April 21, 2026

BY EMAIL (appellatecourtclerk@tncourts.gov)

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

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

PROPOSAL CONCERNING NONLAWYER OWNERSHIP OF LAW FIRMS AND ATTORNEY FEE-SHARING

To the Honorable Justices of the Tennessee Supreme Court:

The authors of this comment are part of a group of Tennessee lawyers that began studying and considering legal innovation efforts three years ago, before the Court issued its request for comments. The group consisted of academics and law firm, legal services, and bar association leaders from across the state. Our group reviewed materials and held meetings with people who have led reform efforts in Utah, Arizona, and North Carolina, as well as academics and public interest organizations that have studied and evaluated legal innovation models. Although we were not formally constituted or affiliated, we shared a common interest in exploring opportunities to reform the structure of the legal market to remedy the unavailability of legal services for too many Tennesseans.

When the Court issued its request for comments, our group had a firm foundation to address several aspects of the Court's request. We began further research and drafting to respond to the Court's proposed areas for reform that aligned with our prior work. We submit this comment to assist the Court by drawing on the study and conclusions that have been the fruit of our group's work. We hope our work and this comment will help inform the Court's understanding, both now and as the Court proceeds with reform efforts.

I. INTRODUCTION

We submit this public comment addressing Question 7 of the Court's Order: whether Tennessee "should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with nonlawyers." (Order, 5.) We urge the Court to eliminate regulations prohibiting non-lawyer ownership of law firms or fee-sharing with nonlawyers if done directly to advance a more comprehensive set of reforms to increase the supply of affordable legal services for Tennessee consumers whose demand for legal services is unmet.

While reform to the NLO rules and regulations has the potential to expand access to legal services, we urge the Court not to consider NLO[1] reforms in isolation. Experience from jurisdictions that have adopted NLO reforms demonstrates that such reforms, standing alone, have had limited effect on affordability and access to justice. At the same time, existing NLO reform efforts have not shown an increase in consumer harm. Thus, much of the debate around NLO reform tends to miss the mark by overstating either the positive or negative impact of such reform. Based on the evidence currently available, the reality of NLO reform remains one of as-yet unrealized potential.

We share the Court's concern that "the current supply of legal services in the United States is insufficient to meet the needs of many Americans." (Order, 2.) For that reason, we encourage the Court to treat NLO reform as one tool among several measures under consideration—tools that may work in tandem to address the legal-services affordability crisis more effectively than any single reform on its own.

Before turning to lessons from other jurisdictions, we believe it is essential to frame our perspective on the "affordability crisis" identified in the Court's Order. We use this term deliberately because it most completely captures the underlying problem the Court seeks to address. Concepts such as Access-to-Justice and Legal/Attorney Deserts are helpful descriptors of certain manifestations of this crisis, but they ultimately reflect a common reality: quality legal services are too expensive for most Tennesseans. Across all three Grand Divisions, access largely tracks economic means—those with resources obtain high-quality legal services, and those without resources often cannot. While this disparity is felt most acutely in certain communities, the barrier itself is fundamentally economic. The Court, too, recognizes this and notes the challenge is economic at its core—an issue of supply and demand.

Accordingly, our comment focuses on the issue of non-lawyer ownership and its role within the broader set of reforms through this lens: Can NLO reform meaningfully contribute to addressing the affordability crisis by increasing the supply of underserved, affordable legal services?

Much of the appeal of NLO reform stems from the way it reshapes the relationship between lawyers and capital. Under long-standing Rule 5.4 of the ABA Model Rules of Professional Conduct, firms have been largely excluded from the investment opportunities available to most other sectors of the economy.[2] The possibility of opening law firm ownership to non-lawyers has therefore generated interest among a wide range of market participants, primarily because of the

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[1] We adopt the Court's language of non-lawyer ownership ("NLO") to describe generally these reform efforts, while also recognizing that other jurisdictions adopt different language, such as Arizona's alternative business structures. However, we believe these different characterizations are essentially the same way of addressing this method of supplying legal services.

[2] See Engstrom, David F. *et al*. Stanford Law School. Legal Innovation After Reform: Five Years of Data on Regulatory Change. (June 2, 2025). (Model Rule 5.4 "prevents lawyers from partnering with nonlawyers for financial investments that could drive innovation in legal services, including through the development of technology. As a result, lawyers still practice in entities that are organized, provide services, and charge for those services in nearly the same way they did a century ago. Law has been walled off from the technological, financial, and service innovations that have transformed almost every other part of the modern economy.").

potential for new sources of funding and operational capacity to expand the variety of resources provided. This is a central justification for NLO reform efforts across the country.

Yet the core question remains: Would increased access to capital meaningfully change affordability for Tennesseans by increasing the supply of underserved legal services? Fortunately, several early models from other jurisdictions provide data points that help evaluate this question. These examples illustrate a spectrum of approaches to NLO reform and allow us to assess outcomes in practice.

Results suggest that we should approach these models with measured skepticism. The evidence to date does not suggest that NLO reform alone solves the affordability crisis. Rather, the effect on supply has been limited largely to those areas already served under the current rules. Thus, we view NLO reform as a potential accelerator—a mechanism capable of amplifying supply, but only in conjunction with other targeted reforms. NLO reform may provide needed energy, but it still requires direction from complementary regulatory measures if it is to advance the Court's goal of expanding access to affordable, high-quality legal services. We therefore recommend the Court consider NLO reform in this cautiously optimistic light: not as a standalone cure, but as a tool that may support and strengthen broader, coordinated efforts to expand the supply of legal services in Tennessee.

