PROSECUTORIAL GUIDANCE AND NON-PROSECUTION POLICIES

A Pragmatic Path Forward for **AI in Legal Services**

A toolkit for regulators and leaders exploring approaches to AI in consumer-facing legal services

DUKE CENTER ON LAW&TECH

IAALS INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM

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A toolkit for regulators and leaders exploring approaches to AI in consumer-facing legal services

September 2026

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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research organization that innovates and advances solutions that make our civil justice system more just.

Founded in 2006 at the University of Denver, IAALS believes that justice for all must be a reality for everyone. When innovation is rooted in finding common ground, questioning the status quo, and centering the people, we begin to craft solutions that transform our civil justice system. IAALS' unique approach depends on purposeful research, deep collaboration, and diversity of perspective, followed by evidence-based recommendations that take hold in courts and legal institutions across the country—jumpstarting the groundbreaking and achievable solutions that will clear a path to justice for everyone. Because justice for all will never be a reality if those seeking justice cannot access the system designed to deliver it.

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The Duke Center on Law & Tech aims to understand, reimagine, shape, and lead the next generation of tech-enabled legal practice. Through initiatives such as the Duke Law Tech Lab, a pre-accelerator program for early-stage legal tech companies; Duke Law By Design, which uses design methodologies to reimagine legal service delivery; and RAILS, a network dedicated to Responsible AI in Legal Services, DCLT helps ensure that new technologies ultimately empower and ennoble all people and expand access to quality legal services.

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ACKNOWLEDGEMENTS

There is power in numbers. When people collaborate toward a shared goal, we see greater impact than we can achieve from a single point of view. And it takes a diversity of perspective to get better justice outcomes for more people.

Thank you to everyone who participated in webinars, workshops, surveys, and individual calls as a part of this project between November 2024 and April 2026. More than 250 people engaged in this effort. In this toolkit, lessons learned are not attributed to any specific individuals, though some quotes from individual speakers in the recorded webinars are included.

Special thanks to IAALS staff for technical support in hosting webinars and producing this toolkit.

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Thanks to Maddy Buck for creating the illustrations in this toolkit.

Generative AI was used to draft and/or edit segments of this toolkit throughout the writing process. All drafts were reviewed and edited by humans.

Suggested Citation

Jessica Bednarz, Ericka Byram, Kelli M. Raker & Jeff Ward, *Prosecutorial Guidance and Non-Prosecution Policies: A Pragmatic Path Forward for AI in Legal Services*, Inst. for the Advancement of the Am. Legal Sys. & Duke Ctr. on Law & Tech. (2026).

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A NOTE ON TERMS USED

This document is referred to throughout as the *Non-Prosecution Policy Toolkit* or *toolkit*.

Before diving in, a few terms used throughout this toolkit need definition.

- **Regulator:** This term refers to a state or local government entity or official with authority to enforce unauthorized practice of law (UPL) rules within a given jurisdiction. May include state bar associations, offices of attorney regulation or professional responsibility, attorneys general, and courts, depending on how a jurisdiction's rules are structured and where enforcement authority is vested.

Definitions for "Tool Provider" and "Tech-Powered Legal Tool"

This toolkit uses the terms *tool provider* and *tech-powered legal tool* throughout. Because these terms could be interpreted many ways, it is important to make clear at the outset that this toolkit is specifically discussing consumer-facing tools.

- **Tool Provider:** This term includes any person and/or entity offering a consumer-facing AI or tech-powered legal help tool for free or for a fee. Examples could include entrepreneurs who are not lawyers, legal aid organizations, court self-help center staff, private attorneys, or others. The tool could be used by a legal consumer to obtain legal information and/or legal advice and services.

- **Tech-Powered Legal Tool:** This term refers to any legal help tool that is powered by technology, including AI. The tool could be used by a legal consumer to obtain legal information and/or legal advice and services. The tool might be offered for free or for a fee.

Definitions for Enforcement Tools

- **Prosecutorial Guidance:** This term refers to a public statement by a regulator explaining what types of conduct it is most concerned about, what conduct it views as lower risk, and how it expects to exercise enforcement discretion.
- **Non-Prosecution Policy:** This term refers to a generally applicable form of prosecutorial guidance stating that the regulator will ordinarily decline to pursue UPL enforcement in defined circumstances, subject to stated conditions and limitations.
- **No-Action Letter:** This term refers to a narrow, case-specific statement indicating that, based on a particular factual submission, the regulator does not presently intend to take enforcement action.
- **Advisory Opinion:** This term refers to interpretive guidance about how existing rules may apply; unlike a non-prosecution policy or no-action letter, it does not primarily operate through enforcement discretion.

Additional definitions relevant to this Non-Prosecution Policy Toolkit are provided in Appendix D: Glossary for Direct-to-Consumer Legal Innovation.

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EXECUTIVE SUMMARY

1

The Problem

More than 75% of civil cases in state courts involve at least one self-represented party. Over 100 million Americans—the "missing middle"—earn too much to qualify for legal aid but cannot afford a private attorney, while millions more who do qualify for legal aid still go without help because demand far outstrips capacity. Technology-powered legal tools hold real promise for helping close this gap but face a significant obstacle: Unauthorized Practice of Law (UPL) rules that are vague (with no settled definition of "the practice of law" itself), inconsistently enforced, and applied differently across all 50 states.

UPL regulations have three overlapping functions or effects: protecting consumers from harm (an integrity function), shielding lawyers from competition (an insulation effect), and stifling innovation through uncertainty (an intimidation effect). While the integrity function is vital, the latter two chill responsible innovation, keeping potentially beneficial tools out of the hands of people who need them most. The goal of this toolkit is not to dismantle consumer protections, but to help regulators separate UPL's legitimate aims from enforcement patterns that suppress responsible innovation without protecting the public.

It is worth distinguishing between two categories of artificial intelligence (AI) tools in this space. General-purpose AI tools—large language models without legal-specific design or guardrails—carry genuine risks, including the well-documented tendency to produce confident but incorrect answers. Legal-specific tools, by contrast, are commonly designed with narrow scope, explicit disclaimers, attorney oversight or guidance, and structured escalation pathways. A well-crafted non-prosecution policy can draw exactly this distinction—protecting consumers while creating space for responsible, purpose-built tools to reach people who currently have no good options.

The Approach

This toolkit focuses on a pragmatic near-term response: prosecutorial guidance and non-prosecution policies. Rather than waiting for rule changes that can take years, regulators can publicly state which categories of tech-powered legal tool conduct they will and will not prioritize for UPL enforcement, providing the clarity innovators need to move forward. Because they operate through enforcement discretion rather than formal rulemaking, these policies can be put in place quickly and adjusted as the technology evolves—a decisive advantage in a field moving as fast as AI, where a multi-year rulemaking cycle risks being outdated before it takes effect.

Colorado did this in September 2025, becoming the first jurisdiction to adopt a generally applicable UPL non-prosecution policy. This toolkit draws on that experience, along with input from more than 250 stakeholders over two years of convenings, to offer a modular set of building blocks other jurisdictions can adapt. Colorado's policy is an example, not a template. The appropriate approach will vary based on local enforcement authority, regulatory structure, and political context.

Two things this approach is not:

1. A non-prosecution policy is not a legal safe harbor. It does not change the underlying law, it cannot be invoked as a defense in a civil suit, and can be rescinded without legislative process.
2. It does not bind successor regulators or prevent enforcement by other bodies.

The value of a non-prosecution policy is narrower than legislated approaches but can reduce the chilling effect enough to allow responsible tool providers to make deployment decisions they would otherwise avoid entirely.

An Honest Assessment

This toolkit reflects the perspectives of more than 250 stakeholders, including bar leaders, practicing attorneys, entrepreneurs, court administrators, and regulatory officials, many of whom began skeptical of loosening UPL enforcement. The guidance here reflects genuine disagreement as well as emerging consensus.

Two limitations deserve direct acknowledgment:

- The fragmentation problem is real. State-by-state variation in non-prosecution policies could add a new layer of complexity on top of an already inconsistent system. This toolkit is designed with cross-jurisdictional portability in mind, offering common core components that can serve as a de facto baseline even without federal coordination.
- This approach is necessary but not sufficient. Without deliberate design and equitable access, these tools risk deepening existing disparities rather than narrowing them. UPL reform should be pursued alongside sustained investment in court-hosted tools, legal aid, and human-centered delivery.

Non-prosecution policies are a bridge, not a destination. Jurisdictions that adopt them should treat them as transitional measures while pursuing more durable structural reform.

HOW TO USE THIS TOOLKIT

2

This Non-Prosecution Policy Toolkit is a reference resource, not a document designed to be read cover to cover. Most readers will find what they need by starting with one of the following pathways.

- **If you are considering whether this approach fits your jurisdiction**, start with the Introduction and Background sections, which lay out the access to justice crisis, the role of UPL regulation, and why prosecutorial guidance and non-prosecution policies have emerged as one promising response. Then read Prosecutorial Guidance and Non-Prosecution Policies: A Balanced Approach to understand the trade-offs.
- **If you are convening a working group to explore reform**, start with the Principles section to anchor early discussions, then review Tips for Working Groups for practical guidance on structure, stakeholder inclusion, and momentum. Appendix C (the AI Use Case Discussion Matrix) is designed as a working-group exercise.
- **If you are drafting policy language**, go directly to Components to Consider and Appendix B (Colorado's non-prosecution policy). The Components section is organized as a menu. Not every jurisdiction will adopt every component, but each is designed to address a distinct concern raised by regulators and stakeholders during this project.
- **If you are building support with skeptical stakeholders**, start with From Conversation to Adoption: Messaging and Stakeholder Engagement, which organizes common arguments by audience. Stakeholders in Regulatory Reform complements this section by identifying potential allies.
- **If you are looking for additional context on terminology**, Appendix D provides a glossary covering UPL, AI, and access to justice concepts used throughout the Non-Prosecution Policy Toolkit.

The toolkit is a living resource. If your jurisdiction adopts a new policy, issues a no-action letter or advisory opinion, or takes any other step related to regulating AI in consumer-facing legal services, please reach out to us so that experience can inform future versions.

TOOLKIT CHECKLIST

3

Getting Started & Common Language

Determine whether prosecutorial guidance or a non-prosecution policy is the right approach, or, if not, whether and how the toolkit can be useful for your chosen path of regulatory reform.

- ✔ Understand the access to justice crisis and how the current UPL landscape contributes to it.
- ✔ Understand the opportunities and challenges associated with using tech to deliver legal help.
- ✔ Determine how your state enforces UPL (civilly, criminally, or a combination), the mechanism(s) for changing existing rules, and who needs to be involved.
- ✔ Understand what a non-prosecution policy is and the associated opportunities and challenges.
- ✔ Review Appendix B (Colorado OARC Non-Prosecution Policy) as a model for how a complete non-prosecution policy is structured. [Note: Colorado's policy is an example, not a template; adapt it to your jurisdiction's regulatory structure and context.]
- ✔ Review the Tips for Working Groups section of the toolkit for practical guidance on structuring your working group, maintaining momentum, and managing internal conflict.
- ✔ Form the working group for your regulatory innovation initiative or bring this idea to an existing working group.
- ✔ Share Appendix D (Glossary for Direct-to-Consumer Legal Innovation) with the working group to ensure members are using key terms—including tool provider, tech-powered legal tool, prosecutorial guidance, non-prosecution policy, and no-action letter—consistently.

Principles

- ✔ Understand the importance of developing principles at the outset of your work. Review Appendix A (2024 Colorado Subcommittee's Principles) as a concrete example of how another jurisdiction anchored its work in shared principles before drafting policy.
- ✔ Review the list or proposed principles in the toolkit.
- ✔ Develop principles to guide your working group as you continue with your work. Share these with the working group. Refer back to the shared principles as a neutral reference point when tensions arise during policy discussions.

Components

- ✔ Facilitate group completion of the AI Use Case & UPL Discussion Matrix as a working-group exercise to surface where group members have consensus and where they diverge on specific use cases and risk levels. Share the aggregated results to the working group and discuss.
- ✔ Discuss where there is consensus among the group and where there is not.
- ✔ Review the list of proposed components in the toolkit.
- ✔ Consider your principles and matrix discussion and identify components to include in your regulatory approach. [Note: This approach can work for the development of a wide range of regulations, including non-prosecution policies, prosecutorial guidance, sandboxes, rule changes, etc.]
- ✔ Determine which regulatory approach—non-prosecution policy, prosecutorial guidance, no-action letters, or deprioritization statement—best fits your jurisdiction.

Stakeholders Engagement & Messaging

- ✔ Create a comprehensive list of the wide range of potential stakeholders your working group can engage.
- ✔ Determine which stakeholders you will engage.
- ✔ Develop messaging that will resonate with these stakeholders.
- ✔ Pitch your idea(s) to the stakeholders and seek feedback.

INTRODUCTION

4

The Challenge

The United States faces a profound access to justice crisis. The vast majority of low- and middle-income Americans and small businesses are unable to access affordable legal help when they need it. This crisis is both broad and deep. Research from the Institute for the Advancement of the American Legal System (IAALS) and the Hague Institute for Innovation of Law (HiiL) revealed that 66% of the U.S. population faced at least one legal issue in the previous four years and only 49% of those issues were resolved.[1] More than 75% of civil cases in state courts involve at least one party without legal representation, and many Americans simply do not seek lawyers for their civil legal needs due to cost and complexity.[2]

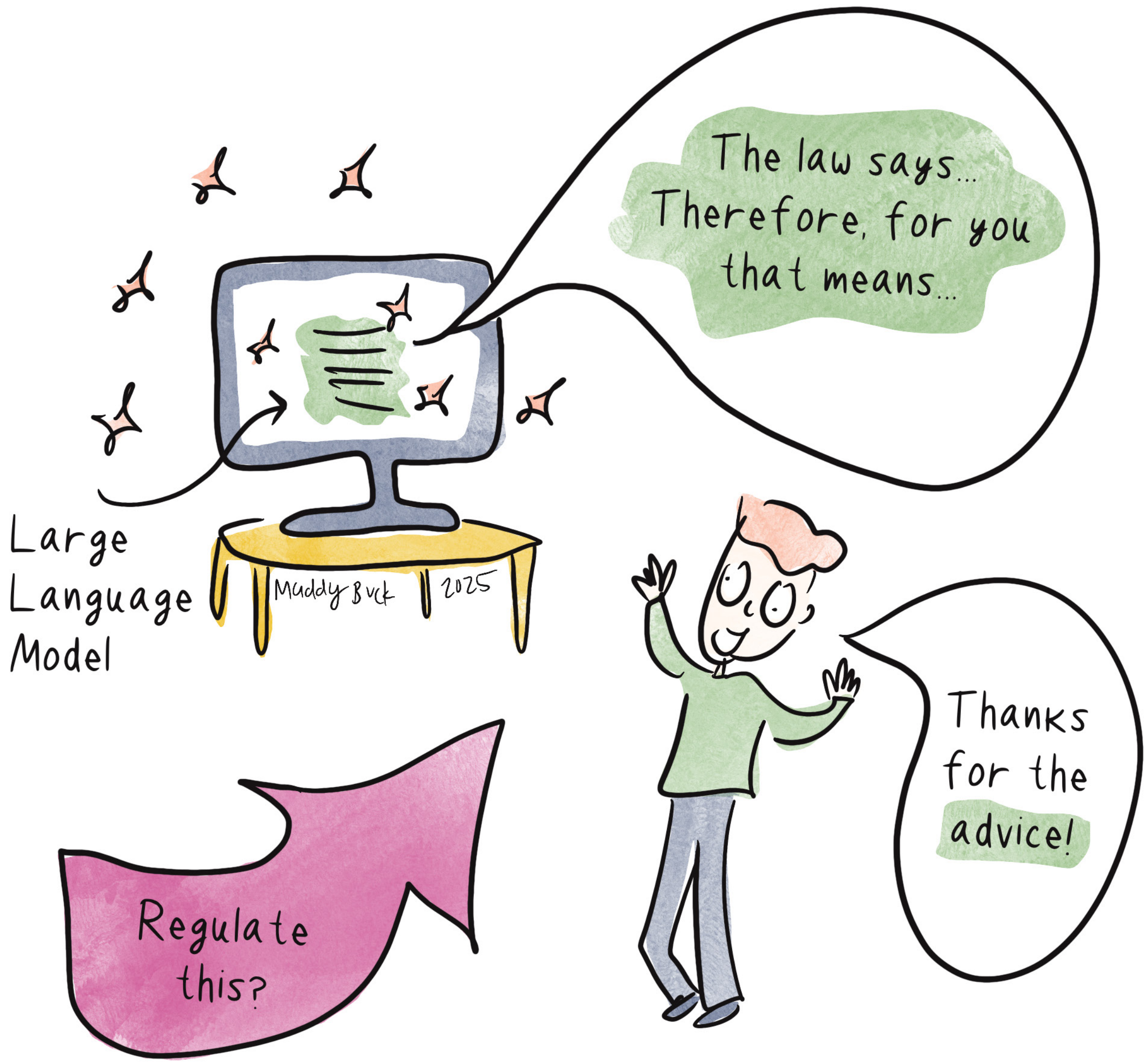
The reasons people go without counsel are varied. For some, it reflects a genuine preference—a distrust of lawyers, a desire for control, or a growing "do-it-yourself" mentality that research has documented and that AI tools, by making self-help easier than ever, are likely to reinforce. But for many others, proceeding alone is not a real choice at all. When asked, individuals consistently report that they do not want to navigate the civil justice system without help. Rather, they are consigned to do so by a system that has priced and structured legal help out of reach.[3]

A further, often invisible barrier compounds the problem: many people do not recognize that what they are facing is a legal problem in the first place, and so never seek help at all. This last point matters here because it cuts both ways. AI tools hold real promise for helping people identify their problems as legal and route them toward appropriate help, yet that very capability—spotting an issue and pointing toward a remedy—is precisely what implicates UPL. The barriers are real and layered. They point directly to the need for pragmatic approaches like the ones this toolkit explores.

