

REGULATING AI IN THE DELIVERY OF CONSUMER-FACING LEGAL SERVICES: Unlocking Legal Regulation



INSTITUTE FOR THE ADVANCEMENT
OF THE AMERICAN LEGAL SYSTEM



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AI presents a transformative opportunity to address our country's deep-rooted access to justice crisis. While existing rules continue to cast a chill over the landscape of would-be innovations, new reforms and changes to legal regulation would let a thousand flowers bloom. If that field of flowers is indeed the best outcome for consumers, what steps does the legal profession need to take to help them grow?

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July 2025

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Director of Legal Services and the Profession

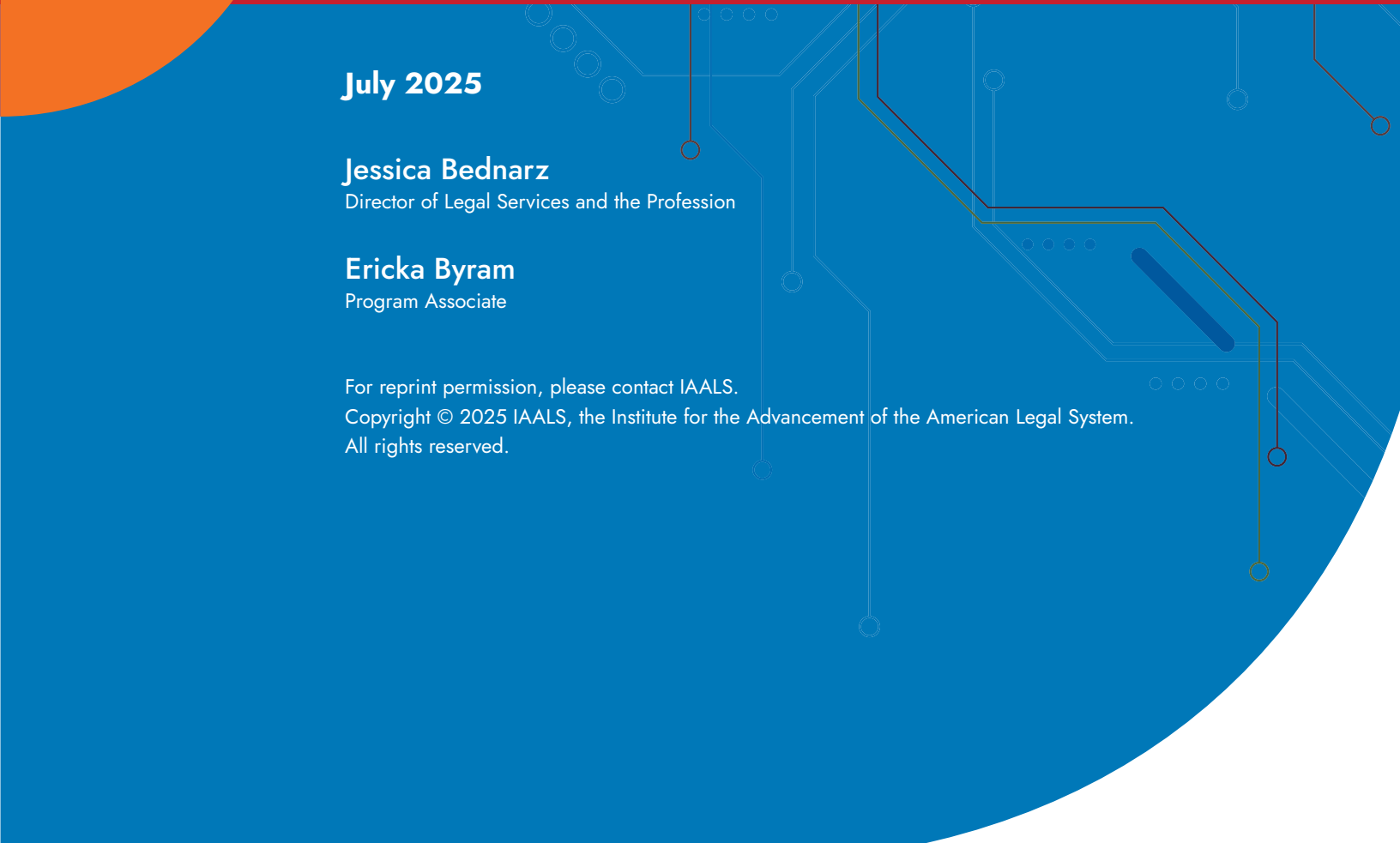
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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research organization that innovates and advances solutions that make our civil justice system more just.

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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INTRODUCTION

Since 2019, IAALS has been at the forefront of efforts to rethink how the legal 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 and providers delivering high-quality legal services—one that is competitive, broadly accessible, and better meets the needs of the people. To achieve this goal, IAALS has hosted convenings and other meetings focused on regulatory innovation, worked with partners and leaders across the country on launching regulatory innovation initiatives, and shared updates and resources through its online knowledge center and bi-monthly regulatory innovation newsletter. Most recently, IAALS published a [report](#) containing 12 recommendations for launching and sustaining regulatory innovation initiatives.

While regulating the use of technology and AI in the delivery of legal services has been a topic of great interest in the regulatory reform space for many years, the rapid development of generative AI, including the debut of ChatGPT, elevated the importance of this discussion. The legal profession is now abuzz with questions about how lawyers should (or should not) use AI in their practice, how judges might use it in their courtrooms, and how it might outperform law students on the bar exam. How AI might deliver legal services directly to the *public*, however, has received less fanfare.

At the same time, we are many years into a severe access to justice crisis that continues to worsen. The vast majority of low and middle-income Americans and small businesses are not able to access affordable legal help when they need it.¹

The legal profession is at an inflection point. We have been presented with a powerful new technology that offers great potential for scaling desperately needed legal information, advice, and services to move the needle with respect to solving our access to justice problem. The technology has legitimate safety concerns, however, and requires examination. What should the legal profession do with this technology? Should we put our heads in the sand and pretend it does not exist? Should we shut it down by over-regulating it? Or should we have serious conversations about how we can potentially harness this tool in a way that maximizes its potential positive impact while minimizing actual consumer harm?

Asked another way, what do we want the world to look like in 2035 and beyond? What justice outcomes do we want? What decisions and changes do we need to make, and what actions do we need to take, to achieve this vision?

To start answering these important questions, in November 2024, IAALS hosted its fourth convening as part of its *Unlocking Legal Regulation* initiative: Regulating AI in the Delivery of Consumer-Facing Legal Services. The event brought together a small group of leaders from across the country and profession to focus on two objectives:

- ▶ **Objective 1:** Bring leaders from cross sections of the AI and legal profession regulatory innovation spaces together to discuss ideas for regulating the use of AI in the delivery of consumer-facing legal products and services.
- ▶ **Objective 2:** Strengthen existing relationships—and develop new ones—so leaders can continue to work together and build momentum as one regulatory innovation community.

While discussions about whether the legal profession should regulate lawyer- and judge-use of AI are important, they were not the focus of this convening. Instead, the convening focused on regulating the use of AI in consumer-facing technology-based legal service delivery models built for use by the public. These models could be developed by private practitioners, legal aid organizations, lawyer-owned technology companies, technology companies not owned by lawyers, or court staff, for example.

