

UNLOCKING LEGAL REGULATION

LESSONS LEARNED AND
RECOMMENDATIONS FOR THE FUTURE



IAALS

INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



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RECOMMENDATIONS FOR THE FUTURE

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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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CONVENING ATTENDEES

The recommendations that follow would not have been possible without the invaluable contributions of the participants of our 2023 convening on unlocking legal regulation:

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BACKGROUND

Since 2019, IAALS has been at the forefront of efforts to rethink how the profession regulates the delivery of legal services. The goal is to create a consumer-centered regulatory system that ensures a more robust ecosystem of models for and providers of high-quality legal services—one that is competitive, broadly accessible, and better meets the needs of the people.

In April 2019, IAALS hosted its inaugural convening, *Making History: Unlocking Legal Regulation Workshop*, where attendees discussed a policy outline for an independent regulator¹ of legal services. Leaders in Utah were inspired by the idea of this new model and used it as a framework for the Utah sandbox, which the Utah Supreme Court Office for Legal Services Innovation subsequently launched in August 2020. In April 2022, IAALS launched its *Allied Legal Professionals*² (ALP) project to establish national best practices for a new tier of legal service providers: people who are not lawyers but are trained and licensed to offer legal help in specific areas. In June 2022, IAALS hosted its second convening in the regulatory innovation space—*Unlocking Legal Regulation: Community & Cooperation*.³ At that point in time, Arizona had launched its Alternative Business Structures program, and IAALS was beginning to focus on creating synergies between and among the efforts in Utah and Arizona, as well as other states considering regulatory innovation. Stemming from this convening, in August 2023, IAALS published a report⁴ distilling key themes and recommendations for bolstering existing regulatory innovation efforts and kickstarting new ones, and creating opportunities to engage new people and perspectives in the movement.

Since the initial 2019 IAALS convening, the regulatory innovation movement has experienced significant growth. While a few initiatives have stalled—California’s Task Force on Access Through Innovation of Legal Services⁵—or shuttered—Washington’s Limited Licensed Legal Technician Program⁶—many more have sprouted and grown.

Examples include:

- Utah’s Regulatory Sandbox,⁷
- Arizona’s Alternative Business Structures Program;⁸
- Allied Legal Professional programs in Arizona,⁹ Colorado,¹⁰ Minnesota,¹¹ New Hampshire,¹² Oregon,¹³ and Utah;¹⁴ and
- Community-Based Justice Worker (CBJW) programs¹⁵ in Alaska,¹⁶ Arizona,¹⁷ Delaware,¹⁸ Hawai’i,¹⁹ and Utah.²⁰

The regulatory innovation movement is now at a point where leaders can draw upon their past experiences and share out what has worked and should be replicated, as well as what has not and needs further consideration. To this end, in October 2023, IAALS hosted its third convening—*Unlocking Legal Regulation: Lessons Learned and Recommendations for Launching and Sustaining Regulatory Reform*.²¹ The event brought together a small group of leaders from states considering or implementing regulatory innovation to focus on the following three objectives:

- **Objective 1:** Learn from past and current regulatory innovation initiatives to develop an initial round of recommendations that supplement existing resources for launching and sustaining regulatory reform.
- **Objective 2:** Determine which stakeholder relationships the regulatory innovation community needs to further develop, and what resources and research still need to be developed to launch new regulatory innovation initiatives and to sustain existing ones.
- **Objective 3:** Strengthen existing relationships—and develop new ones—so the group can continue to work together and build momentum as one regulatory innovation community.

This report outlines the convening topics and relevant discussion, and lays out a set of 12 recommendations drawn from those discussions.

PROGRESS OVER THE PAST EIGHT YEARS

The 2023 convening launched with leaders from Alaska, Arizona, California, Colorado, Utah, Washington and IAALS providing a series of presentations that included an overview of the considerable progress that has been made in the legal regulatory innovation space over the past eight years and the challenges and lessons learned along the way. This timeline summarizes the progress that has been made thus far:

2015: Washington admitted its first Limited Licensed Legal Technician (LLLT).

2019: Utah admitted its first Licensed Paralegal Practitioner.