A particularly overlooked dimension of this crisis is what researchers call the "missing middle"—the more than 50% of Americans who are above the income threshold for free legal aid but still cannot afford traditional legal services. IAALS defines this population as those earning between 125% of the federal poverty line and twice the median household income, a range that encompasses over 100 million Americans and most small businesses.[4] These individuals are ineligible for legal aid, yet the cost of private legal representation remains out of reach. Notably, research from HiiL and IAALS found that the impact of unresolved legal problems is highest among households earning $50,000–$75,000 per year, suggesting that this group bears a disproportionate burden precisely because they lack access to both subsidized and market-rate legal help.[5]

The Above the Line Network, a joint initiative of IAALS and The Chicago Bar Foundation, is working to address this gap by connecting and scaling legal services models focused on middle-class Americans. Tech-powered legal tools represent one promising pathway to reach this population at scale.

The scale of unmet need makes conventional responses inadequate on their own. To provide even some measure of assistance to all households with legal needs, attorneys in the United States would need to increase their pro bono work from an annual average of 30 hours each to over 900 hours each—a thirty-fold increase that is plainly unrealistic. Similarly, even tripling or quadrupling legal aid funding would not come close to closing the gap. These approaches remain essential, but they cannot close the gap by themselves. Tech-powered legal tools are not an optional add-on to existing solutions; they are a necessary response to a crisis that traditional approaches cannot solve alone.[6]



The Opportunity

Against this backdrop, AI presents a meaningful opportunity to address the United States' deep-rooted access to justice crisis. Courts, legal aid, and entrepreneurs have already been building tech-powered legal tools that represent mission-driven attempts to serve those in need and bring resources based on real domain expertise to those who, without these tools, would face their challenges alone or with only unvetted general-purpose AI tools.

While this report uses AI as a lens to examine current regulatory challenges, the principles and guidance offered here apply broadly to technology-powered legal tools of all kinds—from document automation platforms to interactive self-help systems—and are intended to support access to justice regardless of whether a particular tool relies on AI or earlier forms of legal technology.

The UPL Barrier

Unauthorized Practice of Law (UPL) rules—a state-by-state patchwork that's often unclear and inconsistently applied—create regulatory uncertainty that stifles the development of tech-powered legal tools that could help bridge the justice gap.[7] At the root of much of this uncertainty is a definitional problem: there is no universally accepted definition of "the practice of law," and the line between permissible "legal information" and restricted "legal advice" is notoriously blurry.[8]

UPL's reach, and the harm it causes, is not simply a contemporary policy failure. Stanford law professors Nora Freeman Engstrom and James Stone have argued that today's access to justice crisis is not accidental or the product of inertia. It was, rather, actively constructed. In their historical account of how America's auto clubs were driven out of the legal services market by Depression-era bar campaigns, they document how the legal profession used UPL enforcement to eliminate thriving group-legal-service providers that were, at the time, handling tens of thousands of claims annually for ordinary Americans without documented evidence of consumer harm.[9] The regulatory architecture built in those years, one that insulates legal-practice regulation from legislative accountability and concentrates enforcement authority in lawyer-dominated courts, is the same architecture that continues to chill responsible legal innovation today.[10]

The goal of prosecutorial guidance and non-prosecution policies is not to dismantle consumer protections, but to separate UPL's legitimate integrity function from the insulation and intimidation effects that have historically suppressed innovation without protecting the public. Greater clarity about the aim of such rules, and about what is and is not permissible, may help encourage innovation that puts these tools in the hands of those currently without legal help.

Why This Toolkit?

This Non-Prosecution Policy Toolkit's resources are intended to support exploration of the Phase 1 "soft power" approaches—non-binding strategies like guidance, best practices, and prosecutorial discretion that influence behavior without formal rule changes—recommended in *Regulating AI in the Delivery of Consumer-Facing Legal Services: Unlocking Legal Regulation*. In that framework, soft power is not a substitute for regulation or a form of inaction. It is a pragmatic way to mitigate consumer risk, preserve the integrity and trust-building aims of UPL, reduce uncertainty that chills responsible innovation, and generate the learning and data needed for more durable reform. This Non-Prosecution Policy Toolkit advances that work by identifying practical building blocks for publicly available prosecutorial guidance, generally applicable

Toward creating a better balance of targeted consumer protection and meaningful innovation that expands access to integral legal help for all.

non-prosecution policies, and, where appropriate, case-specific no-action letters. This no-action letter alternative can provide clearer notice about enforcement posture for entrepreneurs, lawyers, and court staff, while creating space for responsible experimentation, service democratization, and greater cross-jurisdictional coordination and consistency.

Please note that this toolkit is *not* addressing regulatory initiatives focused on training and authorizing new tiers of legal providers, such as community-based justice workers or allied legal professionals,[11] nor does it address tech-powered legal tools intended for lawyer, judge, or court-use. **The focus here is consumer-facing tools.**

This Non-Prosecution Policy Toolkit reflects the perspectives of a deliberately diverse group of stakeholders, including state bar leaders, practicing attorneys, entrepreneurs, court administrators, technologists, and regulatory officials, many of whom came to these conversations with significant skepticism about loosening UPL enforcement. The guidance here reflects genuine points of contention as well as emerging consensus, and readers are encouraged to engage with it critically rather than as a settled blueprint.

The Toolkit's Development: A Brief Timeline

In November 2024, IAALS convened leaders from across North America, in the legal profession and beyond, for two days of thought leadership sessions on whether and how to regulate the use of AI in the delivery of consumer-facing legal services.

The post-convening report, *Regulating AI in the Delivery of Consumer-Facing Legal Services: Unlocking Legal Regulation*, published in July 2025, identified prosecutorial guidance and no-action letters as one of the promising "soft power" approaches.[12] Colorado's September 2025 UPL non-prosecution policy from the Office of Attorney Regulation Counsel then provided an early example of how one jurisdiction could operationalize that broader family of approaches through a generally applicable enforcement policy (see Appendix B: Colorado Supreme Court Office of Attorney Regulation Counsel (OARC) Non-Prosecution Policy Regarding the Unauthorized Practice of Law by Nonlawyers). Compared to other approaches in the report, these policies may be easier to execute for regulators with limited time and resources.

In spring 2025, IAALS and the Duke Center on Law & Tech (DCLT) hosted a collaborative webinar series walking stakeholders through AI-driven legal innovation, UPL's impacts on service delivery, and actionable regulatory reforms based on research. In fall 2025, IAALS and DCLT virtually convened legal professionals, technologists, regulators, and others to examine Colorado's policy as an example and discuss the components of a non-prosecution policy. These conversations directly informed this Non-Prosecution Policy Toolkit.

Key Milestones

October 2023: DCLT publishes *From Founded to Funded: Challenges and Visions for Justice Tech*

March 2024: Colorado Supreme Court Practice of Law Advisory Committee Subcommittee on AI and UPL forms and commences work

June 2024: Minnesota State Bar Association's Working Group on AI publishes *Implications of Large Language Models on the Unauthorized Practice of Law and Access to Justice*

November 2024: IAALS convening on Unlocking Legal Regulation

May-June 2025: Webinar Series from DCLT/IAALS on AI, Access to Justice and UPL: Shaping the Future of Legal Services

July 2025: IAALS publishes *Regulating AI in the Delivery of Consumer-Facing Legal Services: Unlocking Legal Regulation*

August 2025: TRI/NCSC AI Policy Consortium for Law & Courts publishes *Modernizing unauthorized practice of law regulations to embrace technology, improve access to justice*

September 2025: Approval of Colorado Supreme Court Office of Attorney Regulation Counsel (OARC) Non-Prosecution Policy Regarding the Unauthorized Practice of Law by Nonlawyers

September-November 2025: Workshop series from IAALS/DCLT

December 2025-April 2026: Feedback period for toolkit draft, including a presentation at LSC's Innovations in Technology Conference

BACKGROUND

5

This section establishes the problem the Non-Prosecution Policy Toolkit *addresses: a profound access to justice gap, technology that could meaningfully help close it, and a regulatory environment that currently chills the development of those tools. Readers already familiar with the UPL landscape may want to skim this section and proceed to Prosecutorial Guidance and Non-Prosecution Policies: A Balanced Approach.*

The Promise and Current Reality of Tech-Powered Legal Tools

The potential for AI to address access to justice challenges is already being explored in various legal services contexts. These examples are a starting point, reflecting the point in time of publication of this toolkit:

Legal Aid

- Legal Aid of North Carolina's LIA chatbot
- AI self-triage tool for Missouri Tenant Help intake
- Voice intake for Virginia Legal Aid Society
- Tenant Defense Project from Legal Aid Society of Mid-New York, supported by New York State Office of Temporary and Disability Assistance and funded by an LSC Technology Innovations Grant[13]

State Bar Associations and Foundations

- Oregon State Bar's FETCH classifier for bar referral intake[14]

Other Nonprofits

- Upsolve's Bankruptcy Filing Tool

For Profit or Public Benefit Corporations

- Hello Divorce's Hallie
- Courtroom5's LAW Accelerator

Courts and Government

- Roxanne tenant help tool in New York City from Housing Court Answers, formerly known as the City-Wide Task Force on Housing Court
- Nevada Administrative Office of the Courts chatbot on their Self-Help website

Many of these tools are not operating as standalone products. In practice, consumer-facing tools are either often embedded within broader intake, triage, and service delivery systems and workflows, or that's the direction the tool providers are moving in. For more examples of access to justice tools and research, visit Stanford Legal Design Lab's JusticeBench.[15]

Court experience with self-help tools offers an important design lesson for tool providers: tools that respond to a user's specific factual circumstances consistently outperform tools that provide general legal information. The Los Angeles Superior Court found that utilization of its traffic assistance tool more than tripled when the tool was redesigned to access the user's actual citation data and provide options specific to their situation, rather than explaining options in general terms. By contrast, a family law chatbot that could not access case-specific facts achieved only 60% accuracy, leaving it too unreliable to deploy.[16] For tool providers, this suggests that early, structured fact-gathering is not just a design preference but a prerequisite for tools that are both useful and safe.

These innovations operate in a regulatory environment that creates uncertainty and limits their potential reach and impact. At the same time, the public is increasingly turning to general-purpose tools from large tech companies, typically designed without guidance from legal experts, to navigate legal issues.[17] Use of these tools has increasingly been noted in the news and at professional conferences.[18] The TRI AI/NCSC Policy Consortium for Law & Courts observes, "Consumers of legal services are using AI. Lawyers are using AI. Courts are using AI," and addressing the justice gap "demands a modernized, realistic, pragmatic approach to regulatory reform that recognizes the value of these tools to help."[19]

It is worth distinguishing between two categories of AI use in legal contexts.

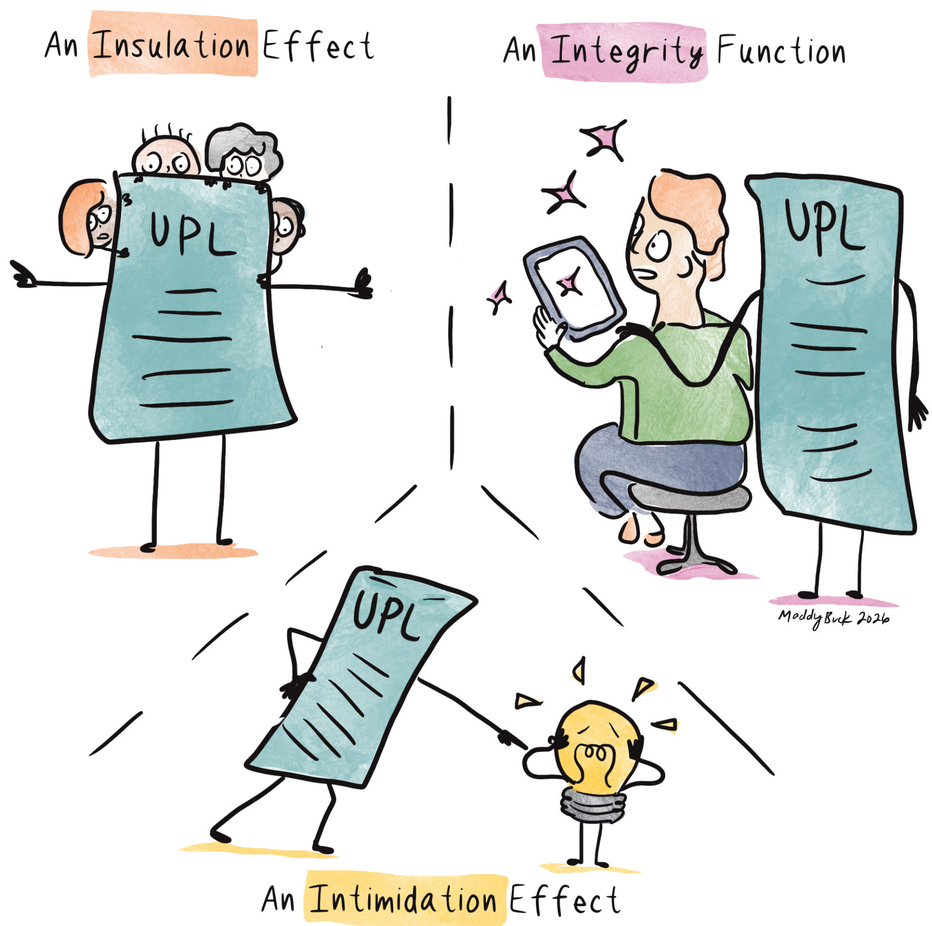
- *General-purpose* AI tools are large language models used without legal-specific design or guardrails and carry genuine risks, including the well-documented tendency of generative AI to confidently produce incorrect answers ("hallucinations" or "confabulations"). These risks are real and regulators are right to take them seriously.

- *Legal-specific* AI tools, by contrast, are often designed with narrow scope, explicit disclaimers, attorney oversight at the design or review stage, and guardrails informed by user needs (for example, offering structured escalation pathways at critical decision points) when a user's situation exceeds the tool's capabilities. The consumer protection case for treating these two categories differently is strong and it is precisely the kind of distinction that a well-crafted non-prosecution policy can draw. As previously noted, in this Non-Prosecution Policy Toolkit, these tools will be referred to as tech-powered legal tools.

The promise of tech-powered legal tools must be held alongside a real risk that without deliberate design and equitable access, these tools could deepen rather than narrow existing disparities. Researchers have flagged the danger of a two-tiered system in which higher-income users benefit from sophisticated, well-designed legal tools while low-income communities are left with inferior or unvetted AI-driven assistance.[20] This concern reinforces why the distinctions drawn in this Non-Prosecution Policy Toolkit between general-purpose AI tools deployed without legal-specific design and purpose-built tools with appropriate guardrails, attorney oversight, and user-centered design matter not just for consumer protection, but for equity. Prosecutorial guidance that distinguishes between these categories of tools serves both goals at once.

Why UPL? Why Now?

Emerging technologies like AI offer transformative potential for improving access to legal services, yet their full promise remains hindered by UPL regulations that have long been amorphous, uncertain, and unevenly applied. Decades ago, nonlawyers without any formal training could draft documents, prepare filings, and offer outside-the-courtroom legal guidance, but this changed in the early twentieth century when influential bar associations pushed for UPL regulations, which they claimed were necessary to protect consumers from being misled or harmed.[21] Today, these rules, while perhaps maintained with noble intentions, now serve three overlapping functions and effects that influence how legal services are delivered and who can provide them:



While the integrity function is vital to protecting consumers, the insulation and intimidation effects have significant consequences that may stifle innovation and perpetuate the justice gap.