A note on definitions: the term “legal services” has traditionally referred to services provided by licensed attorneys, including legal advice, document preparation, and representation in legal matters. However, as technology and regulatory innovation evolve, “legal services” now encompasses a broader range of tools, resources, and assistance available to legal consumers. These include AI-powered platforms, automated document assembly, legal self-help tools, and services offered by non-lawyer professionals in regulated environments. For purposes of this report, “legal services” refers to any means by which individuals receive assistance in understanding, navigating, or resolving legal issues, whether provided by lawyers, court-affiliated programs, technology platforms, or other entities. This inclusive definition recognizes the growing role of technology and regulatory shifts in expanding access to justice.

This report outlines the convening’s topics, themes, and relevant discussions, and proposes a phased approach to regulating AI in the delivery of consumer-facing legal services that emerged from those discussions.



THE CURRENT LANDSCAPE OF AI

At its core, AI refers to systems that are designed to perform tasks that would typically require human intelligence, such as problem solving, decision making, and pattern recognition. The legal industry has used some iteration of AI for many years.

Deterministic AI (also known as Traditional AI or Symbolic AI), a simpler form of AI that relies on predefined rules and algorithms to deliver predictable and specific outcomes, has been used in the legal field for decades in platforms like LexisNexis.² **Generative AI**—the type of AI on which this convening largely focused—is a more advanced form of AI that creates new content based on existing data. Unlike traditional AI models, generative models learn from vast amounts of unstructured data and can produce creative outputs such as text, images, video, or code.³ **Large Language Models** (LLMs), like ChatGPT, are a subset of generative AI designed to generate relevant text in response to a prompt. Some generative AI models use **Retrieval-Augmented Generation** (RAG), a process that requires the model to first retrieve relevant information from an external source, like a database or a collection of documents, before generating a response (as opposed to only drawing from the dataset upon which the model was trained), yielding a more accurate response.

It is worth noting at the outset that much of the discussion that follows regarding the regulation of AI-provided legal services could apply to deterministic AI as well as generative AI, because deterministic AI can also provide legal services. This convening focused on generative AI because of its unique capabilities to engage in a wider array of activity that more

closely mimics a human lawyer (such as giving legal advice) and the novel considerations it raises. But many of the issues discussed at the convening and raised below would also apply to tools that use deterministic AI.

Generative AI has a wide spectrum of uses in the legal services context, ranging from simple, routine tasks to more complex, involved processes. At the simpler end of the spectrum, generative AI can assist consumers by automating the creation of basic legal documents, such as simple contracts, powers of attorney, or letters, based on user input. These tools can help individuals quickly generate standardized legal documents, saving time and reducing the need for professional legal assistance. Many of these simpler tasks, as well as slightly more complex ones, can also be completed using deterministic AI instead of generative AI. As the complexity increases, generative AI can assist with drafting more sophisticated documents, such as pleadings, briefs, or settlement agreements by analyzing a consumer's specific situation, applying relevant legal principles, and integrating case law. Even more advanced applications of generative AI involve providing personalized legal advice, where the system not only generates documents but also analyzes the consumer's legal issues in depth, offers strategic recommendations, and predicts the potential outcomes of different legal actions.

Some platforms are already using generative AI to provide legal services. At the convening, participants learned about [Courtroom5](#), a platform that helps individuals represent themselves in court with AI-driven tools.⁴ The

platform guides users through the filing process, provides personalized legal information to help users determine next steps, explains legal concepts, analyzes the user's documents to highlight key facts, identifies relevant cases and statutes, and drafts documents based on the relevant legal standards. To date, Courtroom5 has served over 10,000 people with legal needs. Another tool, [ZAF Legal](#), uses generative AI to help users assess the strength of their personal injury case and generate a demand letter based on their case's facts and circumstances. Both Courtroom5 and ZAF Legal can connect users to lawyers, or they can use the tools alone. Other tools like [Roxanne](#) and [Rentervention](#) use AI to provide direct-to-consumer legal services in the landlord-tenant space. Both platforms help tenants write demand letters to their landlords based on information the tenant provides. Roxanne and Rentervention both use RAG to generate responses based only on a specific universe of landlord-tenant legal information.

Meanwhile, courts are integrating AI into their own operations to assist self-represented litigants. Courts in Nevada, Arizona, and Florida, among others, have launched AI-powered chatbots to help litigants navigate court processes and answer questions.⁵ A group of researchers used Arizona's state court website to create a bespoke GPT-

powered chatbot for self-represented litigants in eviction and expungement cases, illustrating the potential for partnering court websites with the latest AI technology to make legal information more accessible.⁶ Courts have also used document-automation to help litigants complete forms more quickly: the New York Unified Court System has introduced over 20 do-it-yourself forms for self-represented litigants using document automation.⁷ The growing field of court-provided alternative dispute resolution (ADR) platforms presents yet another avenue for AI to assist litigants by automating parts of the mediation process or using LLMs to resolve disputes.⁸

As generative AI continues to evolve, its application in delivering legal services has raised both opportunities and challenges. Generative AI is known to provide incorrect information, also known as "hallucinating" or "confabulations," raising concerns about the quality of the outputs that users—many of whom may be self-represented litigants—will receive, and whether it could lead to harmful legal outcomes (as noted above, deterministic AI does not carry the same risk of hallucination). AI may also provide accurate but incomplete or misleading information that leads the user astray. Even when operating correctly, users may fail to enter the kinds of prompts that would elicit helpful information from

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The gravity of our access to justice crises cannot be understated—nor can the tremendous opportunity of generative AI. How can we harness the positive potential that AI holds for legal services, scale it, and capitalize on it in a safe way for the public? That's the goal of IAALS' proposed approach to regulating AI.

JESSICA BEDNARZ

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the tool. Aside from accuracy, other challenges arise around the technology itself and its broader use, including:

- ▶ Privacy and security;
- ▶ Transparency;
- ▶ Bias;
- ▶ Mechanisms for accountability and redress for harm to consumers;
- ▶ Accessibility (e.g., for those without reliable internet access or digital literacy);
- ▶ The rapid pace of AI development;
- ▶ The quick adoption of technology by users; and
- ▶ The use of general-purpose models for specific purposes (e.g., LLMs like ChatGPT answering legal questions).

AI's role in legal services presents opportunities as well. For those inside the legal profession—lawyers, legal service providers, judges, court personnel,

and others—AI can provide massive gains in efficiency. But for those spotlighted at this convening—consumers—the most obvious opportunity AI presents is access to legal help. As noted previously, most Americans are unable to get the legal support they need when they need it. These platforms could allow large swaths of the public who are currently shut out of the legal services market to finally access that support, without hiring a lawyer.





USING THE PUBLIC'S PERSPECTIVE AS A GUIDE

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IAALS' research has already revealed that the internet is one of the public's most frequently used sources of legal support. In a 2021 study, Justice Needs and Satisfaction in the United States of America, the internet ranked first among resources for legal information and advice: of respondents who encountered a legal issue and sought legal information or advice, 31% reported using the internet, while 29% reported using a lawyer.⁹ Of those who used the internet as a source of legal information and advice, nearly three-quarters (73%) used a search engine. Nearly two thirds (63%) said that the information they found on the internet affected how they decided to resolve the problem. The study notes that "[t]he popularity of the internet as a source of legal help makes a strong case for greater investment in the quality of information and advice that is available online" and that while the use of the internet for legal problem solving "is still in embryonic stages . . . [t]his will only grow in the years to come." Notably, this report was released just over a year before ChatGPT made its public debut in November 2022, which now reportedly has approximately 800 million users each week as of April 2025.¹⁰ Since May 2024, every Google Search result has included an AI-generated results summary at the top of the page.¹¹ It is safe to assume that the substantial segment of the public that reported using search engines for legal help a few years ago are now likely encountering generative AI in some form.

