautions are needed to prevent control by large corporations, venture-capital firms, and hedge funds; and 77% agree that disbarred lawyers, fraud-convicted individuals, and other bad actors should not be allowed to participate. 65% agree that a non-lawyer partnership could let firms bring in qualified non-legal professionals such as CFOs and CTOs; 63% agree that it could allow technology specialists to help streamline operations and lower costs; and 71% agree that it could allow one-stop-shop arrangements with mortgage and real-estate specialists.

75% are not aware of the current restriction or are unsure about it (40% not sure, 25% probably no, 10% definitely no), suggesting that information about the existing rules, not just the proposed change, will continue to influence opinion in this area.

6. Alternative Paths to Licensure and Reciprocity

Two additional reforms have majority support.

Alternative paths to becoming a licensed lawyer, such as supervised apprenticeships or service with legal-aid organizations, subject to competency standards, win 65% support (25% strongly, 40% somewhat); 26% oppose; 10% are not sure.

Easier reciprocity for lawyers already licensed in other states, subject to Tennessee's standards, wins 77% support (33% strongly, 44% somewhat); 13% oppose; 10% are not sure.

7. Institutional Context

Voter approval of the institutions involved is mixed but not hostile. 54% approve of the Tennessee Supreme Court (21% strongly, 33% somewhat) and 24% disapprove; 22% have no opinion. 49% approve of the Tennessee Bar Association (16% strongly, 33% somewhat) and 17% disapprove; 33% have no opinion. More than half of registered voters (56%) say Tennessee is heading in the right direction; just 35% say wrong direction.

8. Implications for Advocacy

The data points to four observations relevant to a regulatory submission.

First, the strongest empirical case is for AI and online tools used with attorney oversight, source citation, or legal-aid grounding, and not for standalone AI. Reform proposals that center on attorney supervision, technology-assisted review, or self-help tools built on official materials match the comfort and willingness-to-use distributions in the data.

Second, voters frame the affordability gap as the problem reform is meant to solve. Anchoring proposals to the cost finding (86% agree costs are too high; 41% cannot afford $5,000) is consistent with the public's own framing.

Third, support for trained non-lawyer providers and modified ownership rules rises after voters learn more about the topic, from 56% to 74% for non-lawyer providers and from 59% to 68% for ownership reform. Information about training, testing, ethics requirements, and existing programs in other states is associated with movement toward support.

Fourth, voter support is conditional, not unconditional. Comfortable majorities want safeguards: training and certification (82%), strict scope limits on non-lawyer partners (77%), exclusion of bad actors (77%), and protections against outside-capital influence (79%). Reform proposals presented with explicit safeguards are likely to attract the most support among voters.

Methodology

- Interviews were conducted online.
- Online poll of n=1,200 registered voters in Tennessee.
- Only respondents who passed our data quality checks were included in the final results and compensated for participating.
- Sampling was stratified by demographics and geography.
- Results were weighted by demographics, party, geography, and behavioral measures to properly reflect the profile of the state.
- Estimated margin of error: ± 2.77%.
- Fieldwork: April 20 through April 28, 2026.
- Due to weighting and rounding, percentages may not always total exactly 100%.
- Subgroup margins of error are larger.

Targoz Market Research is a Nashville-based public opinion and market research firm that designs, fields, and analyzes surveys for clients in politics, public policy, and business. Founded in 2007, the firm specializes in quantitative survey research, including statewide and national polls, message testing, brand and product studies, and qualitative work.

Targoz Market Research is a member of the American Association for Public Opinion Research (AAPOR) Transparency Initiative and a member of ESOMAR (the European Society for Opinion and Marketing Research). The firm conducts its work in accordance with the AAPOR Code of Professional Ethics and Practices and the ICC/ESOMAR International Code on Market, Opinion and Social Research and Data Analytics.

Marginals: Overall Results

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

April 29, 2026

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How often would you say you vote? 7

In general, would you say that the State of Tennessee is heading in the right direction or the wrong direction? 8

Tennessee Governor Bill Lee: Please indicate whether you approve or disapprove of the job each of the following is doing. 9

Tennessee General Assembly: Please indicate whether you approve or disapprove of the job each of the following is doing. 10

Tennessee Supreme Court: Please indicate whether you approve or disapprove of the job each of the following is doing. 11

Tennessee Bar Association: Please indicate whether you approve or disapprove of the job each of the following is doing. 12

The next questions are about how people seek help when legal services are too expensive, unavailable, or hard to access. As far as you know, in Tennessee, who is generally allowed to give legal advice? 13

Have you ever used the internet to try to answer a legal question or understand your legal rights - such as using Google, YouTube, court websites, or an online chat tool? 14

A licensed attorney: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 15

An online tool reviewed or supervised by a licensed attorney: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 16

An online tool on its own, without attorney review of answers: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 17

An online tool built using legal-aid or court self-help materials: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 18

An online tool that cites laws, court rules, or legal sources you can check yourself: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 19

An online AI chatbot, such as ChatGPT, Grok, or Claude: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help? 20

If you needed help with a legal problem, which of the following would you be willing to use? Please select all that apply. 21

The next questions concern whether certain limited legal services could be provided by trained non-lawyers in specific subject areas and under what safeguards. Tennessee is considering whether trained, tested, and certified non-lawyers should be allowed to provide limited legal services in certain types of matters at a lower cost to consumers. Based on what you know right now, would you support or oppose this kind of proposal? 22

The costs of hiring a lawyer in Tennessee are too high, and we need to find ways to make legal assistance more affordable: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 23

People living in poverty and many moderate-income individuals do not receive the legal help they need. This proposal would help more people access legal services: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 24

Certain legal issues, such as divorce, eviction, and unemployment disputes, could be handled by someone with some legal training and experience, even if that person is not a lawyer: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 25

In health care, nurse practitioners helped expand access and treat more people. This proposal would create a similar kind of role for limited legal services: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 26

Other states have already established or explored programs allowing trained non-lawyers to provide limited legal services. Tennessee should consider doing the same: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 27

A proposal allowing trained non-lawyers to provide limited legal services should include extensive training, testing, certification, and legal ethics requirements: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 28

Our legal system is complex, and very few issues should be handled without supervision from a lawyer: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree. 29

Eviction or being forced out of your home: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 30

Small-dollar lawsuits involving less than $10,000: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 31

Disputes with government agencies, such as benefits, housing assistance, or special education services: In which of the following types of legalproblems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 32

Unemployment benefit disputes: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-

lawyer to provide some limited help? 33
Credit card debt collection cases: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 34
Divorce: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 35
Post-divorce matters, such as child support or visitation: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 36
Child custody: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 37
Creating a family trust: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help? 38
Thinking about everything you have just read, would you support or oppose the proposal to license trained, tested, and certified non-lawyers to provide limited legal services at a lower cost to consumers? 39
If you faced a serious civil legal matter - like an eviction, debt lawsuit, divorce, or child custody dispute - how confident are you that you could afford a lawyer to help you? 40
If you needed legal help for a civil matter, could you afford to pay $5,000 for a lawyer to represent you? 41
If someone cannot afford a lawyer, which of the following would you prefer to have available? 42
The next questions are about whether Tennessee should continue to limit law-firm ownership and fee sharing to lawyers only, or allow some changes with safeguards. To the best of your knowledge, are individuals who are not lawyers currently allowed to own or be partners in a law firm in Tennessee? 43
Here's a little background. In Tennessee, law firms are generally owned only by lawyers, and lawyers generally cannot share legal fees with non-lawyers. Tennessee is considering whether to modify those rules while maintaining lawyer independence and public protections. Based on what you know right now, would you support or oppose this kind of proposal? 44
In some other places, non-lawyers have successfully partnered in or even owned law firms. Supporters say this model can encourage innovation and that Tennessee should consider it: How much do you agree or disagree with each of the following statements? 45
If non-lawyers successfully partnered in or even owned law firms, individuals such as technology specialists could partner in a law firm, helping to streamline processes, improve innovation, and lower costs while lawyers continue practicing law independently: How much do you agree or disagree with each of the following statements? 46
If non-lawyers successfully partnered in or even owned law firms, lawyers could team up with other professionals, such as mortgage and real-estate

specialists, to offer a one-stop shop for services such as refinancing, foreclosure prevention, or short sales: How much do you agree or disagree with each of the following statements? 47
Under current rules, executives such as a firm's chief financial officer or chief technology officer generally could not be partners unless they are lawyers. If non-lawyers successfully partnered in or even owned law firms, firms could bring in qualified non-legal professionals for critical roles: How much do you agree or disagree with each of the following statements? 48
If non-lawyers successfully partnered in or even owned law firms, they should maintain strict rules and regulations to ensure that non-lawyer partners are limited to non-legal services and that there are consequences if the rules are not followed: How much do you agree or disagree with each of the following statements? 49
Precautions should be taken to ensure that large corporations, venture-capital firms, and hedge funds do not affect the independence of lawyers in any firm in which they invest: How much do you agree or disagree with each of the following statements? 50
Allowing certain non-lawyers to have an ownership stake or partnership in a law firm can make sense, but disbarred lawyers, people convicted of fraud, and other bad actors should not be allowed to participate: How much do you agree or disagree with each of the following statements? 51
Thinking about everything you have just read, would you support or oppose allowing some non-lawyer ownership or partnership in law firms under a stricter regulatory framework? 52
The next questions are about other possible ways Tennessee could expand the availability of affordable legal services while still requiring competency standards. Today, no one can become a lawyer without three years of law school and passing the bar exam. Some people have suggested that Tennessee should allow alternative paths to become a licensed lawyer - such as supervised apprenticeships or service with legal aid organizations - so long as applicants still have to meet competency standards. Would you support or oppose this? 53
Some people have suggested making it easier for lawyers already licensed in other states to practice in Tennessee, so long as they still have to meet Tennessee's standards. Would you support or oppose this? 54
Are you or is someone in your immediate family a lawyer? 55
Have you or has someone in your immediate family hired a lawyer in the past five years? 56
Lawyer: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right. 57
Judge: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right. 58
Doctor: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right. 59

Nurse practitioner: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right. 60

Teacher: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right. 61

Generally speaking, do you think of yourself as a... ? 62

2024 Presidential Ballot 63

Age Group 64

Thinking about your general approach to issues, do you consider yourself to be... 65

Which of the following are you? 66

How many infants and children under 18 years of age live in your household today? 67

Which of the following best describes your race or ethnicity? 68

Which of the following best describes your household's total income in 2025 BEFORE taxes? 69

Which of the following best describes your current education level? 70

What is your current marital status? 71

Do you own or rent your home? 72

Thinking about your religion, are you... 73

Would you describe yourself as a 'born-again' or evangelical Christian? 74

Are you now employed full-time, part-time, self-employed, or not employed? 75

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

How often would you say you vote?

	Total
Sample Size	1,200
Always	
Column %	49%
Nearly always	
Column %	32%
Part of the time	
Column %	12%
Seldom	
Column %	4%
Never vote	
Column %	3%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

In general, would you say that the State of Tennessee is heading in the right direction or the wrong direction?

	Total
Sample Size	1,200
Total right direction	
Column %	55%
Definitely right direction	
Column %	24%
Probably in the right direction	
Column %	32%
Probably in the wrong direction	
Column %	17%
Definitely wrong direction	
Column %	18%
Total wrong direction	
Column %	35%
I'm not sure	
Column %	9%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Tennessee Governor Bill Lee: Please indicate whether you approve or disapprove of the job each of the following is doing.

	Total
Sample Size	1,200
Total approve	
Column %	57%
Strongly approve	
Column %	26%
Somewhat approve	
Column %	31%
Somewhat disapprove	
Column %	15%
Strongly disapprove	
Column %	21%
Total disprove	
Column %	36%
No opinion	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Tennessee General Assembly: Please indicate whether you approve or disapprove of the job each of the following is doing.

	Total
Sample Size	1,200
Total approve	
Column %	52%
Strongly approve	
Column %	18%
Somewhat approve	
Column %	34%
Somewhat disapprove	
Column %	17%
Strongly disapprove	
Column %	11%
Total disprove	
Column %	29%
No opinion	
Column %	19%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Tennessee Supreme Court: Please indicate whether you approve or disapprove of the job each of the following is doing.

	Total
Sample Size	1,200
Total approve	
Column %	54%
Strongly approve	
Column %	21%
Somewhat approve	
Column %	33%
Somewhat disapprove	
Column %	14%
Strongly disapprove	
Column %	10%
Total disprove	
Column %	25%
No opinion	
Column %	22%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Tennessee Bar Association: Please indicate whether you approve or disapprove of the job each of the following is doing.

	Total
Sample Size	1,200
Total approve	
Column %	49%
Strongly approve	
Column %	16%
Somewhat approve	
Column %	33%
Somewhat disapprove	
Column %	11%
Strongly disapprove	
Column %	6%
Total disprove	
Column %	17%
No opinion	
Column %	33%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

The next questions are about how people seek help when legal services are too expensive, unavailable, or hard to access. As far as you know, in Tennessee, who is generally allowed to give legal advice?