2020: Utah launched the first regulatory sandbox. Arizona launched the first community-based justice worker (CBJW) program—Domestic Violence Legal Advocates—through explicit modification of its unauthorized practice of law (UPL) restriction. The Washington Supreme Court announced that no new LLLTs would be admitted after July 31, 2021 (later extended to July 31, 2023), although already licensed LLLTs were permitted to continue to operate.

2021: Arizona and Minnesota admitted their first Legal Paraprofessionals. Utah authorized its first two CBJW programs in the sandbox—the Certified Advocate Partners program housed and supervised by Timpanogos Legal Center, and the Medical Debt Legal Advocates program housed and supervised by Holy Cross Ministries.

2022: Arizona approved its first Alternative Business Structure.

2023: New Hampshire admitted its first paraprofessional qualified to provide legal services. Delaware certified its first Qualified Tenant Advocate. Hawai'i certified its first Rural Paternity Advocate.

2024: Alaska certified its first community justice worker who can offer legal advice and services pursuant to the UPL waiver Alaska Legal Services Corporation secured. Previously, community justice workers in Alaska could only offer services in federal administrative proceedings and tribal courts where the unauthorized practice of law does not exist. Arizona and Utah certified their first Housing Stability Legal Advocates. Oregon admitted its first Licensed Paralegal. Colorado admitted its first Licensed Legal Paraprofessional.



The Alaska Community Justice Worker model is currently under development for expansion to Tribal communities in Oklahoma, Montana, Arizona, and Minnesota; and the South Carolina State Conference of the NAACP is currently developing a Housing Advocate Program.²² Additional regulatory innovation initiatives are being studied or are under consideration in Connecticut; Florida; Illinois; Indiana; Iowa; Maryland; Michigan; New Mexico; New York; North Carolina; Texas; Vermont; Virginia; Washington; and Washington, D.C.²³

While the convening and this report focused mainly on regulatory innovation at the state level where UPL

restrictions exist, for decades federal agencies have operated under a different set of rules that has allowed people who are not lawyers to provide legal advice and services to parties at administrative proceedings.²⁴ Alaska Legal Services Corporation leveraged these rules to kickstart their community justice worker program in 2019, initially training and certifying community justice workers to offer advice and services in federal administrative proceedings. Tribal communities also operate under different rules that allow them to train and certify tribal community members to offer legal advice and services in certain areas.

WHAT THE DATA TELLS US

Data collection and evaluation are powerful tools that can help the legal profession understand the potential of regulatory innovation, as well as how to think about what needs to be regulated, how it needs to be regulated, and how we can assess whether new efforts are effective. The convening included highlights and discussion regarding the important role data collection and evaluation has played in initiatives thus far, and later in the convening attendees identified gaps and recommendations in this area.

David Freeman Engstrom and Lucy Ricca from the Deborah L. Rhode Center on the Legal Profession at Stanford Law (Rhode Center) have been collecting and analyzing data from Utah and Arizona to track the legal innovations that have emerged from those states. They have summarized their findings in *Legal Innovation After Reform: Evidence from Regulatory Change*.²⁵ and they continue to track innovations from Utah and Arizona through the Rhode Center's Legal Innovation Clearinghouse.²⁶ While their findings show that regulatory reforms are spurring substantial innovation, including through the usage of technology, they expect to see even more innovation through the relaxation of rule-

based regulation of legal services, provided a few other barriers are removed. Examples of such barriers include shortcomings of existing technology; a checkerboard of court technology and data systems defeating market scale; a fragmented, individual (not entity), and one-shot (not repeat) customer base; and hesitation by law firms doing “bespoke” work to be seen as doing “commoditized” work.

Data is also being collected and analyzed from regulatory innovation initiatives in Alaska, Arizona, Minnesota, and Washington;²⁷ IAALS tracks the number of Allied Legal Professionals admitted in each state and specific program features in its Allied Legal Professionals Knowledge Center.²⁸ IAALS also is collecting and analyzing data from the Utah sandbox. As part of a broader, longer-term evaluation effort, IAALS is acting as an independent third-party evaluator for the sandbox and conducting an interim evaluation of it.²⁹ At the convening, IAALS Director of Research Logan Cornett presented preliminary results of that study to provide a baseline of data for the dialogue. The Utah sandbox interim evaluation report will be published by IAALS in 2024.