In keeping with IAALS' efforts to create a consumer-centered regulatory system that better meets the needs of the people, our convening positioned the public's use of AI at the center and sought to answer key questions

about how the public perceives, uses, and values AI. After hearing from entrepreneurs who have created AI tools, participants also considered cutting-edge research into these questions.

Margaret Hagan, Executive Director of the Stanford Legal Design Lab, presented her research on the public's use of AI (specifically tools from Google and OpenAI) for legal problem solving.¹² Hagan's research yields helpful insights about public trust in AI. First, while most participants in the study were moderately trusting of AI at the outset, their trust in AI increased after they used an AI tool. Trust largely stemmed from the tools' affiliations to the large tech companies that created them, like Google, which at least some participants believed to be infallible, or because the tool presented information in a way that participants perceived as reliable. Her results also show a range of ability when it came to prompt-writing—crafting AI prompts for generative AI systems—with more novice users using the tool as a search engine and more experienced users making specific requests that yielded more helpful outputs. Importantly, the study provides insight into how users might engage with the information that AI provides: some participants relied on the AI's response completely, while others cherry-picked from the response, sometimes ignoring important context. At the opposite end of the spectrum, some participants used the response merely as guidance for further research.¹³ A major takeaway from Hagan's presentation—one that informed the convening's discussion and should inform the discussion moving forward—is that Americans are likely to use "brand-name" AI tools from large tech companies that

might not be designed to provide legal advice to deal with legal issues in the coming years.

Logan Cornett, IAALS' Director of Research, also shared preliminary results from IAALS' latest regulatory-reform project, *People-Centered Legal Regulation: Grassroots Engagement with the Public*, which aims to understand and incorporate public perspectives on regulatory reform in the legal profession.¹⁴ Results from the first phase—a nationally representative survey of the public—yield important insights. Across all legal tasks and issues, respondents were less comfortable using tech-based tools to solve their legal problems as opposed to human service providers, with AI being the least desired provider characteristic and in-person services being the most desired. For more sensitive legal issues like domestic violence or divorce, respondents were even less comfortable using tech-based or non-lawyer services. This result is consistent with Hagan's findings that users were less comfortable with the idea of using AI at the outset, though participants in Hagan's study grew more trusting of the AI tools after they had interacted with them.

Taken together, this research reveals that segments of the public may turn to AI for legal support as these tools become more widespread and more trust is built with increased use—particularly with tools from large tech companies—but the public overall remains at least somewhat skeptical of using AI for legal purposes and maintains a preference for in-person assistance from licensed lawyers.

What does this mean for regulation in this space? It may be too early to tell, but this research suggests that “Big Tech” will have an important role to play, as many consumers may be using those platforms as early entry points for AI use as opposed to bespoke legal tools from smaller entities. It also implies a role for lawyers, particularly as it relates to building trust with the public in AI tools. Perhaps most importantly, it reveals the importance of educating the public about AI to ensure people understand its limitations, risks, and how to use it most effectively. As several participants noted throughout the convening, guidance and regulation should be focused not only on accuracy metrics, but on how consumers actually engage with these tools and the outcomes they produce.



THE CURRENT LANDSCAPE OF LEGAL REGULATION

4

While the use of AI in consumer-facing legal services implicates several rules and regulations, the convening focused its attention chiefly on the unauthorized practice of law (UPL), as it presents one of the biggest regulatory challenges for these platforms.

At its core, UPL rules seek to prevent and punish the practice of law by those without a license to do so. But the “practice of law” (and consequently, the “unauthorized practice of law”) is not consistently defined across jurisdictions. Some states define it broadly, while others define it more narrowly.¹⁵ In Kentucky, for example, unauthorized practice is defined relatively broadly as “any service rendered involving legal knowledge or legal advice,” while Maine defines it more narrowly as “a term of art connoting much more than merely working with legally-related matters,” noting that the key question is “whether the activity in question required legal knowledge and skill in order to apply legal principles and precedent.”¹⁶ Some states have declined to define unauthorized practice at all.¹⁷

Generally, UPL rules draw a distinction between legal information and legal advice, where those without a law license are permitted to provide legal information but prohibited from providing legal advice.¹⁸ Where to draw that distinction is sometimes unclear and, like the UPL rules themselves, varies across jurisdictions. For example, counseling someone to take a particular course of legal action or instructing them to make certain legal arguments in court would likely be considered “legal advice” in

most, if not all, jurisdictions. By contrast, telling someone where the courthouse is located or where paperwork should be filed is likely considered merely “legal information.” But in practice, the interactions between those seeking legal support and those providing it are much more complex—they often include a range of actions that fall somewhere in between. States differ on where to delineate between information and advice along that spectrum, and even within a state, an individual legal service provider’s behavior might not fall neatly along one side or another.



Even court personnel—many of whom are on the front lines of these interactions with litigants—risk committing “courthouse UPL” if they cross the information-advice line, particularly with the proliferation of court self-help programs and the rise of self-represented litigants.¹⁹ Many courts have given guidance to their clerks to help clarify the information-advice distinction.²⁰ Some states have implemented safe harbor policies that 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.²¹ It is noteworthy that in some states these activities would not even be considered “the practice of law” to begin with and so would not require the protections of a safe-harbor policy, highlighting the range of definitions between jurisdictions.²²

Generative AI introduces new complications to this already-fraught UPL framework. Technology has played a role in areas like document generation for several years and has faced some legal challenges along the way.²³ With the rise of generative AI platforms like ChatGPT, along with some legal-specific platforms, technology is now capable of delivering legal advice on a range of issues directly to consumers. Indeed, by many states’ definitions of law practice, some of these platforms are currently doing just that: they are spotting legal issues, analyzing facts, applying caselaw, and otherwise engaging in activities that would traditionally be categorized as “practicing law.” They also—at least in theory—may be violating UPL rules.

This clash between AI and UPL illuminates several challenges inherent in the current regulatory system. Some of these challenges, like a lack of consumer-centeredness and inconsistencies across jurisdictions, have plagued the regulatory system for decades. Others, like a need for more technical expertise, are new challenges that AI presents to the

current regulatory system. In a pre-convening survey and in convening discussions, participants explored a few of these challenges, outlined here.

Centering Consumers

The current regulatory structure’s myopic focus on protecting consumers ignores the full range of consumer needs—particularly the need for access to quality and affordable legal services—which are often in tension with UPL. And while consumer protection is often cited as the primary purpose of UPL rules, they also serve to protect lawyers. The historical record reveals that lawyer protection was in fact the primary motive for the UPL enforcement that began in the mid-twentieth century as a response to auto clubs and other associations offering legal services to members.²⁴ The private bar feared that these services would encroach on their business and reinvigorated long-dormant UPL laws in order to shut them down.²⁵ Ever since, the provision of legal advice has been cabined to lawyers, and access to legal advice has largely been limited to those who can afford it or who qualify for free legal services. All the while, proponents of UPL rules have argued that these rules serve to protect consumers from bad legal advice. But data on actual consumer harm in this context is scant, and regulators lack the resources to investigate consumer harm at scale, let alone study the *benefits* consumers might reap from access to legal support through AI. Research indicates that those without a law license can deliver quality legal services²⁶—better services than lawyers, in some cases.²⁷ This points to the potential value of non-traditional sources of legal support, including AI.