	Total
Sample Size	1,200
Only licensed lawyers	
Column %	58%
Lawyers and non-lawyers alike	
Column %	15%
Online tools and websites	
Column %	7%
I'm not sure	
Column %	19%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Have you ever used the internet to try to answer a legal question or understand your legal rights - such as using Google, YouTube, court websites, or an online chat tool?

	Total
Sample Size	1,200
Yes	
Column %	68%
No	
Column %	27%
I'm not sure	
Column %	5%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

A licensed attorney: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	92%
Very comfortable	
Column %	68%
Somewhat comfortable	
Column %	24%
Not very comfortable	
Column %	4%
Not at all comfortable	
Column %	2%
Total uncomfortable	
Column %	6%
I'm not sure	
Column %	2%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

An online tool reviewed or supervised by a licensed attorney: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	82%
Very comfortable	
Column %	33%
Somewhat comfortable	
Column %	49%
Not very comfortable	
Column %	10%
Not at all comfortable	
Column %	5%
Total uncomfortable	
Column %	15%
I'm not sure	
Column %	3%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

An online tool on its own, without attorney review of answers: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	39%
Very comfortable	
Column %	13%
Somewhat comfortable	
Column %	26%
Not very comfortable	
Column %	32%
Not at all comfortable	
Column %	25%
Total uncomfortable	
Column %	57%
I'm not sure	
Column %	5%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

An online tool built using legal-aid or court self-help materials: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	66%
Very comfortable	
Column %	19%
Somewhat comfortable	
Column %	48%
Not very comfortable	
Column %	19%
Not at all comfortable	
Column %	9%
Total uncomfortable	
Column %	28%
I'm not sure	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

An online tool that cites laws, court rules, or legal sources you can check yourself: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	76%
Very comfortable	
Column %	26%
Somewhat comfortable	
Column %	50%
Not very comfortable	
Column %	13%
Not at all comfortable	
Column %	7%
Total uncomfortable	
Column %	20%
I'm not sure	
Column %	5%

An online AI chatbot, such as ChatGPT, Grok, or Claude: If you had a legal question about something like a landlord dispute, a contract problem, debt collection, divorce, or child custody, how comfortable would you feel using each of the following for help?

	Total
Sample Size	1,200
Total comfortable	
Column %	43%
Very comfortable	
Column %	13%
Somewhat comfortable	
Column %	30%
Not very comfortable	
Column %	23%
Not at all comfortable	
Column %	30%
Total uncomfortable	
Column %	53%
I'm not sure	
Column %	4%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If you needed help with a legal problem, which of the following would you be willing to use? Please select all that apply.

	Total
Sample Size	1,200
A licensed attorney	
% Valid Cases	87%
An online tool reviewed or supervised by a licensed attorney	
% Valid Cases	57%
An online tool on its own, without attorney review of answers	
% Valid Cases	17%
An online AI chatbot, such as ChatGPT, Grok, or Claude	
% Valid Cases	26%
I would try to handle it on my own	
% Valid Cases	14%
I would ask friends or family for advice	
% Valid Cases	30%
None of these	
% Valid Cases	1%
I'm not sure	
% Valid Cases	1%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

The next questions concern whether certain limited legal services could be provided by trained non-lawyers in specific subject areas and under what safeguards. Tennessee is considering whether trained, tested, and certified non-lawyers should be allowed to provide limited legal services in certain types of matters at a lower cost to consumers. Based on what you know right now, would you support or oppose this kind of proposal?

	Total
Sample Size	1,200
Total support	
Column %	57%
Definitely support	
Column %	17%
Probably support	
Column %	39%
Probably oppose	
Column %	19%
Definitely oppose	
Column %	10%
Total oppose	
Column %	29%
I'm not sure	
Column %	15%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

The costs of hiring a lawyer in Tennessee are too high, and we need to find ways to make legal assistance more affordable: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	86%
Strongly agree	
Column %	50%
Somewhat agree	
Column %	36%
Somewhat disagree	
Column %	7%
Strongly disagree	
Column %	2%
Total disagree	
Column %	8%
No opinion	
Column %	5%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

People living in poverty and many moderate-income individuals do not receive the legal help they need. This proposal would help more people access legal services: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	82%
Strongly agree	
Column %	37%
Somewhat agree	
Column %	45%
Somewhat disagree	
Column %	5%
Strongly disagree	
Column %	6%
Total disagree	
Column %	11%
No opinion	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Certain legal issues, such as divorce, eviction, and unemployment disputes, could be handled by someone with some legal training and experience, even if that person is not a lawyer: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	69%
Strongly agree	
Column %	21%
Somewhat agree	
Column %	48%
Somewhat disagree	
Column %	17%
Strongly disagree	
Column %	8%
Total disagree	
Column %	25%
No opinion	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

In health care, nurse practitioners helped expand access and treat more people. This proposal would create a similar kind of role for limited legal services: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	76%
Strongly agree	
Column %	27%
Somewhat agree	
Column %	49%
Somewhat disagree	
Column %	11%
Strongly disagree	
Column %	5%
Total disagree	
Column %	15%
No opinion	
Column %	8%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Other states have already established or explored programs allowing trained non-lawyers to provide limited legal services. Tennessee should consider doing the same: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	67%
Strongly agree	
Column %	20%
Somewhat agree	
Column %	46%
Somewhat disagree	
Column %	14%
Strongly disagree	
Column %	6%
Total disagree	
Column %	21%
No opinion	
Column %	13%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

A proposal allowing trained non-lawyers to provide limited legal services should include extensive training, testing, certification, and legal ethics requirements: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	82%
Strongly agree	
Column %	49%
Somewhat agree	
Column %	33%
Somewhat disagree	
Column %	7%
Strongly disagree	
Column %	3%
Total disagree	
Column %	9%
No opinion	
Column %	8%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Our legal system is complex, and very few issues should be handled without supervision from a lawyer: Here are some statements people have made about allowing trained, tested, and certified non-lawyers to provide limited legal services in certain civil matters in Tennessee. For each one, please indicate whether you agree or disagree.

	Total
Sample Size	1,200
Total agree	
Column %	73%
Strongly agree	
Column %	32%
Somewhat agree	
Column %	41%
Somewhat disagree	
Column %	16%
Strongly disagree	
Column %	5%
Total disagree	
Column %	21%
No opinion	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Eviction or being forced out of your home: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	58%
Definitely should	
Column %	19%
Probably should	
Column %	39%
Probably should not	
Column %	24%
Definitely should not	
Column %	12%
Total should not	
Column %	36%
I'm not sure	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Small-dollar lawsuits involving less than $10,000: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	67%
Definitely should	
Column %	21%
Probably should	
Column %	46%
Probably should not	
Column %	17%
Definitely should not	
Column %	9%
Total should not	
Column %	26%
I'm not sure	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Disputes with government agencies, such as benefits, housing assistance, or special education services: In which of the following types of legalproblems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	53%
Definitely should	
Column %	20%
Probably should	
Column %	33%
Probably should not	
Column %	27%
Definitely should not	
Column %	13%
Total should not	
Column %	39%
I’m not sure	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Unemployment benefit disputes: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	63%
Definitely should	
Column %	22%
Probably should	
Column %	41%
Probably should not	
Column %	20%
Definitely should not	
Column %	9%
Total should not	
Column %	29%
I'm not sure	
Column %	8%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Credit card debt collection cases: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	73%
Definitely should	
Column %	20%
Probably should	
Column %	53%
Probably should not	
Column %	13%
Definitely should not	
Column %	8%
Total should not	
Column %	20%
I'm not sure	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Divorce: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	51%
Definitely should	
Column %	19%
Probably should	
Column %	32%
Probably should not	
Column %	24%
Definitely should not	
Column %	17%
Total should not	
Column %	40%
I'm not sure	
Column %	8%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Post-divorce matters, such as child support or visitation: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	56%
Definitely should	
Column %	19%
Probably should	
Column %	37%
Probably should not	
Column %	23%
Definitely should not	
Column %	12%
Total should not	
Column %	35%
I'm not sure	
Column %	9%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Child custody: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	39%
Definitely should	
Column %	15%
Probably should	
Column %	24%
Probably should not	
Column %	30%
Definitely should not	
Column %	25%
Total should not	
Column %	54%
I'm not sure	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Creating a family trust: In which of the following types of legal problems, if any, would it make sense to allow a trained, tested, and certified non-lawyer to provide some limited help?

	Total
Sample Size	1,200
Total should	
Column %	64%
Definitely should	
Column %	23%
Probably should	
Column %	41%
Probably should not	
Column %	18%
Definitely should not	
Column %	11%
Total should not	
Column %	29%
I'm not sure	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Thinking about everything you have just read, would you support or oppose the proposal to license trained, tested, and certified non-lawyers to provide limited legal services at a lower cost to consumers?

	Total
Sample Size	1,200
Total support	
Column %	73%
Definitely support	
Column %	26%
Probably support	
Column %	48%
Probably oppose	
Column %	9%
Definitely oppose	
Column %	7%
Total oppose	
Column %	16%
I'm not sure	
Column %	10%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If you faced a serious civil legal matter - like an eviction, debt lawsuit, divorce, or child custody dispute - how confident are you that you could afford a lawyer to help you?

	Total
Sample Size	1,200
Total confident	
Column %	54%
Very confident	
Column %	21%
Somewhat confident	
Column %	33%
Not very confident	
Column %	25%
Not at all confident	
Column %	15%
Total not confident	
Column %	40%
I'm not sure	
Column %	5%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If you needed legal help for a civil matter, could you afford to pay $5,000 for a lawyer to represent you?

	Total
Sample Size	1,200
Yes, I could afford that	
Column %	25%
I could afford it, but it would cause significant financial hardship	
Column %	28%
No, I could not afford that	
Column %	41%
I'm not sure	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If someone cannot afford a lawyer, which of the following would you prefer to have available?

	Total
Sample Size	1,200
No legal help beyond what they can find on their own	
Column %	4%
An online tool that helps with legal questions, even if no lawyer is supervising it	
Column %	19%
An online tool that helps with legal questions and is reviewed by a lawyer	
Column %	64%
I'm not sure	
Column %	13%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

The next questions are about whether Tennessee should continue to limit law-firm ownership and fee sharing to lawyers only, or allow some changes with safeguards. To the best of your knowledge, are individuals who are not lawyers currently allowed to own or be partners in a law firm in Tennessee?

	Total
Sample Size	1,200
Total yes	
Column %	25%
Definitely yes	
Column %	11%
Probably yes	
Column %	14%
Probably no	
Column %	25%
Definitely no	
Column %	10%
Total no	
Column %	35%
I'm not sure	
Column %	40%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Here's a little background. In Tennessee, law firms are generally owned only by lawyers, and lawyers generally cannot share legal fees with non-lawyers. Tennessee is considering whether to modify those rules while maintaining lawyer independence and public protections. Based on what you know right now, would you support or oppose this kind of proposal?

	Total
Unweighted Sample Size	1,200
Total support	
Column %	60%
Definitely support	
Column %	16%
Probably support	
Column %	43%
Probably oppose	
Column %	16%
Definitely oppose	
Column %	7%
Total oppose	
Column %	23%
I'm not sure	
Column %	17%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

In some other places, non-lawyers have successfully partnered in or even owned law firms. Supporters say this model can encourage innovation and that Tennessee should consider it: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	61%
Strongly agree	
Column %	17%
Somewhat agree	
Column %	44%
Somewhat disagree	
Column %	15%
Strongly disagree	
Column %	8%
Total disagree	
Column %	23%
No opinion	
Column %	17%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If non-lawyers successfully partnered in or even owned law firms, individuals such as technology specialists could partner in a law firm, helping to streamline processes, improve innovation, and lower costs while lawyers continue practicing law independently: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	63%
Strongly agree	
Column %	23%
Somewhat agree	
Column %	40%
Somewhat disagree	
Column %	12%
Strongly disagree	
Column %	8%
Total disagree	
Column %	20%
No opinion	
Column %	17%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If non-lawyers successfully partnered in or even owned law firms, lawyers could team up with other professionals, such as mortgage and real-estate specialists, to offer a one-stop shop for services such as refinancing, foreclosure prevention, or short sales: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	71%
Strongly agree	
Column %	21%
Somewhat agree	
Column %	50%
Somewhat disagree	
Column %	12%
Strongly disagree	
Column %	6%
Total disagree	
Column %	18%
No opinion	
Column %	11%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Under current rules, executives such as a firm's chief financial officer or chief technology officer generally could not be partners unless they are lawyers. If non-lawyers successfully partnered in or even owned law firms, firms could bring in qualified non-legal professionals for critical roles: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	65%
Strongly agree	
Column %	21%
Somewhat agree	
Column %	44%
Somewhat disagree	
Column %	14%
Strongly disagree	
Column %	5%
Total disagree	
Column %	19%
No opinion	
Column %	16%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

If non-lawyers successfully partnered in or even owned law firms, they should maintain strict rules and regulations to ensure that non-lawyer partners are limited to non-legal services and that there are consequences if the rules are not followed: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	77%
Strongly agree	
Column %	42%
Somewhat agree	
Column %	35%
Somewhat disagree	
Column %	10%
Strongly disagree	
Column %	3%
Total disagree	
Column %	14%
No opinion	
Column %	9%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Precautions should be taken to ensure that large corporations, venture-capital firms, and hedge funds do not affect the independence of lawyers in any firm in which they invest: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	79%
Strongly agree	
Column %	41%
Somewhat agree	
Column %	38%
Somewhat disagree	
Column %	6%
Strongly disagree	
Column %	2%
Total disagree	
Column %	8%
No opinion	
Column %	13%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Allowing certain non-lawyers to have an ownership stake or partnership in a law firm can make sense, but disbarred lawyers, people convicted of fraud, and other bad actors should not be allowed to participate: How much do you agree or disagree with each of the following statements?

