

Utah State Bar Commission
Friday, November 13, 2020
via ZOOM at <https://us02web.zoom.us/j/86189675176>

AGENDA

1. 9:00 a.m. President's Report: Heather Farnsworth

- | | | |
|-----------------|-----|--|
| <i>05 Mins.</i> | 1.1 | Welcome |
| <i>20 Mins.</i> | 1.2 | Executive Director Search Committee Report (Tab 1, Page 3) |
| <i>10 Mins.</i> | 1.3 | Report on Use of Deadly Force Committee Summit |
| <i>20 Mins.</i> | 1.4 | Awards Selection and Presentation Schedule (Tab 2, Page 14) |
| <i>10 Mins.</i> | 1.5 | "Wellness Wednesdays" Program |

2. 10:10 a.m. Action Items

- | | | |
|-----------------|-----|---|
| <i>15 Mins.</i> | 2.1 | Ethics Advisory Opinion Committee: Elizabeth Wright (Tab 3, Page 17) |
| <i>05 Mins.</i> | 2.2 | Herm Olsen & Kim Cordova as Commission Liaisons (Tab 4, Page 27) |
| <i>10 Mins.</i> | 2.3 | Fee Arbitration Committee Recommendations (To Be Distributed) |

3. 10:40 a.m. Discussion Items

- | | | |
|-----------------|-----|---|
| <i>30 Mins.</i> | 3.1 | Regulatory Reform Report: Erik Christiansen (Tab 5, Page 30) |
| <i>10 Mins.</i> | 3.2 | Future of Legal Challenges to Mandatory Bars |

4. 11:20 a.m. Information Items

- | | | |
|-----------------|-----|---|
| <i>05 Mins.</i> | 4.1 | Governor's Letter to Judicial Nominating Commissions (Tab 6, Page 334) |
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5. 11:25 a.m. Executive Session

12:00 n. Adjourn

Consent Agenda (Tab 7, Page 337)

(Approved without discussion by policy if no objection is raised)

1. Minutes of October 16, 2020 Commission Meeting

Attachments (Tab 8, Page 341)

1. *ABA Journal* Article on Utah Bar and Judiciary Working together on Regulatory Reform
2. President-Elect Selection Process and Notice of Interest Deadline

Calendar

December 11	Executive Committee	Noon	Telephone/Video Conference
December 18	Commission Meeting	9:00 a.m.	TBD

2021

January 2	Election Notices Due		
January 15	Executive Committee	12:00 Noon	
January 19	General Session of the 64 th Utah Legislature Begins		
January 22	Commission Meeting	9:00 a.m.	Law & Justice Center
January 26	Conference Call Re: Legislature	4:00 p.m.	Telephone Conference
February 1	Commission Election - Petitions, Statements, Photos Due		

TAB 1

Utah State Bar Executive Director

Position: The Utah State Bar is seeking applications for the position of Executive Director. The position is the principal administrative and operations officer of the Bar and, under direction of the Bar Commission, is responsible to carry out the mission of the Bar and provide supervision of the day-to-day regulatory operations, public services, and lawyer benefits and events; administer annual budgets; and oversee the operations and maintenance of the Utah Law and Justice Center.

Qualifications: J.D. with minimum 15 years of experience required (member of the Utah State Bar a plus); successful experience managing staff, projects and processes in a public, private, or non-profit organization; exceptional administrative, communications, and organizational skills; experience and in-depth understanding of the court system, the legal profession, and the public's legal needs.

Essential Duties and Responsibilities: Serves as Chief Operations Officer for day-to-day operations of the Bar, including "outward-facing" responsibilities and internal management of effective regulatory, public and lawyer-directed programs, services, and projects; serves as chief fiscal officer of the Bar; serves as primary staff person in assisting the Bar President, Bar President-elect and the Bar Commission members in fulfilling their duties; oversees special projects and distinct programs as directed; coordinates long-range planning and carries out short and long range goals; coordinates relations and communications with various Bar-related groups.

Required Abilities: Respects, embraces and promotes inclusion and diversity; understands and is able to practically manage financial issues, budgets, and provide sound fiscal oversight and leadership; has a comprehensive understanding of current and historic trends, policies, and issues involving the legal profession and their implications at the national and state levels; is an effective team builder, familiar with human resource policies and practices with an emphasis on attracting, developing and sustaining a high-performing team of staff professionals; possesses extraordinary communication skills, both written and oral; is a good listener; has the highest ethical standards and unquestioned integrity, whose personal values and professional passions are aligned with the mission of the Bar with an emphasis on professionalism, access to justice, and respect for the rule of law; is flexible and congenial; manages competing priorities effectively and regularly; is well-organized with strong attention to detail; possesses a high degree of poise, diplomacy, and tact.

Salary and Benefits: Salary depends upon on experience. Benefits include leave, insurance coverages, contribution to a 401K, continuing legal education fees, and Bar license fee.

Organization: The Utah State Bar is a 501 (c) (6) non-profit corporation to which the Utah Supreme Court has delegated the regulation of the practice of law and services for the public and benefit programs for lawyers. The Utah State Bar is an Equal Opportunity Employer. More information is available at www.utahbar.org. The full position description is available at www.utahbar.org/ED.

Contact: Please send resumes and letters of interest to Executive Assistant Christy Abad at Christy.Abad@utahbar.org by Monday, February 28, 2021.

POSITION DESCRIPTION

JOB TITLE: Executive Director of the Utah State Bar

REPORTS TO: Bar President and the Board of Bar Commissioners

STATUS: Exempt/Management

EFFECTIVE: July 1, 2021

Basic Function and Scope of Authority

The Executive Director ("ED") is the principal administrative and operations officer of the Bar and, under the direction of the Bar Commission, is responsible to carry out the mission of the Bar and for the supervision of the day-to-day regulatory, public service and lawyer service operations of the Bar, as well as and the operations and maintenance of the Law and Justice Center. The ED supervises all employees and other administrative affairs, implements Commission-approved policies; administers and facilitates the implementation of Bar programs and activities; and reviews, clarifies, and administers annual budgets. The ED serves as a resource person to the Bar President, the Executive Committee, and the Commission. The ED shall encourage the Bar President to include the Bar President-elect in any significant decisions and policy discussions so as to facilitate a smooth transition from one Bar President to another. The ED also serves as a resource person and advisor to the Bar President-elect and be responsive to his/her requests and needs regarding his/her responsibilities.

The ED will delegate to and train the Assistant Executive Director in such duties as the ED deems appropriate or as suggested by the Bar President, Bar President-elect, and/or the Executive Committee.

The Executive Director is authorized to employ, appropriately compensate and terminate all Bar employees in accordance with Commission-approved annual budgets, compensation ranges, and directives of the Bar President or the Executive Committee. The Bar President and Executive Committee may, in their discretion, be actively involved in the hiring and terminating of Bar staff and employees in conjunction with the ED. In the unlikely event of a disagreement between the ED and the Bar President or Executive Committee over a hiring or termination decision of an employee, the matter shall be taken to the voting members of the Bar Commission and their decision shall govern. The decision shall be made by a majority vote with the Bar President breaking a tie. The ED shall keep the Bar President and Executive Committee apprised of all hiring and termination of employees well in advance. The ED shall implement and enforce administrative and personnel policies and procedures and has such further authority as defined in the Bylaws or policies of the Bar or which may from time to time

be delegated by the Bar Commission. The ED is authorized to undertake the responsibilities set forth below, including other responsibilities reasonably related thereto.

Term and Compensation

The ED's compensation arrangements shall be outlined from time to time by the Bar President and/or Executive Committee and approved by the Bar Commission. The term of office of the ED shall be from year-to-year, unless otherwise defined by a memorandum of agreement or written employment contract.

Responsibilities

It is understood the ED cannot perform all the tasks listed herein and that the ED has full authority to delegate to the staff many of the tasks for which he/she has oversight responsibility, specifically to the Assistant Executive Director as directed by the Bar Commission.

A. General Bar Management and Technology.

Serves as Chief Operations Officer for day-to-day operations of the Bar. Maintains corporate governance, management files and all data bases. Handles or oversees the hiring and termination of all Bar employees under the authority of and in conjunction with the Bar President and Executive Committee, and implements personnel policies as approved by the Bar Commission. Provides or oversees appropriate staff training and performance review procedures. Maintains employee personnel files.

Authorizes and executes such contracts and commitments as may be authorized by the Executive Committee and/or the Bar Commission, either by expressed approval or as approved in the approved annual budget of the Bar.

Responsible for management of general matters of litigation involving the Bar, under the direction of the Bar Commission.

B. Bar Programs and Services.

The ED shall focus on "outward-facing" and regulatory operations of the Bar, as well as the promotion of effective programs, services and projects of the Bar, including the maintenance of all databases, the activities of and relationships with Bar committees, sections, regional and affinity bars, regulatory reform efforts and

education, and other Bar activities, including but not limited to, Professional Education/Continuing Legal Education (“CLE”), New Lawyer Training Program (“NLTP”), Licensed Paralegal Practitioner (“LPP”) Program, Access to Justice programs, member benefit programs, the Consumer Assistance Program (“CAP”), the Discipline Office Information (“DOI”) Department, the Fund for Client Protection, Fee Dispute Resolution, web site management, communications (including the e-bulletin and the *Utah Bar Journal*), law office management and professionalism initiatives, and any other projects, programs, services or events as the Bar President or Bar Commission may direct or would be required for the appropriate furtherance of the Bar’s mission and goals.

The ED shall directly supervise the Assistant Executive Director; General Counsel; Deputy General Counsel over Admissions; and Finance Director.

The ED is responsible for the admissions rules, policies and procedures, including processing of applications for admission and admissions *pro hac vice*, character and fitness investigations evaluations and reports, development of appropriate Bar examinations, the administration of the examination, certification for admission of successful applicants, and coordination of the admissions ceremonies with the Supreme Court and the U.S. District Court for Utah. The Ed oversees the Bar examination and character & fitness review and appeals process.

The ED assists the Bar President and Executive Committee in the coordination of the annual appointment process for volunteer participation in committees, sections, and programs by, among other things, maintaining current list of chairs, co-chairs, and members of each committee and dates of appointments for each chair, co-chair, and committee member. Assists the Bar President and Bar President-elect in developing goals and responsibilities for each standing committee of the Bar. Assists the Bar President and Bar President-elect in developing annual charges for each standing committee of the Bar.

Maintains action item list for the Bar President to facilitate the Bar President and the Executive Committee in fulfilling their responsibilities and goals.

C. Financial Management.

Prepares annual budgets with the Finance Director, Bar staff, the Budget and Finance Committee, and the Bar President-elect. Serves as chief fiscal officer of the Bar and oversees the implementation of the budget and periodically reviews the day-to-day financial management of the Bar with the Finance Director. The ED is also authorized to administer the various Bar programs, services and functions within and according to the

adopted annual operations and capital budgets and as directed by the Bar President and Executive Committee. Assists in the financial evaluation of proposed Bar and member benefit programs, including the estimation of fiscal notes.

Coordinates long-range financial planning and carries out long-range goals.

Oversees or directly negotiates auditing and banking services as approved by the Bar Commission.

Oversees the financial relationship between the Bar and local or specialty bar associations and financial administration and support of committees and sections of the Bar.

Recommends to the Board a lump-sum figure for annual executive staff salaries during the regular budget process, provided that no staff member receive over a 5 percent (5%) salary increase without Bar Commission approval.

D. Bar President and Board of Bar Commissioners.

As a priority, the ED shall be responsive to requests of the Bar President and/or the Executive Committee and shall ensure that staff is also responsive in a timely fashion to the Bar President and/or the Executive Committee requests. Advises the Bar President and/or the Executive Committee on new committees and policies and facilitates their implementation.

Serves as general secretary to the Bar Commissioners, attends all meetings of the Bar Commission and of the Executive Committee, prepares agendas in consultation with the Bar President and keeps minutes of meetings of the Bar Commission and of the Executive Committee. Advises the Bar Commissioners of the administrative and financial affairs of the Bar and provides information and/or reports on appropriate agenda items. Coordinates scheduling and arrangements of Bar Commission and Executive Committee meetings. Maintains Bar Commission Policies and Procedures, Bar By-laws and all other Supreme Court orders directed to the Bar and the profession.

Serves as primary staff person in assisting the Bar President, Bar President-elect and Bar Commission members in fulfilling their duties and with special projects and programs of the Bar Commission. Coordinates communications, activities and events involving the Bar Commission and the judiciary. Formulates and recommends rule and policy changes for approval of the Bar Commission.

Coordinates long-range planning and carries out long range goals.

Negotiates and ensures continuation of appropriate levels of insurance policies for officers and directors' liability, building insurance, and other insurance as may be appropriate.

Oversees, in conjunction with the Executive Committee, the administration of the Bar Commissioner elections and orientation.

Implements policies and procedures related to committees and sections as approved by the Bar Commission, coordinates appointments to all committees, promotes active participation by members in committee and section activities, and assists committees and sections in the development of appropriate programs, projects and activities.

Coordinates Bar Commission appointments to statutory committees and commissions, as well as other appointments for which the Bar Commission is responsible.

E. Internal Communications, Public Relations and Governmental Relations.

Coordinates relationships and communications with various Bar-related groups, including large and small firms and solo practitioners, government lawyers and corporate counsel.

Serves as chief spokesperson for the Bar in the absence of the Bar President. Receives inquiries from news media and members of the public concerning Bar operations or events which concern the Bar, issues statements when appropriate and consistent with Bar Commission policies and undertakes public speaking activities for the Bar when appropriate. Responds to public inquiries and complaints. Serves as official spokesperson for the Bar in the absence of the Bar President or by delegation from the President, including public speaking on behalf of the Bar.

Coordinates relationships with other professional associations, including Utah Medical Association, Utah Bankers Association, Utah Association of CPA's, various state and national governmental entities, including the legislature and governor's office through personal contacts and through contract lobbyists.

Coordinates with Director of Communications and public relations consultants on matters of publicity for the Bar and press relations.

Develops friendly and professional relationships with members of the press in order to facilitate cost-effective and positive publicity about Bar service projects and service-oriented programs.

F. Legal Profession.

Represents the Bar in various capacities with the American Bar Association, the Western States Bar Conference, the National Association of Bar Executives, and other national and regional organizations within the legal profession.

Promotes and maintains positive relationships with Utah Supreme Court, the Utah judiciary, the Governor's office, the legislature, local and specialty bar associations, in-state law schools, and legal service providers. Coordinates dissemination of information from national and regional legal organizations to committees and sections of the Bar.

G. Utah Law & Justice Center and Bar Operations.

Responsible for day-to-day management of the Utah Law & Justice Center, including serving as agent in the negotiation and management of leasehold arrangements, and accommodation of appropriate tenant needs, as approved by the Bar Commission.

Assists in the effective development of lawyer referral services, charitable and educational public service programs and activities which will produce revenue and/or promote the philosophical objectives of the Utah Law & Justice Center, including appropriate ADR programs, and facilitate raising capital for the operation of the Bar. Responsible for the management of the building facilities and services of the Utah Law & Justice Center, oversight of interior and exterior improvements, maintenance and repairs as needed. Develops or oversees marketing activities to promote the public recognition and use of the Law & Justice Center, its facilities and programs.

H. Strategic Leadership.

Responsible for providing leadership, vision, growth, and the development of the Bar. Recommends and participates in long-term strategic planning processes for the Bar. Ensures that all levels of the organization consistently produce high quality work products and regularly looks for opportunities to improve the processes, programs, and efforts of the Bar. Ensures that resources are well managed to effectively support current operations and strategic plans.