Accountability

The legal profession is largely self-regulated by state bar associations and courts. In many states, bar associations have at least some regulatory authority to control who can practice law, with courts’ main involvement being the establishment of rules. Some states have vested all or nearly all control over the

practice of law in their highest court, which may be more likely than a bar association to take into account access-to-justice concerns in deciding issues around a particular non-lawyer's practice of law. While some judges are directly accountable to the public through elections and some states include members of the public on policy-making committees, no single independent regulatory body exists to check the protectionist incentives noted previously and provide an impartial accountability mechanism.

Understanding AI

Many people within the legal profession lack a general understanding of AI, its risks, and the opportunities it presents. This can lead regulators to hesitate to act or to overreact by implementing uninformed regulations. Regulators may be preoccupied with technology error (e.g., hallucinations) and not paying enough attention to risks that might be more likely, such as consumer error (e.g. misinterpreting information, cherry-picking correct information in a way that leads to adverse outcomes). They may be unaware that, for instance, some platforms may use technology like Retrieval-Augmented Generation to minimize inaccuracies. Regulators may also not have sufficient expertise to determine how AI's performance on legal tasks can and should be measured.

Fast-Changing and Boundaryless Technology

AI is evolving rapidly, and its reach extends beyond state borders. Current regulations are not equipped to keep pace with those developments or to meaningfully regulate boundaryless technology like AI. Legal regulators generally take a conservative approach to change, and the rapidly changing environment of AI may require a nimbler regulatory response. Entities that regulate UPL cannot reach beyond their home state, nor can they regulate national or international companies. Moreover, current regulations are set up to regulate humans, not technology. They are intended to identify and

punish unauthorized practice committed by humans, where the individual committing the violation is obvious. This is not the case with AI, where liability is less clear.²⁸

Vagueness and Inconsistency across States

Each state defines UPL within its jurisdiction, and these definitions are often ambiguous. As noted previously, there is widespread confusion about the distinction between "legal information" and "legal advice," and this confusion is amplified in the AI context. Also, technology is not bound by state borders; even if an entrepreneur is certain that their tool complies with UPL rules in their own jurisdiction, they may be running afoul of UPL rules in other states.

Stifling Innovation

Regardless of whether they are actually enforced, the unpredictability of UPL enforcement and the resulting uncertainty stifles innovation. These rules have long discouraged non-traditional legal service providers from crossing the information-advice line for fear of prosecution. Now, UPL rules have a chilling effect on the development and use of AI technologies as well. Many entrepreneurs cite fear of UPL enforcement²⁹ as a barrier to creating these tools or developing them to their full potential.³⁰

Tailoring and Calibration

UPL rules are relatively blunt instruments that regulate a wide range of legal activities from very simple to very complex with the same tool. Under most UPL rules, a platform that assists a tenant in drafting a letter to their landlord to request repairs is equivalent to a *notario* holding themselves out as a lawyer and counseling an immigrant on an irreversible course of action in federal court. UPL rules are also overinclusive when it comes to the AI technology itself: the rules ostensibly prohibit any type of AI from delivering legal services full-stop,

despite the fact that deterministic AI is less prone to hallucinate than probabilistic generative AI. On the other hand, regulations are also underinclusive: they are not built to address important issues like liability and accountability for AI errors and transparency in AI decision-making.

Keeping Pace with Current Conversations

With the development of AI, and generative AI in particular, more conversations are happening about AI's capability to provide legal services to consumers.³¹ Beyond the theoretical, platforms like ChatGPT are providing legal advice in response to user prompts right now. The Overton Window—a model for understanding how ideas in society change over time and influence politics—is expanding to contemplate AI-delivered legal services, but UPL rules have largely ignored that conversation. While some states have authorized taskforces, issued recommendations, and started sandboxes,³² many others have not acted at all.





THEMES, THINGS TO CONSIDER & TENSION POINTS

5

Mapping the new world of direct-to-consumer AI legal services onto our current regulatory structure brings several tension points into stark relief. Before diving into regulatory approaches, attendees spent time identifying and grappling with these tensions. The ensuing discussion, outlined in more detail in this section, informed the development of key questions and potential approaches that came later.

The Purpose and Philosophy of Regulation

As noted above, while regulation of the legal profession has ostensibly consumer-centered aims, its practical effect is protecting the lawyer monopoly, often at the expense of consumers. Even assuming that regulation is primarily concerned with protecting consumers, there remains a mismatch between the outcomes regulators track—consumer harm to the exclusion of all other metrics—and the more varied and nuanced outcomes that consumers actually want: access to support to begin with, satisfactory results, some degree of protection, and means of redress if things go wrong. As one attendee posed, it may be time to reframe the role of regulation: should we stop thinking of regulators as gatekeepers punishing wrongdoing and start thinking of them as service providers, focused first and foremost on consumer needs? The legal profession seems to be in relative agreement that the status quo is not working for most Americans, if not actively causing harm. Is it time for the profession to acknowledge the role of regulation in maintaining that status quo, and for regulators themselves to take an active role in improving it? This reframe seems urgent. As another attendee noted, we are in an access-to-justice crisis, and crises require those involved to act with urgency.

Making the Wrong Comparisons

Many attendees noted the lack of benchmarks against which we could compare the quality of AI-driven legal services. In fact, the legal profession lacks good benchmarks against which we can compare *human-provided* legal services to assess competence. Without these, it's impossible for the profession to agree definitively about whether any given AI tool (or human lawyer) is providing adequate services or causing harm. How can we determine whether these tools are providing “good” (or “good enough”) services if there is no baseline to which we can compare them?

As a result, attempts to evaluate AI's role in delivering legal services often lead us to make unhelpful comparisons. For instance, it's tempting to compare an AI tool providing will-drafting services to a human lawyer who specializes in wills. But this is not as straightforward a comparison as it might seem. Is this baseline human lawyer an expert or entry-level lawyer, or somewhere in between? How did the profession decide, *a priori*, how this theoretical lawyer measured up against other human lawyers? Would the theoretical consumer using this service even have access to such a lawyer? Or would *no* legal services—and the consumer drafting a will on their own—be a more apt comparison? Given that most Americans cannot afford an attorney when they need one, AI legal services might in practice be the alternative to no service at all.

Many attendees also observed the lack of benchmarks for consumer harm. What is the baseline level of harm that human lawyers are causing to consumers right now? What about for consumers using AI? And, critically, what level of harm do we deem to be acceptable? We do not currently have an accurate picture of these numbers because we lack good data about consumer harm.