	Total
Sample Size	1,200
Total agree	
Column %	76%
Strongly agree	
Column %	48%
Somewhat agree	
Column %	29%
Somewhat disagree	
Column %	9%
Strongly disagree	
Column %	4%
Total disagree	
Column %	14%
No opinion	
Column %	10%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Thinking about everything you have just read, would you support or oppose allowing some non-lawyer ownership or partnership in law firms under a stricter regulatory framework?

	Total
Sample Size	1,200
Total support	
Column %	68%
Definitely support	
Column %	21%
Probably support	
Column %	47%
Probably oppose	
Column %	12%
Definitely oppose	
Column %	6%
Total oppose	
Column %	18%
I'm not sure	
Column %	14%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

The next questions are about other possible ways Tennessee could expand the availability of affordable legal services while still requiring competency standards. Today, no one can become a lawyer without three years of law school and passing the bar exam. Some people have suggested that Tennessee should allow alternative paths to become a licensed lawyer - such as supervised apprenticeships or service with legal aid organizations - so long as applicants still have to meet competency standards. Would you support or oppose this?

	Total
Sample Size	1,200
Total support	
Column %	65%
Strongly support	
Column %	25%
Somewhat support	
Column %	40%
Somewhat oppose	
Column %	16%
Strongly oppose	
Column %	10%
Total oppose	
Column %	25%
I’m not sure	
Column %	10%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Some people have suggested making it easier for lawyers already licensed in other states to practice in Tennessee, so long as they still have to meet Tennessee's standards. Would you support or oppose this?

	Total
Sample Size	1,200
Total support Column %	77%
Strongly support Column %	33%
Somewhat support Column %	44%
Somewhat oppose Column %	8%
Strongly oppose Column %	5%
Total oppose Column %	13%
I'm not sure Column %	10%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Are you or is someone in your immediate family a lawyer?

	Total
Sample Size	1,200
Yes	
Column %	5%
No	
Column %	93%
I'm not sure	
Column %	2%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Have you or has someone in your immediate family hired a lawyer in the past five years?

	Total
Sample Size	1,200
Yes	
Column %	37%
No	
Column %	59%
I'm not sure	
Column %	4%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Lawyer: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right.

	Total
Sample Size	1,200
Too high	
Column %	55%
Just about right	
Column %	32%
Too low	
Column %	2%
I'm not sure	
Column %	10%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Judge: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right.

	Total
Sample Size	1,200
Too high	
Column %	37%
Just about right	
Column %	41%
Too low	
Column %	3%
I'm not sure	
Column %	19%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Doctor: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right.

	Total
Sample Size	1,200
Too high	
Column %	38%
Just about right	
Column %	47%
Too low	
Column %	6%
I'm not sure	
Column %	9%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Nurse practitioner: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right.

	Total
Sample Size	1,200
Too high	
Column %	9%
Just about right	
Column %	48%
Too low	
Column %	33%
I'm not sure	
Column %	11%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Teacher: For each profession below, please indicate whether you believe the amount of money these individuals make is too low, too high, or just about right.

	Total
Sample Size	1,200
Too high	
Column %	4%
Just about right	
Column %	20%
Too low	
Column %	70%
I'm not sure	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Generally speaking, do you think of yourself as a... ?

	Total
Sample Size	1,200
Democrat	
Column %	28%
Independent	
Column %	26%
Republican	
Column %	47%
Something else	
Column %	1%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

2024 Presidential Ballot

	Total
Sample Size	1,057
Donald Trump	
Column %	61%
Kamala Harris	
Column %	34%
Someone else	
Column %	5%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Age Group

	Total
Sample Size	1,200
18 to 24	
Column %	8%
25 to 34	
Column %	16%
35 to 44	
Column %	16%
45 to 54	
Column %	16%
55 to 64	
Column %	17%
65+	
Column %	27%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Thinking about your general approach to issues, do you consider yourself to be...

	Total
Sample Size	1,200
Very liberal	
Column %	10%
Somewhat liberal	
Column %	10%
Moderate	
Column %	31%
Somewhat conservative	
Column %	21%
Very conservative	
Column %	22%
Not sure	
Column %	6%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Which of the following are you?

	Total
Sample Size	1,200
Male	
Column %	45%
Female	
Column %	55%
Other/Non-binary	
Column %	0%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

How many infants and children under 18 years of age live in your household today?

	Total
Sample Size	1,200
None	
Column %	67%
1 to 2	
Column %	29%
3 or more	
Column %	4%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Which of the following best describes your race or ethnicity?

	Total
Sample Size	1,200
White, non-Hispanic	
Column %	84%
Black or African American	
Column %	11%
Asian	
Column %	1%
Hispanic	
Column %	2%
Other	
Column %	1%
Prefer not to say	
Column %	1%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Which of the following best describes your household's total income in 2025 BEFORE taxes?

	Total
Sample Size	1,200
< $15,000	
Column %	6%
$15,000-$24,999	
Column %	5%
$25,000-$34,999	
Column %	7%
$35,000-$49,999	
Column %	14%
$50,000-$74,999	
Column %	19%
$75,000-$99,999	
Column %	17%
$100,000-124,999	
Column %	12%
$125,000-$149,999	
Column %	8%
$150,000-199,999	
Column %	5%
$200,000 and over	
Column %	6%
I'm not sure	
Column %	1%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Which of the following best describes your current education level?

	Total
Sample Size	1,200
Some high school or less	
Column %	10%
High school graduate	
Column %	31%
Associate degree (two-year post-secondary degree)	
Column %	8%
Some college but no degree	
Column %	20%
Bachelors degree	
Column %	19%
Masters or professional degree	
Column %	9%
Doctoral degree	
Column %	2%
Prefer not to say	
Column %	1%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

What is your current marital status?

	Total
Sample Size	1,200
Married	
Column %	53%
Widowed	
Column %	5%
Divorced	
Column %	10%
Separated	
Column %	2%
Never married	
Column %	23%
Prefer not to say	
Column %	0%
Living with a partner	
Column %	7%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Do you own or rent your home?

	Total
Sample Size	1,200
Own	
Column %	73%
Rent	
Column %	27%

Thinking about your religion, are you...

	Total
Sample Size	1,200
Protestant	
Column %	36%
Roman Catholic	
Column %	11%
Mormon	
Column %	1%
Orthodox (e.g., Greek or Russian Orthodox)	
Column %	1%
Jewish	
Column %	1%
Muslim	
Column %	2%
Buddhist	
Column %	1%
Hindu	
Column %	0%
Atheist	
Column %	3%
Agnostic	
Column %	5%
Something else	
Column %	25%
Nothing in particular	
Column %	15%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Would you describe yourself as a 'born-again' or evangelical Christian?

	Total
Sample Size	435
Yes	
Column %	70%
No	
Column %	30%

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Are you now employed full-time, part-time, self-employed, or not employed?

	Total
Sample Size	1,200
Full-time	
Column %	43%
Part-time	
Column %	9%
Self-employed	
Column %	8%
Not employed	
Column %	13%
Retired	
Column %	26%
Don't know	
Column %	1%

Marginals

Poll of Tennessee Registered Voters April 20 to 28, 2026 MOE +/- 2.77%

Generated on April 29, 2026

Are you now employed full-time, part-time, self-employed, or not employed?

Weight Variable = Weight

ADM2025-01403

COMMENT OF THE LINCOLN MEMORIAL UNIVERSITY DUNCAN SCHOOL OF LAW ON THE SUPREME COURT'S SEPTEMBER 16, 2025 ORDER

The Lincoln Memorial University Duncan School of Law ("LMU Law") appreciates the opportunity to comment in response to Tennessee Supreme Court Order No. ADM2025-01403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation*. LMU Law is thankful for the attention that the Court's Order is focusing on the access-to-justice gap and rural legal deserts in our state. The renewed attention that our Tennessee legal community is giving to these issues is welcome and aligns directly with the mission of LMU Law.

The deans of the six Tennessee law schools are submitting a joint comment discussing issues (1) and (2) raised in the Court's order. LMU Law defers to that joint comment regarding those two issues. Furthermore, we leave comment on issues (5), (6), and (7) in the Court's Order – modifying requirements for admission to the Tennessee bar for those licensed in other states, the provision of limited legal services by paraprofessionals, and permitting non-lawyer ownership of law firms or fee sharing with non-lawyers – to bar associations and members of the bar. Thus, LMU Law is focusing its comment on issues (3) and (4) in the Court's Order:

- [w]hether there are less costly alternatives to the traditional three-year law school curriculum that would adequately prepare individuals for the practice of law; and
- [w]hether 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.

Background

Lincoln Memorial University ("LMU") was founded in 1897 in Harrogate, Tennessee as a living memorial to our sixteenth president, Abraham Lincoln. Since then, LMU has sought to provide educational opportunities and develop community leaders in our region. In the last two decades, LMU has grown, with a goal of training professionals to serve underserved areas in Southern Appalachia and beyond. The university's expansion has included the creation of an osteopathic medical school, which now has three campuses; a veterinary school, with two campuses; a dental school; expanded programs in occupational and physical therapy, nursing, business, and education; and, of course, a law school. The Duncan School of Law opened its doors to students in 2009 in a historic building in downtown Knoxville. LMU Law obtained provisional approval from the ABA Council of the Section of Legal Education and Admission to the Bar ("ABA Council") in 2014 and full approval in 2019. LMU Law has implemented a rigorous and practice-focused program of legal education, uses technology to promote the efficient and innovative delivery of instruction, and educates tomorrow's lawyers to be both civic-minded leaders and ethical, values-based practitioners. The mission of LMU Law is:

- to provide legal educational opportunities for the people of the underserved regions of the United States.
- to provide solid, competent, and practice-focused, legal education to students of widely disparate socio-economic and ethnic backgrounds with the goal that those students will successfully pass the bar and with the thought that those students will return to and serve those communities from which they originate.
- to prepare lawyers for careers in law that enable them to address the underserved legal needs of Appalachia and other underserved regions.

LMU Law's inaugural class graduated in 2013. We now have an estimated 829 alumni, the vast majority of whom are licensed and practicing law. While LMU Law has alumni practicing all over the United States, the law school has developed its strongest footprint across Appalachian communities, reflecting its mission to expand access to legal services in underserved areas. LMU Law has at least one alumnus or alumna practicing law in 81 of the 423 counties designated as part of Appalachia by the federal government.[1] Moreover, 615 LMU Law alumni, nearly 75 percent of our alumni base, practice within these Appalachian counties. Most of these alumni (554) practice in Tennessee, with Kentucky, Virginia, and North Carolina also having significant numbers of LMU Law-trained attorneys.

The map of Tennessee attached as Exhibit A illustrates the breadth of LMU Law alumni who are practicing throughout our state. According to the Tennessee State Data Center at the University of Tennessee's Boyd Center for Business and Economic Research, the Tennessee Department of Economic and Community Development defines a county as "rural" if less than 50 percent of the county's population lives within a 2020 Census Urbanized Area with a population of more than 50,000.[2] Under urban area delineations released by the U.S. Census Bureau in January 2022, Tennessee has 17 urban counties and 78 rural counties.[3]

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[1] *Appalachian Counties Served by ARC*, Appalachian Regional Commission, https://www.arc.gov/appalachian-counties-served-by-arc/ (last visited Apr. 27, 2026).
[2] *County Geographic Classifier Reference File,* Tenn. State Data Ctr.: Boyd Center for Business and Economic Research (Sept. 28, 2023), https://tnsdc.utk.edu/2023/09/28/2023-tennessee-county-geographic-classifier-reference-file/.
[3] Id. The 17 urban counties are Anderson, Blount, Bradley, Carter, Davidson, Hamblen, Hamilton, Knox, Loudon, Madison, Montgomery, Rutherford, Shelby, Sullivan, Sumner, Washington, and Wilson.