STAKEHOLDER ENGAGEMENT

One of the objectives of the convening was to determine which stakeholder group relationships the regulatory innovation community needs to further develop in order to launch new regulatory innovation initiatives and to sustain existing ones. At IAALS' convening in 2022, attendees identified a long list of potential new stakeholders and collaborators to engage, and they identified the following initial target groups: law students, young lawyers, and law schools; lawyers and professional associations; justices and judges; and federal agencies. Attendees at the 2023 convening engaged in similar discussions regarding each target group and identified additional forms of current and potential engagement.

Law Students, Young Lawyers & Law Schools

Law students and young lawyers continue to be largely missing from regulatory innovation initiatives and discussions, but some progress has been made. Some regulatory innovation efforts have included law students to some degree. For example, the Oregon Paraprofessional Licensing Implementation Committee surveyed law students in connection with its licensed paralegal program. In Alaska, a few of the community justice workers are law students. Most regulatory efforts have not done a great job of engaging law students, however, and attendees agreed this has been a missed opportunity.

A growing number of law students are being exposed to regulatory innovation through access to justice classes and innovation labs. Other schools have professors who have chosen to include regulatory innovation as a topic of discussion in their professional responsibility class curriculum. Those leaders who have engaged law students in regulatory innovation conversations have witnessed enthusiasm and a desire to engage more with the topic.

Only one state—Oregon—has made a targeted effort to engage young lawyers in their regulatory innovation efforts. Oregon included representation from this group on their licensed paralegal working group. Attendees believe that young lawyers are generally enthusiastic about disruptive change, but that getting their attention can be challenging because they are new to the profession and focused on their budding careers. One idea for engagement is to send out a survey to young lawyers to better understand their thoughts on regulatory innovation. Engaging young lawyers in regulatory innovation conversations is a missed opportunity that attendees would like to focus on.

Several states—including Alaska, Arizona, California, Illinois, Minnesota, North Carolina, Oregon, and Utah—have included law or paraprofessional professors on their regulatory innovation task forces, working groups, and training committees. In Arizona and Utah, the CBJW programs were driven by legal education—Innovation for Justice which is housed at both the University of Arizona James E. Rogers College of Law and the University of Utah David Eccles School of Business.

Attendees acknowledged, however, that this can be a challenging group to engage. There are various changes taking place within legal education right now that are demanding the attention of law school deans. And some deans and professors are choosing to stick with the traditional way of practicing as opposed to adapting their curriculum to prepare students for current and future practice. Nonetheless, attendees agreed that law and paraprofessional schools are important stakeholder group relationships to further develop.

Lawyers & Professional Associations

All states that have launched regulatory innovation efforts have engaged the private bar at some point in the process. This has been achieved by including private bar members in task forces and working groups, as well as by presenting on regulatory innovation at CLEs and conferences. The responses continue to be mixed, but some of the strongest resistance has come from private practitioners. There was extensive conversation at the convening about how to engage this stakeholder group. The consensus was that this has been by far the most difficult stakeholder group to effectively engage. Their input remains important to understand concerns and identify what research questions are important from their perspective so that complete data can be gathered.

Justices & Judges

Attendees agreed that 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 innovation effort 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 who are in favor of proposed changes lend credibility to the initiatives.

Federal Agencies

Up to this point, no state has included a representative from a federal agency on a task force or working group, but at least one state engaged federal agencies in other ways. For example, advocates from North Carolina met with the Department of Justice Antitrust Division and the Federal Trade Commission to review their 2023 legislative proposal and to provide feedback on their recommendations for the community justice worker model and limited licensing model, as well as to seek letters of support. While two attendees serve on an Administrative Conference of the United States (ACUS) committee, no state has involved this group in their efforts. Bringing federal agencies into the regulatory innovation fold could be a logical step.