The Integrity Function: Protecting Consumers

The primary goal of UPL rules should be to ensure the public receives reliable, ethical, and competent legal advice and services. When applied for this purpose, UPL laws protect consumers from unqualified individuals or organizations whose legal work could cause real harm. For example, inaccurate advice to a tenant facing eviction could cost that person their home or their legal rights.

While this consumer protection aim is vital, UPL's definition and application are often too broad for the context in which tech-powered legal tools operate. These tools typically fill gaps where no meaningful

alternative exists: spaces where lawyers are not present, not accessible, or not affordable. Limiting tools to the point of eliminating their usefulness can itself perpetuate harm, particularly to low- and middle-income communities who would otherwise be left with no help at all, or forced to rely on general-purpose AI tools designed without legal expertise or guardrails.

As of the publication of this toolkit, seven states have recognized this and authorized new categories of trained *human providers* including allied legal professionals and community-based justice workers. While the integrity function is necessary, it must be carefully defined and applied to avoid unnecessary restrictions that inhibit innovative tools and resources designed to help underserved populations.

The concern about consumer harm is legitimate and should not be dismissed. At the same time, some tech-powered legal tools highlighted in this Non-Prosecution Policy Toolkit appear to incorporate meaningful oversight structures, such as limited-scope design, attorney review layers, and complaint mechanisms intended to reduce risk. Early experience with targeted UPL reform and well-designed tools suggests potential access gains, but the evidence based on consumer outcomes remains limited and regulators should be cautious about making broad claims until more data is collected.

While researchers and regulators should continue to collect data on consumer outcomes, research to date suggests that the innovation and access to services that has resulted from targeted UPL reform and well-designed tools might outweigh the documented harm caused by leaving people without any legal help at all.

The Insulation Function: Protecting Lawyers from Competition

Beyond consumer protection, UPL regulations frequently serve to insulate the legal profession from competition. By barring nonlawyers and technology-based solutions from performing tasks even tangentially related to legal work, these rules preserve the traditional monopoly lawyers hold over legal services—elevating costs, limiting availability, and stifling creative approaches to service delivery.

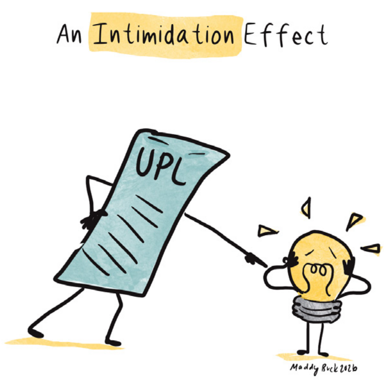
Some state regulations prohibit provision of legal services outside the traditional attorney-client model to such a degree that UPL impedes access to justice. This is done regardless of the evidence that:

- Low-cost legal solutions, such as document automation platforms or AI chatbots for basic legal inquiries, are excluded from the market. Nonprofit organizations, legal aid societies, and public interest technologists have long developed and are still developing and deploying free tools and resources that serve communities in meaningful ways. The regulatory barriers described here do not negate that vital work, but rather reflect the structural constraints that limit such tools from reaching their full potential and that prevent the broader market from offering complementary solutions at scale.
- Consumers may be prevented from accessing affordable, automated services that could meet routine or lower-risk needs more effectively than no assistance at all, and in some contexts may be more realistic than unaffordable full-service representation.

- Consumers are left with two choices: pay high fees for lawyers, which most people are not able to do, or forgo legal assistance entirely.
- Particularly important areas like landlord-tenant disputes or small claims where the cost of hiring a lawyer is disproportionate to the underlying value of the case remain drastically underserved. This imbalance negatively impacts lawyer business and consumer access.
- Consumers go without tailored legal help and often turn instead to general-purpose search or AI tools that were not designed for legal problem-solving and may be unreliable in this context. This can put litigants at risk and overwhelm courts.

While the legal profession must ensure high standards, consumers lose when the focus shifts from protecting the public to protecting lawyers' economic interests. Rebalancing this function could unlock more affordable options for those who cannot afford traditional legal services.

The Intimidation Effect: Stifling Innovation through Uncertainty



The intimidation effect describes how vague and inconsistent UPL regulations chill innovation. UPL definitions are often ambiguous. There is no universally accepted definition of "the practice of law" and the line between "legal information" and "legal advice" is notoriously blurry.[22] Each state defines UPL for itself, leading to a patchwork of regulations that are difficult to navigate.[23] UPL enforcement is often inconsistent and ad hoc.[24] The resulting uncertainty deters innovators, investors, and even established legal aid organizations from developing and deploying new tools out of fear of UPL enforcement.[25]

Justice tech entrepreneurs are so concerned about UPL enforcement that they limit what their tools can do. The TRI/NCSC AI Policy Consortium for Law & Courts reinforces this concern, noting that "the current regulatory system creates doubt about whether consumer-facing legal AI tools are committing the unauthorized practice of law because the rules can be interpreted that the AI is providing advice to users" and that "AI companies face operating in legal gray zones, chilled by the threat of UPL enforcement that is inconsistent across state lines in both prohibitive language and murky mechanisms of enforcement (or lack thereof)."[26] As IAALS notes, "regardless of whether they are actually enforced, the unpredictability of UPL enforcement and the resulting uncertainty stifles innovation."[27]

Actual UPL enforcement is infrequent and ad hoc. It often does not begin with consumer complaints about harm or subpar service by nonlawyers. Instead, many disputes are triggered by lawyers reporting nonlawyers for offering legal help.[28]

Two dimensions of this fragmented landscape are illustrated in the accompanying resources.

- First, how UPL is regulated varies significantly across the country. The vast majority of U.S. jurisdictions treat unauthorized practice of law as both a criminal and a civil offense, meaning innovators may face misdemeanor or felony prosecution alongside bar or court-ordered injunctions.

- Second, who enforces UPL is complex. State supreme courts hold ultimate authority in nearly every jurisdiction, but they almost universally delegate day-to-day enforcement to others, such as bar association committees (if in a state with a mandatory or unified bar association); court-created disciplinary agencies; or, in mixed systems, a combination of judicial and executive actors. Experts who participated in our non-prosecution workshop series noted that the public and the bar sometimes incorrectly assume there is a single, primary agency responsible for enforcing UPL allegations.

For legal technology innovators operating across state lines, this means there is no single enforcement body, no uniform process, and no consistent standard for what a regulatory response looks like. This structural reality multiplies the uncertainty already embedded in the patchwork of UPL definitions themselves. This complexity extends to attorneys who develop or affiliate with these tools. A lawyer-built tool may comply with UPL in the jurisdiction where the attorney is licensed but constitute unauthorized practice in others, and attorneys serving as employees or affiliates of nonlawyer-owned companies delivering tech-based legal services may face separate exposure under Rule 5.4 in most jurisdictions. Clearer, more consistent regulations would mitigate the intimidation effect and encourage innovation while protecting consumers, allowing technology-driven solutions to thrive and deliver value where traditional legal services fall short.

Prosecutorial Guidance and Non-Prosecution Policies: A Balanced Approach

Legal regulators can leverage prosecutorial guidance and non-prosecution policies as a pragmatic option that immediately improves clarity while preserving regulatory flexibility. Because regulators exercise discretion over which cases they prioritize and choose to prosecute, this approach is available as a faster option with minimal resource investment. That speed and adaptability especially matter now. AI tools are developing faster than traditional regulatory processes can track, and a non-prosecution policy can be issued now and refined as the market and technology mature rather than locking in a framework that may be obsolete by the time it takes effect.

Prosecutorial guidance tells the public, legal tech companies, courts, and others which kinds of services the regulator is most concerned about and which ones are at lower risk for prosecution or generally acceptable. A non-prosecution policy is a form of prosecutorial guidance that clearly conveys, in advance, that prosecutors will not bring cases in certain defined situations, even though the underlying law remains unchanged. It's important to note that while these policies would shield tech tool providers from UPL liability in certain situations, they would remain subject to contractual claims and other existing causes of action.

A no-action letter is a narrower cousin to a non-prosecution policy. Whereas a non-prosecution policy announces a generally applicable enforcement posture across a category of conduct, a no-action letter addresses a particular tool, provider, or factual scenario presented to the regulator. For jurisdictions that are not prepared to adopt a generally applicable policy, or for regulators who want to proceed incrementally in novel or higher-risk contexts, no-action letters may offer a more tailored way to provide clarity without committing to a broader policy framework. Using risk-tiering, organizing use cases and their permissibility based on the risk they present, within a policy could be another approach.

Prosecutorial guidance, non-prosecution policies, no-action letters, and advisory opinions each offer a distinct way for regulators to provide clarity. The following table summarizes the key differences.

	Prosecutorial Guidance	Non-Prosecution Policy	No-Action Letter	Advisory Opinion
What it is	Public statement explaining enforcement priorities and what conduct is lower or higher risk	Generally applicable policy committing in advance not to prosecute in defined circumstances	Case-specific statement declining enforcement for a particular tool, provider, or scenario	Interpretive guidance explaining how existing rules apply to a given situation
Who it applies to	Anyone operating in the jurisdiction, broad public audience	Any provider whose conduct meets the stated criteria, no application required	The specific provider or tool that submitted the factual request	Anyone seeking clarity on rule interpretation, may be general or requestor-specific
How binding	Not binding; signals enforcement posture only	Not a legal safe harbor; does not change underlying law or bind future regulators	Not binding; reflects current enforcement intent only, based on facts presented	Not binding on courts; reflects regulator's interpretive view only
Operates through	Enforcement discretion, public signal of priorities	Enforcement discretion, pre-committed non-enforcement within defined scope	Enforcement discretion, case-specific declination	Rule interpretation; does not primarily involve enforcement discretion
Administrative burden	Low. Requires drafting and publication only	Low after adoption. No ongoing monitoring or reporting required	Moderate. Requires review of individual submissions	Moderate. Requires legal analysis of rule application
When to use it	When a jurisdiction wants to signal enforcement priorities without committing to a formal policy	When a jurisdiction is ready to provide broad, automatic clarity to a category of conduct	When a jurisdiction prefers incremental, case-by-case clarity before adopting a broader policy	When the primary question is how rules apply, not whether enforcement will occur

Note: *None of these tools legalize conduct, bind future regulators, or create private rights of action. Their value lies in making enforcement posture more visible, more predictable, and more adaptive.*

While it might seem counterintuitive to keep a rule on the books if you don't intend to enforce it, states and prosecutors often prefer non-prosecution policies over formal legislative or rule changes for a variety of reasons.

- **Speed and Agility:** Changing a rule or statute can be a slow, bureaucratic process. A non-prosecution policy can be implemented quickly and adjusted just as quickly as the technology and market evolve. In a field moving as fast as AI, this nimbleness is a core advantage. Regulators can respond to developments in real time rather than waiting for a rulemaking cycle to catch up.
- **Learning Ground for Regulatory Refinement:** A non-prosecution policy lets regulators observe how the market responds to defined enforcement assurances without committing to permanent rule change. This observation is generally passive. Any provider whose conduct fits the stated criteria may operate under the policy, and data collection depends on whatever tools reach the market and whatever information regulators and researchers separately gather. Some bar counsel offices may already be following internal non-prosecution practices for technology or AI-powered legal tools. Making those

internal practices external facing provides clarity to tool providers and creates a foundation for future rule change when supported by evidence.

- **Low Resource Requirements:** This approach should not require the regulatory offices to find or dedicate additional resources. It is a far less resource-intensive approach than alternatives such as a regulatory sandbox.

A generally applicable non-prosecution policy and a sandbox can both function as learning environments for emerging legal technology. Because the boundary between a non-prosecution policy and a regulatory sandbox can blur in practice, particularly in jurisdictions (including several in Canada) where sandboxes themselves operate through no-action letter mechanics, it is worth naming the structural differences directly. They differ in four important ways:

- **Applicability:** A non-prosecution policy applies automatically to any provider whose conduct fits the stated criteria. A sandbox typically requires application, admission, and a defined participation period.
- **Data Collection:** A sandbox structures outcome data collection through participant reporting obligations. A non-prosecution policy does not. It relies on voluntary data sharing, independent research, and complaint patterns.
- **Administrative Footprint**: A non-prosecution policy imposes little ongoing administrative burden on the regulator after adoption. A sandbox requires standing infrastructure—application review, compliance monitoring, participant relationship management—that many jurisdictions are not positioned to build.
- **Scope and Reach:** A non-prosecution policy reaches every qualifying provider in the jurisdiction, including those who never interact with the regulator. A sandbox reaches only admitted participants.

In short, a non-prosecution policy trades the data richness and individualized oversight of a sandbox for reach and administrative simplicity. Neither approach is categorically superior. Jurisdictions may choose between them based on available resources and regulatory goals, or combine them (as Ontario has, through a by-law framework that deems sandbox participants' services not to be "legal services" for the duration of their participation).

It is important to be direct about the tension in this approach. Reducing regulatory barriers to AI legal tools benefits technology companies and investors, not just consumers. A non-prosecution policy that is loosely defined or lacks clear safeguards could expose users to tools that are insufficiently tested, poorly understood, or not designed with user interests in mind. This concern is not hypothetical. The history of legal technology includes examples of tools that overpromised and underdelivered for vulnerable users.[29] While a non-prosecution policy itself can encourage innovators to create these tools, strong and clear consumer protection safeguards within the policy encourage them to create high-quality tools.

For this reason, the consumer protection conditions attached to any non-prosecution policy are central, not peripheral. At a minimum, these policies should include: clear disclosure that the tool is not providing legal advice from an attorney, transparency regarding privacy and confidentiality practices, mechanisms to ensure informed user consent, and appropriate limitations on the scope of services, particularly in higher-risk areas. These components are reflected in the existing Colorado policy and reiterated through stakeholder discussions.

Right to Privacy

Unlike many peer nations, including all European Union member states, which are bound by the General Data Protection Regulation, the United States has no comprehensive federal right to privacy law governing how private entities collect, store, and use personal data.[30] In the absence of this baseline, legal consumers who share sensitive personal and legal information with AI-powered tools have limited statutory protections, making robust, plain-language disclosure by tool providers all the more critical. Regulators developing non-prosecution policies should consider whether their jurisdictions' existing privacy frameworks, including any applicable state consumer privacy laws, create additional disclosure obligations, and should ensure that privacy and confidentiality requirements in non-prosecution policies are drafted with those gaps in mind.

Additional protections—such as prohibitions on misleading representations, safeguards against consumer harm, and avenues for redress—further reinforce that balance of innovation with accountability. A non-prosecution policy that omits these elements risks undermining that balance.

The primary downside of this approach is real and should be stated plainly. *A non-prosecution policy is not a legal safe harbor*.

- It cannot be invoked as a defense in a civil suit brought by a private party, can be rescinded without legislative process, and does not bind successor regulators (though many tend to serve in these positions for extended periods of time).
- A tool provider operating under a non-prosecution policy remains exposed to liability from sources other than the issuing regulatory body, and tool providers may decline to enter markets where such a policy is the *only* available protection precisely because it does not provide the certainty needed to justify the investment required to build, test, and deploy tools responsibly.
- In states with both civil and criminal penalties for UPL violations, non-prosecution policies must have the support of both enforcement bodies to offer real protection. It should be noted that Colorado's UPL rules are only enforced civilly.

UPL Across U.S. Jurisdictions

View a 50-state (plus D.C. and U.S. territories) reference on unauthorized practice of law (UPL) in the United States at https://duke.is/UPL. For each jurisdiction, this chart includes the controlling statute/court rule, classification as Criminal Only, Civil Only, or Both, related exceptions (e.g., multijurisdictional safe harbors), and the enforcing/investigating authority (bar association, judicial committee, or executive agency).

Jurisdictions that wish to meaningfully attract innovation should therefore treat non-prosecution policies as transitional measures while pursuing more permanent structural reform.