Of the 613 LMU Law alumni practicing across Tennessee,[4] 279 are practicing in Knox County, and 147 are practicing in one of Tennessee's 16 other urban counties.[5] That means that 187 LMU Law alumni (nearly one-third of LMU Law alumni who are practicing in Tennessee and nearly one-quarter of all LMU Law alumni) are practicing in a rural Tennessee county. Specifically, there is an LMU Law alumnus or alumna practicing in 42 of Tennessee's 78 rural counties. These range from six rural counties in which more than ten LMU Law alumni are practicing (Greene, Hawkins, Jefferson, McMinn, Roane, and Sevier) to 15 rural counties in which only one LMU Law alumnus or alumna is practicing. We provide these data to the Court for context and to illustrate that LMU Law shares the Court's passion for addressing the access-to-justice gap and rural legal desert problem in our state. Indeed, we are constantly thinking about these problems as we make decisions regarding admissions, scholarships, our program of legal education, career placement, and alumni support.

In preparing this comment, the LMU Law administration held a listening session with our faculty, as well as focus groups and one-on-one interviews with LMU Law alumni who are practicing in rural areas or small towns throughout Tennessee. The participants in this process included several LMU Law alumni who live across all three Grand Divisions of the state; who graduated between 2013 and 2021; and who work both in government and private practice, as well as serve on the bench. This listening process added context to LMU Law's comment, as well as provided ideas on alternatives to address the access-to-justice gap outside of the seven issues raised in the Court's Order.

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[4] This includes 554 LMU Law alumni in counties designated as part of Appalachia and 59 alumni in non-Appalachian counties.

[5] Many of our alumni who have offices in Knox County report practicing in adjacent counties due to the amount of legal work needed in rural counties surrounding Knox.

In supporting and engaging with our LMU Law alumni over the 13 years since our inaugural class graduated, we have observed a consistent pattern among those who have successfully developed a law practice in a small town or rural area. Those graduates who have been most successful in establishing and maintaining a practice in a rural county, including some of the graduates to whom we spoke in preparing this comment, typically have some combination of the following: (1) robust roots in the community in which they opened their practice; (2) strong mentoring both during law school and in the early years of practice; (3) a tenacious work ethic; (4) a willingness to develop expertise across a variety of practice areas; and (5) relatively low, or at least manageable, levels of student loan and other debt. In our view, any set of reforms designed to meet the Court's stated goals that involves lawyers providing legal services in Tennessee's rural counties should touch on one or more of these five areas.

Alternatives to the Traditional Three-Year Law School Curriculum

If residents of rural areas and small towns want to pursue a legal career but remain in their communities as lawyers and leaders, then it would be helpful to provide them with alternatives to the traditional full-time, residential, three-year program of legal education. LMU Law currently offers two such alternatives: a 3+3 program and a part-time hybrid J.D. program.

A 3+3 arrangement allows students to undertake their fourth year of undergraduate study and their first year of law school simultaneously, thus enabling them to complete both their undergraduate degree and their law degree in six years. Such programs have been permitted at Tennessee law schools since the Court revised its Rules regarding undergraduate education several years ago, removing the requirement that students must complete their bachelor's degree

at an accredited institution prior to their matriculation in law school.[6] LMU Law currently has 3+3 agreements with both its own undergraduate institution[7] and Austin Peay State University in Clarksville.[8] Other Tennessee law schools have 3+3 arrangements with various undergraduate programs as well. This is one example where a simple change in the Court's Rules has allowed motivated undergraduate students in Tennessee who are focused on obtaining a legal education to save both money and time on their paths to becoming attorneys.

In February 2023, LMU Law became the fourteenth law school approved by the ABA Council to receive an acquiescence in substantive change to operate a distance education program under ABA Standard 105(a)(12)(i).[9] There currently are twenty-one law schools so approved, and LMU Law is still the only ABA-approved distance education program in the Southeast.[10] In order to obtain acquiescence from the ABA Council to offer a distance education program, law schools must show that: (1) they are fully compliant with all the ABA Standards; (2) they have sufficient resources to offer the distance education program without siphoning resources from the existing full-time residential program; and (3) students in the distance

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[6] Tenn. Sup. Ct. R. 7, §§ 2.01-2.02.
[7] Lincoln Memorial University, *Duncan School of Law: Guaranteed Professional Admission Program*, LMU GPA Pathways, https://www.lmunet.edu/undergraduate-admissions/lmu-gpa-program/law (last visited Apr. 27, 2026).
[8] Austin Peay State University, *APSU 3+3 Law Program*, Department of Political Science and Public Management, https://www.apsu.edu/political-science-public-management/3-plus-3.php (last visited Apr. 27, 2026).
[9] *ABA Standards and Rules of Procedure for Approval of Law Schools* std. 105(a)(12)(i) (Am. Bar Ass'n 2025-2026), available at https://www.americanbar.org/groups/legal_education/accreditation/standards/standards-rules/ ("A substantive change in program or structure that requires application for acquiescence includes:...(12) The addition of courses or programs that represent a significant departure from existing offerings or methods of delivery including (i) instituting a new full-time or part-time in person, hybrid, or Distance Education division[.]").
[10] *Council-Approved Law Schools with Acquiescence for Distance Education J.D. Programs*, Am. Bar Ass'n., https://www.americanbar.org/groups/legal_education/accreditation/approved-law-schools/distance-education/distance-education-jd-programs/ (last visited Apr. 27, 2026).

education program will receive the same opportunities for participation in co-curricular and extracurricular activities as students in the full-time residential program. Modalities differ significantly across ABA-approved distance education programs, but each program offers some amount of in-person, synchronous online, or asynchronous online courses to provide an alternative to the traditional three-year, residential law school path.

LMU Law's part-time hybrid J.D. program is completed over four years, including summers. The majority (49) of the 90 credits required for graduation are fully asynchronous, while fewer than half of the credits (41) are completed through hybrid courses, which combine asynchronous online learning with in-person learning over intensive long weekends at LMU Law's campus in Knoxville. These 13 in-person learning weekends, which usually last four full days, are concentrated more towards the beginning of the part-time hybrid curriculum, which allows students to assimilate to law school and get to know their classmates and professors. The weekly asynchronous online modules the students do at home, while rigorous and time-consuming, can be completed when the students' work and family obligations allow.[11]

Currently, there are 108 students enrolled in LMU Law's part-time hybrid program, who represent a little over a quarter of our law school's total enrollment. The part-time hybrid students are, on average, about ten years older than the average student in the law school's full-time residential program, and many of them are employed full-time. While the program attracts students from all over the country, 36 of LMU Law's part-time hybrid students, or one-third of the students enrolled in the program, live in Tennessee. Moreover, 12 of those Tennessee students, or one-third of that total, live in a rural county (using the Tennessee Department of

[11] *See generally* Lincoln Memorial University, *Part-Time/Hybrid Program*, Duncan School of Law, https://www.lmunet.edu/duncan-school-of-law/part-time-hybrid-program/ (last visited Apr. 27, 2026).

Economic and Community Development's definition described above). Our hope is that the part-time hybrid J.D. program continues to attract qualified students from rural areas and small towns not only in Tennessee, but throughout the Appalachian region and beyond, who are drawn to LMU Law by our law school's mission and focus on serving the underserved.

While there is no guarantee that LMU Law students who are living in rural Tennessee counties will stay in their communities and choose to practice law there after they graduate from our law school and pass the bar exam, the fact that they have chosen to remain there during law school is a strong indicator of their community ties. Further, the ability of these students to pay for their legal education over four years rather than three, while maintaining their homes and careers rather than quitting their jobs and moving to a city with a law school to attend classes full-time, makes it more promising that they will have the financial flexibility to stay and work in their rural or small-town communities. Indeed, while the part-time hybrid program is still new and the first class will not graduate until May 2027, initial data indicate that the average debt load of LMU Law's part-time hybrid J.D. students is less, on average, than the average debt load of our full-time students.

The 3+3 program and part-time hybrid J.D. program at LMU Law are just two examples of the flexibility currently permitted for law schools wishing to provide alternatives to the traditional law school curriculum under both the ABA Standards and the educational requirements for bar admission under Tennessee Supreme Court Rule 7, sections 2.01 and 2.02. The Court should continue to have flexibility within its own Rules while engaging with other state supreme courts and the ABA Council to encourage law schools to experiment beyond the traditional model of legal education without sacrificing quality or rigor.

Finally, it is important to note that the presence of a state-approved law school, the Nashville School of Law ("NSL"), provides another important curricular alternative to prospective Tennessee law students. Because NSL students take courses on a part-time basis in the evening, NSL attracts working professionals and other adults whose schedules do not allow them to attend law school full-time. NSL's graduation requirement of 57 credit hours represents an alternative to the ABA-approved law schools in the state, which must require at least 83 credit hours to graduate.[12] NSL continues to meet an important mission in the largest and fastest-growing area of our state, as it has done for 115 years.

Alternative Pathways for Admission to the Tennessee Bar

Our curriculum at LMU Law integrates the development of practical skills with courses that will prepare our students for success on the bar exam in the jurisdiction where they choose to apply for licensure.[13] For too long, these two goals have seemed mutually exclusive; now, however, there is hope with the new NextGen Uniform Bar Exam ("NextGen UBE") that bar examinees will be tested at least equally on their ability to memorize and apply doctrine and their performance of skills that are crucial to success as an attorney. The success of the NextGen UBE in enhancing the skill sets of young lawyers is essential. This is because, practically speaking, most law students, including those from rural areas and small towns, prefer to take a bar exam upon graduation, if only for the portability that passing the exam brings them. This is particularly important due to the unique geography of Tennessee: no state in the U.S. shares a border with

[12] Compare *Keeping You on Track*, Nashville School of Law, https://nsl.law/degree-requirements/ (last visited Apr. 27, 2026) with ABA Standards & Rules of Pro. for Approval of Law Schs. std. 311(a) (Am. Bar Ass'n 2025-2026) available at https://www.americanbar.org/groups/legal_education/accreditation/standards/standards-rules/.

[13] For the last several years, approximately 75 percent of LMU Law graduates have taken the Tennessee bar exam after graduation. The other 25 percent of our graduates choose to sit for the bar in a wide range of jurisdictions, with Kentucky being the second-most popular state.

more other states (eight) than we do.[14] A new lawyer in Claiborne County, for example, will see value in transferring her NextGen UBE score to Kentucky so that she can practice in Southeast Kentucky as well as in Tennessee. The same goes for new lawyers in Sullivan County (Virginia), Marion County (Georgia), and Lincoln County (Alabama). Any alternative pathway to licensure that is adopted by the Tennessee Supreme Court will, by definition, limit those who pursue it to licensure only in Tennessee, at least until they practice for long enough to be eligible for admission by comity in other states.

That said, for law school graduates who are comfortable practicing exclusively in Tennessee, an alternative pathway to licensure that permits them to display minimum competence through a combination of written work and supervised practice is much more likely to close the access-to-justice gap than further expand it. Particularly appealing are programs adopted recently in South Dakota[15] and Arizona[16] that provide a pathway to licensure through supervised practice that is focused on rural areas. While these programs are in their infancy, having been adopted in 2025 and 2024, respectively, they show promise and merit further study.

The Arizona Lawyer Apprentice Program, which is focused on law school graduates who have scored 260-269 on the Arizona bar exam, is a useful model because Tennessee, like

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[14] Notably, seven of the eight states bordering Tennessee have announced that they are adopting the NextGen UBE, with Missouri administering the exam in 2026, Kentucky in 2027, and Alabama, Georgia, North Carolina, and Virginia in 2028. Mississippi has announced it is adopting the NextGen UBE but not yet announced the date the exam will first be administered. *NextGen UBE*, National Conference of Bar Examiners, https://www.ncbex.org/exams/nextgen (last visited Apr. 27, 2026). Only Arkansas has not yet adopted the new exam, making it one of only five states nationwide not to do so, although the issue is currently under study. *In re Adoption of NextGen Bar Exam*, 2025 Ark. 119 (June 12, 2025), available at https://arcourts.gov/sites/default/files/In_re_NextGen_Bar_Exam_0.pdf.

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

[16] *Arizona Lawyer Apprentice Program*, Arizona Supreme Court, https://www.azcourts.gov/cld/Arizona-Lawyer-Apprentice-Program (last visited Apr. 27, 2026).

Arizona, is among the states that have adopted the highest Uniform Bar Exam ("UBE") cut score (270) in the country. And Tennessee, like Arizona, is surrounded by UBE states with lower cut scores to which Tennessee bar examinees scoring 260-269 can transfer their UBE scores.[17] In our experience working with LMU Law graduates who score in the 260-269 range on the Tennessee bar exam, many do choose to retake the UBE here in Tennessee in an effort to become licensed in our state. However, many others elect to simply transfer their eligible UBE score to a neighboring state and begin their legal careers there. An alternative licensure program with the opportunity for an apprenticeship or supervised practice in a public service position or underserved region of our state potentially could be attractive to these law school graduates who already are considered competent to practice in other states and keep them in Tennessee.