II. ARGUMENTS FOR AND AGAINST NLO REFORM

Rule 5.4 of the ABA Model Rules of Professional Conduct was adopted to preserve the professional independence of lawyers. Its origins trace to early twentieth-century efforts by bar associations to prevent commercial enterprises from influencing legal judgment.[3] The central concern was that corporate ownership, profit-sharing with nonlawyers, or business partnerships could pressure attorneys to subordinate their ethical duties to clients in favor of profit motives or institutional interests.[4] Over the past several years, a number of scholars—some drawing on historical research into the origins of these prohibitions, particularly the organized bar's early-twentieth-century campaign against legal services provided by automobile clubs—have argued that bans on nonlawyer ownership and fee-sharing owe far more to lawyer protectionism than to any principled concern for consumer protection.[5]

The traditional justifications of Rule 5.4 revolve around protecting the integrity of legal services through (1) preserving the independent professional judgement of lawyers, (2) avoiding conflicts of interest, (3) protecting client confidentiality, and (4) maintaining public trust in the legal

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[3] Jayne R. Reardon, Alternative Business Structures: Good for the Public, Good for the Lawyers, 7 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 304, 310–12 (2017)

[4] Jayne R. Reardon, *Nonlawyer Ownership Is Not the End of Professionalism*, **Law Practice Magazine** (July–Aug. 2024), https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2024/july-august-2024/nonlawyer-ownership-is-not-the-end-of-professionalism/.

[5] Nora Freeman Engstrom and James Stone, Auto Clubs and the Lost Origins of the Access-to-Justice Crisis, 134 YALE L.J. 123 (2024), https://yalelawjournal.org/pdf/134.1EngstromStone_x2iryo6v.pdf.

system.[6] By restricting nonlawyer ownership and fee-sharing, the rule seeks to ensure that legal advice is guided solely by the client's interests, free from external financial pressures or investor expectations.[7] It also reduces the risk that sensitive client information may be accessed or influenced by individuals who are not bound by the same professional obligations and deters corporations from gaining a competitive market advantage by having access to otherwise unavailable information about market conditions. Additionally, the rule helps prevent excessive market concentration by large commercial actors and limits the risk that outside entities might use legal services to advance personal regulatory, ideological, or competitive interests.[8]

Proponents of NLO reform contend that strict adherence to Rule 5.4 contributes to the access-to-justice crisis.[9] They argue that prohibiting nonlawyer ownership restricts capital formation, limits innovation, and insulates the legal market from competitive pressures that might otherwise reduce costs and expand service delivery. Traditional law firm financing models—often reliant on partner capital contributions or debt—may constrain scalability and technological investment. Allowing equity participation could promote financial stability, encourage modernization, and foster alternative service models better suited to serving middle- and lower-income consumers.[10]

Critics of the current framework further contend that Rule 5.4 operates less as a consumer-protection measure and more as a protectionist barrier that limits competition.[11] They argue that increased access to capital could improve outreach, consumer education, and service delivery, particularly for individuals who may not recognize that their problems have legal dimensions or who are deterred by the perceived cost and complexity of engaging counsel. Some also observe that concerns about divided loyalties presently exist within the bounds of Rule 5.4[12] or are

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[6] Robert Saavedra Teuton, *One Small Step and a Giant Leap: Comparing Washington, D.C.'s Rule 5.4 with Arizona's Rule 5.4 Abolition*, 65 ARIZ. L. REV. 223 (2023), available at https://arizonalawreview.org/pdf/65-1/65arizlrev223.pdf.

[7] Zachariah DeMeola & Michael Houlberg, *Model Rule 5.4: How It Protects Little, Harms a Lot, and Why Its Removal Can Greatly Benefit Lawyers*, **GP Solo**, July–Aug. 2021, available at https://www.americanbar.org/content/dam/aba/publications/gp_solo_magazine/2021-july-august/model-rule-5-4-how-it-protects-little-harms-lot-why-its-removal-can-greatly-benefit-lawyers.pdf.

[8] Lili Levi, The Weaponized Lawsuit Against the Media: Litigation Funding as a New Threat to Journalism, 66 AM. U. L. REV. 761 (2017)

[9] See, e.g., Ralph Baxter. Dereliction of Duty: State-Bar Inaction in Response to America's Access-to-Justice Crisis. YALE L.J.F. (October 19, 2022).

[10] *The Case for Rule 5.4 Reform*, Friedman Vartolo LLP (2026), https://friedmanvartolo.com/the-case-for-rule-5-4-reform-non-attorney-ownership-of-law-firms-and-employee-stock-options/.

[11] Thomas D. Morgan, The Evolving Concept of Professional Responsibility, 90 HARV. L. REV. 702, 704 (1977).

[12] Lucian T. Pera, *Time to Lift the Ban on Nonlawyer Ownership?*, **Law Practice Magazine** (Am. Bar Ass'n), Jan.–Feb. 2025.

elsewhere addressed through conflict-of-interest rules such as Rules 1.7 and 1.9, which prohibit representation adverse to current and former clients.[13]

For many years, these concerns and anticipated benefits remained largely theoretical. That changed with the recent wave of NLO reform, including the elimination of Rule 5.4 in Arizona and the implementation of a regulatory sandbox in Utah, causing the debate to shift from prediction to observation. Although these jurisdictions are only in the first decade of their respective NLO reforms, emerging data now provides insight into how nonlawyer-owned entities are operating and what impact they may be having on consumers and the legal market.

III. COMPARATIVE NLO REFORM MODELS

Tennessee now benefits from the experience of other jurisdictions that have already implemented variations of NLO reform—an advantage made possible by our federal tradition of allowing states to serve as laboratories of regulatory innovation. Arizona and Utah, in particular, offer instructive but distinct models. Arizona adopted a broad licensing regime that permits non-lawyer ownership and has attracted a significant number of diverse entities, though not necessarily in areas of law where unmet need is greatest. Utah, by contrast, implemented a tightly controlled regulatory "sandbox," limiting participation to entities designed to address identified gaps in legal services; this approach resulted in far more modest enrollment and growth.