Executive Director Succession Plan and Timetable
9 Month Process
October 1, 2020 Start

October/November 2020 (9/8 months out)

- _____ 1. President and President-elect review position description and announcement
- _____ 2. Executive Committee reviews plan, process, timetable, position description and announcement, including education and past experience desired
- _____ 3. Commission reviews process, timetable, position description and announcement, including education and past experience desired
- _____ 4. President and President-elect appoints Search Committee, confirmed by Commission
 - A. President
 - B. President-elect
 - C. Exec. Committee Bar Commissioner
 - D. Exec. Committee Bar Commissioner
 - E. Exec. Committee Bar Commissioner
 - F. Exec. Committee Bar Commissioner
 - G. Litigation Section Chair
 - H. LGBT Chair
 - I. Women Lawyers Chair
 - J. YLD Chair
 - K. UMBA Chair
 - L. Judicial Counsel Rep
 - M. Access to Justice Director
- _____ 5. Search Committee meets to review process, confirm timetable & set meeting dates
- _____ 6. President and President-elect review process with Supreme Court

December 2020 (7 months out)

- _____ 1. Publicize and announce in December/January *Bar Journal*, E-Bulletin, ABA, E-mail to Bar, etc.
- _____ 2. Resumes due February 28, 2021.
- _____ 3. Commission reviews mission of the Bar and vision of short and long range organizational needs and list of qualifications ("skills, abilities, qualities, strengths and characteristics") desired to meet those needs.
- _____ 4. Search Committee reviews mission of the Bar and prepares vision of short and long-range organizational needs and list of qualifications ("skills, abilities, qualities, strengths and characteristics") desired to meet those needs.

February 2021 (5 months out)

- _____1. Commission finalizes mission of the Bar and vision of short and long range organizational needs and list of qualifications (“skills, abilities, qualities, strengths and characteristics”) desired to meet those needs
- _____2. Search Committee confirms understanding of mission of the Bar and vision of short and long-range organizational needs and goals for the new Executive Director and list of qualifications (“skills, abilities, qualities, strengths and characteristics”) desired to meet those needs.
- _____3. February 28, 2021 - APPLICATION DEADLINE

March 2021 (4 months out)

- _____1. Week of March 2- Staff receives resumes, makes copies, prepares binders.
- _____2. Week of March 9 - Resumes distributed to Search Committee members for review
- _____3. Week of March 16 - Search Committee meets to reviews resumes and selects (8-12-16) for 1st round of interviews (for week of March 30 - April 3)
- _____4. Week of March 30 - April 3 - Interviews scheduled 1st round candidates
- _____5. Week of April 6 - Background checks made on 1st round candidates

April 2021 (3 months out)

- _____1. Week of March 30 - April 3 - Search Committee interviews 12-16 candidates, narrows list to (6-8) for 2nd round of interviews
- _____2. Week of April 6 - References checked on 6-8 2nd round candidates
- _____3. Week of April 13 - Search Committee and Executive Committee interview (6-8) candidates, narrows list to (3-4) for 3rd round of interviews with Commission
- _____4. April 20 - Commission interviews final 3-4 candidates, selects successful candidate, confirms salary & benefits for offer
- _____5. President extends offer

May 2021 (2 months out)

June 2021 (1 month out)

- _____1. Hire announced in E-bulletin, local media, web page, Facebook, Twitter and submitted for July/August *Bar Journal*
- _____2. Staff finalizes materials for transition
- _____3. Departing Executive Director orients new Executive Director and assists transition as needed

July 2021

- _____ 1. New Executive Director begins
- _____ 2. New Executive Director introduced to Staff, Court, Volunteers, etc.

JCB/2020-21 Bar Executive Director Succession Plan

TAB 2

2020-2021 Awards Schedule

2020 Dorathy Merrill Brothers Award (Jenifer Tomchak)	<i>To be given at either the 2020 Fall Forum or the 2021 Spring Convention – award recipient's choice.</i>
2020 Raymond S. Uno Award (Melinda Bowen)	<i>To be given at either the 2020 Fall Forum or the 2021 Spring Convention – award recipient's choice.</i>
2020 Judge of the Year Award	<i>To be given at the 2020 Fall Forum</i>
2020 Lawyer of the Year Award	<i>To be given at the 2020 Fall Forum</i>
2020 Professionalism Award	<i>To be given at the 2020 Fall Forum</i>
2020 Section of the Year Award	<i>To be given at the 2021 Spring Convention</i>
2020 Committee of the Year Award	<i>To be given at the 2021 Spring Convention</i>
2020 Charlotte Miller Mentoring Award	<i>To be given at the 2021 Spring Convention</i>
2020 James Lee Mentoring Award	<i>To be given at the 2021 Spring Convention</i>
2020 Paul Moxley Mentoring Award	<i>To be given at the 2021 Spring Convention</i>
2021 Dorathy Merrill Brothers Award	<i>To be given at the 2021 Spring Convention</i>
2021 Raymond S. Uno Award	<i>To be given at the 2021 Spring Convention</i>

The Award Committee further recommended that the awards to be presented at the 2021 Spring Convention be divided in half, with the first half to be given at the Friday General Session and second half at the Saturday General Session.

BAR AWARDS

<u>AWARD</u>	<u>DUE</u>	<u>CHOSEN</u>	<u>PRESENTED</u>
1. Dorathy Merrill Brothers Award Advancement of Women in the Law	Mid-January	January	Spring Convention
2. Ray Uno Award Advancement of Minorities in the Law	Mid-January	January	Spring Convention
3. Judge of the Year	Mid-April	June	Annual Convention
4. Distinguished Lawyer of the Year	Mid-April	June	Annual Convention
5. Distinguished Section of the Year	Mid-April	June	Annual Convention
6. Distinguished Committee of the Year	Mid-April	June	Annual Convention
7. Outstanding Pro Bono Service (Selected by the Pro Bono Commission)	Mid-March	September	Fall Forum
8. Distinguished Community Member	Mid-September	September	Fall Forum
9. Pro Bono Lawyer of the Year	Mid-September	September	Fall Forum
10. Professionalism Award	Mid-September	September	Fall Forum
11. Outstanding Mentor Award	Mid-September	September	Fall Forum
12. Heart and Hands Award	Mid-September	November	Utah Philanthropy Day
13. Distinguished Service Award			As Needed
14. Special Service Award			As Needed

(Distinguished Young Lawyer of the Year)
Law Day

(ABOTA)
Fall Forum

TAB 3

Utah State Bar®

MEMORANDUM

TO: Utah State Board of Bar Commissioners

FROM: Elizabeth A. Wright

RE: Changes to Ethics Advisory Opinion Committee Rules

DATE: November 6, 2020

Attached for Commission approval are proposed changes to the Ethics Advisory Opinion Committee (EAOC) rules. The proposed changes allow the OPC representative on the EAOC to vote on issues before the Committee. Under the existing rules, the OPC representative is a non-voting, ex officio member.

Background

The EAOC is a Bar committee that issues formal written advisory opinions and letter responses to requests for advisory opinions regarding the ethical propriety of professional or personal conduct of Bar licensees. John Snow is the current Chair of the EAOC.

The EOAC votes on whether to issue an opinion in response to a request. If the EOAC decides a formal opinion is warranted, a committee member is assigned to write a draft opinion on the ethical issue. The draft opinion is then circulated among the Committee members. The draft opinion becomes an opinion of the EAOC if a majority of the members vote to approve the opinion. The OPC is bound by the opinion unless and until it appeals the opinion to the Utah Supreme Court.

Reason for Change

Both the EAOC and the OPC are asking the Commission to make this change. Both entities would like the OPC to have a voice and vote on ethical opinions to which the OPC will be bound.

Ethics Advisory Opinion Committee Rules of Procedure

I. Duties and Authority

- (a) Duties
- (b) Authority

II. Membership

- (a) Number of Voting Members
- (b) Qualifications of Voting Members
- (c) Term of Appointments
- (d) Manner of Appointments and Selections Panel
- (e) Selections Panel Procedure
- (f) Lay Member
- (g) Office of Professional Conduct Consultant
- (h) Default Resignation
- (i) Unfilled Terms
- (j) Vice-Chair and Secretary

III. Procedure

- (a) Requests for Opinions
- (b) Disposition of Requests
- (c) Committee Procedures
- (d) Publication Procedures
- (e) Reconsideration and Appeal

IV. Meetings

- (a) Schedule
- (b) Location
- (c) Quorum
- (d) Minutes

V. Opinions

- (a) All Opinions Formal
- (b) Effect
- (c) Publication

VI. Confidentiality

I. Duties and Authority.

(a) *Duties.* The Ethics Advisory Opinion Committee (the "Committee") of the Utah State Bar (the "Bar") shall:

- (1) Consider and dispose of requests for advisory opinions on the ethical propriety of anticipated professional or personal conduct of Bar members;
- (2) Prepare and issue formal written opinions in appropriate cases;
- (3) Prepare and issue informal letter responses in other cases;

(4) Fully inform the Board of Bar Commissioners (the "Board") of all opinions that the Committee issues; and

(5) Publish all formal opinions where they will be available to Utah lawyers and the public at large.

(b) *Authority.*

(1) *Interpretive Authority.* Committee opinions shall interpret the Rules of Professional Conduct adopted by the Utah Supreme Court but, except as necessary to the opinion, shall not interpret other law.

(2) *Requests Outside Committee Authority.* The following requests are outside the Committee's authority:

(i) Requests for approval of past conduct, unless it or similar conduct is likely to recur, or the Board requests a specific opinion;

(ii) Requests for opinions on conduct of specific lawyers that is the subject of formal dispute resolution proceedings, including, but not limited to, Bar disciplinary proceedings and civil, criminal and administrative proceedings, except when requested by a tribunal with jurisdiction over the matter; and

(iii) Requests for legal, rather than ethics opinions.

(3) *Requests Within Committee Authority.* A request that is otherwise within the Committee's authority may be declined by the Committee in its discretion if:

(i) The request does not involve a significant subject or involves isolated conduct; or

(ii) The request is clearly resolved by applicable Committee opinions, the Rules of Professional Conduct, statutes or case law.

II. Membership.

(a) *Number of Voting Members.* The Committee shall consist of up to 14 voting members. At least one voting member should be a sitting or former judge.

(b) *Qualifications of Voting Members.* Voting members shall be active members of the Bar in good standing. Members shall be willing to perform Committee obligations in a timely way and shall have demonstrated the ability to craft well-reasoned, articulate opinions.

(c) *Term of Appointments.* Appointments shall be for three-year terms running concurrently with the Bar's fiscal year beginning July 1, with approximately one-third of the terms expiring each June 30.

(d) *Manner of Appointments and Selection Panel.* The President of the Bar shall appoint the Committee Chair (the "Chair") and any judicial member. The Ethics Advisory Opinion Committee Selection Panel (the "Selection Panel") shall appoint the other members. The Selection Panel shall consist of the Bar President, the Bar Commissioner who serves as liaison to the Committee, and the Chair.

(e) *Selection Panel Procedure.* The Selection Panel shall proceed as follows:

(1) Prior to the first day of July of every year, the Selection Panel shall solicit applications for members by publishing a notice in the Utah Bar Journal or other approved publication. The notice shall describe the Committee, its duties and the qualifications for its members.

(2) Interested attorneys shall submit written applications outlining their areas of practice and interest in serving on the Committee.

(3) The Selection Panel shall appoint qualified members, with due regard for balance among substantive practice areas, type of practice (small firm, government, etc.), geographical location, experience and other relevant factors.

(f) *Lay Member.* The Selection Panel may appoint a Utah resident who is not an attorney as a non-voting member.

(g) *Office of Professional Conduct Consultant.* An attorney from the Office of Professional Conduct of the Bar (the "Office of Professional Conduct") may serve as a non-voting consultant to member of the Committee.

(h) *Associate General Counsel for The Bar.* The Bar's Associate General Counsel or other Bar attorney who answers "Ethics Hotline" questions may serve as an ex-officio member of the Committee.

(h) *Default Resignation.* A member who is absent from four consecutive regularly scheduled meetings shall be deemed to have resigned unless, prior to the next regularly scheduled meeting after four consecutive absences, the member serves on the Chair a written statement of commitment to continue as an active member.

(i) *Unfilled Terms.* The Selection Panel shall fill vacancies created by resignation, death, default resignation and otherwise prior to normal termination of an appointment, but without having to follow otherwise required notice procedures.

(j) *Vice-Chair and Secretary.* The Chair may designate members of the Committee as Vice-Chair and Secretary.

III. Procedure.

(a) Requests for Opinions.

(1) The Board, any member of the Bar in good standing or other person with a significant interest in obtaining an advisory opinion on legal ethics may request an opinion.

(2) Requests shall be in writing and filed with the Committee, the Board or the Office of Professional Conduct. Requests filed with the Board or the Office of Professional Conduct shall be forwarded to the Committee.

(3) Requests shall include:

(i) A brief description of the facts;

(ii) A concise statement of the issue presented;

(iii) Reference to relevant Rules of Professional Conduct; and

(iv) Citations to relevant ethics opinions, judicial decisions and statutes.

(b) *Disposition of Requests.* The Committee may dispose of a request by issuing, in its discretion:

(1) A formal Ethics Opinion; or

(2) A Letter Response declining the request pursuant to § 1(b)(2) or § 1(b)(3).

(c) Committee Procedures.

(1) The Chair or the Chair's designee shall review the request and make a preliminary determination on whether the request (A) must be declined as outside the scope of the Committee's authority, (B) should be declined in the Committee's discretion, or (C) should be the subject of an opinion.

(2) The Committee shall review the preliminary determination of the Chair or the Chair's designee.

(3) The Committee shall consider whether its analysis and resolution of the issues discussed in the request would materially benefit from the views of potentially affected or interested persons and organizations. The Committee may (A) seek the views of Bar members through appropriate Bar sections and committees or through a "Request for Comment on a Pending Ethics Issue," published in the Utah Bar Journal or posted on the Bar's web site, (B) invite or approve requests for oral or written presentations to the Committee, or (C) consult with the Office of Professional Conduct.

(4) If the request exceeds the authority of the Committee or the Committee determines to decline the request, the Committee shall issue a letter pursuant to § III(b)(2).

(5) If the request is within the Committee's authority and the Committee determines to issue an opinion,

(i) The Chair shall assign the request to one or more Committee members, who shall prepare a draft opinion within the time as the Chair designates.

(ii) The Chair shall circulate the draft opinion to the Committee and place it on the agenda for the next Committee meeting.

(iii) The Committee shall consider the draft opinion.

(iv) Draft opinions may be returned to the opinion drafters for reconsideration in light of the comments of the Committee members.

(v) A draft opinion shall become an Ethics Opinion of the Committee by majority vote of the voting members present at a regularly or specially scheduled meeting of the Committee. If the principal issues of a draft opinion have been discussed in

at least one regularly or specially scheduled Committee meeting, the opinion may be approved by majority vote without a further meeting. The Chair may solicit votes by any appropriate means, including facsimile, e-mail or telephone polling.

(vi) One or more Committee members may issue dissenting or concurring opinions, which shall be included with any main opinion issued by the Committee.

(6) Members should recuse themselves when they may not be able to address an issue impartially.

(d) Publication Procedures.

(1) The Committee shall provide prompt notice of its Ethics Opinions, including information about seeking review of opinions by the Board:

(i) To the person who requested the opinion, by mail; and

(ii) To members of the Bar and the public by publishing the opinion or a summary in the Utah Bar Journal. The Committee shall also make available the full text of the opinion for publication on the Bar's web page.

(2) Unless the Committee or the Board orders otherwise, an Ethics Opinion is effective when issued by the Committee.

(e) Reconsideration and Appeal Procedures.

(1) Ethics Opinions.