Finally, although it is not exactly an alternative pathway to licensure, LMU Law believes that the Court should further study the possibility of permitting students who are in their last semester of law school to sit for the February bar exam. The National Conference of Bar Examiners' *Comprehensive Guide to Bar Admission Requirements* indicates that law students currently are eligible to take the bar exam before graduation in 16 states.[18] In addition, the Georgia Supreme Court announced recently that it would be allowing third-year students to sit for the Georgia Bar Exam when begins to administer the NextGen UBE in July 2028, reinstating a practice that Georgia had in place from 1974 to 1997.[19] LMU Law graduates who live or plan

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[17] These include Alabama (260), Kentucky (266), Missouri (260), and South Carolina (266). *See Uniform Bar Examination*, National Conference of Bar Examiners, https://www.ncbex.org/exams/ube/ube-minimum-scores (last visited Apr. 27, 2026).
[18] National Conference of Bar Examiners, *Promulgation of Rules, Prelegal Education Requirements, Law Student Registration, and Bar Exam Eligibility Before Graduation*, Comprehensive Guide to Bar Admission Requirements, https://reports.ncbex.org/charts/chart-1/ (last visited Apr. 27, 2026).
[19] *Georgia to Adopt NextGen Bar Exam*, Supreme Court of Georgia, (Jul. 31, 2024), https://www.gasupreme.us/07-31-2024-georgia-to-adopt-nextgen-bar-exam/.

to practice in rural areas or small towns are unlikely to either be independently wealthy or have secured a position with an employer who is willing to support them financially while they study for the bar exam. This places a significant financial burden on these graduates who, even if successful their first time taking the bar exam, must wait five months after graduation to receive their bar results, be sworn in to the bar, and begin serving clients. If students had the option of taking the February bar exam during their last semester of law school, they would receive their results in April and be able to be sworn in immediately upon completion of their last semester of law school and conferral of their J.D. degree.

To be sure, were the Court to change its Rules to allow students in their last semester of law school to take the Tennessee bar exam, it would raise some challenging questions for Tennessee's law schools. Among them would be determining whether only certain students (i.e., those with a minimum GPA or who have taken all bar-tested subjects) should be eligible for this option and whether any curricular revisions should be adopted for students who choose it to ensure they are fully prepared for the February bar exam. However, if the Court is concerned about the financial burden of legal education and the licensure process on new lawyers, this one change has the potential to help enormously. As Georgia Supreme Court Chief Justice Michael Boggs stated in the announcement that Georgia was reinstating this practice:

> "[T]he Court hopes to ease the financial burden placed on aspiring lawyers who are nearing the end of law school by allowing those who are qualified to be employable sooner. The Court also hopes resuming this practice will be beneficial to state agencies, as well as district attorney and public defender offices, that are looking to hire qualified candidates to fill vacancies across the State and especially in rural areas."[20]

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[20] Id.

Additional Perspectives and Conclusion

There are myriad ways that the Court and, more broadly, all three branches of our state government, could help address the rural access-to-justice problem in Tennessee beyond the study of the seven issues raised in the Court's Order. Our LMU Law alumni who are practicing in rural counties, many of whom grew up in their communities, have told us that they are committed to rural and small-town practice. Moreover, numerous alumni have emphasized that by establishing strong personal and business ties and a good reputation, perhaps taking appointed work initially, and building a general practice that is responsive to the needs of their communities, they have been able to make a good living in a rural area or small town and support themselves and their families. That said, these alumni identify numerous challenges to rural and small-town practice, including:

- Inability to pay: LMU Law alumni have confirmed that many Tennesseans cannot afford legal services at all. Almost all these lawyers have provided pro bono or "low bono" legal services at a free or reduced rate. Still, there has been an increase in *pro se* litigants, which creates frustration for both judges and the attorneys appearing against those litigants. One General Sessions Judge in a rural county expressed concern that the need for him to help guide *pro se* litigants through the civil litigation process can be in tension with provisions in the Code of Judicial Conduct that prevent judges from assisting parties in litigation. Lawyers described the additional cost to their clients from their having to respond to frivolous pleadings filed by adverse *pro se* parties.
- Lack of value placed on legal services: Our alumni also have identified another set of clients whom they believe could afford to pay something in return for legal services, but who simply do not value the services these lawyers are providing. These attorneys are

already charging rates well below those of lawyers in our state's larger cities. However, the prevalence of online legal service providers, the provision of forms to *pro se* litigants, and, more recently, the ubiquitousness of free AI resources such as Chat GPT and Google Gemini, has led some of their neighbors to believe that a lawyer is an unnecessary luxury. One alumna in a small town in Middle Tennessee memorably quipped: "The average consumer likely does not believe he/she can perform his/her own tonsillectomy or wisdom tooth extraction but believes he/she is capable of representing himself/herself in a divorce action. In short, our knowledge and services are undervalued in the marketplace and misunderstood."

- Need for "clean up" services: Almost every attorney in private practice to whom we spoke relayed a story about a client hiring them to fix a legal problem created by prior legal representation that was inadequate or non-existent. One alumnus described a trust that had been set up using a standard form years ago for a client's parents by a financial advisor that included neither a named trustee nor a beneficiary. His client subsequently had to invest an extensive amount of time and money to unwind the trust. Another alumna described clients who have created business entities and drafted operating agreements themselves who later seek advice on business difficulties they failed to anticipate through this "one-size fits all" approach to entity formation. And another alumna noted how her years of experience litigating family law cases informs her advice to clients when drafting divorce pleadings, allowing her to foresee potential issues that a *pro se* litigant using a form simply could not.
- Lack of mentoring: Some alumni expressed that, while they have figured out a way to build a successful practice, this often was through "trial and error." In some cases,

lawyers expressed that they had difficulty finding mentors because the experienced attorneys in their communities view them as competition.

- Limited infrastructure: Some alumni practicing in rural areas and small towns value the quality of life that living in their community provides (i.e., lower cost of living, lack of a commute, proximity to the natural beauty of our state). Others, particularly those with young families, describe having to live in urban or suburban areas and "reverse commute" to their job in a rural county because of the lack of child-care options, enrichment activities for their children, and basic necessities such as grocery stores in the areas where they work.

These challenges raised by the LMU Law alumni to whom we spoke are felt by rural and small-town lawyers throughout our state. Fully addressing them is beyond the scope of the seven issues set forth in the Court's Order; indeed, it requires a response to economic factors that have been at work throughout rural America for decades. It is notable that some programs to address the rural access-to-justice gap in other states have included increased funding for financial incentives or loan forgiveness programs to encourage young lawyers to establish and continue legal practices in underserved areas.[21] If these programs could be developed in Tennessee, it would help mitigate some of the financial challenges that young rural and small-town lawyers face in the early years of establishing their practices.

While much in this area is uncertain, what is clear is that addressing the rural access-to-justice problem in Tennessee is going to take a collaborative effort by this Court, which regulates

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[21] *See*, e.g., Sam Holzschuh, *Incentivizing Attorneys to Work in the Legal Deserts of Rural America*, ABA Young Lawyers Division (Jan. 13, 2025), https://www.americanbar.org/groups/young_lawyers/resources/tyl/public-service/incentivizing-attorneys-to-work-legal-deserts-rural-america/.

our profession; the rest of the judicial branch, which witnesses and works to resolve the problems caused by our access-to-justice gap every day; the other branches of our state government, which set policy and control the levers of funding; our state's law schools, which develop and implement curriculum, educate our future attorneys, and are attuned to the successes and challenges faced by our recent graduates; the practicing bar, which shares the obligation to train young lawyers and has a duty to uphold the rule of law and further the effective administration of justice; and the private sector, which has a business interest in having effective legal services available in all corners of our state. LMU Law is grateful to the Tennessee Supreme Court for shining a light on this problem and being proactive in addressing it. We stand ready to assist the Court as it enters the next stages of its process.

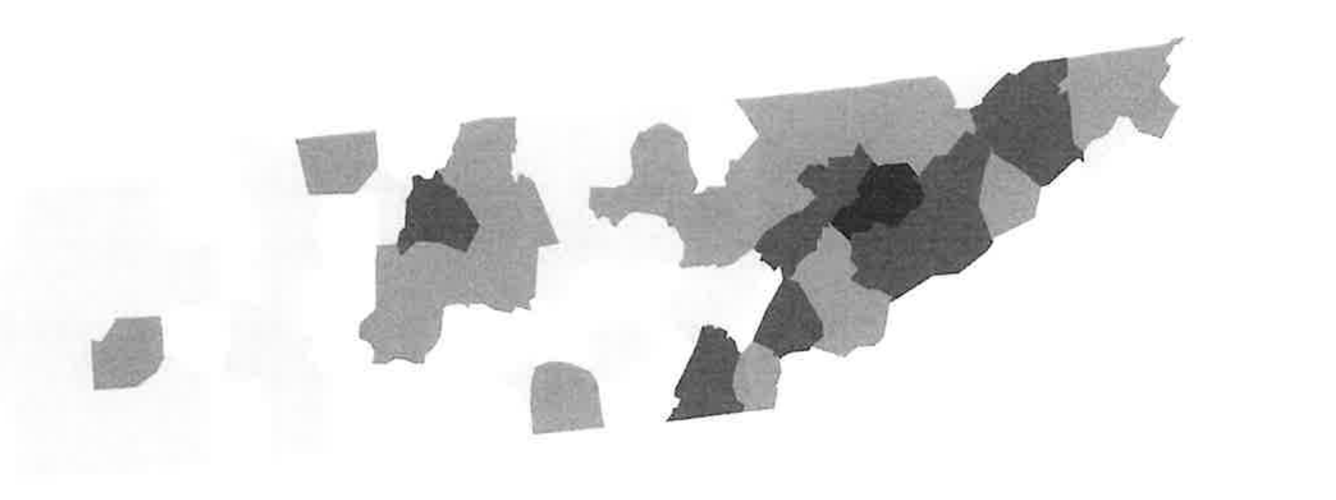
Respectfully submitted,

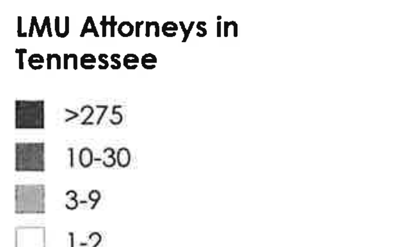
Matthew R. Lyon
Vice President & Dean
Lincoln Memorial University Duncan School of Law

April 30, 2026

Exhibit A

WHERE ARE OUR ALUMNI PRACTICING?





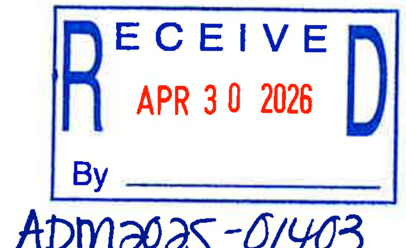
LMU Attorneys in Tennessee

- >275
- 10-30
- 3-9
- 1-2

LMU | Duncan School *of* Law
LINCOLN MEMORIAL UNIVERSITY

Kim Meador

From: Bethany Jackson <bethany@tnjfon.org>
Sent: Thursday, April 30, 2026 11:55 AM
To: appellatecourtclerk
Subject: Re: Regulatory Reform No. ADM2025-01403



Warning: Unusual sender <bethany@tnjfon.org>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Dear Sir or Madam:

I urge you to reject the proposed rule to permit non-attorney ownership of law firms and to permit paraprofessionals to practice law in Tennessee. I am an immigration attorney, and I see first-hand how immigrants suffer when legal services are provided by unskilled and undereducated paraprofessionals who claim expertise they do not possess. A small misstep in immigration proceedings can prevent a client from achieving their American dream. My office, for example, would face a steady stream of consultations with people we cannot help after a "paraprofessional" ruined their lives by failing to screen for all relevant factors, filing a baseless request for immigration relief, or filing an erroneous or inadequate request for immigration relief. A simple error could result in the client's removal from the United States.

There may be areas of law that are amenable to a greater role for paraprofessionals. But immigration law is not one of those areas. Again, I urge the courts of Tennessee not to adopt the proposed rule allowing non-attorney ownership of law firms and unsupervised paraprofessional insertion into the extraordinarily detailed and consequential work of immigration attorneys.

Best regards,

Bethany Jackson
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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

No. ADM2025-1403

COMMENTS BY TENNESSEE BOARD OF LAW EXAMINERS

The Tennessee Board of Law Examiners hereby comments on the Tennessee Supreme Court's administrative Order issued on September 16, 2025, Case No. ADM2025-01403.