That said, the value of a non-prosecution policy should not be measured only by its legal enforceability. Its primary function is to reduce the chilling effect and give entrepreneurs, investors, legal aid organizations, and court staff enough clarity about regulatory intent to make deployment decisions they would otherwise avoid entirely. In jurisdictions where formal rule changes would take years and sandboxes would require resources that don't exist, a clear, public, well-reasoned non-prosecution policy may be the difference between a potentially beneficial tool reaching users for real-world testing and refinement or never being built at all. Research with innovators and investors suggests that even a non-binding policy, communicated clearly and with specificity about what conduct is and is not covered, can meaningfully shift the innovation environment.[31]

During the workshops administered by IAALS and the DCLT, it became clear that a non-prosecution policy would not be the best fit for every jurisdiction. In some cases, jurisdictions may prefer to offer prosecutorial guidance by clearly stating only what will be prosecuted (rather than what will not), also called a deprioritization statement. Where leaders determine that prosecutorial guidance is not viable in their jurisdiction, the IAALS and NCSC reports referenced earlier in this toolkit contain additional ideas; the resources in this toolkit may be helpful for exploring these alternatives.[32]

This "soft power" approach aims to preserve the integrity function of UPL while providing the clarity that real innovation and legal service democratization needs. Rather than abandoning consumer protection concerns, this approach recognizes that, as IAALS found, "a 'do nothing' approach would mean maintaining the status quo which . . . is failing most Americans."[33] The approach aligns with IAALS' broader finding that "the best approach is likely a hybrid approach that involves pursuing more than one strategy at a time over time,"[34] and supports the legal profession's adoption of an iterative approach to regulatory reform—one that allows for adjustment as evidence accumulates rather than locking in a framework before the underlying technology and market practices have stabilized.[35] Whether deployed through a generally applicable non-prosecution policy, a case-specific no-action letter, or a narrower deprioritization statement, these soft-power tools do not legalize conduct, bind future regulators, or create private rights. Their value lies instead in making enforcement posture more visible, predictable, and adaptive as AI and consumer-facing legal tools continue to evolve.

Building Bridges to Long-Term Reform

A non-prosecution policy can serve as more than just an immediate solution. It can also function as a bridge to eventual UPL rule changes. The process of changing UPL rules typically takes a long time and requires majority buy-in from the state Supreme Court, making immediate reform challenging even in jurisdictions where appetite for change exists. One workshop participant also noted that a non-prosecution policy may be a helpful middle step which provides moderate clarity to developers and users while the market develops and even provides flexibility as the market evolves.

There is a legitimate concern that encouraging each state to develop its own prosecutorial guidance policy simply adds another layer of variation on top of an already fragmented system. If 50 jurisdictions each issue different non-prosecution policies with different scopes, different conditions, and different enforcement postures, a tool provider looking to deploy nationally may find itself navigating a new patchwork rather than escaping the old one. This tension is real. The answer, however, is not to wait for federal coordination that may be years away while the justice gap continues. It is to design state-level policies with portability and consistency in mind, while identifying common core elements (the disclosure requirements, the scope limitations, the consumer safeguards outlined previously) that can serve as a de facto national baseline even in the absence of federal action. This Non-Prosecution Policy Toolkit is designed with that in mind. The goal is not to produce 50 idiosyncratic policies, but to offer a common framework that jurisdictions can adapt while maintaining meaningful consistency across state lines.

The process of creating prosecutorial guidance and non-prosecution policies offers a valuable opportunity to bring stakeholders into discussions and build consensus. By engaging lawyers, technology companies, consumer advocates, court personnel, and other key stakeholders in conversations about what types of AI-powered services should be prioritized for enforcement versus those that pose lower risk, regulators can begin to build the foundation for more comprehensive reform.

While non-prosecution policies are a pragmatic near-term tool, the most durable reforms will require jurisdictions to revisit the rules themselves. Targeted amendments to UPL provisions that were drafted before interactive legal technology existed can bring regulatory frameworks into alignment with contemporary practice without abandoning legitimate consumer protection goals. More comprehensive approaches—such as regulatory sandboxes that allow supervised innovation while generating evidence of consumer outcomes, or the authorization of alternative business structures that enable new models for delivering legal services—offer the kind of structural certainty that non-prosecution policies cannot. The experience of states that have pursued these reforms provides a valuable body of evidence for jurisdictions still weighing their options. Toolkit users are encouraged to consider these models not as radical departures but as logical extensions of the consumer-protection principles that animate UPL enforcement in the first place.

It is worth being direct about what this Non-Prosecution Policy Toolkit's approach can and cannot accomplish. Prosecutorial guidance and non-prosecution policies reduce regulatory uncertainty and allow responsible tool providers to operate with greater confidence. That is a meaningful and achievable goal. But researchers have raised the harder question of whether liberalizing legal practice rules, even substantially, can alone produce a competitive marketplace of *consumer-facing* tech-powered legal tools at the scale needed to close the justice gap. The market economics of serving low- and moderate-income Americans may be too challenging for market-based solutions to fully address on their own.[36] This suggests that UPL reform, including the prosecutorial guidance approach in this toolkit, is best understood as a necessary step that should be pursued alongside sustained investment in court-hosted tools, legal aid, and human-centered delivery models.

PRINCIPLES

6

For working groups tasked with developing prosecutorial guidance or a non-prosecution policy, this section offers 10 principles intended to anchor discussions about what prosecutorial guidance or a non-prosecution policy should accomplish. These principles are a starting point, not a prescriptive framework. Jurisdictions are encouraged to adapt them. Each principle reappears in the Components section that follows, where specific policy provisions are mapped back to the principles they serve.

Having a discussion about shared principles is an important first step in the development of prosecutorial guidance and non-prosecution policies. It serves several practical purposes that make the remaining efforts of a working group tasked with creating a non-prosecution policy easier and more productive.

- **Create a common foundation:** Reform-focused task forces and committees should be composed of people with very different perspectives, roles, and incentives. If the group first agrees on core principles, such as the principles outlined next, then later disagreements about specific policies or provisions can be framed as: *Which option best advances our shared principles?* That shifts debate from positional arguments to principle-based reasoning.
- **Act as a decision-making framework:** Reform-focused conversations often generate many possible ideas. Shared principles become criteria the task force can use to evaluate options, prioritize recommendations, and explain why they chose one path over another.
- **Build stakeholder legitimacy and buy-in:** If the task force publishes its principles early, stakeholders as well as the public can see the values guiding the work. This builds trust and reduces the perception that decisions were arbitrary or driven by special interests.
- **Manage internal conflict:** Reform-focused efforts often run into tensions. If the group has already agreed on principles, those principles become a neutral reference point when these tensions arise.
- **Serve to ground a coherent final report:** While some working groups may propose a policy only, others may include a final report or other justification. This document can demonstrate how the policy flows from the shared principles, which makes the reform effort more persuasive and durable.

In short, beginning with shared principles helps a task force move from *"What do we each want?"* to *"What are we trying to accomplish together?"* That shift makes meaningful reform much more likely.

The following list of principles were inspired by Colorado's policy discussions (see Appendix A: 2024 Colorado Subcommittee's Principles) and discussions with stakeholders, including in the 2025 IAALS/DCLT workshop series. This list is meant to provide a common foundation for states exploring these regulatory reforms.

These principles are not intended to be a prescriptive, one-size-fits-all framework. States must respond to their own local regulatory nuances and may adopt different policy particulars. Still, these principles can help anchor discussions and establish shared threads to promote a more cohesive approach across jurisdictions.

Proposed Principles

- **Affordability, Equity, and Access:** Consumers should be able to obtain very basic legal services that have standard or predictable components as long as those consumers understand they are not necessarily receiving a lawyer- or legal practitioner-provided service. Language access, digital literacy, disability access, and rural connectivity are central to whether these tools actually expand access.
- **Certainty:** Tool providers, other members of the legal profession, and members of the public should be able to understand the objectives of a policy and how its administered.
- **Common Law Consumer Protection:** Tool providers must follow applicable common law principles governing consumer protection, including those related to fraud, negligence, product liability, and breach of warranties.
- **Customer Redress and Provider Accountability:** Tool providers must maintain a clear, conspicuously displayed customer-satisfaction process for complaints, concerns, and refund requests. Providers may not require consumers to waive warranties, release the provider from liability, or limit otherwise available damages, remedies, or complaint rights as a condition of use.
- **Procedural Fairness for Tool Providers**: When deficiencies or errors in a service are identified, tool providers should be given a reasonable opportunity to correct the issues before facing regulatory sanctions. Such procedures are designed to prevent arbitrary or sudden exercises of regulatory power. Regulatory agencies should establish clear processes and timelines for remediation, and service providers must demonstrate good faith efforts to address identified problems and prevent recurrence.
- **Quality Assurance:** Tool providers are encouraged to incorporate meaningful involvement from qualified professionals to enhance quality and reduce risks to consumers. Qualified professionals may include lawyers, allied legal professionals, legal navigators, community-based justice workers, court staff, paralegals, or other trained experts with relevant expertise, including technologists or data scientists. The nature and degree of professional involvement should be commensurate with the service's complexity and risk level. This may range from consultation during tool development to ongoing advisory support to, in the most high-risk contexts, full human review. Tool providers must clearly disclose to consumers what professional oversight, if any, is incorporated into their services. Once tools are launched, tool providers should implement reasonable measures to ensure the accuracy and reliability of their services. This includes regular testing, validation of outputs, and monitoring for error or limitations in the tool's functionality.

Tensions Between Principles

It's important to flag the tension between this principle and affordability. Higher levels of expertise often result in higher prices. But higher prices are less affordable for most legal consumers. It is therefore important to calibrate the level of expertise needed for the development and oversight of the tool.

- **Risk Awareness:** Consumers should have the opportunity to understand that there are some risks inherent in relying on a nonlawyer or non-legal practitioner, particularly through an online platform, for legal services so that they can make an informed decision. Using plain language, tool providers should help consumers assess comparative risks, including the risk of using the tool versus using no assistance, general AI tools, or search engines.
- **Service Continuity**: Tool providers must be able to recognize when their services are not available or sufficient to meet a consumer's needs—either due to limitations of the tool itself, regulatory changes that require an interruption or stop in service, or other reasons—and should communicate that to the consumer and recommend that the consumer seek the help of a lawyer or other service provider when necessary. Where feasible, providers should promote continuity of service by connecting consumers to other available resources and educating them about additional services that could address their legal needs. When making decisions that impact a tool's operation, regulatory entities should balance consumer protection with minimizing disruption to existing users.
- **Transparency:** Tool providers must prioritize transparency in all interactions with consumers, including clearly communicating who is providing services (i.e. disclosing the extent of lawyer or nonlawyer involvement), obtaining informed consent, and accurately describing the services offered. Consumers must be informed about the limitations of data confidentiality and privacy, and how AI is being used in the service. This includes disclosure of whether personal data is used for model training and whether information is shared with third parties. Non-prosecution policies themselves should also be transparent in their purposes and goals.

COMPONENTS TO CONSIDER FOR UPL PROSECUTORIAL GUIDANCE AND NON-PROSECUTION POLICIES

7

This section provides a menu of policy components that jurisdictions can adapt. Most are drawn from or inspired by Colorado's September 2025 non-prosecution policy, with additions reflecting stakeholder input during the 2025 workshop series. Not every jurisdiction will adopt every component. This section is designed to surface the issues that most jurisdictions will need to address, regardless of the regulatory model they choose.

Throughout reform-focused efforts, task forces and committees spend significant time discussing concepts, goals, and recommendations. Reform efforts do not fail due to lack of ideas. They stall because of the difficulty of turning ideas into operational policy language. This section is intended to help bridge that gap and provides two primary resources.

First, it offers a sample non-prosecution policy from Colorado to illustrate how a jurisdiction might structure a comprehensive approach. The policy is not intended to be adopted verbatim. It serves as an example of how key concepts can be integrated into a coherent framework. It is also important to note that Colorado's non-prosecution policy is new, and it might be too early to draw too many conclusions from it.

Second, this section identifies a set of sample components that can be adapted across jurisdictions, regardless of the regulatory model a jurisdiction adopts. While approaches will vary, many jurisdictions will need to address similar core issues. These components are designed to be modular and flexible, enabling regulators and other leaders to tailor them to their own legal, regulatory, and political contexts. The toolkit intentionally uses broader terminology than Colorado's policy in a few places to allow for variation across jurisdictions.

Consistency Across Jurisdictions

As more states begin to consider a non-prosecution approach, policy drafters should consider existing policies and, to the extent possible, create policies that are consistent with existing frameworks to reduce unnecessary compliance burdens for tool providers operating across jurisdictions.

Some jurisdictions may prefer to begin with case-specific no-action letters rather than a generally applicable non-prosecution policy. That approach may be especially attractive where regulators want to review a defined tool, factual scenario, or practice area before signaling a broader enforcement position. In those jurisdictions, the components described here can still be used, but they may be applied through an individualized review process rather than a statewide policy. In that setting, regulators may wish to request a factual submission describing the tool's scope, user population, guardrails, disclosures, escalation pathways, and complaint process before issuing any no-action assurance.

- Purpose of the Policy and Relevant Background Information
- Prohibited Areas
- Expert Involvement
- Disclaimers that the Tool Provider Is Not a Lawyer
- Privacy and Confidentiality Disclosures
- Informed Consent
- Misrepresentation
- False Advertising
- Grossly Negligent, Reckless, or Intentional Conduct
- Refunds
- Consumer Harm Inflicted
- Cannot Prejudice the Administration of Justice
- Insurance
- Appropriate Care Escalation
- Right to Cure
- Wind Down

By providing both a full sample policy and a menu of policy components, this Non-Prosecution Policy Toolkit section gives users a starting point, reduces the burden of drafting from scratch, promotes consistency and completeness, and helps ensure that key issues are not overlooked. It also helps stakeholders move quickly from concept to implementation.

The Colorado UPL Non-Prosecution Policy

The Colorado Supreme Court Office of Attorney Regulation Counsel (OARC), the entity in Colorado responsible for regulating and disciplining lawyers, approved a non-prosecution policy regarding the unauthorized practice of law by nonlawyers in September 2025, the first of its kind in the country (see Appendix B: Colorado Supreme Court Office of Attorney Regulation Counsel (OARC) Non-Prosecution Policy Regarding the Unauthorized Practice of Law by Nonlawyers). Prior to the policy's release, a subcommittee met roughly once a month for a year and a half. After many hours of robust discussions, the subcommittee determined that a non-prosecution policy outlining the circumstances under which nonlawyer providers of tech and AI-powered legal tools will not be prosecuted for UPL needed to contain the following components:

- Purpose of the policy and relevant background information
- Prohibited areas
- Lawyer involvement
- Disclaimer that the tool provider is not a lawyer
- Privacy and confidentiality disclosures
- Informed consent
- Misrepresentation
- False advertising
- Grossly negligent, reckless, or intentional conduct
- Refunds
- Consumer harm inflicted
- Cannot prejudice the administration of justice

If a nonlawyer tool provider fails to satisfy any of the provisions outlined in the policy, they will be subject to UPL prosecution by OARC. If a nonlawyer tool provider uses the same version of the tool in another state that does not have a non-prosecution policy or other mechanism for allowing its use, the tool provider could be prosecuted for UPL in that state. While OARC does not have the resources to scour the entire universe for applicable violations, it chose to take this practical approach with the dual goals of encouraging responsible innovation and protecting legal consumers when it comes to the development of tech tools delivering legal services.

IAALS and the DCLT used this list of components as a starting point for conversation with regulators and other leaders during the workshops.

Components of Prosecutorial Guidance and Related UPL Non-Prosecution Policies for Tech and AI-Powered Legal Tools

During the workshops administered by IAALS and DCLT, regulators and other leaders were asked to share their thoughts on the components included in the Colorado policy and to offer additional components for consideration. The expanded list of components here folds in these insights and provides additional background information regarding each component, including the principle(s) each component addresses. The list of associated principles under each component is intended to demonstrate that each component should be grounded in an underlying principle. It is not meant to be exhaustive, limiting or prescriptive. Different jurisdictions may find that different or additional principles support these components or other components they may choose to include. The key consideration is not which specific principle is paired with which component, but that each component is rooted in a principle that the group has established at the outset.

This list is intended to serve as a starting point for discussion for leaders who are interested in pursuing these regulatory reforms in their jurisdictions. Each state will have its own unique considerations. At the same time, jurisdictions seeking to pursue a non-prosecution approach should be mindful of the critical role consistency across states will play in allowing these tools to meaningfully scale and increase access.

Purpose of the Policy and Relevant Background Information

Associated Principles: Affordability, Equity, and Access, Certainty, Transparency

All policies, rules, or programs should include information about their objectives, relevant background information, the groups to whom they apply, and how any policies or rules are enforced. Leaders in Colorado felt strongly about this, as did workshop participants. There was some discussion among regulators about whether targeting underserved groups should be an objective of non-prosecution language and policies.

Prohibited Areas

Associated Principles: Affordability, Equity, and Access, Certainty, Common Law Consumer Protection, Risk Awareness

Leaders in Colorado and workshop participants had lengthy discussions about whether prosecutorial guidance and non-prosecution policies should carve out prohibited areas that are considered too high-risk, and if yes, what areas should be off limits. In Colorado, the majority of task force members believed that nonlawyer tool providers should not be permitted to provide legal services, including the selection of forms, for any matter in which the law provides for the possibility of juvenile detention or adult imprisonment, or when the resolution may involve the safety of a minor or the termination of any person's custodial or parental rights concerning a minor. A minority of task force members believed that the unmet need for legal services in these areas was too great to add restrictions and that sufficient consumer protection could be achieved through the other provisions in the non-prosecution policy.