We also may be distracted by the idea that development of these AI tools will create a two-tiered justice system. In this scenario, only the wealthy can afford quality AI tools while low- and middle-income consumers are left with sub-par tools, or human lawyers remain in the exclusive purview of the wealthy while low- and middle-income consumers are increasingly funneled to AI tools instead of lawyers, regardless of quality. While it's wise to consider the unintended consequences that might flow from AI development, it's also important not to lose sight of what we know to be the baseline right now, which is that we already have a two-tiered justice system: the average American has virtually *no* tools and no access to lawyers. Fears about possible externalities should not prevent the profession from addressing the harm that the status quo is causing now; they should only remind us to do so thoughtfully.

Big Tech and the Boundarylessness of AI

The legal community cannot have a meaningful conversation about regulating AI without also addressing the role of Big Tech. Unsurprisingly, this topic loomed large in the convening's discussions. Many attendees recognized that large tech companies like Google, Microsoft, and OpenAI are already providing legal advice on their platforms in response to user prompts, and also that they are very unlikely to face prosecution for UPL—Big Tech is, many noted, too big to regulate. What does this mean for regulating consumer-facing AI legal tools? Do smaller, legal-specific AI tools still have a role to play in a world where most consumers will simply turn to ChatGPT or Google Gemini with their legal

questions? Does the legal profession have a role to play in policing the quality of Big Tech platforms' responses that implicate the law? If Google runs roughshod over UPL rules, what are the implications for UPL enforcement and for smaller companies without the same protection? Regardless of the answers to these questions, attendees agreed that any meaningful response to regulating AI legal tools must consider Big Tech's influence in some way.

Attendees also grappled with the practical realities of regulating boundaryless technology. Whether an AI platform comes from a large tech company or a small startup, its potential reach is inherently wide. Technology cannot be constrained by state borders. Legal regulation (and UPL rules in particular), on the other hand, is a state-specific affair. Given the national reach of these platforms, is a patchwork of regulations across the country feasible, or is national regulation a better approach? Pursuing uniformity remained a key theme in convening discussions and in proposed solutions.

After identifying the tensions that AI introduces to our current regulatory framework, the subsequent discussions about possible approaches were directed toward easing these tensions. Attendees acknowledged that a workable approach would need to radically reframe the generally accepted purposes of legal regulation to something more consumer centered and introduce new methods of regulation to that end. It would also need to prioritize data collection to fully understand where the baseline of competence lies for human lawyers and technology, and what actual consumer outcomes look like, including consumer harm and benefits. It would need to account for Big Tech's role and potentially explore collaborations. It should not only promote state experimentation with new regulatory models but encourage states to collaborate, share information, and pursue uniformity. The remainder of the convening focused on exploring such approaches.

A PHASED APPROACH TO REGULATING AI IN CONSUMER-FACING LEGAL SERVICES



The main objective of the convening was to discuss ideas for regulating the use of AI in the delivery of consumer-facing legal products and services. Before and after the convening, IAALS surveyed attendees, and two-thirds of respondents reported that their opinion on regulation had changed based on the convening's discussions. This data point is not surprising given how new these conversations are and how much there still is to be learned about AI. Regulatory innovation leaders who are working in the AI space should expect to encounter similar education gaps and perspective shifts as they organize groups and embark on similar discussions in their local jurisdictions. This section provides an overview of the convening discussions that sparked these changes in perspective among attendees and ultimately laid the groundwork for the phased approach proposed in this report.

General Consensus around Certain Ideas

There was no consensus around using a singular approach to regulating the use of AI, and participants' opinions varied on many of the issues discussed. However, some key takeaways arose around a few related ideas. First, while some attendees came into the convening favoring a "do nothing" approach to regulation because of concerns about reactive over-regulation of a rapidly changing technology, many left the convening in agreement that action of some kind is in fact necessary for several reasons. First, it became clear as the convening progressed that "doing nothing" in a regulatory sense would not actually preclude regulatory reform advocates from taking "soft-power" approaches that were broadly attractive to many, like issuing best-practices guidance to consumers and developers, creating model prosecutorial guidance and no-action letters, or simply promoting more conversation about the impacts of UPL. Second, many attendees agreed that a "do nothing" approach would mean maintaining the status quo which, as discussed above, is failing most Americans. Third, doing

nothing would also hinder the legal profession's efforts to build much needed integrity and trust in new AI tools, and could contribute to the Sea of Junk—the vast amount of incorrect or misleading legal information currently on the internet.³³

At the same time, the group was also generally concerned about the affirmative adoption of specific regulation as it relates to AI legal services. Everyone recognized the problems inherent in attempting to craft a workable regulatory scheme for a constantly evolving technology like AI, particularly where the would-be regulators may not fully understand the technology itself.

The group also generally agreed that the best approach is likely a hybrid approach that involves pursuing more than one strategy at a time over time. Additionally, as one attendee noted, other industries (e.g., software development, healthcare, and finance) use an agile project management approach—an iterative approach to planning and guiding project processes that breaks projects down into smaller cycles called sprints or iterations—to building new products and services and the

legal profession could benefit from taking a similar approach to regulating AI. Numerous potential approaches were discussed at the convening and are outlined in greater detail later in this section.

The discussion clarified some unanswered questions that remain, some of which need to be resolved before any permanent regulatory changes are considered. These questions fall within the following five categories.

Technology development and innovation

Two of the biggest unknowns right now are how and at what speed AI will continue to develop. Additional questions include: What progress, if any, will be made with respect to hallucinations, and what will the AI interface be? What role will Big Tech play when it comes to developing legal AI tools, and will they improve on their existing tools? It is still too early to answer these questions.

Consumer needs and engagement

Other important unknowns concern consumer needs and engagement. Are consumers currently using AI tools to solve legal issues, and if not, will that change in the future? How are consumers using AI tools, and are they willing to pay to use them? Do consumers want to use the tools individually or do they prefer to have assistance? Finally, what do legal consumers want to be protected from? The answers to these questions should inform the approaches the legal profession pursues for regulating AI in the delivery of consumer-facing legal services. Emerging research, including the Stanford Legal Design Lab study discussed earlier, is beginning to provide insight into these questions, but we are still in the very early stages of learning and understanding.

AI tools and applications in legal services

The access-to-justice community needs to identify which legal needs AI tools are best positioned to address for consumers and service providers. Which tools show incredible value with little risk and which

tools show the opposite? Relatedly, which issues can be solved using deterministic AI versus probabilistic generative AI? This data can be collected by working with academics and creators. Regulatory structures using risk levels, like Utah's regulatory sandbox or the EU's AI Act, may also provide insight here.³⁴ The regulatory innovation community also needs to help creators of tools understand how best to integrate contextual knowledge—understanding that is deeply rooted in the specific circumstances, environments, and experiences of individuals seeking assistance.

Regulatory and ethical considerations

What is the enforceability of existing regulations? Who needs protection—consumers, developers, deployers, others? If states are going to create regulatory sandboxes or other opportunities to test ideas and learn, what can be common among them—evaluation frameworks, data, insurance? And how can we leverage these initiatives to get more stories, data, and evidence of real consumer outcomes? Finally, it is critical that the regulatory approach we choose promotes equity, language access, and access to justice more generally.

Market dynamics and adoption

A final set of unanswered questions concerns the market. When will the B2C (business to consumer) market be ready for AI legal products? What is the business model for these products? How will creators overcome the limitations of current tools, such as hallucinations? What are the long-term goals of Big Tech and how, if at all, do legal tools fit into these goals? Will there be a market for more targeted legal AI tools that can address more complex legal needs, or will a broader tool that can serve legal needs generally be more successful? Will the latter be able to compete with existing tools like ChatGPT and Gemini? How will the bar engage, and what roles remain for entities offering legal services? Finally, what external forces will potentially alter the course of developments? These are all good questions that remain to be answered.