I. **Introduction.**

On September 16, 2025, the Tennessee Supreme Court, in its capacity as the licensing authority for attorneys and regulator of the practice of law in Tennessee, entered an administrative Order. The Order addresses the relationships among legal educational institutions, the accrediting authorities for law schools, attorney licensing requirements, and societal needs for legal representation, especially among lower-income persons. In particular, the Court has expressed interest in potential regulatory reforms "of the legal profession to ensure that all Tennesseans have access to affordable quality legal services." Order at 4.

In its order, the Court solicited commentary in these issues from, among other stakeholders including educational institutions, the Tennessee Board of Law Examiners. The Court posed the following

questions:

(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;

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

(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;

(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;

(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;

(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; and

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

Order at 4–5. The Court directed that the Board's "[c]omments should take into consideration the Court's goals of lowering barriers to entry into

the legal profession and ensuring the availability of affordable legal services to Tennesseans, while also ensuring the competency of Tennessee's attorneys and safeguarding the public." *Id.* By subsequent order, the Court extended the Board's deadline for responding up to and including April 30, 2026.

The Tennessee Board of Law Examiners and its Executive Director appreciate the opportunity to comment on these matters and have given careful thought to them. This document provides the Board's responses, set out below.

II. Tennessee Bar Admission Rules and the Role of the Tennessee Board of Law Examiners.

Under the Tennessee Constitution, the Tennessee Supreme Court has supreme power over the State's judicial branch. Tenn. Const. Art. VI, § 1. Inherent in this authority is the Court's exclusive power and obligation to regulate the practice of law in Tennessee. *See* Tenn. Const. art. VI, § 2; *Bd. of Prof'l Resp. v. Walker*, 638 S.W.3d 127, 129 (Tenn. 2021). This includes the power to establish and enforce rules and requirements for the licensing of attorneys. *See* Tenn. Code Ann. § 23-1-103; T.C.A. § 23-1-108; Tenn. Sup. Ct. R. 7, § 1.01; *In re Sitton*, 618 S.W.3d 288, 294 (Tenn. 2021); *Belmont v. Bd. of Law Exam'rs*, 511 S.W.2d 461, 462–64 (Tenn. 1974). This power has been aptly described as "indispensable to the orderly administration of justice" in Tennessee. *Barger v. Brock*, 535 S.W.2d 337, 342 (Tenn. 1976).

Although the legislature established the Tennessee Board of Law Examiners in 1903, *see* Tenn. Code Ann. § 23-1-101; 1903 Tenn. Pub. Acts ch. 247, the Board and its Executive Director and staff comprise a

judicial agency that operates under the Supreme Court's power. *See* Tenn. Sup. Ct. R. 7, § 12.07; *Belmont*, 511 S.W.2d at 463–64; Lewis R. Hagood, *A Brief History of the Tenn. Bd. of Law Examiners & the Standards for Bar Admissions in Tenn.*, 71 Tenn. L. Rev. 571, 571 (2004).

The Supreme Court has explained that a "license to practice law in this state is not a right, but a privilege." *Hornbeck v. Bd. of Prof'l Resp.*, 545 S.W.3d 386, 396 (Tenn. 2018) (citation omitted). This is because the "property, rights, liberties and lives of people are continuously entrusted to lawyers. So, the State is vitally interested in the qualifications and integrity of those into whose hands such vital trusts are continuously placed." *In re Tenn. Bar Ass'n*, 532 S.W.2d 224, 228 (Tenn. 1975) (citation omitted).

Moreover, lawyers licensed to practice law in Tennessee, having sworn to uphold the Constitutions of the United States and Tennessee, also serve as "officers" of the courts, thereby playing a fundamental role in American democracy. *See* Tenn. Sup. Ct. R. 7, § 1.05(1); Tenn. Sup. Ct. R. 6(3)–(4); *State v. Bomer*, 179 Tenn. 67, 162 S.W.2d 515, 520 (1942). The Court has thus stated that a "license to practice law in this State is a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the Court." *Bd. of Prof'l Resp. v. Barry*, 545 S.W.3d 408, 426 (Tenn. 2018) (internal quotation marks omitted); *see In re Bowers*, 200 S.W. 821, 822 (Tenn. 1918).

The Supreme Court's rules for Tennessee bar admission typically require, among other things, an applicant's graduation from a law school

accredited by the American Bar Association or from a Tennessee law school approved by the Board, each of which involves a minimum three-year course of study. Tenn. Sup. Ct. R. 7, § 2.02. The Rules also currently permit admission by comity or transferred Uniform Bar Exam score, which when applicable does not require the applicant to retake the bar exam. See Tenn. Sup. Ct. R. 7, §§ 3.05 & 5.01. All applicants must undergo a character-and-fitness review. Tenn. Sup. Ct. R. 7, § 6.

The Supreme Court has tasked the Board and its Executive Director and staff with implementing these and other portions of Tennessee Supreme Court Rule 7, which govern the licensing of attorneys in Tennessee. In addition to carrying out administrative functions, in implementing Rule 7, the Board and its Executive Director and staff are operating to "protect the public from the misconduct or unfitness of [applicants to] the legal profession, and [to] preserve the confidence of the public in the integrity and trustworthiness of lawyers in general." *Barry*, 545 S.W.3d at 426 (internal quotation marks omitted).

The Board's comments provided here are made with these rules and mandates in mind.

III. Comments on the Court's Questions.

Each of the Court's questions are reproduced and commented on below.

> <u>Question (1)</u>: **Whether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar.**

The Board does not recommend any systemic modification, reduction or elimination of the Court's reliance upon ABA accreditation

for purposes of setting minimal educational requirements for applicants to the Tennessee bar. *See* Tenn. Sup. Ct. R. 7, § 2 (educational requirements).

Broadly speaking, there are two pathways to bar admission in Tennessee. First, there is regular admission by taking the bar exam administered in Tennessee (the Uniform Bar Exam created by the National Conference of Bar Examiners), by transferred UBE score obtained by taking the UBE in another jurisdiction, or by comity admission for persons with sufficient time in practice to warrant not requiring the taking of another bar exam. *See* Tenn. Sup. Ct. R. 7, § 1.01(a); *id.*, § 3.05 (transferred UBE score); *id.*, §§ 3.01 & 4.01 et seq. (Tennessee bar exam); *id.*, §§ 5.01 et seq. (comity admission without taking another exam).

Second, there are special kinds of admission and limited admission. *See, e.g.,* Tenn. Sup. Ct. R. 7, § 10.01 (registration by in-house counsel); *id.*, § 10.06 (spouse of military service member). For the most part, the same educational requirements apply to applicants under each path to admission: an undergraduate degree or its equivalent; and a three-year degree from an ABA-accredited law school. *See, e.g.,* Tenn. Sup. Ct. R. 7, §§ 2.01–2.02 (educational requirements); *id.*, § 3.01(a)(1) (Tennessee bar exam); *id.*, § 3.05(a)(2) (UBE transfer); *id.*, § 5.01(a)(1) (comity); *id.*, § 10.06(a)(3) (spouse of military service member).

The Court appropriately raises concerns in its September 16, 2025, Order soliciting comments that "the current supply of legal services in the United States is insufficient to meet the needs of many Americans." Order at 2. "Further, there is a growing concern regarding the lack of

access to legal services in rural areas, or so-called 'legal deserts.'" *Id.* at 3 (citing Lisa Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice,* 13 HARV. L. & POL. REV. 15 (2018)). The Board agrees that that many Tennesseans face regrettable barriers to justice and legal representation and wholeheartedly concurs that access to justice should be increased.

At the same, the Court must balance this important interest in increasing the supply of legal services, particularly in "legal deserts," with other, equally important objectives that the Board is tasked with carrying out: ensuring that the public receives competent, high-quality legal services; protecting the public by not licensing persons who are unlikely to provide competent and scrupulous legal representation; and upholding the integrity of the legal profession and the role of licensed attorneys as officers of this Court. These are considerations of paramount importance. The Court will not ultimately be helping the public, but will be hurting the public, if lowering admission standards results in needy persons receiving legal representation by less-than-competent or unscrupulous lawyers.

Currently, and for some time, the Court has relied primarily on the ABA to determine whether law-school education is deemed sufficient to warrant permitting an applicant to take the Tennessee bar exam or admitting an applicant who has taken the bar exam elsewhere:

> Any applicant seeking admission must have completed a course of instruction in and graduated with a J.D. Degree from a law school accredited by the ABA at the time of applicant's graduation, or a Tennessee law school approved by the Board pursuant to section 17.01 of this Rule at the time of the

applicant's graduation.

Tenn. Sup. Ct. R. 7, § 2.02(a). This requirement is cross-referenced in the requirements for various forms of regular licensing to practice law, as noted above. Except for its review of the Nashville School of Law, a Tennessee law school not accredited by the ABA, Tenn. Sup. Ct. R. 7, § 17, the Board is thus able to rely on ABA accreditation to determine that an applicant meets this Court's law-school educational requirement.[1]

As this Court has endorsed, "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." Tenn. Sup. Ct. Rule 8, Note [1] (emphasis added). The stated Core Goals of the ABA Council on Accreditation reflect an effort to ensure that a legal education develops these essential characteristics in students. Those Core Goals are stated as follows:

1. Accreditation requires that law schools maintain a rigorous program of legal education that prepares their students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession;

2. Accreditation protects against the economic exploitation of law students and ensures applicants and the public receive accurate information about the program;

3. Accreditation protects clients, the public, and the legal

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[1] There are about 30 non-ABA accredited law schools in the United States. *See* LSAC, https://www.lsac.org/choosing-law-school/find-law-school/other-law-schools.

system by helping to ensure that lawyers are competent to fulfill their professional responsibilities;

4. Accreditation Standards must reflect changing forms and methods of law practice;

5. Accreditation Standards support and promote the rule of law.

American Bar Association, *Legal Education & Admissions to the Bar, Core Principles & Values of Law School Accreditation* (August 2025).

Currently, the ABA is the primary, if not the only, nationally recognized accreditor for law schools across most jurisdictions in the United States. The Board understands that other accrediting institutions are typically limited to the educational programs of a particular state or do not focus primarily on legal education. The State Bar of California's Committee of Bar Examiners, for example, undertakes to determine accreditation of non-ABA-approved laws schools in California. *See* CBE, https://calawschools.org/#:~:text=The%20Law%20Schools,Association%20(ABA)%20law%20schools.

The widespread acceptance of ABA accreditation maintains uniformity in the evaluation of legal educational programs across the country that simply cannot currently be done any other nationwide accrediting body. Rule 7 of the Tennessee Supreme Court, as currently stated, permit the Board and this Court to accept, with confidence, the training of the vast majority of applicants to the Tennessee bar, without the need to independently verify their legal education programs. The ABA has been accrediting law schools for over 100 years, and it brings a level of experience and skill to the process without peer in the profession.

In the absence of another accrediting institution that could currently provide similarly robust, reliable accreditation standards and review capabilities, eliminating systemic reliance on the ABA's accreditation process could, and likely would, shoulder the Court and the Board with overwhelming administrative burdens, including setting reliable accreditation standards and review processes for evaluating law schools throughout not just Tennessee or the Southeast, but the entire nation. The Board believes that these burdens cannot be properly met with the current, limited financial resources available to the Court and the Board.

Further, in the absence of another accrediting institution that could imminently provide robust, reliable accreditation standards and review capabilities, modifying or reducing systemic reliance on the ABA's accreditation process on a large scale could still be undertaken reliably only with a significant investment of financial resources by the State. In effect, the Board and the Executive Director's staff would need to be supplemented with state-funded employees or independent contractors that have the knowledge and expertise to carry our rigorous and reliable accreditation processes.

Because the Board's operations, including its Executive Director and staff, are by statute funded solely by fees collected on the administrative services provided to applicants. *See* T.C.A. § 23-1-101(b); T.C.A. § 23-1-106. Rates charged for the services of the Executive Director and staff have struggled to remain adequate as applications for admission in Tennessee have risen in recent years, with the result that Tennessee is now among the top 15 states in the country for numbers of

applications of all kinds.

Were another higher-education accrediting institution to add capabilities for rigorously and reliably assessing law-school education, and if that institution were to provide accreditation services concerning law school, then the Court could choose to modify or reduce reliance on the ABA to include reliance on that institution. The Court could eventually choose to rely on that institution's accreditation instead of accreditation by the ABA. But the Board advises strongly against choosing to no longer rely on the ABA's accreditation in the absence of another, suitably qualified accrediting institution. Neither the Court nor the Board and the Executive Director's office have the expertise or capacity to reliably and rigorously assess law schools across the country.

Moreover, under the current circumstances, modifying, reducing or eliminating reliance on the ABA's accreditation process would not advance the goals set forth in the Court's Order seeking comment. That is, a change to the current procedures would reduce, not increase, the number of programs approved by the Court for consideration of licensure, thus creating additional barriers to practice in Tennessee and further limiting the number of lawyers available to address Tennessean's unmet legal needs. The change would not result in an increase of approved programs under the current Rules, *see* Tenn. Sup. Ct. R. 7, § 2.02, and it could potentially strip some programs of their currently approved status.