Regulators who participated in the workshops also believed that the scope of the practice areas should be narrowed for a variety of reasons. One regulator wanted to add immigration to the list because of the exploitation facilitated by *notarios* in connection with certain case types. Many regulators wanted to limit the scope to high areas of unmet need to start, both for strategic and implementation purposes. Practice areas cited as good starting points for inclusion include areas in which there is a high percentage of self-represented litigants (such as eviction and debt collection), transactional work, and appeals. A key question was surfaced by other workshop participants: *Who determines if something is higher risk and how is this communicated to consumers?*

Expert Involvement

Associated Principles: Quality Assurance, Service Continuity

This component focuses on what level of expert involvement, *if any*, should be required with respect to development of the tech or AI-powered legal tool. In Colorado, the task force determined that lawyer involvement, either in the role of a supervising attorney or compliance lawyer, was the level of expertise required for tool providers to be shielded from UPL. Not only did the group believe that some level of legal expertise was needed to develop a legal tool that provided accurate advice and service, but it also believed that requiring lawyer involvement would make it easier for the Office of Attorney Regulation Counsel to act in the event consumer harm is inflicted. One potential paradox this component creates, however, is how this policy aligns with existing ethics rules. In a non-prosecution policy context, the policy is merely shielding the covered tool providers from prosecution, not proclaiming their conduct to no longer be the "practice of law" and thus not subject to the Rules of Professional Conduct. In that context, are lawyers who serve as compliance officers violating ethics rules in Colorado? While the intent behind the non-prosecution policy would suggest not, additional changes or guidance in this particular area is still needed. States may consider issuing companion ethical guidance or safe harbor rules for attorneys serving in these roles.

The expert involvement component generated robust discussion at the workshops. Regulators largely agreed that expert involvement or some other way to have strong oversight of the company (perhaps, for example, through entity regulation[37]) was important. It was noted that lawyer involvement might not be the best proxy for accuracy and reliability. If expert involvement is needed, perhaps it could be expanded to include allied legal professionals, community-based justice workers, and others with relevant expertise. Indeed, legal expertise is just one type of expertise needed to develop sound legal tools. They also require expertise in areas like technology, data governance and privacy, design and user experience, and language access. For example, strong user experience design can improve comprehension and reduce user error; language access ensures users understand the information being provided; and data governance supports privacy, security, and responsible use of information.

Finally, and perhaps most critically, workshop participants noted that lawyer involvement could reinforce the same "insulation" effect of UPL that spurred the need for these tools in the first place. More lawyer involvement could lead to higher operating costs, making the legal help these tools could offer less accessible. States should carefully consider the level of expert and lawyer involvement necessary to strike a balance between quality and accessibility. There is a wide spectrum between no oversight and lawyer involvement at every stage.[38]

Workshop participants also had several questions about this component that leaders in other jurisdictions should consider:

- What does lawyer involvement mean? This needs to be clearly defined.
- What are the acceptable roles in which the required expert can serve? Is a lawyer serving as a staff attorney sufficient?
- Do all services require expert involvement? For example, what if the AI-powered legal tool is only generating forms?

Disclaimers that the Tool Provider Is Not a Lawyer

Associated Principles: Common Law Consumer Protection, Quality Assurance, Risk Awareness, Transparency

The Colorado policy includes a provision that requires the nonlawyer tech or AI-powered legal tool provider to disclose to the user that they are not a lawyer, an allied legal professional (in Colorado, these professionals are "licensed legal paraprofessionals"), or a law firm. In the disclaimer, the tool provider can also include accurate, non-misleading statements about the extent of lawyer involvement, such as informing users that a lawyer or allied legal professional is involved in the supervision of the legal work or that the company employs or engages a legal compliance officer. This component is designed to help facilitate informed consent. Some workshop participants questioned the need for this provision, especially given that some legal consumers are not seeking out lawyers.

During the development of Colorado's policy, the subcommittee had a robust discussion on how these tools compare to lawyers. The reality is that lawyers are human and make mistakes. Therefore, at least sometimes, using these tools will be better than using a lawyer. And using the tools will often also be better than using nothing at all. The above provision is a compromise between subcommittee members.

Privacy and Confidentiality Disclosures

Associated Principles: Risk Awareness, Transparency

The Colorado non-prosecution policy requires the nonlawyer tech and AI-powered legal tool provider to share with each user its privacy and confidentiality policies that address information provided to the tool provider, including whether and to what extent any such information is stored or accessible by others. Workshop participants agreed that these types of disclosures are sensible to include in prosecutorial guidance and non-prosecution policies.

Informed Consent

Associated Principles: Risk Awareness, Service Continuity, Transparency

Obtaining informed consent is an ethical requirement and critical risk management tool. The Colorado non-prosecution policy includes an informed consent provision for this reason.[39] It requires the nonlawyer tech and AI-powered legal tool provider to obtain the user's acknowledgment that 1) the user, in utilizing the tool provider's services, is not receiving legal advice from a lawyer or allied legal professional and is not engaging the services of a lawyer or allied legal professional; and 2) the user agrees to the privacy and confidentiality policies disclosed by the nonlawyer. Regulators and other leader workshop participants agreed that informed consent is a key provision that should be included in all prosecutorial guidance and non-prosecution policies.

Misrepresentation

Associated Principles: Common Law Consumer Protection, Quality Assurance, Transparency

In order to fall under the Colorado non-prosecution policy, nonlawyer tech-powered legal tool providers must not hold themselves out to any third party as representing or purporting to represent anyone in any legal matter or proceeding, or direct a consumer or someone else to conceal from a third party the nature and extent of the nonlawyer's services. "Representing" is the key word here. The goal with this provision is to ensure that the user understands they are not being represented by a lawyer.

False Advertising

Associated Principles: Common Law Consumer Protection, Quality Assurance, Transparency

Including a false advertising provision could provide another opportunity to ensure that tool users understand that the services they are receiving are not the equivalent of services delivered by a lawyer or allied legal professional and to tie in other existing ethics rules and laws, like prohibitions on guaranteeing outcomes and other applicable state and federal laws. The Colorado non-prosecution policy requires that the nonlawyer tech or AI-powered legal tool provider not make any statement or representation in advertising legal services deemed deceptive pursuant to applicable federal or state law, or that the nonlawyer's services are equal to those provided by lawyers or allied legal professionals, or any guarantee or assurance of specific legal outcomes from using the nonlawyer's services.

Grossly Negligent, Reckless, or Intentional Conduct

Associated Principles: Common Law Consumer Protection, Customer Redress and Provider Accountability

In the Colorado non-prosecution policy, this is a straightforward provision stating that the tool provider cannot engage in grossly negligent, reckless, or intentional conduct that causes direct harm or loss to a consumer of the legal services. This provision brings in a common standard for fault in civil cases.

Refunds

Associated Principles: Common Law Consumer Protection, Customer Redress and Provider Accountability

Because refunds are required when a Colorado lawyer or allied legal professional has been paid for agreed upon work and fails to complete all of the work, leaders in Colorado believed the same should be required of tool providers.[40] If your state has a similar policy with respect to lawyers providing refunds, consider including such a provision in the prosecutorial guidance or non-prosecution policy that you develop.

Consumer Harm Inflicted

Associated Principles: Common Law Consumer Protection, Customer Redress and Provider Accountability, Risk Awareness

The Colorado policy includes a provision designed to ensure tool providers are educating users about the risks associated with the legal pathways and solutions offered. It states that the nonlawyer's legal services cannot have harmed a consumer or potential consumer of legal services through the loss or reduction of legal rights and remedies without the nonlawyer having taken reasonable steps to warn the consumer or potential consumer of the risk of such loss. The idea is that this warning would mirror similar warnings or advice that lawyers would theoretically share during consultations with clients.

Cannot Prejudice the Administration of Justice

Associated Principles: Affordability, Equity, and Access, Quality Assurance

For purposes of this Non-Prosecution Policy Toolkit, prejudicing the administration of justice means taking actions that compromise the integrity of legal proceedings or undermine a user's ability to participate fairly in them, including failing to take reasonable steps to avoid or flag errors, hallucinations, false information in tool outputs, or knowingly allowing users to abuse the legal system. Jurisdictions should consider whether their existing rules of professional conduct or applicable law impose additional or more specific requirements in this area.

The Colorado policy includes a final provision designed to ensure that the tool provider would not otherwise prejudice the administration of justice by doing things like failing to take reasonable steps to avoid output containing errors, hallucinated cases, false evidence, or other similar outputs generated by them; failing to warn users about such errors, hallucinations, false recitations or similar output; or knowingly allowing users of the nonlawyer's services to abuse the legal system.

Insurance

Associated Principles: Common Law Consumer Protection, Customer Redress and Provider Accountability

Colorado's non-prosecution policy does not include a requirement that tool providers have malpractice or any other type of insurance. Like most states, Colorado does not require lawyers and allied legal professionals to carry malpractice insurance. Only Oregon and Idaho require that lawyers carry malpractice insurance, and only two of the five states that allow allied legal professionals to operate without the supervision of a lawyer require malpractice insurance. However, some regulators who participated in the workshops believe tool providers should be required to maintain some type of insurance.

Appropriate Care Escalation

Associated Principles: Common Law Consumer Protection

Workshop participants, particularly tool providers, recommended that prosecutorial guidance and non-prosecution policies include an appropriate care escalation provision that would require the tools to flag for users when the tools are insufficient for a particular legal matter and recommend that the user use a more robust tool or connect with a legal professional (e.g., lawyer, allied legal professional, community-based justice worker, or any other professional licensed to provide relevant legal advice and/or services). This type of provision is rooted in principles of AI governance and designed to ensure that legal consumers connect with the level of help that they need. Ideally, these tools would also connect users with these resources.

Right to Cure

Associated Principles: Certainty, Procedural Fairness for Tool Providers

Workshop participants recommended including a right-to-cure provision in prosecutorial guidance and non-prosecution policies. Such a provision would give a provider notice of an identified deficiency and a defined opportunity to remediate it before an enforcement action proceeds, encouraging continuous quality improvement rather than treating every fixable, good-faith error as grounds for prosecution. Participants emphasized that a provider should face no more punitive a response than a lawyer would for a comparable, remediable lapse, recognizing that an erring lawyer typically faces a proportionate, graduated response rather than automatic loss of license, even as the lawyer's client retains any remedy for harm already incurred. A right-to-cure provision should accordingly specify: the events that trigger the cure window (*e.g.*, a substantiated complaint or regulator notice); notice periods and remediation timelines that balance the public's interest in halting ongoing harm against the time a sound fix requires, including, where warranted, immediate interim mitigation distinct from full remediation; a good-faith compliance standard, with carve-outs for willful, fraudulent, or repeat conduct not eligible for cure; a means of verifying that the deficiency has in fact been remediated; and a clear process for communication throughout. Importantly, curing a deficiency addresses the provider's forward-looking compliance and supports non-prosecution; it does not, by itself, extinguish an individual user's remedy for harm already suffered.

Wind Down

Associated Principles: Certainty, Procedural Fairness for Tool Providers, Service Continuity, Transparency

When regulatory action requires service suspension or termination, regulatory entities must balance consumer protection with minimizing disruption to existing users. One way to achieve this goal is to create wind down requirements and require tool providers to comply with them. Such requirements may include consumer notification, transition assistance, data access provisions, and referrals to alternative services.

Additional Perspectives from the Field

Workshop participants were also asked to provide their dream **safe harbor provision**. Here are a few examples they shared:

- If the targeted users are a vulnerable population without a viable alternative for obtaining legal help, there should be a safe harbor for nonlawyer tool providers who are trying to serve these groups.
- If a model is shown to be operating well in one jurisdiction, that tool provider shouldn't have to jump through as many hoops in other jurisdictions.
- If regulatory bodies within the legal profession are not going to prosecute companies such as OpenAI, Google, Anthropic, etc. for UPL, then they should not go after other tool providers. The policy should be consistent for all providers of tech and AI-powered products that provide legal advice or services.
- Prosecutorial guidance should detail off-limit high risk areas and include a high-level disclaimer, and that's it.

Workshop participants noted that one benefit to a broader, more simplified policy is that it would require less updates as things change.

Additional Approaches for Consideration

Leaders within a growing number of states have proposed or launched initiatives wholly or partially focused on regulating AI in the delivery of consumer-facing legal services, from which additional lessons learned may be gathered.

- **Colorado:** As discussed previously, the Colorado Supreme Court Office of Attorney Regulation Counsel published a UPL non-prosecution policy in September 2025.
- **Minnesota:** In October 2025, the Minnesota State Bar Association Artificial Intelligence Committee published a report and asked the Minnesota Supreme Court to weigh in on a proposed AI sandbox.
- **Utah:** The Utah Supreme Court created the Utah Office of Legal Services Innovation and launched a regulatory sandbox in August 2020. The Sandbox permits nonlawyers to build tech tools that deliver legal advice and services. In May 2025, the Utah Supreme Court established an Ad Hoc Committee on Regulatory Reform and four subcommittees to study the first five years of the experiment and lessons learned from similar reform efforts across the country. They recommended to the Supreme Court permanent rule changes to institutionalize the Sandbox's successes. One of the subcommittees is focused on AI and UPL.
- **Washington:** In October 2025, the Washington Supreme Court Practice of Law Board and Washington State Bar Association launched an Entity Regulation Pilot Project that will permit nonlawyers to build tech tools that deliver legal advice and services.

It is also worth noting that the Law Society of Ontario has a regulatory sandbox that allows providers of innovative technological legal services to serve users while complying with Ontario regulations regarding the provision of legal services.

There are also many access to justice initiatives around the country that are using AI to deliver legal help. Direct court or Administrative Office of the Courts (AOC) collaboration may be of particular interest. Toolmakers who partner with courts or court-affiliated entities to design and implement consumer-facing tools may find that court sponsorship itself alleviates UPL exposure while also providing the kind of institutional oversight that regulators and consumers alike are looking for.

STAKEHOLDERS IN REGULATORY REFORM

8

This section identifies people and organizations who can help move a non-prosecution policy forward. It is intended to support stakeholder mapping rather than to prescribe a specific coalition, as every jurisdiction's landscape is different.

Who Can Move the Needle?

The "Who" is just as important as the "What" when it comes to regulatory reform. Workshop participants identified critical stakeholders who can serve as catalysts for change.

Decision-makers | Formal authority to make or block change		
State supreme court justices and judges Current bench authority	**Legislative connections** Statute and rule change	**Executive branch and AGs** State AI policy credibility
Retired justices Voice without bench constraints	**Other states** Precedent and peer pressure	**District attorneys** Practical enforcers
Validators & Conveners | Cross-sector legitimacy and coordination		
Justice commissions and coalitions Cross-sector legitimacy	**Bar associations and bar foundations** Institutional credibility	**Research organizations** Evidence and credibility
Tool Providers & Storytellers | Evidence, stories, and public pressure		
Tool providers Technical expertise and direct user contact	**Consumers of AI/tech tools** Storytelling and testimony	

State Supreme Court Justices and Judges

Justices and judges continue to be a critical stakeholder group for regulatory innovation. Judges are on the front lines of our access to justice crisis, and both judges and justices are instrumental in leading efforts around the country to innovate and move reforms forward. No regulatory initiative will make it over the finish line without support from this stakeholder group. Every state effort has involved justices and judges from the start, oftentimes as co-chairs of task forces or working groups. While justices and judges who are not on board with proposed changes can become roadblocks, those in favor of proposed changes lend credibility to the initiatives.

Some supreme court justices and judges are tech savvy or actively interested in leveraging technology to increase access to affordable legal services. Such justices and judges could also be strong allies for leaders seeking to create prosecutorial guidance or non-prosecution policies. While state supreme court justices hold direct authority over UPL and attorney regulation, federal judges can be valuable contributors as well. Their role is different since they do not regulate the practice of law within a state, but many are influential thought leaders and conveners whose engagement can lend credibility and momentum to reform efforts and help connect leaders across jurisdictions.

Tool Providers

The builders and providers of tech-powered legal tools (also called legal tech entrepreneurs) can serve as strong allies for change. Not only can they provide technical expertise, but they are also working directly with the legal consumers that prosecutorial guidance and non-prosecution policies aim to help. The Justice Technology Association brings together like-minded tech entrepreneurs in pursuit of access to justice and seeks to build coalitions focused on developing prosecutorial guidance and non-prosecution policies.

Consumers of AI/Tech Tools

Storytelling is powerful. Individuals and small businesses who have benefited from tech and AI-powered legal tools can testify to their efficacy and safety and could prove to be persuasive assets.

State Access to Justice Commissions and Justice Coalitions

In some states, coalitions of multiple justice groups have formed to accomplish shared goals. One example of this is the 40+ Access to Justice Commissions across the country. Another example is in Wisconsin where the State Department of Justice, the courts, the public defender's office, the district attorney's office, and other justice entities have come together to secure funding from the state legislature for access to justice initiatives in a way that speaks to both sides of the aisle.