Legal Aid Attorneys

Legal aid attorneys are another stakeholder group that many states have not effectively engaged. While legal aid attorneys did feel included in the process in some state efforts (e.g., Alaska), they felt less included in others. In those states, legal aid attorneys did not feel they had been engaged early or consistently enough for them to feel confident that access to justice was a genuine goal of regulatory reform, or to have a meaningful influence in the design and operation of the proposed regulatory reform initiatives. This group has a unique understanding of the legal needs of low-income people and the barriers to services they face, based on deep connections to communities often developed over many decades; they also have experience projecting and mitigating unintended outcomes of prior well-intentioned reforms.



The Public & Additional Perspectives

Attendees developed an extensive list of additional perspectives that each regulatory innovation effort should consider engaging. One particular perspective rose to the top of the list and is worth highlighting here: the groups of people who the regulatory reform efforts are intended to benefit (i.e., the public). Few regulatory innovation initiatives have engaged the public at any point in their efforts and the group agreed that this is a missed opportunity. Members of the public provide invaluable insights about the type of services desired and how to deliver them. Particularly where access to justice is a goal of reform, this should include groups with acute or distinct legal needs, particularly low-income people, communities of color, LGBTQ+ communities, older Americans, people with disabilities, and people who are not citizens. To address the lack of public inclusion in conversations about legal regulatory reform, IAALS is undertaking a new project—*People-Centered Legal Regulation*—that will collect data on public perspectives related to various approaches to regulatory reform, as well as generate a framework and toolkit for states to effectively engage members of the public in their regulatory reform efforts.

ADDITIONAL PERSPECTIVES TO ENGAGE

- Access to Justice Commissions and individuals
- Administrative offices of the courts
- Allied legal professionals
- Alternative business structures in Arizona
- Attorney regulators
- Bar foundations
- Clients
- Community organizations and advocacy groups
- Consumer groups
- Consumer protection groups
- Economists
- Empiricists
- Entities in the Utah sandbox
- Entrepreneurs
- Faith communities
- Family court facilitators
- Influencers within the legal community in each state
- Innovators
- Interest groups outside of the profession (e.g., AARP)
- Investors
- Lawyers from other countries in which regulatory reform has been implemented
- Lawyers who employ young lawyers
- Legal reform implementors
- Librarians
- Marketing and communication specialists
- Members of the public
- Opponents of regulatory reform
- Other professionals (e.g., medical, mental health)
- Other types of students
- Paralegals
- Pro se litigants
- Retirees
- Rural experts
- Social media influencers
- Social service providers
- State agencies, executive branches, and legislators
- Technologists

NEEDED RESOURCES

Another objective of the convening was to determine what resources and research still need to be developed in order to launch new regulatory innovation initiatives and to sustain existing ones. Three of the resources identified—communications expertise, a clearinghouse for data and resources, and additional opportunities for community and cooperation—were also identified in the 2022 convening report, while others were newly raised ideas.

While the regulatory innovation community has made some progress when it comes to creating, collecting, curating, and sharing out resources (e.g., IAALS' Unlocking Legal Regulation Knowledge Center³⁰ and bimonthly newsletter,³¹ the Rhode Center's Legal Regulatory Innovation Toolkit,³² and Innovation for Justice's New Legal Service Models Knowledge Center³³), these efforts either have not been enough or these resources are not reaching their intended audiences. These organizations and others should consider the cause for this disconnect and how to ensure that their useful resources are in fact reaching people interested in regulatory reform.

There also continues to be a strong desire for opportunities to convene and collaborate. While some regularly occurring opportunities currently exist (e.g., IAALS' annual regulatory innovation convenings; the multijurisdictional roundtable monthly meetings for leaders from ALP programs and leaders interested in developing ALP programs; and access to justice conferences such as the Equal Justice Conference, the Legal Services Corporation Innovations in Technology Conference, and the Arizona State University Justice Futures Initiative conferences), the regulatory innovation community seeks more opportunities, even if they are

virtual. More regular opportunities to connect and collaborate would not only facilitate exchanges of information, but would also facilitate greater coordination in efforts across the country. Ideas shared by participants include quarterly Zoom meetings and a regulatory reform consortium that states could opt into to lower barriers to entry into regulation and to benefit from the economies of scale the consortium would create.