A Phased Approach Emerges as the Best Pathway Forward

For all the reasons covered, there was consensus among the majority of the group that a phased approach to regulating the use of AI in the delivery of consumer-facing legal products and services is the best pathway forward. IAALS has organized the ideas and key questions shared into two phases. Rather than assuming that the legal profession is best suited to regulate AI in this context, this approach proposes that the legal profession take another step back in imagining a new regulatory framework: first, we should determine the “what” of regulation—what regulatory approaches are worth pursuing—and *then* determine the “who”: which entities—inside and outside of the legal profession—are best positioned to enforce those regulations. Each phase includes guiding questions and ideas as well as potential approaches for further exploration. Note that, while the activities of Phase 1 may generally precede those of Phase 2, there may be overlap and intersections between these phases. Some jurisdictions may implement Phase 2 activities first (Arizona has already implemented some Phase 2 initiatives) or implement parts of Phase 1 and 2 simultaneously.

PHASE 1

Pursue “soft power” approaches as we learn more about AI.

Because so much uncertainty around AI remains, phase one is about using softer approaches to regulating AI to mitigate the risk of harm associated with using the tools as we learn more about them and AI more generally. During this phase, the legal profession should aim to experiment and resolve the critical unanswered questions listed in the preceding section. Bringing in additional perspectives, such as from insurance companies, Big Tech, and others, on the level and impacts of regulation during this phase would also be prudent. Creating a bank of use cases, creator and user stories, and education for the bar on how AI can help them in their business would be helpful as well.

Key Questions

- ▶ What do consumers want to be protected from?
- ▶ What are the risks associated with AI legal services? To the extent that these risks are not distributed equally across legal issues, should lines be drawn with respect to regulation? If so, where?

POTENTIAL APPROACHES

Phase 1 would involve pursuing multiple strategies simultaneously, including:

Create guidance and best practices for developers, deployers, courts, and consumers.

Convening attendees agreed that creating guidance and best practices for developers (people who develop the LLMs) and deployers (people who acquire and build a product or tool using the LLM) of AI tools, as well as courts who may use them, to protect consumers from potential harm is a good starting point. This information could be shared in the form of a checklist, perhaps using the [National Institute for Standards and Technology \(NIST\) Risk Management Framework](#)³⁵ as the baseline. The legal community could draft guidelines, considering what is already covered by existing regulation (e.g., the EU Artificial Intelligence Act standards for companies working internationally and the [Colorado Consumer Protections for Artificial Intelligence Act](#)³⁶ (CO AI Act), the [Colorado Privacy Act](#),³⁷ and the [Colorado Consumer Protection Act](#)³⁸ for companies operating in Colorado). Developers and deployers of AI tools could use the checklist(s) to ensure they are meeting required consumer and privacy standards and not violating copyright laws, among other considerations. A national organization or consortium could be responsible for investigating whether more granular requirements need to be added. The CO AI Act and the work that [Responsible AI in Legal Services \(RAILS\)](#) at the Duke Center on Law and Tech³⁹ and the [Justice Technology Association](#)⁴⁰ are doing could serve as good starting points for this work. Finally, as the research discussed in section three indicates, many consumers still misunderstand AI's capabilities and limitations. To ensure AI tools can provide the most meaningful support to the greatest number of consumers,

guidance and best practices for consumers is also critical.

While attendees did not brainstorm a list of potential guidelines and best practices, a few initial ideas arose. For example, there was discussion around requiring companies to obtain informed consent from consumers prior to letting them use the tools, especially if the consumer is required to share personal information. On the back end, there could be data storage requirements similar to requirements in the EU.

Create a regulatory sandbox to test ideas in a safe space.

A regulatory sandbox is a policy tool through which new models or services can be offered and tested to assess marketability and impact and inform future policymaking, while maintaining consumer protection. It involves a risk-based regulatory scheme that relaxes the rules of professional conduct and UPL but monitors the participating entities. Utah launched a [regulatory sandbox](#)⁴¹ in 2020. [Minnesota](#),⁴² [Indiana](#),⁴³ and [Washington](#)⁴⁴ have also proposed regulatory sandboxes and are in the implementation phase. Additionally, [there are sandboxes operating in four Canadian provinces](#).⁴⁵ [IAALS' Knowledge Center on Unlocking Legal Regulation](#) has up-to-date information about each of these initiatives, and others.⁴⁶ A regulatory sandbox can be a safe space in which a state can test out AI tools, collect data, and learn about promising models, potential harm, risk levels, and evaluation frameworks. Sandboxes could also encourage a multi-state solution with uniformity across state borders, which would be more attractive to entrepreneurs who are reluctant to navigate a different set of rules in each state.

Collect data.

As noted above, the legal profession lacks good benchmarks for the quality of legal services generally, whether human- or AI-provided. Without this data, we cannot have a meaningful conversation about consumer harm or the risks of AI. We need a more complete picture of consumer outcomes, including consumer harm and consumer *benefits* resulting from human- and AI-provided legal services. Data for AI-provided services could be collected as part of a sandbox program. As some participants noted, as sandboxes continue to proliferate, it may be prudent for them to collaborate on identifying what kind of data to collect, uniform practices for data collection, etc.

Promote the idea that AI is not UPL.

Because AI is not human and the legal profession has struggled to define “the practice of law,” strong arguments could be made that AI is not UPL. If regulatory innovation leaders want to pursue this approach, they could partner with potentially like-minded national organizations such as the Legal Services Corporation and ABA Center for Innovation to publish white papers and opinion letters promoting this position with the goal of convincing legal regulators in each state to refrain from regulating AI legal tools or approach such regulation thoughtfully. Similarly, bar association ethics committees could also take the position that AI is not UPL and issue opinion letters establishing this position.

Rely on private rights of action.

UPL is not the only tool regulators have for protecting consumers. Several attendees believed that private rights of action are more appropriate remedies to address harm caused by AI tools than UPL sanctions.⁴⁷ A wide range of existing remedies are available depending on the state.⁴⁸ Private rights of action against providers for negligence, false advertising, or under state consumer protection statutes, including those specifically focused on AI, are available options.⁴⁹

Rely on product liability and insurance remedies.

Product liability claims could be based on strict liability or negligence. While providers of AI tools cannot purchase insurance to protect themselves against UPL claims, they can purchase errors and omissions (E&O) insurance to protect themselves against product liability claims. Regulators could require providers to carry a minimum level of E&O insurance.⁵⁰ Noting that a reliance solely on tort remedies that require some level of litigation may be inaccessible and costly, some have also proposed liability insurance for providers of AI legal services.⁵¹

Rely on lawyers serving as de facto regulators.

By bringing lawsuits against providers of AI tools, lawyers could establish the standard of care.

Issue prosecutorial guidance and no-action letters that shield entrepreneurs, lawyers, and court staff from UPL.