These two jurisdictions illustrate two possible approaches to NLO reform but do not exhaust it. The District of Columbia's long-standing limited exception to Rule 5.4 and the recent revision of the ethical rules in Puerto Rico further demonstrate that NLO reform is not a binary choice but a spectrum of regulatory possibilities. As the Court evaluates how Tennessee should proceed, we suggest that NLO reform be viewed in this broader context: not as an all-or-nothing proposition, but as a set of calibrated options that can be tailored to Tennessee's specific goals for expanding access to affordable, high-quality legal services. Accordingly, we provide below a detailed overview of how NLO reforms have operated across jurisdictions that have adopted them to highlight the lessons they may offer Tennessee.

A. Arizona – The Licensing Model

Recognizing that the high cost of legal services poses a significant barrier to mid- and lower-income individuals seeking legal assistance, the Arizona Supreme Court in 2018 established the Task Force on the Delivery of Legal Services.

Among other responsibilities, the Task Force was directed to consider whether the Court's rules should be modified to allow co-ownership of legal service entities by lawyers and nonlawyers. The Task Force ultimately concluded that no compelling justification existed for maintaining Rule 5.4's restrictions on nonlawyer ownership, reasoning that the rule's traditional objectives—protecting independent professional judgment and safeguarding the public—were already

[13] Model Rules of Pro. Conduct R. 1.7 (Am. Bar Ass'n 2024); Model Rules of Pro. Conduct R. 1.9 (Am. Bar Ass'n 2024).

addressed through other ethical rules that could be strengthened and enforced.[14] In response to these recommendations, the Arizona Supreme Court eliminated Rule 5.4 in its entirety and established a new regulatory framework for Alternative Business Structures ("ABS") within the Arizona Code of Judicial Administration.[15] Arizona adopted a permanent licensing regime under which qualified ABSs may apply for authorization to provide legal services.

Structure and Oversight

Administration of the ABS licensing program is conducted by the Arizona Administrative Office of the Courts ("AOC"), a state-funded entity responsible for implementing and enforcing the regulatory framework adopted by the Arizona Supreme Court. The AOC oversees the licensing process, monitors ABS entities for compliance with applicable regulations, and provides administrative support for the regulatory bodies responsible for evaluating applications and supervising licensed entities.

Applications for ABS licensure are reviewed by the Committee on Alternative Business Structures, which evaluates whether proposed entities satisfy the regulatory requirements established by the Court. The Committee reviews ownership structures, governance arrangements, and operational plans to determine whether the entity can operate in a manner consistent with the Court's regulatory objectives and with adequate safeguards for consumers. These pertinent regulatory objectives are: "*(A) protecting and promoting the public interest; (B) promoting access to legal services; (C) advancing the administration of justice and the rule of law; (D) encouraging an independent, strong, diverse, and effective legal profession; and (E) promoting and maintaining adherence to professional principles*."[16] After review, the Committee makes recommendations to the Arizona Supreme Court, which retains final authority to approve or deny ABS licenses. If an ABS license is granted, it is valid for one year, after which time the ABS must seek a renewal.

Eligible Entities

The ABS framework allows a wide range of business entities to seek licensure, provided they include appropriate governance safeguards and comply with applicable ethical and regulatory standards. Entities may include both lawyers and nonlawyers as owners, managers, or investors, provided the entity satisfies the licensing requirements established by the Court.

Applicants must submit detailed information regarding ownership interests, governance structures, financial arrangements, and the scope of legal services to be provided. "Authorized Persons" or owners that hold ten percent (10%) or more equity in the ABS are required to undergo background

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[14] Supreme Court of the State of Arizona, *Task Force on the Delivery of Legal Services Report and Recommendations*, October 4, 2019, https://www.azcourts.gov/Portals/0/0/aoc/pdf/LSTFReportRecommendationsRED10042019.pdf.

[15] ABSs are defined as "business entities that include nonlawyers who have an economic interest or decision-making authority in a firm and provide legal services in accord with Supreme Court Rules 31 and 31.1(c)." Ariz. Code of Jud. Admin. § 7-209(A) (2022).

[16] Ariz. Code of Jud. Admin. § 7-209(E)(2)(a).

checks and investigation akin to a Character and Fitness application process. In addition, applicants must designate a "Compliance Lawyer" responsible for ensuring that the entity adheres to the Rules of Professional Conduct and other regulatory obligations.

Once licensed, an ABS must operate under the name that appears on the license unless granted special authority to operate under an assumed name. All licensed ABS are publicly available; however, unlike Utah, there are no requirements to specify to the public that legal services are being provided by an ABS.

Ongoing Monitoring

Once licensed, ABS entities remain subject to continuing oversight by the AOC and the Committee on Alternative Business Structures. Licensed entities must comply with reporting obligations and regulatory requirements designed to ensure adherence to the Rules of Professional Conduct and the Court's regulatory objectives. Further, all members of the ABS are bound by the ABS Code of Conduct. This means that lawyers who are members of the ABS are bound by two sets of ethical duties: the ABS Code of Conduct and the Arizona ethics rules for lawyers. However, in the event of a conflict, the ABS Code of Conduct prevails in all instances except ethics rules that govern conflicts of interest.

ABS entities are required to maintain internal compliance systems and procedures designed to safeguard professional independence, protect client confidentiality, and ensure that legal services are delivered in accordance with applicable ethical standards. The designated Compliance Lawyer plays a key role in monitoring adherence to these obligations and reporting potential issues to the regulatory authorities. The Arizona Supreme Court retains the authority to impose disciplinary measures, including license suspension or revocation, if an ABS entity fails to comply with regulatory requirements or engages in conduct that threatens consumer protection or the administration of justice.