Communications and messaging have always been a challenge for the regulatory innovation community. Communicating a nuanced and effective state-specific message to multiple and varied target audiences is not easy, and very few lawyers have expertise in this area. Convening attendees continue to recognize the need to bring in communication professionals to help craft effective messaging and develop an effective communications plan.

Convening attendees also identified additional needs. The group expressed a strong desire for more data. While the regulatory innovation community now has some data,³⁴ it could certainly use more. Attendees expressed interest in having data on legal and financial outcomes of legal services that have been delivered through new models made possible by regulatory reform, client satisfaction, the public's perception of and preference for new legal service delivery models, and young lawyers' thoughts on regulatory innovation initiatives. Convening attendees also identified funding, legislative alerts, access to ethics opinions on multijurisdictional regulatory issues, a list of entrepreneurs and technology stakeholders willing to get involved and provide input, and a legal tech fellowship program as potentially useful resources to develop.

RECOMMENDATIONS

Building off the conversations among attendees at the two-day convening, IAALS developed the following recommendations.



Stakeholders

Recommendation 1:

Include at least one, but ideally as many as possible, representatives from the state's supreme court on any regulatory innovation task force.

Having judicial participation at all levels is helpful, but it is critical to have involvement at the top. Leaders will want to keep the judicial bench deep so that support continues as judges and justices leave the courts.

Because this stakeholder group is so critical, it is important for the regulatory innovation community to continue to partner with state supreme courts. One of the best ways to do this is to seek out opportunities to speak about regulatory innovation at the Conference of Chief Justices convenings.

Recommendation 2:

Engage community-based organizations and the public from the outset.

This is a critical step that has been overlooked by most regulatory innovation efforts. As we re-envision how services are delivered to better suit the needs of today's society, we must meet people where they are and put legal services within their reach. We can do this only if we engage consumers to understand their needs, experiences, and difficulties, and make those factors a fundamental part of the solutions we develop. If we are to find the needed solutions, discussion around these issues needs to expand beyond the councils of the legal profession and be conducted in public. Getting input from the public on the need for additional service providers can also be important to certain stakeholder groups—namely the judiciary and legislatures.

Recommendation 3:

Include ethics attorneys who are open to considering regulatory innovation in regulatory initiatives.

They can help leaders understand the boundaries of the existing rules, and they can also help leaders draft waivers and new rules, as needed. Ethics lawyers have also proven helpful to entrepreneurs as they navigate regulatory reforms and multijurisdictional issues.

Recommendation 4:

Get input from all stakeholders before, during, and after a program launch, but do not let the goal of buy-in from all stall efforts.

Obtaining unanimity (in addition to input) is ideal, but the current reality is that there will continue to be some level of opposition to system reform and leaders should not be deterred if they do not achieve unanimity. Thus far, opposition to regulatory change has typically come from personal injury lawyers, trial lawyers, and other private practice lawyers offering services in family law or other practice areas targeted by reform. When leading reform aimed at low-income individuals and communities involved in the legal system, support and buy-in from legal aid organizations and community-based organizations are very important. Skepticism or opposition from these groups is based on past experiences and specific concerns about potential harm to clients, which can be resolved through good faith efforts to understand and address them.

It is important that leaders seek to understand the perspective of each stakeholder group, including those in opposition, from the outset and address their concerns if they can, and then stay in conversation with them throughout the process. As discussed earlier in this report, leaders need to think more expansively when it comes to deciding which stakeholder groups to engage. A few examples of groups that have felt left out in previous regulatory innovation efforts include members of the public, legal aid attorneys, and prospective regulated

entities—entrepreneurs who would be interested in taking advantage of regulatory reforms. Each of these groups offers important perspectives and should be consulted from the outset.



Program Structure & Requirements

Recommendation 5:

Elimination of, waivers of, or changes to unauthorized practice of law and ethics rules are generally going to be more successful than pilot projects in the regulatory reform space.