Legal regulators have discretion over which cases they prioritize and choose to prosecute. Instead of jettisoning or changing existing UPL or other rules of professional conduct, regulators could simply create prosecutorial discretion policies or no-action letters stating that prosecuting certain types of AI provider cases will not be a priority. Such guidance would directly address some of the uncertainty that entrepreneurs and investors have noted stifles innovation. This approach is appealing because it can be executed quickly and without expending additional resources. In fact, creating such guidelines should reduce resource expenditures for legal regulators. A potential downside to this approach is that guidance alone (without also issuing no-action letters) would not provide the same level of transparency and certainty for the providers themselves and their investors. If legal regulators pursue this approach, the guidance should be clear and publicly available. It might also take shape as model guidance that may be adopted across jurisdictions to help address the challenges of UPL inconsistency across states.

Work with Big Tech.

Today, when consumers have questions or problems, they oftentimes turn to a product owned by one of the Big Tech companies—Google, Meta, Apple, Amazon, or Microsoft—for help. Given their market reach and ubiquity in our lives, this trend is not likely to change substantially anytime soon. These companies are now incorporating AI into their products, and additional companies such as OpenAI, creator of ChatGPT, are coming onto the market. The legal profession must acknowledge that Big Tech will play a role in how consumers use AI to address legal needs, and we must confront the idea that legal regulators will not be well-positioned to go after these companies for UPL, especially if they are not holding themselves out as practicing law. Instead of just sitting back, crossing our fingers, and hoping for the best, the legal community can engage these companies in conversations and collaborations that will lead to better outcomes for legal consumers.

Building a coalition and pitching to Big Tech would be the first stage in a three-stage process. Regulatory innovation leaders could organize a working group of interested organizations to meet with Big Tech to better understand the domain and team within each company. Once the working group has the information it needs, it can issue a request for proposals with the goal of working with one of the Big Tech companies to improve their product's performance and develop a foundational LLM and

business vertical (a narrowly defined industry that focuses on a specific customer audience) for legal services. Before a Big Tech company signs on, the working group will need to demonstrate to them that the legal profession can collect the data needed and knows what challenges need to be solved.

The second stage in the Big Tech collaboration approach involves the working group collaborating with a Big Tech company to create AI self-help legal tools and eventually a legal AI vertical. These tools could be used to perform a variety of tasks, such as creating legal documents, helping legal consumers determine what to state in a document or in court, and helping self-represented litigants understand legal paperwork. Hopefully, the social impact of building these tools will be appealing to engineers who might be looking for an exciting new project.

The third stage in the Big Tech collaboration approach involves a Big Tech company creating a legal LLM and maintaining it. Prospective legal tech entrepreneurs could then use this legal LLM to build their AI legal tools. Because the LLM would be developed specifically for the legal profession using case law and statutes, the likelihood of hallucination should be lower than with current LLMs that are not specific to the legal industry. Such a development could result in a thousand flowers blooming in the legal AI tool ecosystem.





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A phased approach to regulating AI reflects a serious commitment to doing this right—valuing the promise of emerging technology, the integrity of legal services, and the urgency of access to justice. As we learn more about how the public uses AI to solve their legal problems—and their successes and pitfalls—and as we partner with others in the industry, we can map a future where AI best serves the public.

JEFF WARD

Director, Duke Center on Law & Technology;
Clinical Professor of Law, Duke University School of Law

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PHASE 2

Regulate AI, maybe.

Phase two begins once the regulatory innovation community has answered key questions, including the earlier list of unanswered questions, and has the knowledge needed to take more time- and resource-intensive steps toward making more permanent regulatory changes. It is possible that, during phase one, regulatory innovation leaders determine that no additional steps are needed. But if regulatory innovation leaders and regulators consider more permanent changes, they should keep an eye toward creating uniformity of regulation across jurisdictions.

Key Questions

- ▶ Does law require something different from existing regulations (e.g., from the US AI Act, CO AI Act, various privacy acts, etc.)?
- ▶ If we add regulations, will they conflict with any other existing laws?

POTENTIAL APPROACHES

Phase 2 would involve taking steps toward more permanent regulatory changes, if needed, including:

Change existing UPL and/or ethics rules.

If in phase one regulatory innovation leaders learn that ethics and/or UPL rules are creating barriers to entry for creators and that changing or eliminating rules can be done while maintaining a comparable level of consumer protection, states can make a rule change. Rule changes are usually clear and certain, both of which appeal to creators of AI legal tools and their investors.

Create a certification process for AI legal tools.

With this approach, legal regulators would create a capability-based framework for AI legal tools, including benchmarks for legal capability evaluation.⁵² AI legal tools that meet or exceed a certification threshold when tested on specified public benchmark datasets would be certified for public use and exempt from UPL prosecution.

The process could be optional or mandatory. This certification framework is designed to alleviate concerns about legal consumers receiving inaccurate legal advice and experiencing other potentially harmful outcomes, and it signals to legal tech entrepreneurs the type of tools regulators want to see in the market. Creators of certified tools could indicate their certification status to the public through a designated certification badge.

The certification threshold could be set by the state's legal regulator or delegated to a third-party certifying authority. A trade organization like the Justice Technology Association, where members pay dues that could fund the certification audits, could be a good fit. Auditors or a government entity could also serve in this role.

The legal AI community is currently developing the public benchmark datasets required under this framework, and Legal Services National Technology Assistance Project (LSNTAP) is developing a directory of justice technology companies that could be certifying authorities once a certification process is established. Convening participants cited the fairly trained certification,⁵³ Ontario's AI Human Rights Impact Assessment,⁵⁴ and the International Council for Online Dispute Resolution's ethical standards⁵⁵ as useful examples for regulatory innovation leaders and regulators as they consider this approach.

Explore risk levels.

Different practice areas, tasks, and types of AI present different levels of risk (an immigration matter with deportation consequences is riskier than a landlord-tenant maintenance matter; probabilistic generative AI is riskier than deterministic AI). Regulatory responses should ideally take these relative risks into account as opposed to adopting a one-size-fits-all approach.⁵⁶ That said, drawing meaningful distinctions between risk levels for legal AI systems is likely to be difficult in practice: if regulators consider deportation to be too risky a subject for AI to handle, does this mean that AI cannot provide even basic legal information about deportation, like summarizing a relevant statute? And if it can, when legal information begins to approach legal advice, will the AI platform perceive that line and know how to comply? In addition to these practical hurdles to implementation, Big Tech companies will likely continue providing legal information regardless of risk levels—even “risky” legal areas are grounded in law, and any system will analyze that law, whether “risky” or not. First Amendment protections may also apply. Meanwhile, innovation at legal aid organizations with actual legal expertise would be paralyzed by compliance attempts, leaving consumers with a counterproductive market where those best

positioned to help are constrained and those most likely to cause harm (Big Tech companies without legal expertise) could ignore risk-level restrictions.

Develop entity regulation that regulates a specific solution.

This approach allows entities to practice law using a variety of service delivery options including regulated roles (lawyers and paraprofessionals) and alternative legal service providers (human and tech).⁵⁷ The entities could include ownership by professionals who are not lawyers and could be required to obtain a license, similar to the entities operating in Arizona's Alternative Business Structure program.⁵⁸ They could also be required to collect and submit specified data to assess consumer harm, like entities operating in the Utah sandbox.⁵⁹ An entity regulation approach could allow for an additional layer of regulation designed to mitigate and potentially also assess consumer harm.

Develop outcomes-based regulation.