If an academic or tool provider approaches the legislature on their own, their proposal would likely fall on deaf ears. But if the same tool provider first connects with a justice coalition, gets them on board, and approaches the legislature together, the combined group would have a much greater chance of accomplishing its goal.

Legislative Connections

In some states, the state supreme court may not believe that regulating UPL falls within its jurisdiction, viewing it instead as a matter for the state legislature. Indeed, in many states, UPL is a violation of the criminal code that would require legislative action to change. In these situations, leaders will want to connect with people or groups that have connections with state legislators who can propose and successfully pass UPL reform legislation. In states with a Republican legislative majority, framing the issue around economic liberty may be persuasive. In states with a Democratic legislative majority, framing around access, affordability, and democracy may resonate more.

District Attorneys

In some states, district attorneys are responsible for prosecuting UPL violations. They have an understanding of current UPL practices and what steps would need to be taken to effect change.

Executive Branch Officers and Attorneys General

In a few states, including Colorado, Maine, and Utah, an executive branch or attorney general's office has launched a state-wide AI policy initiative. These offices can potentially serve as allies and add credibility to similar efforts launched within the legal profession, particularly in states where UPL is a criminal violation and the attorney general's office holds direct charging authority.

Other States

Leaders often look to initiatives advancing in other states when deciding whether to act. Particular states may be influential in encouraging or discouraging reform, and the number of states advancing a particular initiative may also carry weight. For the latest updates on current initiatives, contact IAALS or visit their website.

Research Organizations

Academics and research organizations conduct relevant research that can add credibility to building support for reforms. Some of these institutions are also well-positioned to conduct program evaluations.

Innovative and Reform-Friendly Bar Associations

Groups that recognize the untapped market of the middle class and are willing to support UPL or regulatory reform more generally could be strong allies.

Bar Foundations

Bar foundations are often well-connected and well-positioned to serve as allies in all types of access to justice initiatives, including regulatory reform.

Retired Justices

Once state supreme court justices retire, they oftentimes become even more powerful advocates because they are no longer constrained by the neutrality of the bench. These justices can be strong allies.

This list is illustrative, not exhaustive. Leaders should approach stakeholder mapping with both an open and strategic mindset, adapting these categories to the unique political and institutional landscape of their jurisdiction.

FROM CONVERSATION TO ADOPTION: MESSAGING AND STAKEHOLDER ENGAGEMENT

9

This section offers arguments for building support with different audiences. Messaging tends to work best when tailored to the specific political, regulatory, and cultural realities of a given jurisdiction, so these arguments are starting points rather than scripts.

Though the path will look different for every jurisdiction, an important step in the process of implementing new prosecutorial guidance and non-prosecution policies is developing effective messaging and strategies for adoption.

Through discussions with stakeholders in Colorado, and through webinars and workshops, it is apparent how many competing interests come into play in these discussions. Much of this work is highly situational and relationship-driven, requiring individual conversations and sustained trust-building over time. The information here captures some lessons learned, though there are many more approaches and local needs will vary.

Messaging tends to work best when it is tailored to the specific political, regulatory, and other realities of a given jurisdiction. Regardless of how well you think you understand where stakeholders stand, consider asking for a meeting simply to listen and learn. These conversations are worthwhile even when they confirm your initial impressions, and they are often most valuable precisely for those who feel most certain they already know the landscape. Giving stakeholders an opportunity to ask questions and share concerns helps you better understand their perspective, builds the trust that longer-term collaboration requires, and lays the groundwork for the buy-in these efforts ultimately depend on.

Through this kind of engagement, groups may be able to:

- Develop a shared understanding of AI capabilities and limitations
- Identify areas of common ground regarding consumer protection priorities
- Build trust and working relationships across traditionally siloed communities
- Generate data and evidence about actual consumer outcomes
- Create momentum for broader regulatory modernization

Leaders will likely need to engage multiple stakeholder groups to work toward adoption of new prosecutorial guidance or non-prosecution policies, and will need to tailor their approach and talking points accordingly. There is no single formula. Patience, flexibility, and a willingness to keep learning are often just as important as any specific strategy.

Here are examples that workshop attendees and project staff provided based on their perspectives and experiences working on various regulatory innovation initiatives. This list is not comprehensive.

The Safety/Consumer Protection Argument

Rather than letting AI tools operate in a "wild west" without guardrails, prosecutorial guidance and non-prosecution policies can provide a framework for disclosure and accountability.[41] This type of argument will likely resonate with supreme court justices, judges, leaders of other regulatory bodies within the legal profession, and practitioners.

The Access to Justice Argument

Also called "The No Alternative Argument" or "The Rural Justice Argument"

For the vast majority of Americans who cannot access affordable legal help when they need it, the choice is not between a lawyer and a tool—it is between a tool and nothing.[42]

Courts have long recognized that when no reasonable alternative exists, rigid enforcement of professional practice rules can effectively deny access to justice. In *Johnson v. Avery*,[43] the Supreme Court invalidated a prohibition on inmate legal assistance because the State failed to provide meaningful alternatives, holding that access to the courts could not be preserved through formal rights alone. The same principle applies in today's justice gap. Where traditional legal providers are unavailable or unaffordable, the ethical and regulatory justification for prohibiting assistive tools, including AI, becomes increasingly difficult to sustain.

Anecdotally, IAALS has learned that asking stakeholders to compare the limited ecosystem of providers in the legal profession to the more robust ecosystem of providers in the medical profession (doctors, nurses, nurse practitioners, EMTs, and the like) has proven effective with other regulatory innovation initiatives. In each setting, a broad range of issues exist, and a broad range of providers should be available to help resolve them.

Conversations with practitioners suggest that, despite shared values around affordable legal help, the true breadth and severity of the access to justice gap remains underappreciated across much of the profession. Some practitioners may also view new providers as competition, even though they are not currently serving people who fall into this justice gap. For this reason, this argument could lead to mixed results depending on the audience. When using it, leaders should support it with research on the need and case studies demonstrating that the introduction of new legal providers has not threatened solo and small firm practices.

The Economic Argument

Prosecutorial guidance or non-prosecution policies could be framed as expanding economic opportunity for both consumers and practitioners. Bringing tool providers who are not lawyers into the legal services market could expand the overall market, creating downstream work for practitioners. This type of argument typically resonates with business-oriented stakeholders.

The Efficiency Argument

Judges are often overwhelmed by the large numbers of self-represented litigants (SRLs) in their courtrooms, and that pressure is intensifying. Courts are reporting a marked increase in both the volume and length of

SRL filings—much of it driven by the growing use of general-purpose AI tools—and the resulting strain has become a prominent topic among court administrators and judicial leaders.[44] This trend is real, and leaders should name it directly rather than sidestep it.

The productive response is not to pretend the technology away. People are already using it, and they will continue to do so.[45] A better approach is to guide self-represented litigants toward well-designed, vetted tools and away from the "sea of junk" of unreliable, general-purpose output. A good tech-powered legal tool can help litigants file better, more accurate, and more appropriately scoped documents, improving judicial efficiency even as overall demand grows. This is precisely where prosecutorial guidance and non-prosecution policies earn their keep. By opening space for responsible, purpose-built tools to reach SRLs, they help channel a phenomenon that is already happening toward outcomes that benefit litigants and courts alike.

Leaders should still anticipate the fair counterpoint that better individual document quality does not necessarily mean fewer filings, and that total volume may continue to rise. But framing matters here. The choice judges face is not "AI tools or no AI tools"; rather, it is "well-designed tools or the unvetted ones litigants are already turning to." Presented that way, the efficiency concern becomes a reason to support, not resist, the kind of innovation this toolkit enables.

For private practitioners, the case is more compelling. If tech-powered legal tools help self-represented litigants defend motions more successfully, cases may proceed further, generating more work for attorneys downstream. This argument may resonate particularly well with private practitioners.

The "It's Already Out There" Argument

Technology, including AI, exists whether we like it or not.[46] People are using it, so the more productive question is how to responsibly and effectively harness it for good. At the same time, large language model builders are generally not being prosecuted for UPL, even though their products are delivering legal advice.[47] Prosecutorial guidance and non-prosecution policies could build consensus and clarity, benefitting the entire regulatory environment.

Given the undeniable growth of AI across nearly every sector of daily life, this argument is likely to resonate to some degree with all target audiences and could be paired with other arguments to maximize effectiveness.

The Momentum Argument

This argument is particularly impactful for jurisdictions who have engaged in non-AI regulatory reform, including a regulatory sandbox, alternative business structures, allied legal professionals, or community-based justice workers. States with existing reform initiatives already have proof of concept. They've navigated institutional resistance, built coalitions, and established that change is possible.[48] The messaging opportunity is to frame AI/tech prosecutorial guidance as a *natural extension* of work already underway, not a new ask. Regulators who have invested political capital in one reform are often motivated to see it succeed broadly, and AI tools can amplify the impact of what they've already built. A state that has successfully implemented one reform has standing to influence others as there is some credibility transfer. Adding AI/tech guidance strengthens that leadership position nationally.

TIPS FOR WORKING GROUPS 10

This section distills practical lessons from reform efforts in Colorado and beyond. It is written for anyone convening or participating in a working group on regulatory reform, whether that group exists formally (a bar committee, a supreme court task force) or informally (a coalition of interested stakeholders).

Advancing New Ideas through Working Groups

When you have an idea for regulatory reform that isn't currently on the agenda, working groups or task forces can be powerful vehicles for building momentum and consensus. Whether you're starting a new working group or introducing your concept to an existing one, strategic planning and relationship-building are essential, especially when navigating concerns from stakeholders whose interests may be affected by proposed changes.

Key Tips for Working Group Success

As your working group considers regulatory reform and the implementation of this toolkit, keep these tips in mind.

- **Start With Leadership:** The court, whether it be at the supreme court level or the local level, plays a pivotal role in all reform initiatives and must be involved and engaged from the start.[49]
- **Prioritize Broad Stakeholder Inclusion:** Include all relevant stakeholder groups. Err on the side of over-inclusiveness to ensure that vital perspectives are represented from the start. Aim for a balance among tech-optimists, tech-pragmatists, and tech-cautious voices. Lawyers and judges are trained to identify risk and to advocate for a position; stakeholders may need help stepping out of their usual adversarial mindset and into a collaborative one. Tool users can offer important perspectives on how tools are built and what the market is for them.
- **Involve Regulators and Judicial Leadership:** Seek to include at least one state supreme court justice and a representative from the entity that oversees attorney regulation in the group.
- **Define a Scope and Parameters for the Reform Initiative:** At the outset of the reform effort, leaders should clearly define the scope and any parameters for the initiative. For example, will reform efforts apply to all civil actions in all state courts or will the efforts be limited in some way?[50]
- **Establish Core Principles First:** Begin the process with a dedicated discussion about underlying principles to ground the group's future decisions.
- **Utilize Practical Use Cases:** Consider working through specific use cases to test ideas and identify practical implementation challenges, such as Appendix C: AI Use Case and UPL: Discussion Matrix.

- **Consider Timing:** Organization change (staff turnover or leadership change) and the time of year can all influence meeting cadence and momentum. Plan accordingly.
- **Balance the Use of Data, Existing Guidance and Policies, as well as Narratives:** Share examples of similar initiatives from other states, including their origin stories, available data, and lessons learned. For example, review IAALS' *Unlocking Legal Regulation: Lessons Learned and Recommendations for the Future* report. Keep the people in need of legal help at the center of the conversation through narratives and storytelling.
- **Continuous Feedback and Data Collection:** Establish mechanisms to collect feedback and data throughout the entire process.
- **Maintain Focus on Objectives:** Avoid getting distracted or stalled by debating risk levels at the expense of progress. Consider discussing other potential provisions first and leave this discussion until the end.
- **Maintain an Open Door Policy:** Create a transparent environment where potential tool providers can ask questions, submit ideas, and engage with the group.
- **Focus on Consistency:** Remember that consistency in policy and guidance is the key to achieving scale, both within a jurisdiction and across states. Tool providers need confidence that the rules they build today will hold tomorrow, and that tools built for one state have a path to working in others. Where possible, seek alignment with emerging frameworks in other jurisdictions.
- **Connect with Other States:** Consider what has been done or is happening in other states and connect with those jurisdictions to share knowledge and promote consistency.
- **Plan for Policy Transitions:** Include a structured review and renewal process, and a notice timeline before a future regulator modifies or rescinds the policy. Give stakeholders time to adapt to changes.
- **Build in Evaluation from Day One:** Don't wait until a policy expires to ask whether it worked. Establish baseline data before the policy takes effect and track impact throughout. At renewal, a key question might be: Did this policy meaningfully expand access to justice?

CONCLUSION

11

The landscape of AI-powered legal services is evolving faster than any single toolkit can capture. The guidance here reflects the best available knowledge and consensus as of early 2026 and it is expected to be updated and improved as more jurisdictions act, more tools reach consumers, and more data emerges about what works.

This Non-Prosecution Policy Toolkit is offered not as a finished blueprint, but as a living resource. Colorado's non-prosecution policy represents one promising model, and the hope is that it will be joined by others. Each new policy, advisory opinion, or no-action letter adds to the collective knowledge base that regulators and innovators need to move forward with confidence.

Feedback welcome. If your jurisdiction adopts a new policy, issues a no-action letter or advisory opinion, or takes any other step related to regulating AI in consumer-facing legal services, please reach out to the authors of this toolkit at IAALS and DCLT. That experience will strengthen future versions of this toolkit and help peers in other states learn from what has been done.

Areas for Additional Research

Several topics are worth continued attention as the field develops:

- **Sample no-action letters:** There is clear interest among stakeholders in a repository of sample no-action letters and annotated examples of how they have been used in practice. IAALS and DCLT hope to develop this resource as more jurisdictions gain experience.
- **Advisory opinions:** Some states (e.g. Virginia and Georgia) issued formal UPL advisory opinions, which may offer an alternative or complementary mechanism to a non-prosecution policy. Analyzing how advisory opinions have been used in practice and in what types of jurisdictions they are most effective warrants further study.
- **Sample policy language:** Multiple stakeholders requested model language for a non-prosecution policy or prosecutorial guidance document with annotations indicating which provisions are most appropriate for different jurisdictional contexts. More evidence from early adopting states is needed before a model policy can responsibly be offered. This is a priority for future work.
- **Consumer outcome data:** As tech-powered legal tools reach more users, systematic data collection on consumer outcomes, including both benefits and harms, will be essential for evidence-based regulatory refinement.
- **Third-party certification frameworks:** Several adjacent fields have developed portable, third-party certification programs that allow vendors to demonstrate compliance with security, privacy, or quality standards once and have that certification recognized across multiple jurisdictions—reducing the duplicative assessment burden on both vendors and regulators. GovRAMP (formerly StateRAMP), for example, operates a "verify once, use many"

authorization model for cloud tool providers seeking to work with state and local governments built on NIST 800-53 cybersecurity controls. Whether an analogous framework could be developed for tech-powered legal tools—covering not only data security but also legal accuracy, disclosure practices, and consumer safeguard requirements—merits further exploration. Such a program could complement non-prosecution policies by giving regulators a structured, portable mechanism for vetting tool providers and could help address the cross-jurisdictional consistency challenge that a purely state-by-state approach leaves unresolved.

One underexplored dimension of access to justice reform deserves mention here. Much of the effort in this space focuses on helping people navigate existing legal complexity through better tools and clearer regulatory frameworks. But court experience suggests a complementary question worth asking: ***Rather than translating complex law into tools nonlawyers can use, should we be simplifying the law itself?*** As many have observed, the irreducible complexity of some procedural and substantive law may set a ceiling on how much technology and regulation can accomplish. Procedural reform, such as requiring institutional plaintiffs in debt collection and eviction cases to disclose key information at the time of filing, could reduce the burden on self-represented defendants more directly than any tool.[51] This is a direction worthy of further attention by reformers.

The access to justice crisis is real, urgent, and solvable. Tech-powered legal tools cannot close the justice gap alone, but thoughtful regulatory reform can unlock their potential to reach the millions of people currently navigating legal challenges without any help at all. IAALS and DCLT look forward to continuing this work alongside the regulators, advocates, technologists, and community leaders who are making that future possible.

ENDNOTES

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10 Engstrom & Engstrom, *A2J Crisis, supra* note 3, at 146.