(i) Within 30 days after the earlier of receipt of notice of issuance of an Ethics Opinion or the last day of the last calendar month printed on the face of the Utah Bar Journal containing the publication of an Ethics Opinion under § III(d)(1)(ii), a member of the Bar, or any other person upon a showing of good cause, may either (A) file a petition for review with the Board, requesting reversal or modification of the Ethics Opinion and stating the basis in fact, law or policy for the request, or (B) file a request for reconsideration with the Committee.

(ii) A request for reconsideration under § III(e)(1)(i)(B) is optional and is not a required condition for seeking Board review. If this option is selected, however, the provisions of § III(e)(2)(ii) will apply to the request, and the time for submitting a petition for review to the Board is governed by § III(e)(2)(iii).

(iii) Notwithstanding the filing of a request for review of an Ethics Opinion pursuant to this § III(e)(1), the Opinion shall remain in full force and effect for the period during which the review is pending, unless the Board, in its discretion, issues a stay pending the outcome.

(2) *Letter Responses.* Within 30 days of receipt of a Letter Response under § III(b)(2), the recipient may submit to the Committee a written request for reconsideration, stating the basis in fact, law or policy for the request. The recipient may also request oral argument.

(i) *Condition for Board Review.* No person may seek Board review of a Letter Response until a request for reconsideration has been filed with the Committee under this section and has become subject to final disposition by the Committee.

(ii) *Denial by Operation of Time.* If the Committee does not grant a request for reconsideration within 60 days of its filing with the Committee, the request may be deemed denied for purposes of seeking Board review. If the Committee does not issue a written, final disposition within 60 days after granting a request for reconsideration, the request may be deemed denied for purposes of seeking Board review. The Chair of the Committee may extend either, but not both, 60-day period in this section by up to 30 days by written notification to the party requesting reconsideration.

(iii) *Review by the Board.* Within 30 days after (A) receipt of notice of the Committee's final disposition of a request for reconsideration of a Letter Response or (B) the operation of § III(e)(2)(ii), a recipient of a Letter Response may file with the Board a petition for review, requesting reversal or modification of the Letter Response and stating the basis in fact, law or policy for the request.

IV. Meetings.

(a) *Schedule.* The Committee shall hold scheduled meetings every month except July and at such other times as the Chair may designate.

(b) *Location.* The Committee may meet at the Utah Law and Justice Center or such other places as the Chair may designate.

(c) *Quorum.* To conduct official business at a Committee meeting, more than 50% of the voting members must be present, either in person or by telephone or audio-visual conference call.

(d) *Minutes.* The Secretary or other member of the Committee designated by the Chair shall prepare and the Committee shall approve minutes of Committee meetings.

V. Opinions.

(a) *All Opinions Formal.* All Committee opinions shall be formal opinions. The Committee shall not issue informal opinions.

(b) *Effect.* A lawyer who acts in accordance with an ethics advisory opinion enjoys a rebuttable presumption of having abided by the Utah Rules of Professional Conduct.

(c) *Publication.* Ethics advisory opinions shall be published as soon as practicable as specified in § III(d)(1)(ii). The Chair or the Chair's designee shall also make reasonable efforts to obtain publication of opinions in appropriate compilations.

VI. Confidentiality.

The identity of persons or entities involved in a request for an opinion shall not be disclosed in the opinion without their consent. Committee members may not disclose the particulars of pending issues or circulate draft opinions to persons outside the Committee; provided, however, that: (a) members may be assisted by their partners, colleagues, employees, associates or law student volunteers in researching and drafting opinions; (b) members may discuss general principles of law and ethics as they relate to a pending issue with non Committee members; and (c) an attorney from the Office of Professional Conduct serving as a non-voting consultant to the Committee may circulate draft opinions to members of the Office of Professional Conduct. Those assisting a Committee member and members of the Office of Professional Conduct must also observe the confidentiality requirements of this section.



2020-2021 Bar Commission Committee, Program & Liaison Assignments

Heather Farnsworth

Assignments:

1. Executive Committee
2. Budget & Finance Committee
3. Summer Convention Committee
4. Fall Forum Committee
5. Regulatory Reform Committee

Heather Thuet, President-elect

Assignments:

1. Executive Committee
2. Budget & Finance Committee
3. Spring Convention Committee
4. Litigation Section
5. Regulatory Reform Committee

Herm Olsen, Past Bar President

Assignments:

1. Senior Lawyers Section
2. Lawyers Helping Lawyers Committee

Katie Woods

Assignments:

1. Executive Committee
2. Bar Awards Committee
3. Eastern Utah Bar Association
4. Garfield County Bar Association
5. Sixth District Bar Association
6. Southern Utah Bar Association
7. Uintah Basin Bar Association

Traci Gunderson

Assignments:

1. UACDL
2. Criminal Law Section
3. Utah Prosecution Council
4. Collection Law Section
5. Corporate Counsel Section
6. Solo, Small Firm & Rural Practice Section

Shawn Newell

Assignments:

1. Disaster Legal Resources Committee
2. Construction Law Section
3. Community Association Law Section

Rick Hoffman

Assignments:

1. Budget & Finance Committee
2. Non-profit/Charitable Law Section
3. Tax Law Section

Michelle Quist

Assignments:

1. Executive Committee
2. Bar Awards Committee
3. SLCO Bar
4. Licensed Paralegal Practitioner Committee
5. New Lawyer Training
6. Estate Planning Law Section

John Bradley

Assignments:

1. Governmental Relations Committee
2. Davis County Bar Association
3. Weber County Bar Association
4. Tooele County Bar Association
5. Communications Law Section
6. Regulatory Reform Committee

Andrew Morse

Assignments:

1. Supreme Court Wellbeing Committee
2. Unauthorized Practice of Law Committee
3. Hellenic Bar Association
4. Franchise Law Section
5. Elder Law Section
6. Family Law Section

Mark Morris

Assignments:

1. Executive Committee
2. CLE Advisory Committee
3. Antitrust and Unfair Competition Section
4. Real Property Law Section
5. Labor & Employment Section
6. Regulatory Reform Committee

Tom Seiler

Assignments:

1. Admissions Committee
 - a. Test Accommodations Committee
 - b. Character & Fitness Committee
 - c. Bar Examiner Committee
2. Ethics Advisory Committee
3. Utah Association for Justice
4. Central Utah Bar Association
5. Wasatch County Bar Association

Chrystal Mancuso-Smith:

Assignments:

1. Pro Bono Commission
2. Government & Administrative Law Section
3. Intellectual Property Section
4. Environmental Law Section
5. Health Law Section
6. Leadership Academy

Mark Pugsley

Assignments:

1. Innovation in Law Practice Committee
2. *Bar Journal* Committee
3. Securities Law Section
4. Education Law Section
5. Bankruptcy Law Section
6. Cybersecurity & Data Privacy Law Section
7. Regulatory Reform Committee

Rob Rice

Assignments:

1. Judicial Council

Camilla Moreno

Assignments:

1. Member Resources Committee
2. Federal Bar Association
3. Juvenile Law Section

Kim Cordova

Assignments:

1. Dispute Resolution Section
2. Appellate Practice Section
3. Constitution Law Section

Margaret Plane

Assignments:

1. Park City Bar Association
2. Military Law Section
3. Indian Law Section

Erik Christiansen

Assignments:

1. Fund for Client Protection Committee
2. Banking & Finance Section
3. International Law Section
4. Regulatory Reform Committee

Marty Moore

Assignments

1. Executive Committee
2. Budget & Finance Committee
3. Box Elder Bar Association
4. Cache County Bar Association
5. Fee Dispute Resolution Committee
6. Business Law Section
7. Limited Scope Section
8. Regulatory Reform Committee

TAB 5



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

FOCL LAW

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

---oo0oo---

In re: Application of FOCL Law

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that FOCL Law is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the Recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for FOCL Law to be authorized to practice law.

The Innovation Office has assessed the risk of harm to FOCL Law's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by FOCL Law's services is LOW / MODERATE. The Innovation Office recommends FOCL Law be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. FOCL Law is authorized to provide the legal services as detailed in the Innovation Office's Recommendation and subject to the conditions and requirements set forth in that Recommendation and in the Innovation Office Manual.

If FOCL Law wishes to alter the terms of this authorization, conditions, or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the

proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to FOCL Law's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation and also to a verification by the Innovation Office that FOCL Law has a record of compliance with all requirements and the entity's services are not causing harm to consumers.

DATED this 22nd day of September, 2020.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', is written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0014 - FOCL LAW

SEPTEMBER 21, 2020

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Proposed Services	2
Risk Assessment	3

EXECUTIVE SUMMARY

Recommendation: Authorize in part

Applicant: FOCL Law

Proposed Services: Turbo Tax like software platform for completion of financial disclosures in divorce proceedings

Sandbox Qualifiers: Lawyers employed or managed by a nonlawyer

Nonlawyer ownership (greater than 50%)

Software provider with lawyer involvement - legal document completion

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Software ready for market now

Access Qualifier: Low cost service; available remotely

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low/moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize in part** FOCL Law to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that FOCL Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends **authorizing** FOCL Law to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. Software provider with lawyer involvement - legal document completion
 - iii. 50% or more nonlawyer ownership
 - b. Areas of Service:
 - i. Marriage and Family
3. The Innovation Office recommends **not authorizing** FOCL to practice law only across the following service model requested by the applicant:
 - a. Service Models:
 - i. Software provider with lawyer involvement
 - ii. Software provider without lawyer involvement

The software platform FOCL is ready to implement is a legal document completion tool in which the software is facilitating the consumer's input of information. The current software does not appear to be providing legal advice. Should FOCL expand the ability of the software to offer legal advice or perform other practice of law services, or should FOCL wish to use human nonlawyer providers to supplement the software, then FOCL should seek a modification of its authorization with the Innovation Office.

4. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low / moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

FOCL Law is a limited liability company owned by nonlawyers.

FOCL Law proposes offering a software platform to guide consumers through the process of completing financial disclosures related to divorce proceedings (Utah Rule of Civil Procedure 26.1). The software walks consumers

through the Utah disclosure form and provides basic information and nonlegal advice assistance to enable completion. The software can be used by lawyers or by pro se litigants. The software was developed and is managed by a Utah licensed lawyer employed by the company.

RISK ASSESSMENT

Target Market: Current clients, general public, pro se litigants

General Assessment: Low / Moderate risk

Specific Risks:

1. Nonlawyer investment / ownership - more than 50%
2. Technology and nonlawyer providers
3. User communication

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION
An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s):	What aspects of the proposed entity / service qualify for participation in the sandbox.
Utah Qualifier:	Each entity must affirm that its service conforms to any applicable requirements of Utah law.
Implementation Qualifier:	Each entity must affirm that it is ready or very close to ready to implement its proposed service.
Regulatory Objective Qualifier:	Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: submit legal expert review of first 20 consumer interactions.</p> <p>Office may require additional reporting on review of n interactions selected at random.</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

FOCL LAW

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

----oo0oo----

In re: Application of FOCL Law

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that FOCL Law is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the Recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for FOCL Law to be authorized to practice law.

The Innovation Office has assessed the risk of harm to FOCL Law's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by FOCL Law's services is LOW / MODERATE. The Innovation Office recommends FOCL Law be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. FOCL Law is authorized to provide the legal services as detailed in the Innovation Office's Recommendation and subject to the conditions and requirements set forth in that Recommendation and in the Innovation Office Manual.

If FOCL Law wishes to alter the terms of this authorization, conditions, or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the

proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to FOCL Law's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation and also to a verification by the Innovation Office that FOCL Law has a record of compliance with all requirements and the entity's services are not causing harm to consumers.

DATED this 22nd day of September, 2020.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0014 - FOCL LAW

SEPTEMBER 21, 2020

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Proposed Services	2
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EXECUTIVE SUMMARY

Recommendation: Authorize in part

Applicant: FOCL Law

Proposed Services: Turbo Tax like software platform for completion of financial disclosures in divorce proceedings

Sandbox Qualifiers: Lawyers employed or managed by a nonlawyer

Nonlawyer ownership (greater than 50%)

Software provider with lawyer involvement - legal document completion

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Software ready for market now

Access Qualifier: Low cost service; available remotely

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low/moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize in part** FOCL Law to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that FOCL Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends **authorizing** FOCL Law to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. Software provider with lawyer involvement - legal document completion
 - iii. 50% or more nonlawyer ownership
 - b. Areas of Service:
 - i. Marriage and Family
3. The Innovation Office recommends **not authorizing** FOCL to practice law only across the following service model requested by the applicant:
 - a. Service Models:
 - i. Software provider with lawyer involvement
 - ii. Software provider without lawyer involvement

The software platform FOCL is ready to implement is a legal document completion tool in which the software is facilitating the consumer's input of information. The current software does not appear to be providing legal advice. Should FOCL expand the ability of the software to offer legal advice or perform other practice of law services, or should FOCL wish to use human nonlawyer providers to supplement the software, then FOCL should seek a modification of its authorization with the Innovation Office.

4. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low / moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

FOCL Law is a limited liability company owned by nonlawyers.

FOCL Law proposes offering a software platform to guide consumers through the process of completing financial disclosures related to divorce proceedings (Utah Rule of Civil Procedure 26.1). The software walks consumers

through the Utah disclosure form and provides basic information and nonlegal advice assistance to enable completion. The software can be used by lawyers or by pro se litigants. The software was developed and is managed by a Utah licensed lawyer employed by the company.

RISK ASSESSMENT

Target Market: Current clients, general public, pro se litigants

General Assessment: Low / Moderate risk

Specific Risks:

1. Nonlawyer investment / ownership - more than 50%
2. Technology and nonlawyer providers
3. User communication

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- o Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- o Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: submit legal expert review of first 20 consumer interactions.</p> <p>Office may require additional reporting on review of n interactions selected at random.</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

NUTTAL, BROWN & COUTTS

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

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In re: Application of Nuttall Brown

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Nuttall Brown is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the Recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for Nuttall Brown to be authorized to practice law.

The Innovation Office has assessed the risk of harm to Nuttall Brown's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by Nuttall Brown's services is MODERATE. The Innovation Office recommends Nuttall Brown be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. Nuttall Brown is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If Nuttall Brown wishes to alter the terms of this authorization, conditions, or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will

assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to Nuttall Brown's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation and also to a verification by the Innovation Office that Nuttall Brown has a record of compliance with all requirements and the entity's services are not causing harm to consumers.

DATED this 22nd day of September, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0012 - NUTTALL, BROWN & COUTTS

SEPTEMBER 21, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize in part

Applicant: Nuttall, Brown & Coutts

Proposed Services: Law firm partnering with insurance companies to provide legal services subscription to consumers; personal injury self-service app; ADR platform

Sandbox Qualifiers: Partial nonlawyer ownership - less than 50%
Software provider with lawyer involvement

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Basic services ready for market now or shortly

Access Qualifier: Increased engagement of consumers through partnerships via insurance companies and mobile applications.

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Rule 5.4 fee sharing disclosures to be made at consumer purchase of subscription service.