Transparency and Reporting

The ABS program incorporates several transparency and accountability mechanisms designed to ensure public confidence in the regulatory system. The Arizona judiciary maintains publicly available information regarding licensed ABS entities, including ownership structures and key organizational information.

In addition, ABS entities are subject to reporting obligations designed to enable ongoing regulatory monitoring. These requirements allow the Court and regulatory authorities to evaluate how ABS entities operate in practice and whether they advance the program's stated objectives of improving access to legal services while maintaining professional safeguards.

Developments in the ABS Program

Since its implementation in 2021, Arizona's ABS licensing framework has authorized a growing number of entities to provide legal services under nontraditional ownership structures. In 2022, only 19 ABS entities were approved, which rose to 136 as of 2025. These entities include a range

of business models, from technology-driven legal service platforms to organizations integrating legal services with other professional offerings. Because the ABS program represents a structural reform rather than a temporary pilot initiative, the Arizona Supreme Court continues to monitor the program's development through regulatory oversight and periodic evaluation.

B. Utah – The "Sandbox" Model

The Utah Supreme Court acknowledged that lawyers "will never volunteer [themselves] across the access-to-justice divide" and that meaningful reform requires "market-based, far-reaching reform focused on opening the legal market to new providers, business models, and service options."[17]

In response, Utah created a pilot legal regulatory sandbox (the "Sandbox")—a temporary, innovation-focused regulatory framework that permits approved individuals and entities to provide nontraditional legal services that would otherwise be prohibited under the Rules of Professional Conduct.[18] The Sandbox is scheduled to sunset in August 2027, at which time the Utah Supreme Court will evaluate the program's effectiveness and determine whether it should be continued, modified, or discontinued.

Structure and Oversight

To administer the Sandbox, the Utah Supreme Court established the Office of Legal Services Innovation (the "Innovation Office") and the Legal Services Innovation Committee (the "Innovation Committee").

The Innovation Office is responsible for day-to-day administration and regulation of Sandbox participants. Its duties include developing processes and procedures for participation in the Sandbox, establishing monitoring and enforcement mechanisms, collecting and analyzing data, and ensuring compliance with consumer-protection standards.[19] Members of the Innovation Committee serve as officers of the Court and provide oversight and guidance to the Innovation Office. The committee's responsibilities include assisting with budgetary matters, reviewing applications and evaluation metrics, and preparing reports. When the Sandbox program was first created, the Utah Supreme Court retained the ultimate authority over the Innovation Office and the Innovation Committee. However, due to administrative burden on the Court, it eventually shifted a significant portion of its responsibility to the Utah State Bar.

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[17] Utah Supreme Court Standing Ord. No. 15 (Aug. 14, 2020, Amended Sept. 21, 2022), https://legacy.utcourts.gov/utc/rules-approved/wpcontent/uploads/sites/4/2020/08/FINAL-Utah-Supreme-Court-Standing-Order-No.-15.pdf.

[18] Utah Sup. Ct. R. Prof'l Prac. 4-802(b)(14)(d).

[19] *See, e.g.*, OFFICE OF LEGAL SERVICES INNOVATION, INNOVATION OFFICE MANUAL (2024), https://utahinnovationoffice.org/wpcontent/uploads/2024/02/Innovation-Office-Manual.pdf.

Eligible Entities

The Sandbox is expressly grounded in three core regulatory principles: (1) minimizing and measuring consumer harm,[20] (2) reliance on empirical data, and (3) a market-based approach to expanding legal services. The Sandbox establishes three categories of eligible nontraditional legal service providers:

1. Business entities in which nonlawyers hold an economic interest (including profit-sharing) or decision-making authority and that engage in the practice of law;
2. For-profit or nonprofit entities utilizing nonlawyer alternative legal service providers, or technology platforms, tools, or applications, to deliver legal services constituting the practice of law; and
3. Entities seeking a discrete waiver of specific Rules of Professional Conduct in order to facilitate innovative legal service delivery.

Applicants falling within one of these categories may submit application materials to the Innovation Office for initial review. If the Innovation Office determines that the applicant advances the regulatory objectives and does not pose an unacceptable risk of consumer harm, it recommends the applicant to the Innovation Committee. If the Innovation Committee concurs, a recommendation is made to the Utah Supreme Court, which retains final authority to admit the applicant into the Sandbox.

Ongoing Monitoring and Exit

Once admitted, Sandbox participants are subject to continuous monitoring and reporting obligations. Participants must demonstrate that their operations do not result in material consumer harm and must comply with regulatory conditions imposed by the Innovation Office and Innovation Committee, including data reporting requirements and operational safeguards tailored to the entity's risk profile.

If a participant demonstrates sustained compliance and absence of consumer harm, the Utah Supreme Court may permit the entity to "exit" the Sandbox and receive a license to operate outside the pilot framework. However, even after exiting the Sandbox, entities remain subject to ongoing oversight and reporting obligations.

Transparency and Reporting

The Sandbox incorporates robust transparency and oversight measures to ensure it advances its access-to-justice objectives while protecting consumers. These mechanisms include a formal process through which consumers may submit complaints on Sandbox participants, public disclosure of applicant identities and key information submitted during the application process,

[20] Consumer harm is defined as a consumer failing to exercise legal rights through ignorance or bad advice, a consumer achieving an inaccurate or inappropriate legal result, or a consumer purchasing an unnecessary or inappropriate legal service.

and ongoing reporting obligations by approved entities. In addition, the Innovation Office must provide monthly reports to the Utah Supreme Court detailing the following:

1. The total number of regulated entities, including those inside and outside the Sandbox;
2. The number of Sandbox applicants;
3. General information regarding applicants (e.g., entity type, ownership structure, target market, subject matter focus, and legal needs addressed);
4. The number of applicants recommended for entry, denied entry, placed on hold, recommended for exit, and not recommended for exit;
5. Available demographic and service data regarding consumers served;
6. Identification of risk trends and regulatory responses; and
7. Consumer complaint data, both cumulative and monthly, for Sandbox and non-Sandbox participants.