For states that have had success with pilot projects in the past, a pilot project is a way to introduce innovation that is already understood and has buy-in. It also allows for quicker adoption and nimbleness, both of which are good for innovation. On the flipside, projects that include market-based models need stability to attract participants. Entities that are targeted by these reforms are less likely to invest in a pilot project than a permanent program. The word “pilot” injects uncertainty into a program, and uncertainty is scary to business owners, investors, and potential new providers, such as ALPs and CBJWs. Starting a business or changing careers is a monetary- and time-intensive endeavor, and no one wants to invest in a program that could shutter at a moment’s notice.

With all of this being said, if a pilot project is the best option for gaining traction and support for innovation, it is worth the time and money to move forward with it, and many concerns can be alleviated by specifying a timeframe—a set number of years for the pilot project—at the outset of the program. The key here is to make the timeframe long enough so that the program and the entities participating in it can achieve their goals. The Utah sandbox started out as a two-year pilot project but was extended to a seven-year pilot project to ensure it had enough time to produce and collect the data needed to measure whether its objectives were being met. Timeframes should be paired with adequate funding to sustain and evaluate the programs.

Recommendation 6:

Simplify and reduce barriers to entry and program requirements as much as possible.

Convening attendees agreed that for regulatory innovation initiatives to succeed, the barriers to entry and program requirements need to be reasonable. Washington’s LLLT program illustrates this point. When the program first launched, the experiential requirements for licensure were substantial—3,000 supervised hours—and LLLTs could only practice in one area—family law. These barriers to entry initially led to low numbers of applicants. However, at the time of sunseting the program five years later, there were over 200 students in the LLLT pipeline. A likely reason for the increase in interest is that the LLLT Board had proposed expanding the program to two new practice areas and cutting the experiential requirements in half.³⁵

As we saw in Washington, when states take steps to limit the program, such as limiting the practice areas in which a new provider can offer services and creating high barriers to entry such as extensive education and supervised practice requirements, the program is not likely to attract the number of entrants desired. Similarly, if programs do not create study resources to help perspective entrants complete program requirements, they may struggle to do so.

There was great concern among convening attendees that while the barriers to entry and requirements for programs that have launched in the wake of Washington’s LLLT program are less restrictive, they are still too high and therefore could result in similarly small numbers of entrants in each state. Colorado took note of Washington’s initial missteps and leaders kept the barriers to entry and program requirements low for becoming a Licensed Legal Paraprofessional (LLP), although still high enough to ensure proper training and licensure. This approach is likely at least one reason why 72 potential LLPs sat for the first exam, and 62 of them passed.

In the alternative business structures space, unreasonable registration and renewal fees can be a barrier to entry. Flat fees commensurate with the size of the company work

best. Percentages of revenue, however, are disliked by entity owners and should be avoided. Fees should also be determined at the outset of a pilot project or program and not partway through it. When fees are sprung upon participants partway through the process, it forces business owners to absorb an unknown and unaccounted for expense, and it injects uncertainty into the program. And, as shared in the previous recommendation, uncertainty repels business owners and investors.



Messaging

Recommendation 7:
Focus initial efforts on education about the problem and why change is needed.

Creating a sense of urgency is the first step in systems change, and the regulatory innovation community has not yet accomplished it. There are still many lawyers who either a) do not understand there is an access to justice problem, or b) do not understand the breadth and severity of the problem and its underlying causes,³⁶ and thus believe we can solve the problem by offering more pro bono or legal aid services. The regulatory innovation community will continue to encounter opposition from the private bar and other opposed groups until this message has been clearly communicated.

Recommendation 8:
Leaders should pay close attention to messaging and tailor it to the audience or stakeholder group that they are trying to educate and persuade.

Different messages resonate with different groups, and some messages pair better than others with certain types of reform. For example, regulating in the public's interest, instead of lawyers' interests, resonates with most groups. That is not necessarily the case with lawyers, though. Another example is that access to justice messaging does not resonate as well with alternative business structures as it does with CBJWs and ALP models.

Regulatory reform leaders should refine the argument that some help is better than no help. Some peoples' minds immediately jump to consumer harm when they hear this statement. Perhaps if more context was shared with such a statement—some legal help *from a person who has received training and certification in the area in which advice is being sought and who is subject to regulation*—it would resonate differently. An alternative approach could be to reframe the message to focus on how some legal consumers prefer to engage a less expensive and supplemental option—a CBJW, an ALP, or a DIY+ service—instead of a lawyer.