Data Reporting Requirements: Moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize in part** Nuttall, Brown & Coutts (“Nuttall Brown”) to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Nuttall Brown has a record of compliance with all requirements and the company’s services are not causing harm to consumers.
2. The Innovation Office recommends **authorizing** Nuttall Brown to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. Less than 50% nonlawyer ownership
 - iii. Lawyers sharing fees with nonlawyers (extraordinary)
 - iv. Software provider with lawyer involvement - legal document completion
 - v. Software provider with lawyer involvement
 - b. Areas of Service:
 - i. Accident / Injury
 - ii. Business
 - iii. Discrimination
 - iv. Employment
 - v. Marriage and Family
3. The Innovation Office recommends **not authorizing** Nuttall, Brown’s ADR service (WorkBuddy) within the Sandbox at this time. The service is already fully operational and does not appear to need the Sandbox to operate as it is not practicing law. It does not need to be within the Sandbox.
4. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Rule 5.4 fee sharing disclosure requirement to be made at consumer purchase of subscription service.
 - c. Moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

Nuttall, Brown, & Coutts is a law firm based in Cottonwood Heights, Utah. The firm proposes the following services:

1. **Zero Attorney's Fees Subscription:** The firm proposes entering into fee sharing agreements with insurance agents, or other strategically positioned non-lawyers and entities, to offer consumers low-cost

monthly subscriptions that would deliver driver's education (defensive driving, traffic code, etc.) every month and provide no-cost legal representation in personal injury cases. For example, if the firm enters into an arrangement with an auto insurer, for \$X per month, a consumer can purchase personal injury services in addition to their auto policy. Through the subscription, the consumer gets legal information/education on traffic laws and defensive driving (e.g.). Should the consumer get into an accident, their legal fees with Nuttal Brown are completely covered and, should they win/settle, the full value of the compensation goes to the consumer.

This fee arrangement, particularly if made with auto insurance companies, could present potential conflicts of interest risks. In the context of an uninsured motorist claim or when the at-fault driver has the same insurance company as the plaintiff, the firm could be in the position of suing its referral partner. To address this, the Innovation Office has recommended Nuttal, Brown be placed in the moderate risk category and report on financial and non-financial (legal) outcomes of their cases. The Innovation Office also recommends that Nuttal, Brown be required to make their Rule 5.4 fee sharing disclosures to the consumer at the point of sale of the subscription service.

2. **Self-help App:** The firm proposes developing and marketing a mobile application designed to help those who prefer to help themselves rather than hire a lawyer. The underlying mission is to empower claimants with online tools. The app focuses on areas of the law that are not currently served by legal tech providers—like personal injury law. The app utilizes video tutorials, fillable forms, a correspondence manager, and attorney hotline features. The initial focus of the app will be as a personal injury case manager. However, the firm anticipates offering a buffet of automated and partially automated legal services through the app. This technology development would be funded by a nonlawyer partner, Tamarak Capital, a venture capital firm.
 - a. **Personal Injury Case Manager:** An accident happens. The injured claimant does not want to pay for a lawyer. He downloads our app. There is no upfront cost. The app collects relevant case info, including liability insurer info. The platform automatically sends a lien for a small flat fee to the liability insurer, which the insurer pays directly to us at the end of the case. The user is guided by the case manager through a series of prompts (push notifications), professionally produced video tutorials, and by optional virtual consultations with experienced lawyers. The user uploads requested case documentation, which the app assembles into a clean, professional, downloadable settlement demand brochure with applicable enclosures. Users can consult with lawyers about issues, including case valuation, at any point for a nominal fee that is added to the lien.
2. **ADR Innovations:** Through an already existing, wholly owned subsidiary (Conciliators, LLC, dba WorkBuddy), the firm and its non-lawyer investor would like to further develop technology-assisted dispute resolution services. The Innovation Office does not recommend this aspect of Nuttal, Brown's proposed services for the Sandbox at this time as it is able to operate outside the Sandbox.

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY and consumers paying significant sums through contingency fee arrangements.

General Assessment: Moderate Risk

- Specific Risks:**
1. Nonlawyer investment/ownership - less than 50%
 2. Legal practice through technology and nonlawyer providers
 3. User Communications
 4. Lawyers fee sharing with nonlawyers

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner; a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- o Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- o Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office “badge” is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar “badge” for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

A Division of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

LAWHQ, LLC

SEPTEMBER 2, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual

DOCUMENT 1

In the Supreme Court of the State of Utah

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In re: Application of LawHQ, LLC

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that LawHQ, LLC ("LawHQ") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated August 19, 2020 for LawHQ to be authorized to practice law.

LawHQ is a law firm currently operating in Salt Lake City, UT. LawHQ seeks permission to offer equity ownership to certain software developers in the firm. Total nonlawyer ownership would be less than 50%.

LawHQ also seeks permission to offer a software application (CallerHQ) designed to allow consumers to report spam telephone calls, text messages, and voicemails. Consumers signed up through the application may then be joined into a mass tort litigation brought by LawHQ against the spammers. Litigation of the mass tort action is conducted by LawHQ lawyers and any settlement is split 50 / 50 between LawHQ and the consumer. The software application is a mechanism to sign up consumers who claim / report spam. LawHQ seeks Sandbox authorization to incentivize consumers to refer the application, and thus the law firm, to others. Those who refer others to the application will receive priority service.

The Innovation Office has assessed the risk of harm to LawHQ's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by LawHQ's services is moderate. The Innovation Office recommends LawHQ be authorized to practice law in the State of Utah as outlined in the Innovation Office recommendation and manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. LawHQ is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If LawHQ wishes to alter these conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authorization, as well as any such extension or permanent authorization, is subject to LawHQ's compliance with the conditions and requirements set forth in the Appendix and also to a verification by the Innovation Office that LawHQ has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 31st day of August, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

A Division of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0003 - LAWHQ, LLC

AUGUST 19, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: LawHQ

Proposed Services: Lawyers employed or managed by a nonlawyer

50% or more nonlawyer ownership

Software Provider with lawyer involvement

Sandbox Qualifiers: Partial nonlawyer ownership - over 50%

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Basic services ready for market now

Regulatory Objective Qualifier: Software application and incentive structure potential to increase access and engagement to those who would otherwise do nothing.

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See [Innovation Office Manual](#) for requirement details.

Data Reporting Requirements: Moderate risk data reporting requirements.

See [Innovation Office Manual](#) for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** LawHQ to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that LawHQ has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends authorizing LawHQ to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyer employees
 - ii. Less than 50% nonlawyer ownership
 - iii. Software provider with lawyer involvement
 - b. Areas of Service:
 - i. Accident / Injury
3. The Innovation Office recommends **not authorizing** LawHQ to practice law only across the following categories of legal service requested by the applicant:
 - a. Areas of Services:
 - i. Business
 - ii. Housing (Rental)
 - iii. Immigration
 - iv. Marriage and Family
4. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

LawHQ, LLC is a law firm currently operating in Salt Lake City, UT. LawHQ proposes two activities needing Innovation Office approval. First, LawHQ proposes offering equity ownership to certain software developers in the firm. Total nonlawyer ownership would be less than 50%.

Second, LawHQ proposes offering a software application (CallerHQ) designed to allow consumers to report spam telephone calls, text messages, and voicemails. Consumers signed up through the application may then be joined into a mass tort litigation brought by LawHQ against the spammers. Litigation of the mass tort action is by LawHQ lawyers and any settlement is split 50 / 50 between LawHQ and the consumer.

At this point, the application is simply a mechanism to sign up consumers who claim / report spam. LawHQ seeks Sandbox authorization to incentivize consumers to refer the application, and thus the law firm, to others. Those who refer others to the application will receive priority service. Although the software application does not, as currently modeled, appear to be practicing law in any way, the application will be a robust communication and case management tool for the firm and the client. Therefore, the Innovation Office has categorized LawHQ's proposal as moderate risk with the aligned reporting requirements.

In the future, LawHQ has plans for increased automated services across a range of service areas but the Innovation Office is not recommending approval for those services at this time because they are still relatively undeveloped and not ready to implement. When LawHQ has those more robust software provider services ready to implement, it must return to the Innovation Office and seek additional review and authorization.

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY

General Assessment: Moderate risk

Specific Risks:

1. Nonlawyer investment ownership - less than 50%.
2. Legal practice through technology and nonlawyer providers
3. User communications

DOCUMENT 3



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4(B) and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s):	What aspects of the proposed entity / service qualify for participation in the sandbox.
Utah Qualifier:	Each entity must affirm that its service conforms to any applicable requirements of Utah law.
Implementation Qualifier:	Each entity must affirm that it is ready or very close to ready to implement its proposed service.
Regulatory Objective Qualifier:	Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate

Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISKS

The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) technology and nonlawyer providers,
- (3) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4A and 5.4B both clearly state the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____
- **Reporting of Data:**
 - For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. But those requirements include customer complaint data.
 - For more than 50% nonlawyer investment / ownership (moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider ¹ with lawyer involvement ²	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² Involvement denotes a range of activities, including guidance on initial development of forms, scripts, processes, software. It could mean a lawyer does sample reviews of product/service performance. It could mean a lawyer is available to advise the nonlawyer provider as needed - including via red flag trap doors in software.

(e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. The data reporting requirements are focused on surfacing data around these particular issues and will enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based in the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - o Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - o We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

3. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients “for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client.” This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____.

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.
- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows in .csv or other agreed-upon format.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. (Office may recommend additional quarterly reporting on review of n interactions selected at random.)
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. <i>(Office may recommend additional quarterly reporting on review of n interactions selected at random.)</i>
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields:

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | <input type="checkbox"/> Customer Primary Race |
| | <input type="checkbox"/> Open, Closed, or Abandoned | <input type="checkbox"/> Customer Secondary Race |
| <input type="checkbox"/> Service Provider Type | <input type="checkbox"/> Customer Cost | <input type="checkbox"/> Customer Gender |
| <input type="checkbox"/> Attorney, Paralegal, Nonlawyer, Chatbox, etc. | <input type="checkbox"/> Error Code | <input type="checkbox"/> Customer Disability Status |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Customer Financial Outcome Type | <input type="checkbox"/> Customer Age Category |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

THE FIDUCIARY LAW FIRM

OCTOBER 2, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

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In re: Application of The Fiduciary Law Firm

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that The Fiduciary Law Firm ("Fiduciary Law") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for Fiduciary Law to be authorized to practice law.

The Innovation Office has assessed the risk of harm to Fiduciary Law's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by Fiduciary Law's services is LOW / MODERATE. The Innovation Office recommends Fiduciary Law be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. Fiduciary Law is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If Fiduciary Law wishes to alter the terms of the authorization, conditions, or requirements, it must submit any such change to the

Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risk to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to Fiduciary Law's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation and also to a verification by the Innovation Office that Fiduciary Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 2nd day of October, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0007 - THE FIDUCIARY LAW FIRM

SEPTEMBER 21, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: R&R Group, Inc. / The Fiduciary Law Firm

Proposed Services: Law firm majority owned by nonlawyer and operating as part of a group of professional service entities

Sandbox Qualifiers: Partial non-lawyer ownership - over 50%

Privately-held, for-profit corporation

Lawyers employed or managed by a nonlawyer

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Services ready for market now

Regulatory Objective Qualifier: Increased likelihood of consumer engagement with legal services related to other areas of R&R Group, Inc. business and because of marketing platforms. Likely increased efficiencies in their multidisciplinary model.

Qualitative Requirements: Standardized disclosure statements on website, in mobile applications, and in service terms/terms of engagement:

- Badge
- Nonlawyer Ownership Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low / moderate risk data reporting requirements.

See Innovation Office Manual requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** the Fiduciary Law Firm (“Fiduciary Law”) to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Fiduciary Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends authorizing Fiduciary Law to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. 50% or more nonlawyer ownership
 - b. Areas of Service:
 - i. Accident/Injury
 - ii. Adult Care
 - iii. Business
 - iv. Domestic Violence
 - v. End of Life Planning
 - vi. Financial Issues
 - vii. Healthcare
 - viii. Marriage and Family
 - ix. Public Benefits
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low/moderate risk data reporting requirements as outlined in Innovation Office Manual.
 - c. Compliance with all relevant statutory and regulatory requirements.

PROPOSED SERVICES

The Fiduciary Law Firm is a proposed new law firm entity to be launched with 100% ownership held by R&R Group, Inc. R&R Group, Inc. is a privately-held, for-profit corporation currently operating in the state of Utah. Majority ownership is held by Rick Stanzione. The company owns multiple subsidiaries offering a variety of services, including financial and investment advising, basic tax and accounting services (no CPA or public company auditing services), and insurance.

Fiduciary Law will offer legal services to the clients of other R&R Group entities and to the public generally. Once the entity is formed, R&R Group will bring on at least one Utah licensed lawyer as a minority owner of the firm.

Additional lawyers will work as employees of Fiduciary Law. The law firm and all its files and materials will be maintained entirely separately from R&R Group and its other subsidiaries. Lawyer owners and employees will maintain their duties under the Utah Rules of Professional Conduct.

RISK ASSESSMENT

Target Market: Clients of their other professional service entities; general public.

General Assessment: Low / Moderate risk

Specific Risks:

1. Nonlawyer investment ownership - more than 50%
2. User communications

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION
An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - o Service model
 - o Service area
 - o Disclosure requirements
 - o Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s):	What aspects of the proposed entity / service qualify for participation in the sandbox.
Utah Qualifier:	Each entity must affirm that its service conforms to any applicable requirements of Utah law.
Implementation Qualifier:	Each entity must affirm that it is ready or very close to ready to implement its proposed service.
Regulatory Objective Qualifier:	Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- o Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- o Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers owners or controls more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

2. SERVICE CATEGORIES

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.			

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

ESTATE GURU

OCTOBER 2, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

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In re: Application of DBA Estate Guru

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Estate Guru is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for DBA Estate Guru ("Estate Guru") to be authorized to practice law.

The Innovation Office has assessed the risk of harm to Estate Guru's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by Estate Guru's services is MODERATE. The Innovation Office recommends Estate Guru be authorized to practice law in the State of Utah as outlined in the Innovation Office recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. Estate Guru is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If Estate Guru wishes to alter the terms of this authorization, conditions, or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems

the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to Estate Guru's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation to the Court and also to a verification by the Innovation Office that Estate Guru has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 2nd day of October, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0013 - ESTATE GURU

SEPTEMBER 21, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: WDEP (DBA Estate Guru)

Proposed Services: Nonlawyer owned legal tech company offering software platform for estate planning; partnerships with financial advisors/planners

Sandbox Qualifiers: Partial nonlawyer ownership - more than 50%

Privately held, for-profit corporation

Software/Nonlawyer service provision

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Model ready to implement and services ready for market now

Regulatory Objective Qualifier: Likely increased access by consumers to legal services via platform and via access to lawyers through aligned services.

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** DBA Estate Guru (“Estate Guru”) to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Estate Guru has a record of compliance with all requirements and the company’s services are not causing harm to consumers.
2. The Innovation Office recommends authorizing Estate Guru to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. Software provider with lawyer involvement - legal document completion
 - iii. 50% or more nonlawyer ownership
 - iv. Lawyers sharing fees with nonlawyers - standard
 - v. Nonlawyer provider with lawyer involvement
 - vi. Software provider with lawyer involvement
 - b. Areas of Service:
 - i. Business
 - ii. End of Life Planning
 - iii. Financial Planning
 - iv. Healthcare
 - v. Real Estate
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

Estate Guru is an already established privately-held Utah company that offers a technology platform to facilitate the completion of estate planning services. Nonlawyers hold majority ownership in the company. The software platform allows lawyers to develop their own estate planning templates and then engage with customers of financial planners through the software tool. The software essentially facilitates partnerships between attorneys and financial planners.

The company proposes functioning as a quasi-law firm. It proposes both partnering with Utah lawyers and law firms, as well as employing Utah lawyers directly. The software platform will be sold “wholesale” to financial

planners, who will then refer consumers to lawyers via that software. In the future, the company foresees increased direct-to-consumer services, potentially through partnerships with credit unions.

At present, the software tool is an interactive estate planning document completion tool, overseen by lawyers. The company has plans for increasing use of artificial intelligence and analytics to increase the software provision of legal services at increased scale. The software has built in triggers that when indicated move the consumer out of the software and to an attorney review.

The company also proposes nonlawyer employees offering limited legal assistance under attorney oversight. This will take place primarily through customer service interactions.

RISK ASSESSMENT

Target Market: Consumers minimally or not engaged with legal help in estate planning.