Developments in the Sandbox

Based on the data collected during the first few years,[21] the Utah Supreme Court amended certain aspects of the Sandbox in a March 2023 letter.[22] Some of the changes included transferring certain authority to the Utah State Bar, requiring Sandbox entities to send clients an exit survey, providing for certain start-up funds, and implementing a fee policy such that the Sandbox would be "fully self-funded by charging fees to applicants and participants." Additionally, although initial data collection proved promising, the Court decided to narrow the scope of the Sandbox though an "innovation requirement" that may be met in "several ways, including but not limited to, reducing the cost of legal services, making legal services more accessible, or developing a new business or service model." The Court specifically noted that "non-attorney investment or ownership arrangements which do nothing more than supply capital for advertising and/or marketing of existing legal services will not meet the innovation requirement." Additionally, although the Sandbox relies primarily on an ex post regulation model, to combat potential consumer harm, the Court implemented additional pre-launch requirements on moderate- and high-risk entities, which are categorized based on the amount of lawyer involvement in the entity. Further, out of concern over the lack of ethics rules applying to non-lawyer owners, the Court implemented the following fiduciary duties on all financing and controlling persons:

1. Must act in good faith to further a client's best interests.
2. Must not allow economic or other conflicts of interest to adversely affect the legal services rendered to a client.
3. Must ensure that legal services are delivered with reasonable diligence and promptness.
4. Must not reveal confidential information pertaining to the representation of a client without the client's consent or as allowed or required by law.

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[21] Institute for the Advancement of the American Legal System, *An Interim Evaluation of Utah's Legal Regulatory Sandbox Outcomes Evaluation*, https://iaals.du.edu/sites/default/files/documents/publications/utah_interim_outcomes_evaluation.pdf.

[22] Letter from the Supreme Court of Utah to the Utah State Bar (March 28, 2023), https://utahinnovationoffice.org/wp-content/uploads/2024/01/3.-Letter-to-UtahState-Bar-3.28.23.pdf

5. Must not engage in or allow any activity that misleads or attempts to mislead a client, a court, or others.
6. Must not take any action or engage in activity that interferes with the professional independence of lawyers or others authorized to provide legal services.
7. Must develop systems and processes within the entity applicant to ensure that each of the above duties are met and satisfied.

Building off the changes in 2023 and feedback provided by the Innovation Committee, the Court implemented additional changes to the Sandbox in a September 2024 letter.[23] Among these changes were denying applications from for-profit entities solely or primarily offering immigration-related services, heightening the innovation requirement to specifically require Sandbox entities to reach Utah consumers currently underserved by the legal market, requiring entities to display language on their website and in physical locations to solicit complaints or feedback, and revoking participation of those entities that were grandfathered in before the innovation requirement went into effect in 2023.

C. Washington, D.C. - The Professional Services Model

The District of Columbia's early 1990s reform of its Rules provides a third model of NLO reform, although one that was never considered as an answer to the affordability problems identified by the Court. Nevertheless, the D.C. model provides a helpful baseline by which any potential reform might be measured. The D.C. reform is simple: non-lawyers may share in the management, ownership, and/or fees of a law firm, as long as the firm's sole purpose is the provision of legal services.

In 1991, the D.C. Bar changed Rule 5.4 to permit non-lawyers to share in the ownership of a law firm. These changes came out of the goal to recognize the role of non-lawyers in delivering legal services "without being relegated to the role of an employee."[24] The new Rule had four basic requirements: (1) that the firm's *sole purpose* is the provision of legal services, (2) anyone who takes a management and/or financial interest in a law firm must abide by the same ethical rules, (3) the lawyers with a management and/or financial interest in the law firm must undertake to be responsible for their non-lawyer partners as if they were lawyers under Rule 5.1, and (4) these conditions are set forth in writing.[25] Additionally, the amended D.C. Rule "does not permit an individual or entity to acquire all or any part of the ownership" of a law practice "for investment or other purposes," which prohibits the types of capital investment contemplated by the other reform efforts.[26]

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[23] Letter from the Supreme Court of the State of Utah to the Legal Services Innovation Committee (Sept. 5, 2024), https://utahinnovationoffice.org/wpcontent/uploads/2024/10/Letter-to-the-Legal-Services-Innovation-Committee-9.5.24.pdf

[24] D.C. Rules of Prof. Conduct R.5.4 cmt. 7.

[25] *Id.* R.5.4(b)(1)-(4).

[26] *Id.* cmt. 8.

Based on the lack of available data, it appears that the impact of this reform on legal services has been limited. Perhaps the limited impact is due to restraints on raising capital or how the ABA initially reacted to the reform. In particular, ABA Formal Opinion 91-360, published in the same year, essentially said that a lawyer licensed in D.C. and another jurisdiction could only handle matters inside D.C. if practicing with a NLO firm.[27] Thus, as D.C.'s reform remained unique for decades, the firms that would take advantage of it were limited to the District alone.[28]

Still, the D.C. model of NLO reform does what it set out to do: allow firms to recognize the contribution of non-lawyers to the successful operation of a law firm. Indeed, we may benefit across the profession from better recognizing the roles that our non-lawyer colleagues play in the provision of legal services. Tennessee's approach to NLO reform may also consider this related goal, alongside other considerations about the roles that non-lawyers contribute to the provision of legal services, such as the competent provision of legal services by paraprofessionals.