11 Allied legal professionals (ALPs) are a newer category of legal professionals who are authorized to provide specific legal services in particular areas of the law, often independently without attorney supervision. While several states authorize these types of providers, their actual titles vary by state ("licensed paralegal practitioner," "licensed legal paraprofessional," etc.). Colorado, for example, uses the term licensed legal paraprofessionals (LLP). *See* Colo. Office of Legal Regulation, *Licensed Legal Paraprofessionals*, https://www.coloradolegalregulation.com/aboutus/pals/ (last visited May 27, 2026). In this report, the term "allied legal professionals" is used as an umbrella term. Recent research from IAALS indicates that "legal practitioner" is the preferred title to adopt moving forward. *See* Inst. for the Advancement of the Am. Legal Sys., *Allied Legal Professionals*, https://iaals.du.edu/projects/allied-legal-professionals (last visited May 27, 2026). On the other hand, the term "Authorized Justice Practitioners" is used by the CCJ/COSCA Civil Justice Committee in their April 2025 report as an umbrella term that includes both Allied Legal Professionals and Community-Based Justice Workers. The terminology continues to evolve rapidly as states adopt new provider models and national organizations work toward standardization. Readers should expect that the titles and umbrella terms used in this report may shift in subsequent years as the field matures and consensus develops.

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19 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 4.

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21 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 11.

22 Bednarz & Byram, *supra* note 1, at 8; TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 11-12; Minnesota State Bar Association Working Group on AI, *Implications of Large Language Models on the Unauthorized Practice of Law and Access to Justice* 6-14 (June 2024), https://mnbars.org/?pg=MSBAAnnouncements&blAction=showEntry&blogEntry=112704 (last visited June 22, 2026).

23 Bednarz & Byram, *supra* note 1, at 8-10.

24 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 13.

25 Raker, *supra* note 7.

26 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 4.

27 Bednarz & Byram, *supra* note 1, at 16.

28 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 4.

29 The FTC took action in 2024 against DoNotPay, which claimed to offer an AI service that was "the world's first robot lawyer," but the product failed to live up to its lofty claims that the service could substitute for the expertise of a human lawyer. This action resulted in a 2025 order that required DoNotPay to stop making deceptive claims, pay $193,000 in monetary relief, and notify consumers. *See* Fed. Trade Comm'n, *Cases and Proceedings: DoNotPay*, https://www.ftc.gov/legal-library/browse/cases-proceedings/donotpay (last visited May 27, 2026). *See also* Fed. Trade Comm'n, *FTC Finalizes Order with DoNotPay That Prohibits Deceptive 'AI Lawyer' Claims, Imposes Monetary Relief, and Requires Notice to Past Subscribers* (Feb. 11, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-finalizes-order-donotpay-prohibits-deceptive-ai-lawyer-claims-imposes-monetary-relief-requires (last visited June 22, 2026); Rebecca L. Sandefur, *Legal Tech for Non Lawyers: Report of the Survey of US Legal Technologies* 15 (Am. Bar Found. 2019), https://www.americanbarfoundation.org/resources/legal-tech-for-non-lawyers-report-of-the-survey-of-us-legal-technologies/ (last visited June 22, 2026); (noting that many tools are limited due to poor design and "the legal profession's robust monopoly on the provision of legal advice and the challenges of coordination in contemporary state court systems").

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32 Bednarz & Byram, *supra* note 1; TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8.

33 Bednarz & Byram, *supra* note 1, at 20.

34 *Id.*

35 *Id.* at 20-21.

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40 Colo. R. Prof'l Conduct 1.5 prohibits a fee agreement from including a no-refund policy. While Model Rules of Prof'l Conduct r. 1.5 (Am. Bar Ass'n 2020) does not include this language, there is language and reasoning to this effect in Model Rules of Prof'l Conduct r. 1.15 (Am. Bar Ass'n 2020) and ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 505 (2023).

41 TRI/NCSC AI Policy Consortium for Law & Courts, *supra* note 8, at 22-24.

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48 Jessica Bednarz & Krista Jolivette, *Utah Sandbox Inspires Similar Regulatory Initiatives in Canada and other States*, IAALS (Nov. 20, 2024), https://iaals.du.edu/news/utah-sandbox-inspires-similar-regulatory-initiatives-canada-and-other-states (last visited June 22, 2026).

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APPENDIX A:
2024 COLORADO SUBCOMMITTEE PRINCIPLES

Originally shared by Jessica Yates in a transmittal memo to the Colorado Supreme Court Advisory Committee on the Practice of Law

There are several principles reflected in the non-prosecution policy, such as:

- Consumers should be able to get very basic legal services that have standard or predictable components at a low cost as long as those consumers understand they are not necessarily getting the equivalent of lawyer- or LLP-provided services.
- Consumers should not be misled about what type of service they would obtain and what its limits are.
- Consumers should have the opportunity to understand there are some risks inherent in relying on a nonlawyer or non-LLP, and perhaps specifically an online platform, for a legal service.
- The tool provider should have some involvement by a lawyer (or LLP acting within scope) to reduce risks to consumers.
- Given that nonlawyer tool providers could be charging fees for their services, they must have appropriate refund policies.

APPENDIX B: COLORADO SUPREME COURT OFFICE OF ATTORNEY REGULATION COUNSEL (OARC) NON-PROSECUTION POLICY REGARDING THE UNAUTHORIZED PRACTICE OF LAW BY NONLAWYERS

OARC Non-Prosecution Policy Regarding the Unauthorized Practice of Law by Nonlawyers

The Office of Attorney Regulation Counsel ("OARC") will exercise its jurisdiction under C.R.C.P. 232.2 in a way that promotes the Regulatory Objectives codified by the Supreme Court in the Preamble to Chapters 18-20. There already are state and federal authorities allowing non-lawyers to perform certain legal services under certain circumstances, often characterized by lower risk to the public and meeting an access-to-justice objective (*see*: https://www.coloradolegalregulation.com/wp-content/uploads/PDF/UPL/Understanding%20Practice%20of%20Law%20Issues.pdf). OARC recognizes that individuals who are not authorized to practice law may provide legal information that is tailored to someone's circumstances, and in doing so, may be asked to provide more substantive legal guidance or help an individual perform certain tasks relating to a legal matter. Sometimes the additional legal guidance is helpful and poses little risk to the recipient of legal information, though higher-risk situations warrant more caution. OARC also recognizes that on-line platforms have the potential to improve access to justice by drafting documents and pleadings based on user input and outlining the steps a user would need to take to seek resolution in a legal matter, but in doing so, could pose risks to individual users.

OARC retains significant prosecutorial discretion as to all complaints about the unauthorized practice of law, and routinely exercises that discretion in a way that meets the Regulatory Objectives. The prosecution policy outlined below is intended to document internal OARC practices, and does not have the force of law. It creates no legal safe harbor for anyone who lacks authority to practice law in Colorado. The decision to formalize and publicize this policy is a pilot program lasting no longer than three years, and a plan and schedule for evaluation of the short- and medium-term impacts of this policy will be separately published. OARC reserves the right to change it if there are unintended consequences that harm the public or prejudice the administration of justice.

The Colorado Rules of Civil Procedure provide for a series of definitions and procedural rules to prohibit the practice of law by nonlawyers. For example, under C.R.C.P. 232.2(c)(9), the unauthorized practice of law by a nonlawyer includes owning or controlling a website, application, software, bot, or other technology that interactively offers or provides services involving the exercise of legal judgment. "Nonlawyer" is a defined term in C.R.C.P. 232.1, meaning "a person who is not licensed, authorized, or otherwise certified to practice law in any jurisdiction in the United States, including a disbarred lawyer." "A person" includes both natural persons and corporate or otherwise legally-recognized entities. However, for purposes of this prosecution policy, "nonlawyer" does not include suspended or disbarred lawyers, whose past misconduct may create ongoing risks to the public, and whose involvement in providing any type of legal service beyond what might be authorized in certain circumstances under Colo. RPC 5.5 will generate heightened prosecutorial scrutiny. In addition, licensed legal paraprofessionals ("LLPs") acting outside their authorized scope of practice are addressed through their own Rules of

Professional Conduct and applicable disciplinary procedures.

OARC generally will refrain from prosecuting a matter under C.R.C.P. 231 et seq. as long as:

(A) the nonlawyer is not advertising legal services or providing legal services, including the selection of forms, for any matter in which the law provides for the possibility of juvenile detention or adult imprisonment (other than an eviction action), or the resolution may involve the safety of a minor or the termination of any person's custodial or parental rights concerning a minor;

And

(B) the nonlawyer is, or is operating under the auspices of, an organization in which a licensed lawyer is supervising the nonlawyer's work, or a licensed lawyer serves as the compliance officer or comparable role for the nonlawyer organization and enforces established quality assurance policies and procedures as to the legal advice and legal services being provided;

And

(C) the nonlawyer's statements about available services include a clear and understandable disclaimer that the nonlawyer is not a licensed lawyer, LLP, or law firm. The disclaimer can also include accurate, non-misleading statements about the extent of lawyer involvement, such as that a lawyer or LLP is involved in the supervision of the legal work or that the company employs or engages a legal compliance officer;

And

(D) the nonlawyer discloses to each user the privacy and confidentiality policies that address information provided to the nonlawyer, including whether and to what extent any such information is stored or accessible by others;

And

(E) The nonlawyer has obtained the user's acknowledgment that (1) the user, in utilizing the nonlawyer's services, is not receiving legal advice from a licensed lawyer or LLP and is not engaging the services of a licensed lawyer or LLP, and (2) the user agrees to the privacy and confidentiality policies disclosed by the nonlawyer;

And

(F) There is no evidence of **any** of the following as to the nonlawyer alleged to be engaged in the unauthorized practice of law:

(1) the nonlawyer is holding themself out to any third party as representing or purporting to represent anyone in any legal matter or proceeding, or directing a consumer or someone else to conceal from a third party the nature and extent of the nonlawyer's services;

(2) the nonlawyer has made any statement or representation in advertising legal services deemed deceptive pursuant to applicable federal or state law, any statement that the nonlawyer's services are equal to those provided by lawyers or LLPs, or any guarantee or assurance of specific legal outcomes from using the nonlawyer's services;

(3) in providing legal services, the nonlawyer engaged in grossly negligent, reckless or intentional conduct that caused direct harm or loss to a consumer of those legal services;

(4) the nonlawyer has failed to provide all of the agreed-upon services if the nonlawyer has been paid for those services, or has failed to refund any payments for agreed-upon services not rendered;

(5) the nonlawyer's legal services have harmed a consumer or potential consumer of legal services through the loss or reduction of legal rights and remedies without the nonlawyer having taken reasonable steps to warn the consumer or potential consumer of the risk of such loss;

and

(6) the nonlawyer has prejudiced the administration of justice, including but not limited to: failing to take reasonable steps to avoid output containing errors, hallucinated cases, false evidence, or other similar output generated by the nonlawyer; failing to warn users about such errors, hallucinations, false recitations or similar output; or knowingly allowing users of the nonlawyer's services to abuse the legal system.

APPENDIX C:
AI USE CASE AND UPL: DISCUSSION MATRIX

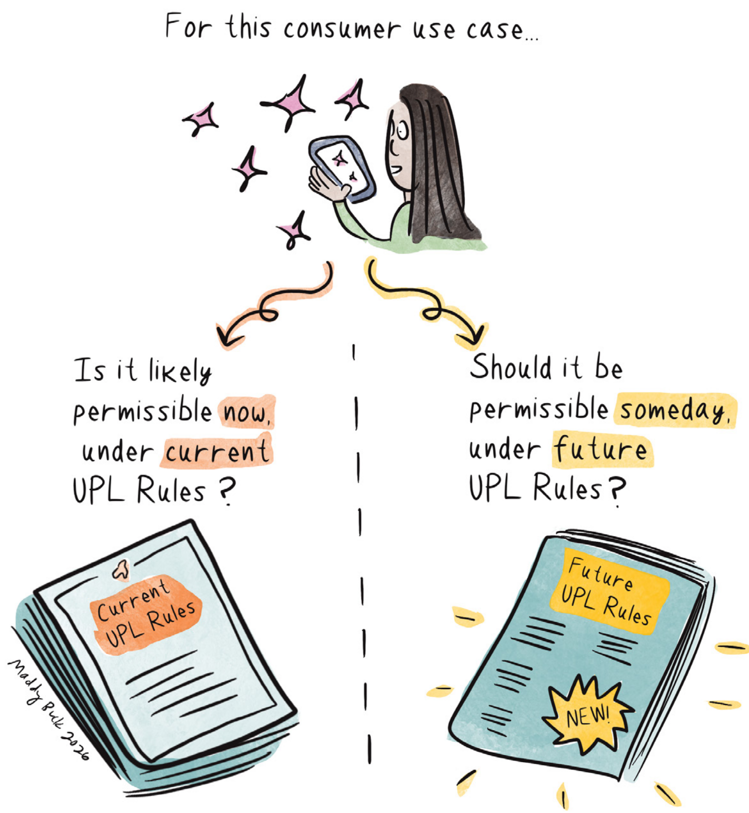
A version of this discussion matrix was used by the Colorado Subcommittee to understand which use cases Subcommittee members thought currently violated UPL in Colorado and which use cases Subcommittee members thought should be permitted assuming an acceptable rate of accuracy.

Assume all of the following hypotheticals are AI software tools that perform at acceptable levels of accuracy.

The survey is broken into eight parts containing families of hypotheticals.

- For each part, you'll be asked whether the given hypotheticals are likely permissible under your state's CURRENT UPL rules.
- Then you'll be asked whether you think the given hypotheticals should be permissible under FUTURE UPL rules.

The purpose of this survey is merely to identify whether there are some types of activities that everyone clearly agrees should be permissible or not.



Part 1: Research

Scenario 1.1: Consumers can research legal questions for their personal use and get citations and summaries of case law.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 1.2: Consumers can research legal questions for their personal use and get answers written by AI.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 1.3: Consumers can research legal questions and then receive a prediction about whether they will win their case.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 2: Form Selection and Completion

Scenario 2.1: Consumers describe a fact pattern (e.g. I'm getting a divorce in Colorado) and the tool identifies and recommends forms.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 2.2: Consumers describe a fact pattern (e.g. I'm getting a divorce in Colorado) and the tool recommends forms to be completed AND completes some or all of the forms.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 3: Legal Document Guidance

Scenario 3.1: Consumers can upload a document (e.g., eviction notice) and get a description of the document (e.g., this is an eviction notice).

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 3.2: Consumers can upload a document (e.g. an eviction notice) and get a description of the document and a step-by-step guide through the related legal process.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 3.3: Consumers can upload a document (e.g., eviction notice) and get a description of the document with recommendations on how the specific consumer should respond.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 4: Document Drafting

Scenario 4.1: Consumers can share a fact pattern (e.g. I need a divorce in Colorado) and then the tool selects the documents for consumers to complete.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 4.2: Consumers can share a fact pattern (e.g. I need a divorce in Colorado) and then the tool (i) selects the documents for consumers to complete and (ii) leads consumers through each document using guided interview questions to help consumers complete the document.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 4.3: Consumers can share a fact pattern (e.g. I need a divorce in Colorado) and then the tool uses the information shared and assembles/organizes it within a contract or settlement agreement.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 4.4: Consumers can share a fact pattern (e.g. I need a divorce in Colorado) and then the tool uses the information shared to draft a legal document using at least some language generated by the AI tool.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 5: Contract Review

Scenario 5.1: Consumers can upload a contract, and the AI tool explains the meaning of concepts.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 5.2: Consumers can upload a contract, and the AI tool spots potential issues (e.g. things that might not normally be found in that type of contract or things that might impact the consumer's rights).

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 5.3: Consumer can upload a contract to a playbook created by an attorney to see which of the attorney's standards are and are not met (e.g. a lease expert creates a playbook that says "leases in CO should not contain a waiver of the implied covenant of good faith and fair dealing pursuant to C.R.S. 38-12-801(3)(III)(C)").

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 5.4: An AI software tool helps the consumer modify the agreement to fix issues identified by the AI.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 5.5: An AI software tool tells the consumer whether they should or should not sign the agreement with no knowledge of the consumer's fact pattern.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 5.6: An AI software tool tells the consumer whether they should or should not sign the agreement after consideration of the consumer's fact pattern.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 6: Case Assessment

Scenario 6.1: Consumers can share a fact pattern and then the tool spots potential legal issues.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 6.2: Consumers can share a fact pattern and then the tool assesses whether consumers are eligible for benefits they are legally entitled to.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 6.3: Consumers can share a fact pattern and then the tool identifies a potential legal claim or defense that may be relevant to their case and a step-by-step explanation of related elements.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 6.4: Consumers can ask questions about potential legal rights or obligations they may have, and the AI tool provides relevant answers.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 7: AI Bots/Agents

Scenario 7.1: Consumers can interact with an AI bot operated by a law firm to facilitate client screening, selection, or intake processes.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 7.2: Consumers can interact with an AI bot operated by a law firm to facilitate client screening, selection, or intake processes to answer legal questions.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 7.3: Consumers can interact with an AI bot to facilitate client screening, selection, or intake processes, NOT operated by a law firm.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 7.4: Consumers ask legal questions and get answers from an AI bot NOT operated by a law firm.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Part 8: Dispute Resolution

Scenario 8.1: Consumers share a fact pattern, and an AI tool compiles questions to ask during a direct examination of a witness at trial.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 8.2: An AI tool mediates disputes between consumers.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 8.3: An AI tool provides support with in-court interactions between the consumer and the judge and/or opposing counsel.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 8.4: A trained and certified domestic violence advocate (nonlawyer) uses an AI tool to provide legal *information* to a victim of domestic violence.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Scenario 8.5: A trained and certified domestic violence advocate (nonlawyer) uses an AI tool to provide legal *advice* to a victim of domestic violence.