General Assessment: Moderate risk

Specific Risks:

1. Nonlawyer investment/ownership - more than 50%
2. Lawyers sharing fees with nonlawyers
3. Legal practice through technology and nonlawyer providers
4. User Communications

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION
An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

- | | |
|--|--|
| Sandbox Qualifier(s): | What aspects of the proposed entity / service qualify for participation in the sandbox. |
| Utah Qualifier: | Each entity must affirm that its service conforms to any applicable requirements of Utah law. |
| Implementation Qualifier: | Each entity must affirm that it is ready or very close to ready to implement its proposed service. |
| Regulatory Objective Qualifier: | Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services. |

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- o Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- o Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result. Consumer fails to exercise legal rights through ignorance or bad advice. Consumer purchases an unnecessary or inappropriate legal service.	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

A Division of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

BLUE BEE BANKRUPTCY LAW FIRM

SEPTEMBER 2, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual

DOCUMENT 1

In the Supreme Court of the State of Utah

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In re: Application of Blue Bee Bankruptcy Law Firm

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Blue Bee Bankruptcy Law Firm ("Blue Bee Law") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated August 19, 2020 for Blue Bee Law to be authorized to practice law.

Blue Bee Bankruptcy Law Firm is a traditional solo practice firm operating in Salt Lake City. The sole owner of the firm proposes to give his paralegal employee a 10% ownership interest in the firm as a reward for high quality work and commitment to the firm and as an incentive to remain with the firm. There is no proposed change in the services or scope of work of either the firm or the paralegal.

The Innovation Office has assessed the risk of harm to Blue Bee Law's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by Blue Bee Law's services is low. The Innovation Office recommends Blue Bee Law be authorized to practice law in the State of Utah as outlined in the Innovation Office recommendation and manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. Blue Bee Law is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If Blue Bee Law wishes to alter these conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to Blue Bee Law's compliance with the conditions and requirements set forth in the recommendation and manual and also to a verification by the Innovation Office that Blue Bee Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 31st day of August, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



UTAH IMPLEMENTATION TASK FORCE
ON REGULATORY REFORM

RECOMMENDATION TO THE COURT

APP 0010 - BLUE BEE BANKRUPTCY

AUGUST 19, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: Blue Bee Bankruptcy Law Firm

Proposed Services: Minority equity stake to long-time support staff

Sandbox Qualifiers: Nonlawyer ownership - less than 50%

Utah Qualifier: Conforms to Utah requirements

Implementation Qualifier: Services already in operation

Access Qualifier: Retention of high quality nonlawyer support staff likely to increase reach and quality of consumer service.

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement

See [Innovation Office Manual](#) for requirement details.

Data Reporting Requirements: Low risk data reporting requirements.

See [Innovation Office Manual](#) for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** Blue Bee Bankruptcy to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Blue Bee Bankruptcy has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends authorizing Blue Bee Bankruptcy to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. Less than 50% nonlawyer ownership
 - b. Areas of Service:
 - i. Financial Issues
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

Blue Bee Bankruptcy Law Firm is a traditional solo practice firm operating in Salt Lake City. The sole owner of the firm proposes to give his paralegal employee a 10% ownership interest in the firm as a reward for high quality work and commitment to the firm and as an incentive to remain with the firm. There is no proposed change in the services or scope of work of either the firm or the paralegal.

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY; consumers who may access lawyers.

General Assessment: Low risk

Specific Risks: 1. Nonlawyer investment ownership - less than 50%

DOCUMENT 3



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4(B) and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate

Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISKS

The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) technology and nonlawyer providers,
- (3) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4A and 5.4B both clearly state the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____.

- **Reporting of Data:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. But those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider ¹ with lawyer involvement ²	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² Involvement denotes a range of activities, including guidance on initial development of forms, scripts, processes, software. It could mean a lawyer does sample reviews of product/service performance. It could mean a lawyer is available to advise the nonlawyer provider as needed - including via red flag trap doors in software.

(e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. The data reporting requirements are focused on surfacing data around these particular issues and will enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based in the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

3. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____.

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers owners or controls more than 10% interest in the entity.
- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office “badge” is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar “badge” for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows in .csv or other agreed-upon format.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - LOW RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. <i>(Office may recommend additional quarterly reporting on review of n interactions selected at random.)</i>
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. <i>(Office may recommend additional quarterly reporting on review of n interactions selected at random.)</i>
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields:

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| > Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | <input type="checkbox"/> Customer Primary Race |
| | <input type="checkbox"/> Open, Closed, or Abandoned | <input type="checkbox"/> Customer Secondary Race |
| <input type="checkbox"/> Service Provider Type | <input type="checkbox"/> Customer Cost | <input type="checkbox"/> Customer Gender |
| <input type="checkbox"/> Attorney, Paralegal, Nonlawyer, Chatbox, etc. | <input type="checkbox"/> Error Code | <input type="checkbox"/> Customer Disability Status |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Customer Financial Outcome Type | <input type="checkbox"/> Customer Age Category |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

AGS LAW

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

----oo0oo----

In re: Application of AGS Law, PLLC

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that AGS Law, PLLC ("AGS Law") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the Recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for AGS Law to be authorized to practice law.

The Innovation Office has assessed the risk of harm to AGS Law's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by AGS Law's services is LOW. The Innovation Office recommends AGS Law be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Innovation Office Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. AGS Law is authorized to provide the legal services as detailed in the Innovation Office's Recommendation and subject to the conditions and requirements set forth in that Recommendation and in the Innovation Office Manual.

If AGS Law wishes to alter the terms of the authorization, conditions, or requirements, it must submit any such change to the Innovation Office

for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to AGS Law's compliance with the conditions and requirements set forth in the Innovation Office Manual and Recommendation and also to a verification by the Innovation Office that AGS Law has a record of compliance with all requirements and the entity's services are not causing harm to consumers.

DATED this 22nd day of September, 2020.

A handwritten signature in black ink, appearing to read 'M. B. Durrant', is written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0015 - AGS LAW

SEPTEMBER 21, 2020

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Sandbox Recommendation	2
Proposed Services	2
Risk Assessment	2

EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: AGS Law

Proposed Services: Law firm with minority nonlawyer ownership interest offering comprehensive legal and nonlegal services to dentists purchasing or winding up their practices

Sandbox Qualifiers: Nonlawyer ownership - less than 50%

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Services ready for market now

Regulatory Objective Qualifier: Increased efficiency of services needed by dentists in purchasing or winding up dental practices

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** AGS Law to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that AGS Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends authorizing AGS Law to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Less than 50% nonlawyer ownership
 - b. Areas of Service:
 - i. Business
 - ii. End of Life Planning
 - iii. Real Estate
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

AGS Law, a law firm focused on providing transactional and estate planning services for dental professionals, proposes offering a minority ownership interest to a nonlawyer partner, a consultant/broker assisting dentists with purchasing, selling, and/or winding up of dental practices. The business model simplifies and streamlines nonlegal and legal aspects of the service under one roof. The lawyer partner continues to provide all legal services.

RISK ASSESSMENT

- Target Market:**
1. New dentists out of dental school or dentists who have been practicing through an apprenticeship who want to purchase their own practices and are looking for dental transition legal services for a flat fee rather than at an hourly rate;
 2. Retiring dentists who are seeking to sell their practices and want legal assistance for a flat rate; and
 3. Existing dentists who want to use flat-fee legal services for their contracts

and other legal needs rather than paying an hourly rate or using unreliable online services.

Target Market: Consumers already accessing legal services; consumers possibly not accessing legal services

General Assessment: Low risk

Specific Risks: 1. Nonlawyer investment / ownership

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation (“Innovation Office”) will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office “badge” is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar “badge” for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

A Division of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

1LAW, P.C. AND 1LAW LEGAL SERVICES

SEPTEMBER 2, 2020

Contents

1. Utah Supreme Court Order for Authorization to Practice Law
2. Innovation Office Recommendation to the Court
3. Innovation Office Manual

DOCUMENT 1

In the Supreme Court of the State of Utah

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In re: Application of Jason Velez
for 1LAW and 1LAW Legal Services

ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that 1LAW, P.C. and 1LAW Legal Services ("1LAW") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated August 19, 2020 for 1LAW to be authorized to practice law.

1LAW seeks permission to provide no-cost and low-cost legal services to assist clients in completing court documents and offering related legal advice using chatbots, instant messaging, automated interviews, nonlawyer staff, and technology assisted lawyers. 1LAW's services will include services for employment and housing and eviction cases, which are areas of increasing and immediate need. Many of 1LAW's services will be available remotely and virtually. 1LAW's services include legal advice offered by persons who are not licensed Utah lawyers.

1LAW proposes to launch its services via its existing law firm (1LAW, P.C.) and then will transition a portion of its services to 1LAW Legal Services, a Benefit (B) corporation. The entity will have more than 50% ownership by persons who are not lawyers; partial ownership will be held by a lawyer holding an active license to practice law in Utah. All lawyers practicing law for or on behalf of 1LAW will maintain active licenses and will remain subject to the Rules of Professional Responsibility.

The Innovation Office has assessed the risk of harm to 1LAW's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by 1LAW's services is moderate.

The Innovation Office recommends 1LAW be authorized to practice law in the State of Utah as outlined in the Innovation Office recommendation and manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. 1LAW is authorized to provide the legal services as detailed in the Innovation Office's recommendation and subject to the conditions and requirements set forth in that recommendation and in the Innovation Office Manual.

If 1LAW wishes to alter these conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to 1Law's compliance with the conditions and requirements set forth in the Appendix and also to a verification by the Innovation Office that 1Law has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 31st day of August, 2020.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

A Division of the Utah Supreme Court

RECOMMENDATION TO THE COURT

APP 0002 - 1LAW

AUGUST 19, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: 1Law, P.C. / 1Law Legal Services

Proposed Services: Lawyers employed or managed by a nonlawyer

50% or more nonlawyer ownership

Nonlawyer provider with lawyer involvement

Software provider with lawyer involvement

Sandbox Qualifiers: Partial nonlawyer ownership - over 50%

Nonlawyer (software) service provision

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Basic services ready for market now

Regulatory Objective Qualifier: Some services will be offered free or at low cost, compared to full-service lawyers

Many services available remotely or virtually

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See [Innovation Office Manual](#) for requirement details.

Data Reporting Requirements: Moderate risk data reporting requirements.

See [Innovation Office Manual](#) for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** 1Law, P.C. / 1Law Legal Services (“1Law”) to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that 1Law has a record of compliance with all requirements and the company’s services are not causing harm to consumers.
2. The Innovation Office recommends authorizing 1Law to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. 50% or more nonlawyer ownership
 - iii. Nonlawyer provider with lawyer involvement
 - iv. Software provider with lawyer involvement
 - b. Areas of Service:

i. Accident / Injury	ix. End of Life Planning
ii. Adult Care	x. Financial Issues
iii. Business	xi. Healthcare
iv. Criminal Expungement	xii. Housing (Rental)
v. Discrimination	xiii. Immigration
vi. Domestic Violence	xiv. Marriage and Family
vii. Education	xv. Public Benefits
viii. Employment	xvi. Real Estate
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Moderate risk data reporting requirements as outlined in Innovation Office Manual.

PROPOSED SERVICES

1Law, founded by a Utah lawyer in good standing, is a legal technology company with more than 50% nonlawyer ownership and management. 1LAW seeks permission to provide no-cost and low-cost legal services to assist clients in completing court documents and offering related legal advice using chatbots, instant messaging, automated interviews, nonlawyer staff, and technology assisted lawyers. 1LAW’s services will include services for employment and housing and eviction cases, which are areas of increasing and immediate need. Many of 1LAW’s services will be available remotely and virtually. 1LAW’s services include legal advice offered by persons who are not licensed Utah lawyers.

1LAW proposes to launch its services via its existing law firm (1LAW, P.C.) and then will transition a portion of its services to 1LAW Legal Services, a Benefit (B) corporation. The entity will have more than 50% ownership by persons who are not lawyers; partial ownership will be held by a lawyer holding an active license to practice law in Utah. All lawyers practicing law for or on behalf of 1LAW will maintain active licenses and will remain subject to the Rules of Professional Responsibility.

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY

General Assessment: Moderate risk

Specific Risks:

1. Nonlawyer investment ownership - more than 50%
2. Legal practice through technology and nonlawyer providers
3. User communications

DOCUMENT 3



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4(B) and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate

Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISKS

The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) technology and nonlawyer providers,
- (3) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4A and 5.4B both clearly state the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____

- **Reporting of Data:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. But those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider ¹ with lawyer involvement ²	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² Involvement denotes a range of activities, including guidance on initial development of forms, scripts, processes, software. It could mean a lawyer does sample reviews of product/service performance. It could mean a lawyer is available to advise the nonlawyer provider as needed - including via red flag trap doors in software.

(e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. The data reporting requirements are focused on surfacing data around these particular issues and will enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based in the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - o Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - o We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

3. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients “for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client.” This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.

If you have questions, please contact us at _____.

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.
- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity has a material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows in .csv or other agreed-upon format.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - LOW RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. <i>(Office may recommend additional quarterly reporting on review of n interactions selected at random.)</i>
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - High Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served, broken down by type of service (i.e. chatbot, form tool, lawyer, nonlawyer)	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory expert review of representative selection of work product.	Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality. <i>(Office may recommend additional quarterly reporting on review of n interactions selected at random.)</i>
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields:

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| ➤ Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | <input type="checkbox"/> Customer Primary Race |
| | <input type="checkbox"/> Open, Closed, or Abandoned | <input type="checkbox"/> Customer Secondary Race |
| <input type="checkbox"/> Service Provider Type | <input type="checkbox"/> Customer Cost | <input type="checkbox"/> Customer Gender |
| <input type="checkbox"/> Attorney, Paralegal, Nonlawyer, Chatbox, etc. | <input type="checkbox"/> Error Code | <input type="checkbox"/> Customer Disability Status |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Customer Financial Outcome Type | <input type="checkbox"/> Customer Age Category |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

ROCKET LAWYER INC.

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Amended Order for Authorization to Practice Law
2. Innovation Office Amended Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

----oo0oo----

In re: Application of Rocket Lawyer Inc.

AMENDED ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Rocket Lawyer Inc. ("Rocket Lawyer") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the amended recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for Rocket Lawyer to be authorized to practice law.

Rocket Lawyer is a privately-held, for-profit legal technology company currently offering automated legal document completion services to the public. The company proposes hiring and contracting with licensed Utah lawyers to provide legal services to the public to supplement their well-established online legal document completion tools.

The Innovation Office has assessed the risk of harm to Rocket Lawyer's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by Rocket Lawyer's services is LOW to MODERATE. The Innovation Office recommends Rocket Lawyer be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. Rocket Lawyer is authorized to provide the legal services as detailed in the Innovation Office's Recommendation and subject to the conditions

and requirements set forth in that Recommendation and Innovation Office Manual.

If Rocket Lawyer wishes to alter the terms of this authorization, conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to Rocket Lawyer's compliance with the conditions and requirements set forth in the Recommendation and Manual and also to a verification by the Innovation Office that Rocket Lawyer has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 21st day of September, 2020.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', is written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

AMENDED RECOMMENDATION TO THE COURT

APP 0005 - ROCKET LAWYER

SEPTEMBER 21, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: Rocket Lawyer Inc.