The D.C. model is not—nor did it ever attempt to be—an affordability reform. The NLO reform in D.C. had the goal of permitting experts, lobbyists, and other contributing individuals to share in the ownership of a law firm. Similar reform in Tennessee would be unlikely to move the needle on the number of rural law firms or the number of firms providing essential legal services to individuals and small businesses that are undersupplied by the current legal market. The reforms need to be intentionally designed to support those goals. We are confident that the Court will identify and support the necessary reforms to address the affordability crisis.

Thus, we inform the Court about the D.C. model, not as a goal but as an additional, time-tested data point—one that exemplifies the possibility of targeted reform. As with any of the above models, NLO reform under the D.C. model does not address the affordability problem. Yet, this model provides a long-standing testament to the reality that we can change the ethical rules of our practice without undermining the purpose of the rules. Further, this model shows us that innovation can be precise and targeted to its purpose.

D. Puerto Rico – The Newest, Open Model

Puerto Rico recently enacted new ethical rules that permit for NLO. This model is the most open that we have seen, as the primary conditions are simply that non-lawyers cannot own more than 49% of law firm shares, clients must be notified of the non-lawyer interest, and annual sworn statements must be submitted to the Supreme Court of Puerto Rico detailing firm ownership, including the investments and income from the non-lawyer owner.[29] The new rules took effect at the start of this year.

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[27] ABA Formal Opinion 91-360. Prohibition of Partnerships with Nonlawyers: Extrajurisdictional Effect.

[28] Robert Saavedra Teuton, One Small Step and a Giant Leap: Comparing Washington, D.C.'s Rule 5.4 with Arizona's Rule 5.4 Abolition, 65 ARIZ. L. REV. 223, 251-52 (2023).

[29] Emily R. Siegel. **Bloomberg Law**, Tax-Friendly Puerto Rico Approves Non-Lawyer Owners of Law Firms. (June 24, 2025, 4:28 AM CDT).

Interestingly, the Supreme Court of Puerto Rico appointed a rules committee to develop the new ethical rules, but that committee had not recommended this version of Rule 5.4 before the Court adopted it.[30] Instead, the Court appeared to have adopted it on its own and without initial explanation.

Although there is limited information on the implementation of these new rules, it is worth mentioning as an additional data point.

IV. OUTCOMES AND LESSONS LEARNED

A. The Stanford Reports

In 2022, the Deborah L. Rhode Center on the Legal Profession at Stanford Law School published the first empirical analysis of entities participating in the Arizona and Utah NLO reform programs, and more recently published a follow-up report in 2025—*Legal Innovation After Reform: Five Years of Data on Regulatory Change*[31]—both offering qualitative and quantitative insights that assess how these reforms have operated in practice. Although this comment seeks to evaluate NLO reform on its own terms, the reality is that the available data cannot be cleanly separated from other regulatory changes enacted alongside NLO in the jurisdictions that adopted it. As described in the reports, Arizona's approach is characterized as an "ABS-only" model—permitting outside ownership but limiting the delivery of legal services within those entities to licensed lawyers—while simultaneously but separately implementing significant unauthorized-practice-of-law ("UPL") reforms that expand the scope of work permitted for paraprofessionals and other nonlawyer providers in traditional, non-ABS entities. This stands in contrast to Utah's "ABS+UPL" model, which integrates ownership reform with a more expansive redefinition of who may deliver legal services within the regulated entities.

The reports provide comprehensive empirical data on the number and types of entities that emerged under Arizona's and Utah's respective NLO reforms, revealing a marked divergence in growth and organizational composition. From inception to 2025, Arizona's ABS-only program expanded rapidly, increasing from 19 to 136 authorized entities, whereas Utah's regulatory sandbox contracted from 39 to 11 entities, in part due to later regulatory tightening. Across both states, participating entities spanned a range of organizational forms—(i) traditional law firms adjusting their ownership or service models, (ii) corporate-owned "law companies," (iii) non-law companies adding legal services to existing offerings, and (iv) intermediary platforms connecting consumers with legal providers. Utah's model, however, uniquely supported mixed teams of lawyers, nonlawyers, and software, reflecting its broader relaxation of UPL rules, a form of innovation absent in Arizona's ABS-only structure. Organizational composition also differed significantly: in Arizona, traditional law firms comprise 64% of ABS participants, compared with 27% in Utah, while new entrants constitute only 15% and 9%, respectively. Law companies appear in similar proportions—27% in Utah and 18% in Arizona—but intermediary platforms represent 36% of

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[30] Bob Ambrogi. LawSites. Puerto Rico Allows Non-Lawyer Ownership of Law Firms. (June 19, 2025).

[31] Stanford Law School Deborah L. Rhode Center on the Legal Profession, *Legal Innovation After Reform: Five Years of Data on Regulatory Changes*, D. F. Engstrom *et al*. (June 2025, Revised November 2025).

Utah's sandbox and only 2% in Arizona, illustrating Utah's emphasis on consumer-connection models.

The reports also provide detailed data on the intended service populations of authorized entities, showing that both Arizona's ABS program and Utah's sandbox overwhelmingly target individual consumers. Of the 136 approved ABS entities in Arizona, 116 reported plans to serve individual consumers, as did 10 of the 11 entities remaining in Utah's sandbox—constituting the clear majority in both jurisdictions. A smaller but significant subset of entities in Arizona (32 ABSs, or 24%) and Utah (3 entities, or 27%) reported an intent to serve small- and mid-sized businesses. Far fewer entities expressed an intention to serve lawyers or law firms (13 in Arizona and none in Utah). Finally, 27 ABS entities in Arizona reported plans to serve corporate consumers, compared with just one such entity in Utah.