The Board also thinks that current passing scores for the UBE in Tennessee and elsewhere reflect realistic competency requirements. Permitting graduates of more non-ABA-accredited law schools to take the Tennessee bar exam would likely simply result in a lower bar-passage

rate. Lowering Tennessee's passing UBE score would likely result in the licensing of applicants that do not possess the analytical and related skills required to practice law competently.

In sum, the ABA accreditation process remains an important and invaluable tool for the Board and the Court to rely on to establish the academic rigor of those applying for admission to the Tennessee bar. ABA accreditation currently provides a clear, uniform, recognized, reliable, and effective standard for the evaluation of legal education-based programs. The Board believes the current rules adopted by the Court strike an appropriate balance between reliance on the ABA and alternative criteria, such as approval of graduates of the Nashville School of Law for admission to the Tennessee bar, provided other requirements are met.

The Board believes that the Court's current rule has struck an effective balance between reliance on ABA accreditation standards and a few other, alternative pathways, to effectively ensure a qualified, competent bar.

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

There are a number of practicable alternatives to ABA accreditation for evaluating applicants for admission to the Tennessee bar on a very limited, non-systemic, applicant-by-applicant basis. The Court, through Rule 7, has already embraced such alternatives in Rule 7, § 2.02(d). Rule 7, § 2.02 provides in part:

> (a) Any applicant seeking admission must have completed a course of instruction in and graduated with a J.D. Degree

> from a law school accredited by the ABA at the time of the applicant's graduation, or a Tennessee law school approved by the Board pursuant to section 17.01 of this Rule at the time of the applicant's graduation.
>
> *　　*　　*
>
> (d) An attorney who received a legal education in the United States or a U.S. Territory but is ineligible for admission because the law school attended does not meet the requirements of paragraph (a) above may be considered for admission by examination or transferred UBE score provided the attorney satisfies the following educational, licensing, and practice requirements: (1) The attorney holds a J.D. Degree, which is based on in-person attendance, from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where the law school exists and which 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....

See Tenn. Sup. Ct. R. 7, § 2.02(a), (d) (also imposing other requirements).

Taken together, these subsections permit the admission of the following types of applicants: (1) applicants who have graduated from an ABA accredited program; (2) applicants who have graduated from a non-ABA-accredited Tennessee law school that has been approved by the Board; and (3) applicants who have graduated from any other law school in the United States or its territories, provided that the applicant meets the other requirements of subsection (d), including that the law school's program has been approved by a licensing authority of the state or territory in which the school sits and an appropriate evaluating body has determined that the education is substantially equivalent to that provided by approved law schools in Tennessee. In effect, provided that

the prerequisites are met to ensure competency, an applicant who has graduated from any law school in the United States, whether ABA-accredited or not, already has a pathway to potential admission.

Permitting admission to the Tennessee bar this way does not impose on the Board, the Executive Director, and the staff the heavy and costly administrative burdens posed by eliminating reliance on ABA accreditation. This pathway assumes that the vast majority of applicants will have graduated from an ABA-accredited law school and that applicants seeking admission via this route constitute a seldom-used exception. Further, the cost of obtaining an equivalency analysis is borne by the applicant.

This minority pathway already applies to various forms of admission to the Tennessee bar:

- An applicant may apply for comity admission pursuant to Tenn. Sup. Ct. R. 7, § 5.01 by relying on the educational criteria set forth in § 2.02(d);

- The Court permits admission of foreign-educated applicants under Tenn. Sup. Ct. R. 7, § 7, which allows admission so long as the law school or undergraduate institution is approved by the accrediting agency for that jurisdiction and other prerequisites are met, including a reliable educational-equivalence assessment paid for by the applicant, Tenn. Sup. Ct. R. 7, § 7.01(b).

- An applicant seeking to register as in house counsel, under Tenn. Sup. Ct. R. 7, § 10.01(a), need not have graduated from an ABA-accredited school so long as that applicant is "admitted to the practice of law in another U.S. jurisdiction or is a foreign lawyer who is employed as a lawyer by an organization."

- Individuals may obtain permission to engage in limited practice as part of an Experiential Learning Program without a degree conferred by an ABA accredited program pursuant to Tenn. R. Sup. Ct. 7, § 10.02.

In short, there are multiple avenues currently available under the existing rules to permit an individual to provide legal services in the State of Tennessee without reference to, or requirement of, graduation from an ABA-accredited law school. Again, these exceptions are limited, and processing applicants under these exceptions imposes reasonable administrative burdens.

The Board believes these rules already strike an adequate, appropriate balance by providing multiple pathways to the practice while still ensuring the integrity of the legal profession through effective gatekeeping. The Board would not recommend any modification to these rules at this time.

<u>Question (3)</u>: Whether there are less costly alternatives to the traditional three-year law school curriculum that would adequately prepare individuals for the practice of law.

Yes. The Board thinks that combining an undergraduate degree program with a law-degree program could expedite the educational process and would promote affordability. This could work in various ways, such as by reducing the law-school-only education to two years by effectively including a first year of law school within the undergraduate program.

Most Tennessee law schools have in fact adopted a hybrid approach by creating six-year degree programs that combine the last year of a bachelor's degree program with the first year of a law degree program.

Tennessee Supreme Court Rule 7 already accepts graduates of these programs, so long the graduate has completed the requirements for both a bachelor's degree or higher and a juris doctorate degree before taking the bar examination. *See* Tenn. Sup. Ct. R. 7, §§ 2.01(a), 2.02(a).

This hybrid path does not present an alternative to law school as much as it presents just a shorter, more economical path to getting a law degree. Integrating the two levels of educational programs can enable students to reduce overall costs by saving on tuition and other expenses while earning both a bachelor's degree and juris doctorate in a shorter time period.[2] Additionally, because undergraduate tuition is often lower than law-school tuition, the ability to substitute the final undergraduate year for a first year of law school can reduce overall educational costs and student-loan burdens. Graduates taking advantage of this structure can enter into the legal workforce quicker, which can promote and propel greater earning potential.

Another viable alternative to three years of legal classroom study may be a program in which the third year of law school is practice-based, paid or unpaid, with perhaps reduced tuition.

For example, the Nashville School of Law,[3] a successful non-ABA-accredited law school recently re-approved by the Tennessee Supreme

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[2] Absent a change to the structure of the educational system in the United States, perhaps consistent with the educational system in Great Britain, the Board does not have recommendations specific to structural changes to legal education.

[3] NSL meets the standards for state-approved schools found in Tennessee Supreme Court Rule 7, Article XVII.

Court in agreement with the Board's positive recommendation, offers a low-cost alternative to traditional three-year law programs. The Nashville School of Law offers night classes to students, most of whom have day jobs and many of whom travel great distances to attend classes. Classes are taught by local judges and practicing Tennessee lawyers, and clinical experience includes placements for internships and externships with weekend clinics. Expanding the Nashville School of Law, for example, to include satellite campuses in East and West Tennessee, particularly if located in rural, underserved areas, would provide a low-cost alternative to people who are more likely to stay in Tennessee to practice law.[4] Creating similar law schools in Tennessee in other areas, whose focus mirrors the mission of the Nashville School of Law of providing a lower-cost law-school education to persons who intend or are likely to practice locally could help address access-to-justice issues.

> **Question (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.**

Apprenticeship as the path to licensing was an original model for law licensure in the United States. Eventually, law schools were developed to provide better, more reliable legal education, and bar exams began to be implemented. *See generally* Peter A. Joy, *The Uneasy History*

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[4] The Board's role is to determine if the program offered by a law school will meet the requirements established by the Court regarding measurement of competency, knowledge, skills, and ability.

of Experiential Education in U.S. Law Schools, 122 DICK. L. REV. 551, 552 (2018). Tennessee joined this trend around the beginning of the 20th century, when the Board of Law Examiners was created. *See* Tenn. Code Ann. § 23-1-101; Hagood, *supra*, at 572.

Some jurisdictions recently have adopted alternative pathways to bar licensing that may include supervised practice or completion of a body of work alone or in conjunction with one or more years of law school. The programs are relatively new and, currently, the Board does not have enough information to make recommendations regarding such programs. But the Board and its Executive Director have been studying these programs and are considering how licensing in another jurisdiction under these alternative pathways will interact with admission in Tennessee under Rule 7 as it currently reads. These considerations include, but are not limited to, whether it is necessary for the apprenticeship program to be linked to standards for the knowledge and skills required of attorneys and whether the program must include consistent measures of the independent knowledge, skills, and abilities of each participant.

Other considerations that affect a decision on alternative pathways include: (1) identifying who would administer such programs if they were adopted in Tennessee; (2) whether administration of such programs would be part of a formal legal educational program or the Court or one of its agencies would be responsible for determining compliance with the pathway's requirements; (3) whether administration of such programs and determinations concerning compliance would have formalized verification and oversight processes; (4) the costs involved in assessing a participant's compliance and identifying who would do the assessment;

and (5) how the applicant's participation costs would be determined and borne. These are but a few considerations for alternative pathways.

The National Conference of Bar Examiners recently published an article, "Evaluation and Development of Pathways to Legal Licensure," *The Bar Examiner,* Summer 2024 (Vol. 93, No. 2), https://thebarexaminer.ncbex.org/article/summer-2024/evaluation-development-of-pathways-to-legal-licensure/, which includes a robust discussion of these issues, including considerations, accessibility, responsibility, compliance, cost, and fairness. The Board and its Executive Director will continue to review these programs as they develop.

Question (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.

Tennessee Supreme Court Rule 7 already includes many provisions that favor lawyer mobility. Rule 7 includes a path to admission for graduates of state-approved law schools in § 2.02(d), admission by transferred Uniform Bar Examination score in § 3.05, admission without examination in § 5.01, temporary admission for members of the military and spouses of military service members in § 10.06, and temporary admission for law professors working in law school experiential learning programs in § 10.02. Additionally, for lawyers moving to Tennessee, Rule 7, § 10.07, permits practice for up to one year pending admission by lawyers licensed and in good standing in another jurisdiction.

Presently, Tennessee Supreme Court Rule 7, § 5.01, admission without examination, requires a lawyer to demonstrate that the lawyer

has been primarily engaged in the active practice of law for five of the seven years immediately preceding the date of the application. For admission by transferred UBE score, a score is valid for three years after the date the scores for the exam were released in Tennessee. This leaves a gap of two years during which a lawyer will not have an unexpired score to transfer and generally will not have been engaged in the practice of law for at least five years. To fill the two-year gap, Rule 7 includes a provision that extends the viability of an otherwise expired UBE score when the lawyer transferring the score can demonstrate that the lawyer has been primarily engaged in the active practice of law for three of the five years immediately preceding the date of the application or the date scores expire, whichever is later. Tenn. Sup. Ct. R. 7, § 3.05(b).

The ABA Model Rule on Admission by Motion (Aug. 6, 2012), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/model_rule_admission_motion.authcheckdam.pdf, includes an active-practice-of-law requirement of three of the five years immediately preceding the application, rather than five of the previous seven years. Score portability can be streamlined with a direct path of admission on UBE score to admission without examination.

Therefore, the Board recommends amending Tennessee Supreme Court Rule 7, § 5.01(a)(3), to change the time in practice requirement to "three of the five years immediately preceding the date upon which the application is filed." Consistent with that change, two provisions related to UBE score transfer applicants would need revision: delete Rule 7, § 3.05(b), and amend Rule 7, § 4.07(c) to delete the language following the first two sentences of that paragraph. The Board thinks this change

would further promote lawyer mobility of practice across states.

Question (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.

The Board understands that currently four states—Arizona, Minnesota, Oregon, and Utah—have implemented programs that provide non-lawyers with a limited license to provide services to clients with "uncomplicated legal needs" who are unable to pay an attorney. *See* "How States Are Using Limited Licensed Legal Paraprofessionals to Address the Access to Justice Gap," *ABA Blog* (February 2, 2026), https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap/. The State of Washington, which created a "Limited License Legal Technician" ("LLLT") program in 2012, sunset its program in 2020 due to low participation and high costs, although currently licensed technicians are still permitted to practice. *Id.* While the four active programs differ in several respects, each program has demonstrated strengths and weaknesses.

For example, a 2024 Arizona survey reported strong client satisfaction with paraprofessional representation, including the fee structure, which on average was $27.00 per hour less than the average Arizona attorney hourly rate. *See* Arizona Supreme Court, *Assessing Arizona's Legal Paraprofessionals: 2024 Program Survey,* at 15, assessing_arizonas_legal_paraprofessionals_2024_survey.pdf.