Proposed Services: Employ and contract with Utah licensed lawyers to provide legal advice

Sandbox Qualifiers: Lawyers employed or managed by nonlawyers

Greater than 50% nonlawyer ownership

Software provider with lawyer involvement - legal document completion

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Basic services ready for market now

Regulatory Objective Qualifier: Unbundled services will be offered at low cost, compared to full-service lawyers

Many services available remotely or virtually

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low / moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** Rocket Lawyer Inc. to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Rocket Lawyer Inc. has a record of compliance with all requirements and the company's services are not causing harm to consumers.
2. The Innovation Office recommends authorizing Rocket Lawyer Inc. to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. 50% or more nonlawyer ownership
 - iii. Software provider with lawyer involvement - legal document completion
 - b. Areas of Service:

i. Adult Care	viii. Financial Issues
ii. Business	ix. Healthcare
iii. Criminal Expungement	x. Housing (Rental)
iv. Discrimination	xi. Immigration
v. Education	xii. Marriage and Family
vi. Employment	xiii. Public Benefits
vii. End of Life Planning	xiv. Real Estate
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low/ Moderate risk data reporting requirements as outlined in Innovation Office Manual.
 - a. Compliance with all relevant statutory and regulatory requirements.

PROPOSED SERVICES

Rocket Lawyer is a legal technology company with more than 50% nonlawyer ownership and management. The company currently offers automated legal document completion services. The company proposes hiring licensed Utah lawyers to provide legal services to the public to supplement their well-established online legal document completion tools.

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY

General Assessment: Low/ Moderate risk

Specific Risks:

1. Nonlawyer investment ownership - more than 50%
2. Legal practice through technology and nonlawyer providers
3. User communications

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint,
please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result. Consumer fails to exercise legal rights through ignorance or bad advice. Consumer purchases an unnecessary or inappropriate legal service.	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: submit legal expert review of first 20 consumer interactions.</p> <p>Office may require additional reporting on review of n interactions selected at random.</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| > Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX AUTHORIZATION PACKET

LAWPAL

SEPTEMBER 22, 2020

Contents

1. Utah Supreme Court Amended Order for Authorization to Practice Law
2. Innovation Office Amended Recommendation to the Court
3. Innovation Office Manual - Published September 22, 2020

DOCUMENT 1

COURT ORDER

In the Supreme Court of the State of Utah

----oo0oo----

In re: Application of Trevor Casperson and Kelly Chan for
LawPal

AMENDED ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that DBA LawPal ("LawPal") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the amended recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for LawPal to be authorized to practice law.

LawPal seeks authorization to practice law as a privately held, for-profit corporation owned 50%-50% by Trevor Casperson, a Utah-licensed lawyer, and Kelly Chan, a nonlawyer. LawPal proposes a "Turbo Tax"-like technology platform to generate legal documents in contested and uncontested divorce and custody cases, eviction cases, and debt-related property seizure cases. The platform will guide consumers through a series of questions to help them complete the forms and proceed pro se. The document completion services will be supplemented by a "knowledge bank" of informational articles, Q&As, and blog posts seeking to address potential areas of consumer question or concern. The platform, forms and documents, and knowledge bank have all been developed under the oversight of a licensed Utah lawyer and conform to Utah state law requirements.

The Innovation Office has assessed the risk of harm to LawPal's targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by LawPal's services is LOW to

MODERATE. The Innovation Office recommends LawPal be authorized to practice law in the State of Utah as outlined in the Innovation Office Recommendation and Manual.

Hence, in light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. LawPal is authorized to provide the legal services as detailed in the Innovation Office's Recommendation and subject to the conditions and requirements set forth in that Recommendation and Innovation Office Manual.

If LawPal wishes to alter this authorization, conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

2. This authority is granted for an initial period of 24 months with the possibility of extension or permanent authorization. This authority and any such extension or permanent authorization is subject to LawPal's compliance with the conditions and requirements set forth in the Appendix and also to a verification by the Innovation Office that LawPal has a record of compliance with all requirements and the company's services are not causing harm to consumers.

DATED this 21st day of September, 2020.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', written over a horizontal line.

Matthew B. Durrant
Chief Justice

DOCUMENT 2



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

AMENDED RECOMMENDATION TO THE COURT

APP 0004 - DBA LAWPAL

SEPTEMBER 21, 2020

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EXECUTIVE SUMMARY

Recommendation: Authorize

Applicant: DBA Lawpal

Proposed Services: LawPal proposes a legal tech company owned by both lawyers and nonlawyers offering automated legal document completion services for a variety of matters, including contested matters.

Sandbox Qualifiers: Partial nonlawyer ownership - over 50%

For-profit, privately held corporation

Utah Qualifier: Adapted for Utah requirements

Implementation Qualifier: Basic services ready for market now

Regulatory Objective Qualifier: Services will be offered at low cost, compared to full-service lawyers

Many services available remotely or virtually

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low / moderate risk data reporting requirements.

See Innovation Office Manual for requirements.

SANDBOX RECOMMENDATION

We recommend the Court **authorize** DBA Lawpal (“Lawpal”) to practice law in the state of Utah, subject to such requirements as the Innovation Office may impose.

We recommend the following scope of authorization:

1. The Innovation Office recommends that the authority be granted for an initial period of 24 months with the possibility of extension or permanent authorization. Any such extension or permanent authorization would be subject to the applicant complying with the conditions and requirements set forth below and also to a verification by the Innovation Office that Lawpal has a record of compliance with all requirements and the company’s services are not causing harm to consumers.
2. The Innovation Office recommends authorizing Lawpal to practice law only across the following categories of legal service:
 - a. Service Models:
 - i. Lawyers employed or managed by a nonlawyer
 - ii. 50% or more nonlawyer ownership
 - iii. Software provider with lawyer involvement - legal document completion
 - b. Areas of Service:
 - i. End of Life Planning
 - ii. Financial Issues
 - iii. Housing (Rental)
 - iv. Marriage and Family
3. Relevant requirements:
 - a. Relevant disclosure requirements as outlined in Innovation Office Manual.
 - b. Low / moderate risk data reporting requirements as outlined in Innovation Office Manual.
 - a. Compliance with all relevant statutory and regulatory requirements.

PROPOSED SERVICES

LawPal proposes a “Turbo Tax”-like technology platform to generate legal documents in contested and uncontested divorce and custody cases, eviction cases, and debt-related property seizure cases. The platform will guide consumers through a series of questions to help them complete the forms and proceed pro se. The document completion services will be supplemented by a “knowledge bank” of informational articles, Q&As, and blog posts seeking to address potential areas of consumer question or concern. The platform, forms and documents, and knowledge bank have all been developed under the oversight of a licensed Utah lawyer and conform to Utah state law requirements.

The ownership of LawPal lies in a holding company which is owned 50/50 by Trevor Casperson (a licensed Utah lawyer) and Kelly Chan (a nonlawyer).

RISK ASSESSMENT

Target Market: Consumers not currently accessing legal services / DIY.

General Assessment: Low / moderate risk

Specific Risks:

1. Nonlawyer investment ownership - more than 50%
2. Legal practice through technology and nonlawyer providers
3. User communications

DOCUMENT 3

Published September 22, 2020



OFFICE OF LEGAL SERVICES INNOVATION
An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

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I. INTRODUCTION

This manual seeks to establish the policies and processes by which the Office of Legal Services Innovation ("Innovation Office") will execute the mandate of the Utah Supreme Court Standing Order 15: to oversee the nontraditional model of legal services, subject to the ultimate authority and control of the Utah Supreme Court. This manual will guide the Innovation Office, the Utah Supreme Court, Sandbox applicants and participants, and the public on the work of the Office.

This manual is a working document and will be regularly updated or revised according to need. Any decisions or actions by either the Innovation Office or the Utah Supreme Court, while informed by this document, are ultimately based on discretion guided by the Regulatory Objective and Regulatory Principles outlined in Standing Order 15.

II. APPLYING TO THE SANDBOX

Qualification for the Sandbox is guided by Rule 5.4 and Standing Order No. 15, Section 3.3.2. The Sandbox is the mechanism by which business models or services that have not traditionally been permitted in the Utah legal system may provide legal services.

Such practices may include:

- traditional law firms taking on nonlawyer investment or ownership;
- traditional law firms and lawyers entering into fee sharing relationships with nonlawyers;
- nonlawyer-owned or corporate entities employing Utah-licensed lawyers to practice law;
- firms or companies using technology platforms or nonlawyer service providers to practice law; or

- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law.

There may be many other innovative models or services not permitted under the traditional rules that will apply to the Sandbox.

Any entity wishing to apply to the Sandbox must complete:

1. The Application Form
2. Disclosures around ownership, management, and significant financial investors / partners, including whether any of those controlling individuals are disbarred or have a felony criminal history;
3. Disclosure on whether the entity plans to share or sell consumer data to third parties;
4. GRAMA confidentiality claim for information that is identified as trade secrets or confidential business information.

Applicants may also submit any other relevant supplemental materials.

The Innovation Office will review the application for completeness. The Office does not consider applications submitted until the Office determines the submission is sufficiently complete.

III. INNOVATION OFFICE REVIEW PROCESS

Once the application is determined complete, the Innovation Office will begin its review. The first level of review is performed by the Executive Committee. The second level of review is performed by the entire Office.

The review process is iterative and applicants are expected to be responsive and engaged with the Office. The Innovation Office will seek to understand the applicant's business model and potential consumer risks therein.

This section:

- Outlines the qualifiers the Office must confirm for each applicant
- Articulates common risk assessments
- Sets out and explains the core categories of:
 - Service model
 - Service area
 - Disclosure requirements
 - Data reporting requirements

A. QUALIFIERS

The Innovation Office must confirm that each applicant meets the following qualifiers:

Sandbox Qualifier(s): What aspects of the proposed entity / service qualify for participation in the sandbox.

Utah Qualifier: Each entity must affirm that its service conforms to any applicable requirements of Utah law.

Implementation Qualifier: Each entity must affirm that it is ready or very close to ready to implement its proposed service.

Regulatory Objective Qualifier: Each entity must show that the proposed service will further the Regulatory Objective outlined in Standing Order No. 15: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

B. RISK ASSESSMENT

The Risk Assessment section outlines the risks of consumer harm identified by the Innovation Office. The Innovation Office has grouped consumer risk of harm from legal services into three main areas:

- (1) inaccurate or inappropriate legal result,
- (2) failure to exercise legal rights through ignorance or bad advice, and
- (3) purchase of an unnecessary or inappropriate legal service.

It is the goal of the Office to work toward being able to both assess and measure consumer risk relative to the risk of harm the target consumer population currently faces. For example, suppose an entity is targeting consumers who do not generally access legal help from lawyers. In that case, the Risk Assessment of the proposed services should be against receiving no legal advice or using do-it-yourself tools on the market or from court websites.

SERVICE MODEL RISK CATEGORY

The Office has developed a model of risk categorization based on the service model(s) proposed by the entity:

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider ¹ with lawyer involvement ² - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers (standard)	Low/Moderate
Lawyers sharing fees with nonlawyers (extraordinary)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement ³	High
Software provider without lawyer involvement	High

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² "Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

³ "Without lawyer involvement" means either (1) a Utah-licensed lawyer provides guidance and oversight at the front end of the development of the service model only but has no ongoing oversight, or (2) no Utah-licensed lawyer is involved in the development or provision of legal service at all.

We have categorized the risk across these service models according to the lawyers' involvement in developing and overseeing the nonlawyer model. Essentially, as we get further from our historical norms, the risk level increases because we do not know much about how these models will work. We are relying on the assumption that lawyer involvement should mitigate some of the risks around poor advice or failure to identify issues. However, both moderate and high risk models are subject to robust data requirements giving us the ability to learn more about actual level, scope, and type of risks as we move forward. In the future, as we learn more about the kinds of services offered and the potential risk of consumer harm, we hope to develop more finely tuned categories of risk according to the simplicity / complexity of more specific service offerings (e.g., completing legal documents, advising on process only, representing a consumer in negotiations with an opposing party, representing a consumer in court).

Once an entity is authorized, reported data will be our primary tool to facilitate our regulatory objective while also focusing on consumer protection. As the risk of any proposed service increases, the frequency and scope of reporting increases.

ADDITIONAL RISK DETAIL

The Innovation Office has identified some risks that repeat across entities. Those risks are discussed in detail in this manual but referred to by a shorthand designation in the recommendation to the Court. As we identify new repeating risks, we will add them to this manual. The Office may also identify risks outside or ancillary to the proposed service model. Applicants are encouraged to interrogate their own models for additional risks and discuss those with the Office.

The following repeating risks are described in detail below:

- (1) nonlawyer investment / ownership,
- (2) lawyers sharing fees with nonlawyers,
- (3) technology and nonlawyer providers,
- (4) user communication, and
- (4) ownership, investment, or management by disbarred lawyers or individuals with felony criminal histories.

1. NONLAWYER INVESTMENT / OWNERSHIP

Entities may propose taking on nonlawyer investment / ownership or lawyer employees.

Nonlawyer investment / ownership presents the potential risk that nonlawyer owners / investors, unfamiliar with and unlimited by the legal Rules of Professional Conduct, could undermine the legal services model to the consumer's detriment. It potentially increases the likelihood of implementing business practices that increase the consumer harm risk across all three risk areas. The potential negative impacts of nonlawyer investment / ownership are significantly lower if the nonlawyers have less than majority ownership.

While concern about this risk runs high among lawyers and others unsure about the impact of regulatory reform, data on this risk is relatively limited. Studies from the UK and Australia, each of which have allowed nonlawyer investment / ownership for some time, show no adverse impacts on consumers by legal service businesses with nonlawyer investment / ownership. Given that, we have assigned the following these models to the following risk categories:

Service Model	Risk
Lawyers employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
50% or more nonlawyer ownership	Low / Moderate

There are several ways to address this risk:

- **Rules of Professional Conduct:** All lawyers participating in the sandbox, whether as owners, employees, independent contractors, or business partners, are required to maintain their professional duties, including loyalty to the client and confidentiality. Rule 5.4 both clearly states the lawyer's responsibilities.
- **Identification and Confirmation:** During the assessment process, the Innovation Office notes the lawyers' continuing duties of professional responsibility and independence and may ask the applicant to briefly describe the policies and procedures the applicant will put in place to ensure those duties are maintained.
- **Disclosure Requirements:** The Innovation Office has developed the following disclosure requirements for nonlawyer owned entities:
 - For nonlawyer-owned companies:
 - This is not a law firm. Some of the people who own / manage this company are not lawyers. This means that some services / protections, like attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.

- **Data Reporting:**

- For less than 50% nonlawyer investment / ownership (low risk), without other risk factors, entities will have minimal reporting requirements. Those requirements include customer complaint data.
- For more than 50% nonlawyer investment / ownership (low/moderate risk), entities will have more fulsome reporting requirements at the outset, to be reduced when [x happens].

2. LAWYERS SHARING FEES WITH NONLAWYERS

Under revised Rule 5.4, lawyers proposing to share fees with nonlawyers, whether through basic arms length referral fee transactions or some other model, must enter the Sandbox. The potential risks presented by fee sharing could include compromised lawyer independence and loyalty, conflicts issues, and increased likelihood of the lawyer advancing nonmeritorious claims. There are several mechanisms to address these risks of consumer harm:

- **Rules of Professional Conduct:** All lawyers engaging in fee sharing relationships with nonlawyers are required to maintain their professional duties to their clients and to the court.
- **Disclosure Requirements:** Rule 5.4 requires all lawyers engaging in fee sharing relationships with nonlawyers to disclose the fact of the fee sharing relationship to the affected client. Depending on the model proposed, the Innovation Office may supplement those disclosure requirements or impose timing requirements.

- **Data Reporting:**

- Many fee sharing models will be standard arm's length referral fees paid to nonlawyers who refer clients to the lawyer. The Office has categorized those standard models as low/moderate risk and will collect general data on matters coming to the lawyer through fee sharing relationships: number of matters, revenue/receipt, geographic information. The Office will also collect consumer complaints and nonfinancial outcome data.
- Some fee sharing business models could contain characteristics that present increased risk of consumer harm. For example, a model may present more acute likelihood of conflict of interest or other challenge to the lawyer's ethical duties. Models that the Innovation Office determines to present such extraordinary characteristics will be categorized as moderate risk and required to submit financial outcome data and potentially be subject to expert audit review.