Although these patterns confirm that both jurisdictions have primarily generated consumer-facing service models, they also reveal meaningful differences in the market sectors each program has attracted. Utah's sandbox encompasses a broader and more evenly distributed set of case types than Arizona's program. Arizona's rapidly expanding ABS market shows emerging concentrations in three primary areas—personal injury, business matters, and end-of-life planning—such that these areas were the focal point of 120 of 136 of the ABS entities in 2025. Utah's sandbox, by contrast, also features entities that serve personal injury, business, and end-of-life planning matters but does not exhibit a dominant cluster in any of these categories. Instead, Utah shows comparable participation across a wider array of sectors, including healthcare, public benefits, landlord-tenant issues, consumer finance, marriage and family-related services, and others. This broader distribution reflects Utah's explicit access-to-justice orientation and regulatory controls, which channel participation toward diverse unmet legal needs rather than the more market-driven concentrations observed in Arizona.

Specifically with respect to underserved communities, although the available application materials do not permit a precise assessment of consumer income levels, the report reaffirms that Utah's sandbox is the only jurisdiction in which entities expressly sought authorization to serve primarily low-income individuals. Four of Utah's remaining sandbox participants—all nonprofits—detailed plans to provide free legal services, a pricing scheme absent from Arizona's ABS, to vulnerable populations, including survivors of domestic violence, individuals facing medical debt, and community members requiring assistance with housing and debt-collection matters. A fifth new entrant, the Utah State University Transforming Communities Institute, proposes to train social workers and other service professionals to deliver free legal assistance in debt-collection cases. Each of these entities relies on Utah's UPL waiver, underscoring the role that UPL flexibility can play in enabling service models for low-income communities. At the same time, the report cautions against drawing firm conclusions: these nonprofits represent a small segment of Utah's overall participants; Arizona is simultaneously pursuing separate UPL reforms outside its ABS program, offering alternative pathways for serving vulnerable groups.

Finally, and importantly, the report finds that consumer harm remains minimal across both jurisdictions. Despite concerns expressed prior to reform, the researchers report no evidence of systemic harm related to nonlawyer ownership or expanded UPL allowances. Arizona and Utah have not seen a degradation in the quality of legal services provided by authorized entities, and

Utah's sandbox appears to have effective oversight mechanisms that mitigate risk. These findings are consistent with the earlier two-year evidence in the initial report and broader international experience, suggesting that—in the contexts studied—NLO and UPL reforms have not resulted in increased consumer harm.

With respect to whether these reforms are meeting their goals, the report concludes that both programs have successfully spurred innovation in legal services delivery. The authors find that both NLO reform and UPL reform have produced diverse organizational models and a range of pricing structures. Importantly, the data show that lawyers continue to play central roles within authorized entities, alleviating concerns that nonlawyer investors or corporate participation would displace lawyers or diminish the value of their professional and ethical expertise. However, Utah's evidence suggests that UPL flexibility—rather than NLO reform alone—correlates more strongly with innovations that reach underserved populations, particularly those benefiting from community-connected nonlawyer providers.

B. Lessons Learned

Although data from other jurisdictions provides helpful reference points as the Court considers potential reform in Tennessee, the experience to date makes clear that there is no single, settled model for reform. Indeed, the continued evolution of programs in jurisdictions that have already implemented reform suggests that none has yet identified a definitive solution. What this indicates, however, is not failure but the importance of flexibility: the Court should anticipate and allow for evolution as part of any reform framework.

Recent developments in Arizona underscore this point. While Arizona's regulatory approach has differed from Utah's—most notably by applying less stringent criteria for approving ABS licenses—the Arizona Supreme Court nonetheless denied an ABS application in December on the ground that it would not benefit Arizona residents, observing instead that its "intended focus [was] securing investment capital to support the delivery of legal services."[32] This decision raises an important question as to whether increased access to capital, standing alone, meaningfully addresses the affordability challenges facing legal services consumers.

Growing concern among some states regarding cross-jurisdictional practice raises an additional caution.[33] Many of the entities most likely to participate in these reform programs—particularly those deploying technology-enabled or scalable service models—routinely serve clients whose legal needs span multiple jurisdictions. While Tennessee residents are the intended beneficiaries of reform, confining licensed entities to in-state practice could significantly deter participation by market actors for whom cross-jurisdictional work is central to their business model. Moreover, although Arizona's licensing regime has not yet been challenged, scholars have raised concerns that it may implicate separation-of-powers principles by effectively enabling the judiciary to authorize new corporate structures through its regulatory authority—an issue the Court may wish

[32] Sup. Ct. of Ariz., Admin. Order No. 2025-241 (2025), https://www.azcourts.gov/Portals/0/22/admorder/Orders25/2025-241.pdf.

[33] For example, California has enacted legislation restricting fee-sharing with out-of-state nonlawyer-owned entities, imposing limits on cross-jurisdictional arrangements while continuing to permit multi-state practice under defined exceptions. Cal. A.B. 931, 2025–2026 Reg. Sess. (enacted 2025).

to consider as it evaluates potential reforms in Tennessee.[34] These lessons reinforce that this reform will not be a one-time act, but an iterative regulatory effort that must be designed with adaptability and on-going oversight.

V. A PARTIAL SOLUTION

As the Court considers potential reforms to improve the supply of affordable legal services, changes to the rules governing NLO should be understood only as one piece of a broader regulatory framework.

The experience of other jurisdictions suggests that NLO alone is unlikely to materially affect the supply of affordable legal services, and it could expose Tennessee attorneys to increased difficulty in engaging in multi-jurisdictional practice. However, it may serve as a component of more comprehensive reform when paired with complementary measures that more directly address the structure of the legal services market in Tennessee. Specifically, we believe that NLO could serve as an effective means of injecting capital into areas of the legal services market that are currently underserved.