Current Rules	Future Rules
☐ Likely currently permissible	☐ Probably SHOULD be permissible
☐ Unlikely currently permissible	☐ Probably should NOT be permissible

Comments:

Final Questions

AI Services for Lawyers (Not Consumers)

1. Do any scenarios LIKELY constitute UPL under current rules when used exclusively by attorneys?

☐ Yes ☐ No

2. Do you think any scenarios SHOULD constitute UPL when used exclusively by attorneys?

☐ Yes ☐ No

Final Comments

APPENDIX D: GLOSSARY FOR DIRECT-TO-CONSUMER LEGAL INNOVATION

This glossary contains terms covering UPL, AI, and access to justice concepts for direct-to-consumer legal innovation. It was developed between the webinar series and workshop series and posted along with the workshop sign-ups in 2025.

Definitions were written to be accessible to a wide audience.

A

Access to Justice (A2J): Efforts to ensure that everyone, not just those who can afford it, can get help with legal problems. This includes legal aid, self-help tools, justice tech, and reforms to legal rules.

Access to Justice Ecosystem: The broad collection of players working to improve legal access, including courts, nonprofits, legal services organizations, regulators, technologists, and community organizations.

Advisory Opinion: Interpretive guidance from a regulator explaining how an existing rule applies to a particular question or set of facts. Unlike a non-prosecution policy or no-action letter, it does not work through enforcement discretion—it states the regulator's view of what the rule already means, and it is not binding on courts or future regulators. See also: Non-Prosecution Policy, No-Action Letter.

AI or Artificial Intelligence: Computer systems or tools that perform tasks commonly associated with human reasoning, judgment, prediction, or decision-making. In the legal services context, AI may include general-purpose tools as well as purpose-built legal tools designed to help users identify legal issues, navigate legal processes, generate or organize information, complete forms, or connect with appropriate legal help. As used in this toolkit, AI is discussed as one category of tech-powered legal tool and should be understood in light of the tool's design, scope, safeguards, intended uses, and intended users.

AI Disclaimers: Notices included in AI-powered tools to inform users that the tool does not give legal advice and that outputs should not be relied on as legal counsel. See also: Disclaimers in Legal Tech.

AI Legal Tool Certification: A proposed regulatory mechanism for ensuring that AI tools used in legal contexts meet specified standards before being authorized for consumer use.

AI-Driven Legal Tools: Software tools powered by AI to assist users in legal processes, e.g., helping draft forms, explain rights, or navigate court procedures.

Allied Legal Professionals: Nonlawyer professionals who work alongside attorneys to provide legal services, such as paralegals, legal assistants, document preparers, or specialized advocates. May have specific training, certification, or authorization to perform certain legal tasks under attorney supervision or independently. See also: Authorized Justice Practitioners, Community-Based Justice Workers, Legal Navigator.

Alternative Business Structures: Legal service delivery models that differ from traditional law firm partnerships, such as allowing nonlawyer ownership, outside investment, or multidisciplinary practices. Often restricted by rules like Rule 5.4 but increasingly explored as ways to improve access to justice.

Authorized Justice Practitioners: An umbrella term used by the CCJ/COSCA Civil Justice Committee in their April 2025 report that includes Allied Legal Professionals and Community-Based Justice Workers. See also: Legal Navigator.

B

B2B Legal Tech: Legal technology tools designed for use by law firms, courts, or legal aid organizations rather than individual consumers and nonlawyers in small businesses (B2C).

B2C Legal Tech: Legal technology designed for individual users rather than lawyers or firms. Examples include apps that help tenants respond to eviction notices or generate wills. Also called Direct-to-Consumer (DTC) Legal Tech or Consumer-Facing Legal Tech. In this toolkit, the phrase tech-powered legal tools is used.

Benchmarking: The process of measuring performance against established standards, best practices, or peer organizations. In legal tech, it is used to evaluate whether new tools or services actually improve access, efficiency, or outcomes compared to traditional approaches.

C

Community-Based Justice Workers: As of 2025, includes both community justice workers (CJW) and community legal advocate (CLA) programs. They are community-based advocates with specialized legal training and state authorization to embed certain legal services (such as domestic violence and housing) within their existing job or volunteer work. Sometimes only called "Justice Workers." See also: Allied Legal Professionals; Authorized Justice Practitioners; Legal Navigator.

Consumer Legal Need: Any legal issue that an individual might face, like housing problems, debt collection, family disputes, or employment issues, that may require help to resolve. Often civil legal in nature, but the impacts of involvement in the criminal justice system are a key legal need as well.

Courthouse UPL: Unauthorized practice of law violations that occur within courthouse settings, such as nonlawyers providing legal advice to self-represented litigants in hallways or help centers. Often addressed through safe harbor policies for court staff and clear guidelines about permissible assistance. Court staff are inundated with referral requests and requests for information. Many courts are looking at building court-hosted technology tools that can leverage generative AI on behalf of self-represented litigants.

D

Democracy and Rule of Law Impact of the A2J Gap: The notion that widespread lack of access to legal services undermines democratic institutions and public trust in the rule of law.

Determinative AI: AI systems that make final decisions rather than just providing recommendations to humans. In legal contexts, this raises significant concerns about due process and accountability, especially in areas like sentencing, benefits determinations, or case outcomes.

Digital Legal Triage: The process of identifying a consumer's legal issue and matching them with the right information, tool, or service based on need and urgency.

Direct-to-Consumer Legal Tech (B2C or D2C): Legal technology designed for individual users rather than lawyers or firms. Examples include apps that help tenants respond to eviction notices or generate wills.

Disclaimers in Legal Tech: Statements in tools or websites that clarify the tool does not provide legal advice or form an attorney-client relationship. See also: AI Disclaimers.

E

Entity Regulation: A model of regulation that oversees organizations providing legal services (including tech companies), rather than only individuals (lawyers).

Ethical Walls: Safeguards inside organizations to prevent sensitive legal information from being shared across conflicting interests—important in tech environments and law firms alike.

G

Generative AI: AI systems that create new content like text, documents, or code based on prompts. In legal tech, generative AI can help draft contracts, court filings, or client communications, but requires careful oversight due to potential for inaccuracies.

H

Hybrid Legal Services Models: Business models that blend traditional lawyer services with technology or nonlawyer assistance to serve more people effectively and affordably.

I

Insulation Effect (of UPL): When UPL rules are used to protect lawyers from competition by blocking others (like tech companies or paralegals) from helping people with legal issues, even if they could do so safely and affordably.

Intimidation Effect (of UPL): A chilling effect caused by vague UPL rules that scare off innovation and investment in legal tech, even when the innovations might help people without lawyers.

Integrity Function (of UPL): The intended purpose of UPL rules: to protect people from harm by ensuring only qualified professionals give legal advice or services.

J

Jurisdictional Fragmentation: The problem of each U.S. state having different legal rules, procedures, and definitions (especially for UPL), making it hard for tech-powered legal tools to scale nationally.

Justice Gap: The massive gap between the civil legal needs of Americans, especially those with low income, and the availability of legal help.

Justice Tech: Mission-driven tech products or solutions built to make justice more equitable, accessible, and responsive for all. These tech solutions help people navigate legal matters and foster hope, independence, and self-empowerment.

L

Legal Advice: Legal advice is specific guidance about what someone should do in their legal situation. It interprets how the law applies to a person's particular facts or problems and typically involves recommending a course of action. Because it can significantly affect someone's rights or obligations, giving legal advice is generally restricted to attorneys and is a core trigger for UPL enforcement. Example: "You should file a motion to dismiss your landlord's lawsuit because they violated your lease."

Legal Desert: Geographic areas where residents have little to no access to affordable legal services, typically measured by the ratio of lawyers to population. Legal deserts exist in both rural and urban communities.

Legal Design: An approach that combines legal expertise with design thinking to create tools, systems, and experiences that are easier for users and the public to navigate.

Legal Document Assembly: Automated systems that help users create legal filings based on inputted facts, selected procedures, and applicable law.

Legal Empowerment: The idea of giving people the tools, knowledge, and support to advocate for themselves in legal matters, even without a lawyer.

Legal Information: Legal information is general knowledge about the law, such as what a law says, what court forms are needed, or what steps are involved in a legal process. It does not tell someone what they should do in their specific situation and can be shared freely by nonlawyers, websites, or AI tools. Example: "A motion to dismiss is a legal document used to ask the court to throw out a case before trial."

Legal Navigator: A human or digital assistant that helps people understand and take steps in the legal process without offering legal advice. See also: Community-Based Justice Workers and Authorized Justice Practitioners.

Legal Regulatory Reform: Efforts to update laws and rules (like UPL or Rule 5.4) to allow new kinds of legal services, new business models, and better use of technology to improve access to justice.

Legal Risk Aversion: The tendency of legal professionals and institutions to avoid new models or tools due to fear of liability or UPL violations, often at the expense of innovation. See also: Intimidation Effect.

Legal Sandbox Evaluation Metrics: Criteria used to measure the safety, effectiveness, and consumer impact of services being tested inside regulatory sandboxes.

Legal Service Innovation: New ways of delivering legal help, including apps, platforms, and alternative staffing models. Often aimed at improving affordability or access.

Legal Tech: Technology products designed to assist with or automate legal services and workflows.

Limited Scope Representation: When a lawyer helps with part, but not all, of a legal case (like reviewing a contract or preparing for a hearing). Also called "Unbundled Legal Services."

LLM (Large Language Model): A type of AI trained on huge amounts of text to generate human-like responses (e.g. ChatGPT).

LLM Hallucination Mitigation: Techniques or safeguards implemented to prevent large language models from generating inaccurate or fictitious information, particularly in legal settings (e.g., sourcing only from documents personally selected by users).

Low Bono Services: Legal help provided at a reduced rate—not free like pro bono, but cheaper than market rate—to serve those who can't afford full-priced legal representation.

M

Market Failure (in Legal Services): A situation where supply and demand don't match. Many people need legal help but can't afford or access it, and the market doesn't offer affordable solutions.

N

No-Action Letter: A case-specific statement from a regulator saying that, based on the facts presented, it does not currently intend to bring an enforcement action against a particular tool provider or scenario. It applies only to the requesting party and is not binding on future regulators—providers remain exposed to other claims (like breach of contract) and to enforcement by other regulators or successors. See also: Non-Prosecution Policy, Prosecutorial Guidance.

Nonlawyer Legal Service Provider: Someone who is not an attorney but offers certain types of legal assistance, like form preparation or procedural guidance. See also: Tool Provider.

Non-Prosecution Policy: A generally applicable statement in which a regulator commits, in advance, to ordinarily decline to pursue UPL enforcement against any provider whose conduct meets defined criteria, subject to stated conditions. Unlike a no-action letter, it applies automatically, with no application required. It is not a legal safe harbor: it does not change the underlying law, cannot be invoked as a defense in a civil suit, can be rescinded without a formal rulemaking process, and does not bind successor regulators or other enforcement bodies. See also: No-Action Letter, Prosecutorial Guidance.

O

One-to-One Legal Services: The traditional model of legal representation where one attorney provides individualized, personalized legal services to one client. Contrasts with "one-to-many" models where a single solution (like an app or automated tool) can serve multiple clients simultaneously.

One-to-Many Legal Services: A service model where a single solution, like an app or automated document tool, can help many people at once.

Outcome Data (in Legal Tech): Information showing whether tech-assisted legal tools actually help users solve their problems. Used to measure effectiveness and justify funding or regulation.

Outcomes-Based Regulation: A regulatory approach that focuses on measuring and ensuring desired results (like improved access to justice) rather than prescribing specific methods or technologies that must be used.

P

Phased Approach: A strategy that implements changes in stages rather than all at once, giving time for multiple stakeholders to engage with the process. In the context of re-regulation in legal innovation, a phased approach is designed to encourage innovation while keeping consumer needs and public trust at the forefront, allowing regulators to adapt rules based on evidence rather than speculation.

Plain Language Translation: Making legal information easier to understand by removing jargon and using everyday language.

Pro Bono Services: Free legal help provided by lawyers to people who can't afford to pay.

Prosecutorial Guidance: A public statement from a regulator explaining what conduct it is most concerned about, what it views as lower risk, and how it plans to use its enforcement discretion. This is the umbrella category: a non-prosecution policy is one generally applicable form it can take, and a no-action letter is a narrower, case-specific form. See also: Non-Prosecution Policy, No-Action Letter.

Pro Se Services: Support services designed to help people who are representing themselves in legal proceedings without an attorney. These may include self-help resources, court navigation assistance, document preparation tools, or procedural guidance. These services are distinct from direct legal representation. Also called "Pro Per Services." See also: Pro Bono Services.

Probabilistic AI: AI systems that express uncertainty and work with probabilities rather than giving definitive answers. Particularly important in legal AI where expressing confidence levels can help users understand the reliability of predictions or recommendations.

Procedural Assistance: Help with understanding the steps of the legal process (e.g., deadlines, how to serve papers), especially useful for self-represented litigants.

R

Regulator: A state or local government or state supreme court entity or official with authority to enforce UPL rules within a given jurisdiction. Depending on how a state's rules are structured, this may include a state bar association, an office of attorney regulation or professional responsibility, an attorney general's office, or a court.

Regulatory Sandbox: A controlled testing environment where companies can try out new legal service models or tools, like AI chatbots, without the immediate risk of UPL enforcement.

Reserved Legal Activities: Specific, enumerated legal tasks/categories that are restricted to authorized providers, like in the U.K. Used in contrast to the broader and vaguer UPL definitions in the U.S.

Retrieval-Augmented Generation (RAG): An AI approach that combines searching through specific documents or databases with content generation. Particularly useful for legal AI tools because it can ground responses in actual case law, statutes, or firm documents rather than relying solely on training data.

Risk-Based Regulation: A regulatory model that tailors oversight to the potential harm of different legal activities or tools. Often proposed as an alternative to bright-line bans.

Rule 5.4: A professional conduct rule that bars lawyers from sharing legal fees or forming law firms with nonlawyers.

S

Safe Harbor: Safe harbor policies protect court personnel from UPL prosecution for engaging in certain activities. Illinois, for example, provides clerks safe harbor for providing information about court processes, assisting in identifying forms, transcribing a litigant's form responses, and notifying litigants of legal resources and pathways for finding an attorney.

Sea of Junk: A term coined by the National Center for State Courts describing the large amount of potentially misleading, confusing, and useless information that self-represented litigants can find in tools like ChatGPT. People think they know what they are talking about because sources in the sea of junk claim to be accurate or documents will look accurate, but they are not. It is AI-generated pleadings, untrustworthy suggestions, and factually inaccurate legal information. People grab on to anything that looks like a life raft in the sea of junk.

Self-Help Legal Platform: A website or app that lets people handle legal matters on their own by providing step-by-step guides, document templates, or court navigation tools.

Self-Represented Litigant (SRL): A person who goes to court without a lawyer. Also commonly called an unrepresented party, court user, visitor (like to a self-help center or law library), or a consumer (e.g. of legal tech).

Soft Power Regulatory Approaches: Non-binding strategies like guidance, best practices, and prosecutorial discretion that influence behavior without formal rule changes.

T

Tool Provider: Any person and/or entity offering a consumer-facing AI or tech-powered legal help tool for free or for a fee. Examples could include entrepreneurs who are not lawyers, legal aid organizations, court self-help center staff, private attorneys, or others. The tool could be used by a legal consumer to obtain legal information and/or legal advice and services. See also: Nonlawyer Legal Service Provider.

Tech-Powered Legal Tool: Any legal help tool that is powered by technology, including AI. The tool could be used by a legal consumer to obtain legal information and/or legal advice and services. The tool might be offered for free or for a fee.

Triage: Use of AI tools to assess and categorize user legal needs, prioritizing intake and referrals for legal services organizations.

U

UPL (Unauthorized Practice of Law): When someone who isn't a lawyer performs legal work, like giving legal advice, appearing in court, or drafting certain legal documents.

V

Vertical AI: AI solutions designed specifically for particular industries or use cases, rather than general-purpose tools. Legal vertical AI includes tools built specifically for law firms, courts, or legal aid organizations, often incorporating legal-specific training data and workflows.

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