3. LEGAL PRACTICE THROUGH TECHNOLOGY AND NONLAWYER PROVIDERS

There are several mechanisms through which entities may propose to offer legal services through technology or nonlawyer human providers. We have identified the following models and risk categories:

Service Model	Risk
Software provider with lawyer involvement - legal document completion	Low
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

Basic automated form completion (software provision of legal forms and information) is already widely available on the market and has been categorized as providing legal information. The Utah Courts offer such a service through OPAC. Such services reach consumers who otherwise would not likely engage with legal rights or services and the relative risk of consumer harm appears low. These include consumers who cannot access lawyers or visit court-based, self-help services due to time or travel limitations (distance), as well as those who cannot afford a lawyer.

We foresee multiple applicants proposing to expand on this model by using tech platforms to provide legal advice and guidance to consumers (e.g., providing basic legal advice through a chatbot and enhancing the platform's ability to actively guide consumers to complete forms and other legal documents). We also foresee multiple applicants proposing to use nonlawyer providers (whether as advisors on legal processes and / or as subject matter experts) to provide basic legal advice and assistance to consumers.

These services will be new legal service models and potentially present risk of harm if the quality of the legal advice and guidance is poor. Potential concerns include failure to identify material factual or legal issues, mischaracterization of material factual or legal issues, inaccurate legal advice, etc. For this reason, we have categorized the risk of these services based on the extent of lawyer involvement in developing and managing the software or nonlawyer providers. Where lawyers are involved in the development and oversight of the service, the risk category will be lower.

We have developed data reporting requirements focused on surfacing data around the three consumer harms to enable the Office to identify, assess, and address evidence of harm.

These models also may present other risks to consumers based on the fact that these are not traditional lawyer/client engagements. To address that aspect of the risk, the Office will require providers with these service models to make the following consumer disclosure:

- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____

4. USER COMMUNICATIONS

We are developing a system of entity regulation in which the entity itself is given the authorization to practice law. This development may cause some tension with the traditional rules governing aspects of legal practice. In particular, communications between a user and licensed entities may present novel issues. As it stands, the attorney / client privilege applies only to communications between lawyers and their clients "for the purpose or in the course of obtaining or facilitating the rendition of legal services to the client." This potential consumer vulnerability raises concerns about consumer harm from communication of sensitive information that is not protected from later discovery because the consumer did not make the disclosure to a lawyer within the definition of Rule 504. For example, a consumer communicating with a chatbot or with a nonlawyer legal advisor may believe their communications are protected because they assume they are getting legal help and find that sensitive information is now subject to disclosure.

There are currently many legal service options on the market which provide automated legal document completion on matters that do not reach attorney / client privilege. There are good reasons to think that consumers may not need or care about the application of the privilege to many types of legal services. Completing estate planning documents or drafting an employment contract template, for example, may not trigger consumer interest in the privilege. However, most consumers are not knowledgeable enough to draw distinctions around what is, essentially, a rule of evidence and this presents a potentially significant risk.

Further, lawyers practicing law as employees of a nonlawyer-owned entity raise novel issues around the nature of the client engagement, the status of the relationship between the lawyer and the entity, and protection of communications.

To address these issues and the resulting risk of consumer harm, we developed the following disclosure for authorized entities to place on their website, in their terms of service, and at the start of a consumer interaction / engagement:

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm. If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.

5. OWNERSHIP, INVESTMENT, OR MANAGEMENT BY DISBARRED LAWYERS OR INDIVIDUALS WITH FELONY CRIMINAL HISTORIES.

In Standing Order No. 15, the court determined disbarred lawyers present a high risk of consumer harm and, therefore, found that disbarred lawyers may not own or have a financial interest of greater than 10% in any entity participating in the Sandbox. The court also found that individuals with felony criminal histories may present an elevated risk of consumer harm, depending on the nature of that criminal history and their position within the participating entity.

Applicants to the Sandbox must:

- Confirm that no disbarred lawyers own or control more than 10% interest in the entity.

- Disclose all persons or entities who wholly or partially direct the management or policies of the proposed entity, whether through ownership of securities, by contract, or otherwise ("controlling persons").
- List all persons or entities who will wholly or partially (>10%) finance the business of the proposed entity ("financing persons").
- List any of those controlling or financing persons with felony criminal histories.
- List any persons in a managerial role over the direct provision of legal services who is disbarred or who has a felony criminal history.
- Disclose whether the entity material corporate relationship and / or business partnership with either a disbarred lawyer or individual with a felony criminal history.

The Office will develop a list of specific criminal felonies that could impact its risk assessment of the entity and follow up on any relevant disclosures with a more detailed inquiry. The Office will also incorporate relevant information into its risk assessment and include it in its recommendation to the Court.

C. AUTHORIZATION PARAMETERS

After conducting the risk assessment, the Innovation Office will develop the outline for its authorization recommendation, including risk category, service area(s), and any additional requirements.

1. SERVICE MODELS

The Office will determine which service models it will recommend for Court review and approval. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Fee sharing with nonlawyers (standard)	Low / Moderate
Fee sharing with nonlawyers (exceptional)	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High

2. SERVICE CATEGORIES

The applicant identifies the service areas in which they will be working. Even after authorization, if an applicant's model changes to include a new model, the applicant must request additional assessment and authorization from the Innovation Office.

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations

3. CONSUMER DISCLOSURE REQUIREMENTS

REQUIRED FOR ALL AUTHORIZED ENTITIES

The Innovation Office "badge" is required for all authorized entities to display on their websites as well as brick-and-mortar offices. This will facilitate consumer knowledge and confidence and will provide question / complaint information. Regulators in the UK have developed a similar "badge" for regulated legal service entities.



For more information or to file a complaint, please visit sandbox.utcourts.gov

REQUIRED AS APPLICABLE⁴

- **This is not a law firm.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties.

If you have questions, please contact us at _____.

4. ANNUAL ENTITY REPORTING

Authorized entities will have certain limited annual reporting / certification requirements, confirming the status of their controlling and financing persons and confirming that no disbarred lawyer owns or controls more than 10% financial stake.

⁴ The Innovation Office notes that Rule 5.4 contains its own disclosure requirements applicable to lawyers in fee sharing arrangements and nonlawyer owned entities.

5. DATA REPORTING REQUIREMENTS

For each approved service area, the entity will submit data as follows. The Innovation Office will provide the entity with a .csv template with specific data fields and corresponding operational and technical definitions.

NONLAWYER INVESTMENT / OWNERSHIP: LESS THAN 50% - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - LEGAL DOCUMENT COMPLETION - Low Risk

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Quarterly
			Geographic info	Quarterly
			Revenue / receipt info	Quarterly
			All consumer complaints	Quarterly

NONLAWYER INVESTMENT / OWNERSHIP: MORE THAN 50% - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly

FEE SHARING WITH NONLAWYERS (STANDARD) - LOW TO MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly

FEE SHARING WITH NONLAWYERS (EXCEPTIONAL) - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services under the fee sharing model	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	All services under the fee sharing model	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
			Financial outcome data (benefit obtained / loss prevented) broken down by outcome (verdict, settlement, etc.)	Monthly
			(Potential) Expert review of redacted case file	As determined

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.			

NONLAWYER PROVIDER WITHOUT LAWYER INVOLVEMENT & SOFTWARE PROVIDER WITHOUT LAWYER INVOLVEMENT - HIGH RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	<p>Consumer achieves an inaccurate or inappropriate legal result.</p> <p>Consumer fails to exercise legal rights through ignorance or bad advice.</p> <p>Consumer purchases an unnecessary or inappropriate legal service.</p>	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	<p>Nontraditional products / services: first 20 consumer interactions to be reviewed by legal experts for accuracy and quality.</p> <p>Additional monthly reporting on <i>n</i> consumer interactions (to be determined by Office).</p>
		Nonlawyer	Nonfinancial outcomes data (% customers that did / did not get the outcome they sought)	Monthly
		Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Data on returns for error fixes.	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly

IV. RECOMMENDATION TO THE COURT

The Court retains complete discretion to review and assess any recommended entity. The Office has developed a recommendation to the court focused identifying potential risks, assigning a general risk level to the entity, and recommending relevant requirements for authorization. The Innovation Office strives to avoid unnecessary verbiage and repetition so as to make the recommendations, application review, and authorization processes as efficient as possible. The individual recommendation documents and Proposed Orders submitted to the court will refer to this manual for the full discussion of risks unless the model proposed presents a unique and novel issue.

Should the court vote to approve the recommended entity, it will enter the Proposed Order, subject to any changes requested by the court. The Proposed Order authorizes the entity as outlined and limited by the scope of the recommendation and the Innovation Office Manual. Once the Order is entered, the Innovation Office will make the application, recommendation, and Order public on its website. Any confidential information will be redacted before these materials are released publicly.

V. DATA REPORTING AND MONITORING

In addition to providing initial quality review reports and annual confirmation, the Innovation Office will receive regular reporting from participating entities as outlined above. This reporting includes the following fields (subject to updating):

- | | | |
|---|---|---|
| <input type="checkbox"/> Sandbox Participant Code | <input type="checkbox"/> Service Sought | <input type="checkbox"/> Customer Complaint |
| <input type="checkbox"/> Customer Number | <input type="checkbox"/> Service Received | <input type="checkbox"/> Customer Zip Code |
| > Assigning a unique code to each customer allows the Office to track the success of individual services provided to each customer, rather than the cumulative outcome of various services provided to a single customer. | <input type="checkbox"/> Service Status | |
| | <input type="checkbox"/> Open, Closed, or Abandoned | |
| <input type="checkbox"/> Service Model | <input type="checkbox"/> Customer Cost | |
| <input type="checkbox"/> Service Category | <input type="checkbox"/> Error Type | |
| | <input type="checkbox"/> Customer Financial Outcome Type | |
| | <input type="checkbox"/> Customer Financial Outcome Value | |

TAB 6



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

August 31, 2020

Dear Judicial Nominating Commission members,

I write at the request of Governor Herbert to thank you for your tremendous service to the State of Utah and to emphasize critical aspects of the Utah judicial selection system.

Governor Herbert recognizes and appreciates the many hours of preparation involved with each judicial vacancy addressed by a judicial nominating commission. Your work is the first step, and a critical step, in the merit selection of judges, a process that focuses exclusively on qualifications for office. The Judiciary in Utah is regarded as a model for the nation and world. Your work in reviewing applications for office, interviewing applicants, and ultimately sending the most qualified applicants to the Governor is integral to the quality and success of the Utah Judiciary. Governor Herbert thanks you for your important contributions.

The foundation of the merit selection process for judges is found in the Utah Constitution, Article VIII, Section 8(4): "Selection of judges shall be based solely upon fitness for office without regard to any partisan political consideration." Utah Code 78A-10-102 makes it clear that this provision governs the actions of judicial nominating commissions, the Governor, and the Senate: "Judges for courts of record in Utah shall be nominated, appointed, and confirmed as provided in Utah Constitution Article VIII, Section 8, and this chapter."

The role of judicial nominating commissions is clear, albeit challenging: "certify to the governor a list of the [five or seven] most qualified applicants per vacancy." Utah Code § 78-10-103(3)(a). "In determining which of the applicants are the most qualified, the nominating commissions shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office." Utah Code § 78-10-103(2). Administrative rules promulgated by the Utah Commission on Criminal and Juvenile Justice provide further guidance to judicial nominating commissions as they fulfill their critical role in the merit selection of judges.

It is imperative that all judicial nominating commission members are united in following the constitutional provisions, statutes, and administrative rules that govern the selection of judges.

Commission members will certainly have differences of opinion as to which applicants are the most qualified. That is why judicial nominating commissions comprise seven voting members who each bring unique perspectives. That diversity is an important strength. Equally important is the commitment of each judicial nominating commission member to ignore issues and opinions that are not relevant to the qualifications of a judge.

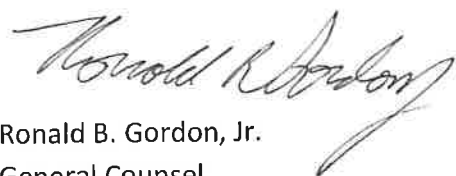
The Utah Constitution is clear that partisan political considerations are off-limits. Utah statutes and administrative rules define the evaluation criteria. Individual members of a judicial nominating commission have considerable discretion in applying the evaluation criteria and determining what emphasis to place on each criterion. Members do not have discretion to go beyond the criteria listed in statute and rule.

A few considerations have been problematic during Governor Herbert's tenure: geographic location of the applicant's residence, geographic location of the applicant's employment, so-called "ties to the community," and confirmability. I will address each of these in turn.

- The Utah Constitution requires district and juvenile court judges to reside in the judicial district for which they are selected. The Utah Constitution does not require applicants to reside in the district at the time of application; nor does any statute or rule. The location of an applicant's residence and employment are unrelated to the qualifications for judicial office.
- While "public service" is specifically identified in rule as an evaluation criterion, an applicant's ties or connections to any specific area or community is also unrelated to the qualifications for judicial office.
- Finally, confirmability is beyond the scope of a judicial nominating commission if it means anything other than the qualifications and evaluation criteria identified in statute and rule.

Judicial nominating commission members must resist any attempt by any person to influence them to consider anything beyond the qualifications and criteria identified in statute and rule. Failing to do so undermines the merit selection process that serves Utah so well.

Thank you again for your willingness to serve this great state. The Governor is grateful for your sacrifice and service. Your contributions may go unnoticed by many, but impact all.



Ronald B. Gordon, Jr.
General Counsel



**UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES**

OCTOBER 16, 2020

VIDEO CONFERENCE MEETING

- In Attendance:** President Heather Farnsworth and President-elect Heather Thuet.
Commissioners: John Bradley, Traci Gunderson, Rick Hoffman, Chrystal Mancusco-Smith, Marty Moore, Mark Morris, Shawn Newell, Mark Pugsley, and Katie Woods.
- Ex-Officio Members:** Nate Alder, Herm Olsen, Erik Christiansen, Raj Dhaliwal, Grace Pusavat, Sarah Baldwin, Camila Moreno, and Margaret Plane and Dean Gordon Smith.
- Not in Attendance:** Michelle Quist and Tom Seiler, Ex-Officio Members: Ashley Peck, Amy Fowler, Robert Rice, and Dean Elizabeth Kronk Warner.
- Also in Attendance:** Executive Director John C. Baldwin, General Counsel Elizabeth A. Wright, and Supreme Court Liaison Larissa Lee.

Minutes: 9:03 a.m. start

1. President's Report: Heather Farnsworth

- 1.1 Tonight's Dinner & Activity.** Heather Farnsworth provided details for the Commission virtual get-together.
- 1.2 Committee/Seminar on Use of Deadly Force in Utah.** See below.
- 1.3 Discuss lawyers' Rights of Expression.** Heather Farnsworth provided two examples of lawyers who spoke out publicly on current issues and, as a result, had OPC complaints filed against them. The Commission discussed concern that politically active lawyers are being targeted for speech. Heather Farnsworth will address the issue in the next e-bulletin.
- 1.4 Discuss Bar Executive Succession Process.** John Baldwin will retire when his current contract ends on June 30, 2021. A plan and timeline for selecting his replacement was distributed. The Commission discussed the hiring timetable, the succession plan and the groups that should be represented on the hiring committee.
- 1.5 Discuss ABA Legal Intern Program.** Erik Christiansen reported on the ABA Judicial Intern program whose goal is to promote judicial internships to diverse candidates from across the nation. The program also provides professional and networking support to the

interns. Erik has established a committee to promote the program in Utah and may seek Bar funding if needed.