Below, we evaluate how NLO could interplay with the Court's considerations of alternative pathways to admission to the Tennessee Bar and its evaluation of whether certain legal services could be performed by trained paraprofessionals. The combination of NLO with other topics under the Court's consideration represent potentially synergistic reforms. We note, however, that the Court should defer to comments specific to alternate pathways to admission and the limited licensure of paraprofessionals when determining how these programs, if created, should function. Our intent in the following analysis is to demonstrate a few ways in which the added capital from NLO could support other reforms under consideration by the Court.

A. NLO and Alternate Pathways to Bar Admission[35]

One area where NLO could support meaningful reform involves graduates who narrowly miss the passing score on the Tennessee Bar Examination. Tennessee currently requires the highest passing score among Uniform Bar Examination ("UBE") jurisdictions, meaning that candidates who miss the threshold by only a few points may nevertheless be eligible to practice in some of the largest legal markets in the country, including New York City, Washington, D.C., and Chicago.[36] Alternative admission pathways could allow such candidates to demonstrate competency through supervised practice, while NLO-enabled organizations could provide the resources and institutional structure necessary to support those training environments.

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[34] Maya Steinitz, The Partnership Mystique: Law Firm Finance and Governance for the 21st Century American Law Firm, 63 WM. & MARY L. REV. 939, 991–2 (2022).

[35] We note that Arizona recently adopted a similar program called the Arizona Lawyer Apprentice Program, but there does not appear to be any overlap between this program and Arizona's ABS entities.

[36] New York, Washington, D.C., and Illinois all currently require a UBE score of 266 to pass, whereas Tennessee requires a 270.

One alternative pathway to licensure could allow candidates who score just below a passing score on the Tennessee bar exam to earn admission through supervised practice in a structured apprenticeship program, which could be delivered in a variety of settings: law firms in rural and urban communities, legal services organizations, and new market entrants that are specifically constituted to support structured apprenticeships. After completing a period of supervised practice and demonstrating proficiency, the candidate could be admitted to the Tennessee Bar. NLO reform could supplement these efforts through NLO-capitalized legal service providers serving as hosts for these apprenticeship programs, particularly in areas where traditional law firms might otherwise lack the resources to train new attorneys.[37]

At its crux, the affordability crisis identified by the Court is a supply problem, with many Tennessee communities lacking enough attorneys to meet demand. Alternative pathways to licensure could increase the supply of practitioners, while NLO could supply the infrastructure to effectively deploy them. Capital-backed ABS entities could support supervision structures, training programs, and technology to bridge the gap between the licensing reform and practical deployment of practitioners.

B. NLO and the Limited Licensure of Paraprofessionals

Another area where NLO could serve as an engine for the increased supply of legal services is in connection with the limited licensure of paraprofessionals to perform specified legal services.

A limited licensure framework for paraprofessionals would allow trained professionals to assist with routine legal matters under defined parameters. NLO could play a significant role in supporting this model by providing the organizational infrastructure and investment necessary to develop and scale these services across Tennessee. Much like the apprenticeship model described above, ABS entities could invest in training programs, compliance systems, and technology to support standardized delivery models that allow paraprofessionals to assist clients while maintaining consistent oversight from licensed attorneys.

Importantly, this structure could allow legal services to be delivered through staffing models like those used in other professional fields. Similarly to how doctors work alongside physician assistants and nurse practitioners, ABS entities could deploy teams consisting of licensed attorneys and paraprofessionals authorized to handle limited matters. Licensed attorneys would retain

[37] This consideration has arisen in efforts to address medical provider shortages in rural and underserved communities. In the medical licensing context, policymakers have recognized that alternative pathways – such as rural residencies and Teaching Health Centers – depend on the availability of institutional hosts capable of funding supervision, maintaining compliance infrastructure, and sustaining training environments that small or resource-constrained providers cannot support on their own. See, e.g., Emily M. Hawes et al., *Rural Residency Training as a Strategy to Address Rural Health Disparities: Barriers to Expansion and Possible Solutions*, 13 **J. Grad. Med. Educ.** 461 (2021). That experience underscores that licensing flexibility alone is insufficient; workforce reforms succeed only when paired with organizations that have the capacity to train and deploy new practitioners.

responsibility for legal judgment and oversight, while paraprofessionals would handle high-volume, routine legal needs that currently go unmet due to cost barriers.

C. The Need for Administrative Oversight

While NLO may offer meaningful benefits when paired with other reform measures, it would require deliberate regulatory design and ongoing administrative oversight to function effectively. If the Court were to pursue NLO, either on its own or in connection with a complementary reform measure, the regulatory framework should ensure that the influx of capital supports the Court's stated goals in improving access to justice. Further, the Court should be prepared to devote adequate resources to the administration and oversight of a NLO program. We encourage the Court, if it chooses to pursue NLO, to create or designate an entity charged with deliberate consideration of the regulatory design, supervisory framework, and resource commitments necessary to ensure effective oversight and implementation.

VI. CONCLUSION

Evidence from other jurisdictions that have enacted NLO reform demonstrates that non-lawyer ownership is neither a panacea nor a peril. Standing alone, NLO reform has not meaningfully expanded the supply of affordable legal services or resolved the economic barriers that underlie the access-to-justice crisis. At the same time, the available data does not indicate that regulated NLO regimes increase consumer harm. We believe NLO reform offers unrealized potential: it may serve as a catalyst when paired with complementary reforms—such as alternative pathways to licensure and the limited authorization of paraprofessionals—that more directly address structural constraints on the legal services market.

Accordingly, we respectfully urge the Court to consider eliminating regulations prohibiting non-lawyer ownership of law firms or fee-sharing with nonlawyers if done directly in conjunction with other potential reforms under the Court's consideration to increase the supply of more affordable legal services. If the Court elects to pursue NLO reform, its success will depend on deliberate regulatory design and administrative oversight, as well as the creation of incentives to align capital formation with the Court's stated goal of expanding access to affordable, high-quality legal services for Tennesseans.

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