Nonetheless, some weaknesses with the program have included the

absence of a reliable public count of the total people served; uneven geographic reach, which still includes coverage gaps in rural areas; and the difficulty of licensure (low passage rates). *See generally id.*

Minnesota, which made its pilot program permanent in 2025, reported 2,312 matters handled, including 1,870 housing cases and 442 family-law cases in 2023 with 58% of the matters handled outside court. *See* Standing Committee for Legal Paraprofessional Pilot Project, Final Report & Recommendations to the Minnesota Supreme Court, at 9, FINAL_REPORT_AND_RECOMMENDATIONS_TO_THE_MINNESOTA_SUPREME_COURT.pdf. Other strengths of the Minnesota program are geographic reach (over one-half of counties were reached), and generally positive feedback from clients and supervising attorneys. *Id.* at 12–13. Reported weaknesses of the Minnesota program include overall modest impact (scale issues); supervision requirements that limit independence; and the limited scope of the program. *Id.* at 7, 11, 23. Because the programs are relatively new, three of the four state programs have limited public reporting as to the number of citizens served and outcomes.

The Board does not think that the Court should imminently consider adopting a legal paraprofessional licensing program. There is a lack of verified public data to confirm whether legal paraprofessional programs actually have the effect of expanding access to legal services. There is also the limited availability of options that use licensed attorneys to provide legal services at a more affordable cost.

The Board suggests that the Court consider adopting a "modest means" program. Such a program would expand access to legal services

to Tennesseans who do not qualify for free legal services due to income and/or asset levels but who are still unable to afford legal services at market rates. The Legal Services Corporation's 2022 Report, "The Justice Gap," confirmed that the gap in access to legal services extends to the middle class. *See generally* Section 5: Comparing Income Groups, https://justicegap.lsc.gov/resource/section-5-comparing-income-groups/.

The significant increase in the number of *pro se* filings in state and federal courts (which frequently involve pro se parties use AI models to draft pleadings and briefs that the parties themselves do not understand) underscores the need to make legal services more affordable.

To address this gap, several states through their state bar associations have adopted "Modest Means" programs. These states include Arizona, Oregon, Michigan, New Hampshire, New Mexico, Louisiana, and Wisconsin (Washington State and Utah have paused their Modest Means Programs). A short summary of the state programs is set out below, with a link to their respective websites:

- **Arizona.** Arizona's Modest Means Project is a joint effort between the Arizona Foundation for Legal Services & Education and the State Bar of Arizona. It offers one-hour consultations for $75 and subsequent services at a reduced hourly rate. Website: https://www.azbar.org/for-legal-professionals/access-to-justice/modest-means/.

- **Michigan.** The State Bar of Michigan Modest Means Program connects moderate-income individuals with attorneys who agree to reduced-cost assistance. Website: https://michiganlegalhelp.org/find-lawyer/state-bar-of-michigan-modest-means-program.

- **Oregon.** The Oregon State Bar Modest Means Program matches

eligible clients with lawyers who charge reduced rates (currently tiered at $60, $80, or $100 per hour) for family law, criminal defense, and housing matters. Website: https://oregonlawhelp.org/referrals/modest-means-program-oregon-state-bar.

- **Louisiana.** The Modest Means Online Legal Directory is maintained by the Louisiana State Bar Association to help consumers find attorneys charging reduced or flat fees. Website: https://www.lsba.org/ATJCommission/ModestMeans.aspx.

- **New Hampshire.** The NHBA Lawyer Referral Service (LRS) Modest Means Program connects individuals with income between 175% and 325% of the federal poverty level with attorneys who charge reduced fees. Fees: Qualified clients pay a reduced hourly rate, typically ranging from $80 to $125. Application: There is a $25 non-refundable application fee due at the time of referral. Practice Areas: Common cases include family law, bankruptcy, landlord/tenant issues, and criminal defense (where the client is not entitled to a public defender). Website: https://www.nhbar.org/lawyer-referral-service/modest-means-legal-program/.

- **Wisconsin.** The State Bar of Wisconsin Modest Means Program is designed for low-income residents (whose household income falls between 125% and 250% of the federal poverty level). Fees: Participating attorneys agree to charge rates substantially lower than their standard fees, though the specific rate is negotiated between the lawyer and the client. Eligibility: Applicants must provide documentation of household income and assets. Practice Areas: The program handles matters in bankruptcy, consumer law, criminal law (misdemeanors/traffic), family law, and probate (wills/POA).
Website: https://www.wisbar.org/formembers/probono/pages/modest-means-program.aspx.

There is evidence from states that have adopted modest-means programs to support the proposition that such programs make legal

services more accessible to middle income earners.[5]

The Board thinks that a modest-means program is a measure that the Court should consider adding to the agenda for its Access to Justice Commission (if not being considered already), with suggested day-to-day operations housed at the Administrative Office of the Courts and integrated into JusticeForAllTN, https://justiceforalltn.org/. This seems to be a natural fit because the Commission exists to recommend and support access-to-justice projects, and Tennessee already uses JusticeForAllTN as its public-facing legal-help hub. The program should serve the "working middle" in Tennessee: people with civil legal problems who are above legal-aid eligibility but still cannot realistically pay ordinary market rates for many legal services.

The Board recommends that the Court study existing state modest-means programs and consider adopting a program for Tennessee based on one of the existing programs. Board members would welcome the opportunity to be part of the study group, were the Court to agree that this concept should be considered.

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[5] See the following resources: https://nhba.s3.amazonaws.com/wp-content/uploads/2025/07/25160805/NHBA-Lawyer-Referral-service-Modest-Means-Final-Report-FY-2024-2025.pdf ;
https://azbar.org/media/isdkyrww/2024annreportfor2023published.pdf
https://www.michbar.org/file/generalinfo/pdfs/financial_2023.pdf
https://www.sbnm.org/Portals/NMBAR/BB_2025-12-10.pdf
https://www.osbar.org/_docs/probono/LegalNeedsReportPartI.pdf.

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

The Board views this question as falling outside its mission and offers no comment.

Respectfully submitted,

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James Hivner, Clerk
Re: Regulatory Reform
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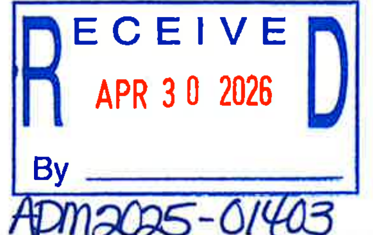
Kim Meador

From: Crispin Passmore <crispin@passmoreoliver.com>
Sent: Thursday, April 30, 2026 4:02 AM
To: appellatecourtclerk
Subject: Legal sector reform



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Dear Sirs

We advise regulators around the world on reform of their regulatory architecture. We were the architects of the introduction of ABS in England & Wales, advised Arizona Justices on their ABS program and removal of 5.4, and Utah Supreme Court on their regulatory sandbox. We also advice legal regulators in Canada, Scotland, Australia, and Hong Kong among others.

Our core consultancy practice is to support law firms, attorneys, legal technology firms and investors work together to grow their business and thereby help more people. It is a mtter of public record that we have worked in the US with KPMG US Law and EY; legal tech business such as Rocket lawyer, Legal Zoom, Hello Divorce!, Eudia and Lawhive; alternative providers such as Axiom and Elevate; and a wide range of law firms from the smallest through to the AMLAW25.

We support the introduction of reforms that increase the flow of investment in technology, talent and growth in the delivery of legal services. None of this requires any diminution of ethical standards, just a sharpening of the focus of where and how rules bite so that they protect the public, the rule of law and clients.

We have considered the comments, ideas and proposals put forward by a group of lawyer sincludign Lucian Pera. We are supportive of their analysis and ideas and proposals. We would be delighted to provide you further information on how other jurisdictions beyond the US have addressed these important issues, how regulation can facilitate greater protection and more innovation and other insights to support your analysis.

We finish by posing two thoughts:

- The question before the Court is not whether to allow capital into the legal market. It is here and its presence is increasing. The question before the Court is if you want to bring this into the sunlight and regulate it int eh public interest. If the answer is 'yes' then a removal of 5.4 and a related ABS program is essential.
- Second, lawyer mobility is limited in the interests of attorneys rather than the public. Large firms operate around these restrictions, as they do many other ethical boundaries that are poorly designed because they pretend to focus on ethical issues without acknowledging their protectionist origins. Again, it is better to sharpen the focus and permit what is already happening.

We urge reform and will support the Court in delivering that in any way we can.

Regards

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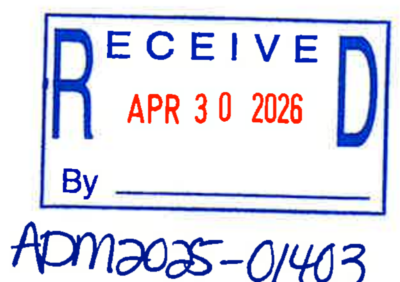

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April 30, 2026
BY EMAIL (appellatecourtclerk@tncourts.gov)

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

To the Honorable Justices of the Tennessee Supreme Court:

The Court's Order reflects a clear recognition that the widening gap in access to legal representation is not peripheral to the justice system, but both fundamental and structural. By framing the issue in terms of supply, affordability, and public protection, and by inviting concrete proposals, the Court has set the conditions for meaningful response to an access-to-justice crisis that is acute in Tennessee and worsening nationally.

I submit this comment in my personal capacity. My perspective is informed by direct involvement in Washington State's regulatory reform work. I am a member of the Washington State Supreme Court's Practice of Law Board and a lead of the Board's committee on the Entity Regulation Pilot Project (Order No. 25700-B-721, December 5, 2024), serving as the committee's group lead and spokesperson. I was also a drafting lead for the Washington State Bar Association's Legal Technology Task Force, whose 2025 final report and recommendations address the implications of emerging technologies, including artificial intelligence, for legal practice, courts, regulation, consumer protection, and access to justice. The views expressed here are my own.

Rules built for a different era cannot be the sole infrastructure for meeting today's scale of need and today's tools, especially as the public is already turning to new forms of help with their legal problems. The Court's inquiry comes at a moment when delay itself carries consequence. Postponing reform in pursuit of ideal sequencing or complete certainty does not preserve the status quo; it functions as a decision to allow existing economic and geographic forces to continue widening the justice gap, and to place increasing pressure on consumers to turn to unsupervised alternatives. The access-to-justice gap now reflects a structural mismatch between public need and regulated supply, and the Court's central task is no longer whether to allow innovation, but whether it will occur under judicial governance or outside it.

The choice before the Court is not between getting reform right in advance and getting it wrong. It is between acting on imperfect information now, with adjustment built in, and waiting for better information that the nature of these questions will never produce. Reforms of the kind before the Court sit within the Court's continuing

supervisory authority. Whatever the Court adopts can be monitored thoughtfully, observed in operation, refined as evidence accumulates, and adjusted on the Court's own timetable, a capacity for measured iteration that few other forms of regulatory change provide. The experience in other states bears this out. Washington, Utah, Arizona, and Alaska have each refined their reforms over time as evidence accumulated, and the practice of law in those states has continued. It has in no respect collapsed, notwithstanding dire predictions from detractors.

The comment record before the Court reflects substantial rigor and seriousness of purpose. I write with appreciation and strong support for the body of submissions from the informally constituted group of Tennessee lawyers, academics, and bar leaders responding to the Court's Order. Taken together, those submissions reflect sustained study, careful attention to consumer protection, and a pragmatic understanding of how legal services are actually being sought and used in Tennessee today.

Several of the proposals stand out for the scale of the access improvement they could produce. Court-based reforms within the Court's supervisory authority, clarifying the role of judges and clerks in matters involving unrepresented litigants, would formalize practices that are often already in the judicial toolkit and would reach Tennesseans on the day they appear in court. A Community Justice Advocate certification, modeled on demonstrated experience in Alaska and Utah, would put trained, supervised assistance into the rural and underserved communities where the supply problem is most acute, aligned with other critical social services. Reform of the rules governing nonlawyer ownership and fee-sharing would open the way for capital, organizational forms, and service models that the current rules effectively foreclose. And clarification of how unauthorized-practice rules apply to AI-enabled legal assistance would bring tools already in widespread use inside a regulatory perimeter that protects consumers and gives responsible developers a clear path to build for legal use rather than around it. The remaining proposals, lawyer mobility and alternative pathways to practice, add meaningful capacity at the margin, particularly for those serving underserved communities, and are worth pursuing alongside the more structural changes.

The Order shows that Tennessee has moved beyond the threshold question of whether innovation is warranted. The more consequential challenge is implementing reforms that measurably expand access to quality legal help while maintaining public confidence in the justice system and protecting the public from harm. A portfolio of court-led reforms in the areas the Order describes, carefully considered and demonstrably moving forward, is more likely to produce durable progress than any single intervention; the proposals before the Court fit that pattern.

The purpose of this comment is to recognize and reinforce the Court's leadership at a moment when thoughtful, court-led action can materially improve access to justice. More important, I write to encourage the Court to continue the trajectory from inquiry forward to implementation.

Respectfully submitted,

Craig Shank

Craig Shank