2. Action Items.

- 2.1 **Approve 2019-2020 Audit Report.** The Bar's Financial Director Lauren Stout joined the meeting. Rick Hoffman reviewed the report with the Commission and noted the "clean opinion" from the auditors. **Andrew Morse moved to accept the 2019-2020 auditor's report. Marty Moore seconded the motion which passed unopposed.**
- 2.2 **Selection of ABA Delegate.** After a discussion of the applicants, **Marty Moore moved to appoint Kim Cordova to serve as a Bar ABA Delegate. Herm Olsen seconded the motion which passed unopposed.**
- 2.3 **Reinstate Lawyers Helping Lawyers as Bar Committee.** Brook Millard and Danielle Hawkes joined the meeting to ask that Lawyers Helping Lawyers be reinstated as a Bar committee. It was initially a Bar committee and then became a separate 501(c)(3) organization. The organization will be more effective and have more visibility as a Bar committee. **Marty Moore moved to reinstate Lawyers Helping Lawyers as a Bar Committee, to accept the Committee Charge and to appoint Brook Millard as Committee Chair and Dannielle Hakes as Vice Chair. Katie Woods seconded the motion which passed unopposed.**

OUT OF ORDER

1.2 Committee/Seminar on Use of Deadly Force In Utah. Former Bar President Rod Snow joined the meeting to ask the Commission to establish a task force to study Utah's deadly force statute and to possibly make recommendations for change to the Utah legislature. Margaret Plane noted the various groups that have been created to study the statute in response to recent incidences of use of deadly force. After discussion, **Marty Moore moved to decline to set up a Bar task force on the use of deadly force in Utah and to instead to create a committee to explore offering a seminar or CLE on the issues. John Bradly seconded the motion which passed with Heather Farnsworth and Andrew Morse opposed.**

- 2.4 **Selection of Outstanding Mentors.** After discussion of the NLTP Committee's recommendations, **Marty Moore moved to award Michael Langford and Patrick Tan the 2019 Outstanding Mentor Award. Chrystal Mancusco-Smith seconded the motion which passed unopposed.**

3. Discussion Items.

- 3.1 **Bar Survey & List of Commissioners' Priorities.** The Commission will release the survey to the public and Bar affinity groups with an introduction and a summary of the survey findings.

- 3.2 Regulatory Reform and Bar Committee Planning.** The Committee will continue to keep the Commission and Bar licensees informed of the activities of the Court's innovation Committee and the organizations granted permission to participate in the sandbox.

4. Information Items.

- 4.1 Announce Admissions Ceremony.** The Admissions Ceremony will take place via videoconference at noon on October 20, 2020.

- 4.2 Judicial Nominating Publicity Follow-up.** Marty Moore did not have an update.

5. Executive Session

Adjourn: 12:45 p.m.

Consent Agenda

1. Approved Minutes from the August 28, 2020 Commission Meeting.

TAB

8

Home / Web First / How Utah's judicial and state bar officials...

ACCESS TO JUSTICE

How Utah's judicial and state bar officials worked together for regulatory reform

BY LYLE MORAN ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64793/](https://www.abajournal.com/authors/64793/))

NOVEMBER 5, 2020, 9:05 AM CST

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The Utah Supreme Court. From left to right: Justice John A. Pearce, Associate Chief Justice Thomas R. Lee, Chief Justice Matthew B. Durrant, Justice Constandinos "Deno" Himonas and Justice Paige Petersen.

When Gillian Hadfield was asked whether she would speak to a spring 2018 gathering of state court leaders about how changing the way the legal profession is regulated could strengthen access to justice, she was initially hesitant.

For years, the economist and law professor, who was then based at the University of Southern California, had unsuccessfully urged bar associations to support ethics rules revisions that would allow alternative business models in the legal industry.

“I’ve been singing this song for a very long time, and nobody is joining in,” Hadfield recalls telling Thomas Clarke, the then-vice president of research and technology at the National Center for State Courts, who invited her to speak.

However, Clarke assured her that this particular group of state supreme court justices and court administrators from the western United States scheduled to gather in May 2018 was “a different group” that was “ready to do something.”

Clarke’s words prompted Hadfield to agree to present at the conference in Vancouver, Washington, but she decided to deviate from her typical ethics rules-focused message in hopes of generating a better response.

Hadfield instead urged supreme courts to form a regulatory body that would license and oversee nontraditional legal services providers, such as those with nonlawyer owners or investors. This approach would not only usher in new business structures that could bring down the high cost of legal assistance, she argued, but also ensure consumer protection.

Hadfield’s presentation resonated strongly with the Utah officials in attendance, according to John Lund, the Utah State Bar’s then-president. He recalls that it caused members of the Utah delegation “to sit around and say: ‘What do we do to deal with this?’”

Utah Supreme Court Justice Constandinos “Deno” Himonas was among those present who joined Lund in voicing support for exploring Hadfield’s recommendations, and Lund says the ensuing conversation “launched the idea of looking at regulatory reform in Utah.”

In the months that followed, the Utah Supreme Court created a working group that produced proposals to overhaul Utah’s regulation of the legal industry, and the court later formed a task force to advise it on implementing those measures.

The work of those two panels culminated in the state’s high court unanimously approving a comprehensive set of regulatory reforms (<https://www.abajournal.com/web/article/utah-embraces-nonlawyer-ownership-of-law-firms-as-part-of-broad-reforms>) in August that allowed for a significant opening of the legal market to nonlawyers during a two-year pilot period.

Additionally, the court’s actions cemented Utah’s somewhat surprising status as one of the two leaders, along with Arizona (<https://www.abajournal.com/web/article/arizona-approves-alternative-business-structures-as-part-of-access-to-justice-reforms>), of a growing number of states adopting or considering changes to how they regulate the legal profession.

Those involved say Utah has made such rapid regulatory reform progress due to its supreme court closely collaborating with state bar leadership, bringing in a variety of outside experts to provide guidance and offering consistent support for bold action even in the face of some opposition.

Teaming up

Given its relatively small population and reputation for being politically conservative, Utah wasn't an obvious choice to blaze a trail for the rest of the country on access to justice.

"I don't think anyone had Utah on their radar as the state likely to be leading the charge on regulatory reform in the legal space," says Joanna Mendoza, who served on California's Task Force on Access Through Innovation of Legal Services, which was formed to study regulatory changes in 2018.

Others, including Clarke from the National Center for State Courts, were less surprised. He points to Utah's history of embracing access-to-justice innovations, including online dispute resolution for small claims cases and permitting licensed paralegal practitioners to handle some legal tasks.

"There is a culture there of trying new things that was already established long before the regulatory-reform project," Clarke says.

Plus, there was a clear need for reform. A primary reason Hadfield's Vancouver talk struck such a chord with Utah officials was that they were already quite concerned about the growing struggle of many members of the public in their state and nationwide to afford legal services.

In 2015, the Utah State Bar's Futures Commission reported that defendants were self-represented in 98% of the debt collection cases and 97% of the eviction cases filed in Utah in the prior year.

Meanwhile, on the national level, the Legal Services Corporation reported in 2017

(<https://www.lsc.gov/media-center/publications/2017-justice-gap-report>) that low-income Americans receive inadequate or no professional legal help for 86% of the civil legal problems they face annually.

But even though state bars and supreme courts across the nation have been well aware of the increasing justice gap, they frequently have resisted calls to permit nonlawyer ownership or investment in law firms as a way to address the problem. This reluctance has come amid attorneys' concerns that profit motives would take precedence over the best interests of legal consumers and result in substandard service.

With that history in mind, Lund told Utah Supreme Court leaders at the Vancouver gathering that for lawyers to consider permitting new economic structures in the law, "they need to know that the court is supportive of their willingness to do that."

In turn, Himonas told Lund that such an initiative would require state bar leadership being on board.

"It seemed important that it be a joint effort to make it work," says Himonas, noting the two entities had successfully partnered on prior access-to-justice projects.

Both Lund and Himonas pledged support to the cause, prompting Lund's work to ensure the bar would play a proactive role in the reform efforts being contemplated even after his term as president expired.

This led to H. Dickson Burton, Lund's replacement as state bar president, requesting in an August 2018 letter that the Utah Supreme Court establish a panel to study regulatory reform.

In response, the court created a 12-member Work Group on Regulatory Reform in the latter stages of 2018 that was co-chaired by Himonas and Lund. The group's members included Burton, Utah State Bar General Counsel Elizabeth Wright and Heather White, past co-chair of the state bar's Innovation in Law Practice Committee.

Outside the box

The panel also featured regulatory reform proponents and access-to-justice experts from across North America.

Hadfield, who transitioned in 2018 to her current role as a professor of law and strategic management at the University of Toronto, was a member of the group, as was Clarke of the NCSC. Other academics included were Margaret Hagan, director of the Legal Design Lab at Stanford University; and Lucy Ricca, a fellow and former executive director of the Stanford Center on the Legal Profession.

"The issue for the task force was not—as it has been with almost every other bar/court task force— 'Should we do this?'" Hadfield recalls. "It was: 'How do we do this?'"

One way the group worked to answer that question was through participation in a design lab led by Hagan in which the panel tried to devise ethics rules changes that would allow the legal industry to harness the power of capital and technology while still protecting clients.

The work group also closely studied the regulatory reforms in the United Kingdom brought about by the Legal Services Act of 2007, which paved the way for alternative business structures. As part of that examination, leaders of the Utah group frequently sought the counsel of Crispin Passmore, the former executive director of the Solicitors Regulation Authority in the U.K.

"You want different perspectives at all times," Himonas says.

After months of intensive efforts, the Utah work group unveiled its recommendations in an August 2019 report (<https://www.utahbar.org/wp-content/uploads/2019/08/FINAL-Task-Force-Report.pdf>), titled *Narrowing the Access-to-Justice Gap by Reimagining Regulation*.



Justice Deno Himonas.

A primary component of the group's proposals was the creation of a regulatory sandbox that would allow nontraditional legal services providers, including those with nonlawyer investors or owners, to test new ways of serving legal consumers without the fear of being accused of the unauthorized practice of law. Opening the legal market in this fashion would encourage capital investment in new technologies and service models that might not otherwise be funded, the work group argued.

Overall, the sandbox would provide an environment that "permits innovation to happen in designated areas while addressing risk and generating data to inform the regulatory process," the report said.

Later in August 2019, the Utah Supreme Court issued a press release

(<https://www.utcourts.gov/utc/news/2019/08/29/utah-supreme-court-adopts-groundbreaking-changes-to-legal-service-regulation/>) saying it had unanimously voted to pursue the work group's recommended reforms and would create an implementation task force to help do so.

Arizona State University professor Rebecca Sandefur, who has extensively researched access-to-justice issues, joined the implementation group. She says Utah bringing in voices beyond just lawyers and judges played a key role in its regulatory reform progress.

"It is very difficult to do something new or innovative if all you have accessible to you are the perspectives that created the status quo," says Sandefur, an American Bar Foundation faculty fellow.

Another benefit of utilizing outside advisers was their ability to dedicate extensive time to the reform efforts and secure the funding to do so, according to Utah officials.

Sticking together

Meanwhile, Lund and Himonas also endeavored to keep the state bar engaged with the reform implementation efforts.

Lund says he recommended the bar's leadership form their own committee to independently assess the reform proposals, a suggestion the bar took.

In July, the bar's Committee on Regulatory Reform published its findings and recommendations on the measures the supreme court formally released for public comment in April

(<https://www.abajournal.com/news/article/utahs-high-court-proposes-wide-ranging-legal-industry-reforms>).

The report (https://www.abajournal.com/files/Utah_Reg_Reform_bar_report_7-8-20.pdf) said bar members supported the court's goal of increasing access to justice, but there was "a clear majority view that the methods and means proposed by the supreme court to meet this aspiration potentially might miss the mark."

For example, the committee said there were concerns that the court's proposals emphasized lowering the cost of legal services and products "without significant regard to the quality of such services and products."

The committee recommended the court make several changes, such as requiring sandbox applicants to address an access-to-justice need for the poor and demonstrate they will deliver high-quality legal services and products.

In the press release (<https://www.utcourts.gov/utc/news/2020/08/13/to-tackle-the-unmet-legal-needs-crisis-utah-supreme-court-unanimously-endorses-a-pilot-program-to-assess-changes-to-the-governance-of-the-practice-of-law/>) the supreme court issued in August announcing its approval of a sandbox pilot program, the court said it “made a number of important changes” to the initial reform proposals in response to feedback from the bar and others.

These revisions included requiring greater transparency about the sandbox application and approval process, as well as more clearly spelling out the access-to-justice goals of the reforms.

“To their credit, I think they did listen and I think they did appreciate some of our recommendations,” says Erik Christiansen, a Parsons Behle & Latimer shareholder who co-chaired the bar’s regulatory reform committee.

Christiansen is also among those who say Utah’s regulatory reform push has benefited from having a smaller population of lawyers than many other jurisdictions, which has limited the impact of lawyer opposition to such changes.

As of late September, the Utah State Bar had just shy of 10,500 members, according to a bar spokesman.

“Small states are great incubators for innovation,” Christiansen says.

Court leadership

But even with the state bar’s close involvement and significant assistance from outside experts, it was still ultimately up to the five-justice Utah Supreme Court to determine whether any regulatory reforms would be implemented.

Chief Justice Matthew B. Durrant says the court had vigorous debate about the regulatory overhaul proposals, but unanimously determined the concerns raised by some members of the legal community did not outweigh the potential benefits of reform.

“We care very much what lawyers think about it, but we also have an obligation to the public,” Durrant says. “And so many needs are just not being met.”

The chief justice credits Himonas for his yeoman’s work as the court’s point person on regulatory reform, saying his “tirelessness and enthusiasm made him the perfect person to lead the charge.”

Himonas says his interest in the issue was driven by the legal system’s failures to ensure broad access to justice and his belief that “hammering away at the problem with the same tools is Einstein’s very definition of insanity.”

In August, Utah’s court-approved sandbox pilot (<https://sandbox.utcourts.gov>) that permits attorney fee sharing with nonlawyers launched. The supreme court shortly thereafter approved five applicants (<https://www.abajournal.com/web/article/rocket-lawyer-given-approval-to-join-utahs-regulatory-sandbox-program>) to begin operating as part of the trial run, and additional entities have been approved for entry in the weeks since.

At the conclusion of the two-year pilot period, the supreme court plans to determine whether the major reforms it adopted should continue based on its review of data collected from entities participating in the sandbox.

“My sincere hope is that we see that a number of these applicants really are advancing the access-to-justice cause,” Himonas says.

As for Hadfield, she is among the regulatory reform proponents who have called what Utah has accomplished to date “historic” and praised the supreme court for its courage to move forward.

“It’s shown the leadership that so many of us kept thinking was going to appear and did not for a very long time,” she says.

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Notice of Commission Selection of President-elect Candidates

A lawyer Bar Commissioner who wishes to be considered as a candidate or a Bar Commissioner who wishes to recommend another lawyer in good standing on active status to be considered as a candidate shall notify the Board in writing. All letters of interest and notifications must be received no later than 5:00 p.m. on January 2, 2021. The Board may also consider other candidates at its discretion.

**Candidates for the office of Bar President-elect may not list the names of any current voting or ex-officio members of the Commission as supporting their candidacy in any written or electronic campaign materials, including, but not limited to, any campaign materials inserted with the actual ballot; on the website; in any e-mail sent for the purposes of campaigning by the candidate or by the Bar; or in any mailings sent out by the candidate or by the Bar. Commissioners are otherwise not restricted in their rights to express opinions about President-elect candidates.*