Research & Data

Recommendation 9:
Regulators should collect more data.

While data is not persuasive to all stakeholder groups, it is persuasive with many of them, and it also helps regulators and other leaders understand whether they are meeting their regulatory objectives.

One area in which regulators and other leaders could use more data is consumer satisfaction. While states are starting to collect data on consumer harm,³⁷ states do not have any data on consumer satisfaction, either with respect to lawyers or other legal service providers. Understanding how satisfied clients are with the outcomes and customer service they received in their case is equally as important as understanding whether they were harmed. Such data should be collected with respect to both lawyers and other legal service providers.

Collecting this data has proven difficult. It requires the regulated entities themselves to set up a process for collecting this data, and most regulated entities do not currently have a process in place. Moving forward, regulators should consider how they can incentivize and assist legal services entities in collecting consumer satisfaction data so that regulators can access it (in an anonymized form), aggregate it with similar data from other entities, and share it out more broadly. Additionally,

it would be helpful to know what the client would have done had they not engaged the entity. Would they have used a self-help tool? Would they have forgone trying to exercise their legal rights altogether? Information like this would help regulators and other leaders better understand if regulatory reforms are meeting the goal of serving more legal consumers and closing the access to justice gap.

As noted earlier in this report, another area in which regulators and other leaders could use more data is legal outcomes. Understanding the legal outcomes of legal services that have been delivered through new models made possible by regulatory reform could allay fears of potential harm held by people who oppose regulatory reform.

A third area in which regulators and other leaders could use more data is the cost of implementing and administering regulatory reform initiatives. Leaders considering regulatory reform oftentimes have questions about costs, and this information is not readily available currently. It would be helpful for the regulatory innovation community to aggregate this information and share it out in an easily accessible resource.



Other

Recommendation 10:

Sharing successes, failures, and obstacles of various initiatives is critical to future success.

Every program that has followed Washington, California, Utah, and Arizona has benefited from their experiences and the experiences of other states who have launched before them, even if they are exploring a different type of regulatory model. Sharing small, short-term wins along the way is important in the change management process as it keeps those involved in regulatory change engaged and motivated.

Recommendation 11:

Leaders need to work with the private bar to determine what a lawyer's unique value proposition is and how to message this to the public.

As leaders within the profession continue to propose and implement regulatory innovation initiatives that allow for a greater diversity of business models and providers, and as AI and other technology tools come onto the market, a legal consumer's recognition and understanding of why they might need to engage a lawyer over a different type of legal provider or DIY resource could decrease. It is important that the public understands the unique value lawyers provide and how and when to engage them. An education campaign focused on helping legal consumers understand when they have a legal issue, the options available for solving their issue, and the unique value each option provides could increase the chances of legal consumers connecting with the help they need and alleviate some stress that private practitioners are feeling in connection with allowing other providers into the legal market.

Recommendation 12:

Regulators and other leaders should consider how changes to other rules of professional conduct could increase access to affordable legal help.

For example, changes and/or clarifications to rules regarding fees and trust accounts could reduce barriers for attorneys and other legal service providers to offer alternative fee arrangements.



CONCLUSION

The recommendations and other information in this report should be viewed in conjunction with other existing resources as a framework for launching, evaluating, and sustaining regulatory reform. While each jurisdiction is different and requires a unique approach, many of these recommendations will apply to some degree across all efforts and are therefore valuable considerations. The work does not stop here. IAALS will continue to capture lessons learned and develop and share out additional recommendations as regulatory innovation progresses. IAALS will also continue to conduct research

and evaluations in the regulatory reform space and tackle the recommendations listed in this report. The ultimate goal is systems change in the delivery of legal services to ensure that everyone has access to the legal help they need. IAALS is committed to its ongoing leadership in the regulatory innovation movement until this goal is achieved.

Are you already working to unlock legal regulation, or do you want to join our movement? Connect with us at jessica.bednarz@du.edu or subscribe to stay updated at iaals.du.edu/connect.

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