Another approach that ensures providers achieve certain performance goals without stifling innovation is outcomes-based regulation. With this type of regulation, performance outcomes are clearly outlined by the regulator at the outset. Then, entities choose how they will achieve them and collect empirical data to determine if the goals have been met. A potential downside to this approach is that—as noted previously—the legal profession does not currently collect data that could be compared against, including data about consumer harm. If a potential goal is something like “the AI tools will cause equal or less harm than lawyers,” no comparison data for lawyers currently exists.

Create uniformity of regulation across jurisdictions.

As shared earlier in this report, the lack of uniformity among existing UPL rules is a barrier to entry for

entrepreneurs. Navigating fifty different sets of rules is time-intensive and costly. It would behoove the legal profession to work toward uniformity. This could be accomplished in a few different ways.

- ▶ A national organization such as IAALS could convene legal regulators to create uniformity across jurisdictions.
- ▶ A national organization such as IAALS could work with the Uniform Law Commission and propose model regulations at the national level and encourage states to sign on.
- ▶ Congress could pass federal legislation.
- ▶ State attorneys general could create multi-state collaborations with respect to regulating AI.

While the first three approaches might be moonshots, the critical importance of achieving uniformity across states makes them worth pursuing. As to the fourth approach, there is precedent for state attorneys general collaborating with respect to other issues.



LOOKING AHEAD

Toward the end of the convening, attendees considered the challenges they would expect to encounter while advancing these potential regulatory approaches, what AI resources the regulatory innovation community still needs to develop, and what next steps the community should take.

Potential Challenges

Convening attendees identified several challenges they expect to encounter as they advance the regulatory approaches in the previous section.

Resource and knowledge constraints

Courts may lack the financial resources, staffing, and AI expertise to integrate new services, posing a barrier to adoption despite potential long-term benefits. The regulatory innovation community might need to consider other stakeholder groups for potential funding, training, and outsourcing when it is needed.

Getting stakeholder buy-in

Various stakeholder groups could be resistant to reform for a variety of reasons. Given their resource constraints, courts could be resistant to change. The private bar might view AI tools as competition and therefore oppose reform. And the creators of the tools themselves could be resistant to reform that requires them to navigate 50 different sets of rules or add friction to their product (e.g., by adding a disclaimer). General skepticism surrounding AI and its limitations—whether perceived or actual—might lead to resistance across stakeholder groups.

Dealing with bad actors and free versions of tools

Bad actors will always exist regardless of

regulation and eliminating them is an unrealistic goal. Free versions of AI tools that companies use to collect and sell consumer data will also persist. But if the regulatory innovation community can develop clear guidelines and best practices for consumers, we can empower them to identify ethical developers and tools and help them understand the risks and benefits of using free versions.

Needed Resources

As discussed in the phased approach, we need to develop best practices and guidelines for developers, deployers, and consumers and model prosecutorial guidance and no-action letters for regulators, and we need to collect data on consumer outcomes for both human- and AI-delivered legal services. In addition, we also need the following.

Creator and consumer stories

The regulatory innovation community needs to elevate the voices and positive impacts of the entrepreneurs developing these tools and the consumers using them. These stories will help educate others within the profession about the potential for positive impact these tools have. These stories will also help leaders and regulators better understand the risks associated with these tools, choose which regulatory approaches to pursue, and identify and promote promising market-based models.

Educational initiatives

Expanding education in law schools to prepare future lawyers to use AI tools and creating initiatives that showcase the tools, capabilities, and responsible use, such as “AI University”,⁶⁰ would be helpful resources to develop.

A less intensive review period for tech

Academic institutions can conduct research and provide guidance on AI tools, but they must adhere to Institutional Review Board (IRB) processes, which can slow things down. Could the regulatory innovation community develop a way to have a less intensive review period for technology development and user experience research?

A consumer connector

It would be helpful if an organization could develop pathways to assist legal consumers in connecting with AI tools and/or integrate AI services into existing pathways.

A joint-resource center

The resources that have been and will be developed need a home that can serve as a starting point for others who are interested in learning more about AI and how it should be regulated. Because there are many organizations working in this space, a joint-resource center approach would likely work best. Data, survey questions, creator and consumer stories, best practices, and testing tools are just a few examples of resources that could be housed on these joint-resource hubs. These hubs could also be used to facilitate desired narratives.

Next Steps for the Regulatory Innovation Community

While a substantial amount of work remains, AI has potential for shrinking the gap in legal services for low and middle-income Americans and, by the end of the convening, attendees were feeling inspired to take action. They identified the following as potential next steps for the regulatory innovation community to take.

Create more collaboration and stakeholder engagement

A broader, coordinated movement is necessary to avoid fragmented or duplicative efforts at the state level and to maintain momentum. Stakeholder groups such as legal aid foundations, entrepreneurs, judges, consumer groups, investors, and insurers, just to name a few, should be invited to join. Including entrepreneurs and investors could foster innovation and investment in AI solutions in legal aid as well as the private market.

Create pilot programs and collect data

The legal community should create targeted pilot projects using AI tools for tasks such as drafting protective orders or cease and desist letters and collect data from users to understand the impact of the AI tools. Because of the large unmet need among self-represented litigants and legal aid clients, courts and legal aid organizations could be great avenues to launch these targeted pilot projects. Court-based pilot projects that target self-represented litigants could test the use of AI tools for legal assistance (e.g. in kiosks or at help desks) with the potential for human interaction at certain stages. Two advantages of court-based projects include access to better data for analysis and enhanced data security. Legal aid-based pilot projects could involve different models using AI-first or lawyer-first approaches with the goal of using AI to support self-represented litigants effectively.

Educate about and advocate for responsible use and continued exploration of AI legal tools

The regulatory innovation community should continue to promote discussion and understanding about the benefits and risks of using AI legal tools. This could be achieved in a variety of ways: publishing articles in bar journals, speaking on legal podcasts, or offering CLEs at bar associations and judicial conferences. During these discussions, leaders should find local champions to lead the conversation and highlight consumer stories whenever possible.

Encourage human-centered AI design and development

The regulatory innovation community should develop and promote toolkits for creating human-centered consumer-facing AI tools. It should also encourage good actors in the field by developing and promoting the tools and frameworks for ethical AI design.

Pursue a phased approach to regulating AI

Regulators should adopt a phased approach to regulating AI that prioritizes and encourages responsible development and deployment of AI legal tools, and development of best practices for consumers themselves. During the first phase, they should start with best practices for development and consumer use, with the potential to revisit regulation in phase two as more data on harms and needed protections become available.

Also during phase one, regulatory innovation leaders and regulators need to build support for AI adoption. Webinars and other AI resources

developed by national organizations, such as the National Center for State Courts and the Legal Services Corporation, paired with frameworks and safe harbor policies, could provide cover for legal aid and court-based initiatives that will allow them to confidently embrace AI legal tools. Similarly, webinars and CLEs on AI offered through the state bar could provide cover for private practitioners.

Prioritize conducting more research on AI

We are still in the early phases of AI research and development. Numerous unanswered questions remain that can only be answered by conducting research. The regulatory innovation community should prioritize answering these research questions and encourage more academics to work in the AI regulatory space to help answer the most critical ones. Research priorities should include understanding AI's impact on judicial proceedings and outcomes, with a focus on how consumers use self-help tools and interventions.



CONCLUSION

The legal profession is at an inflection point. AI presents a transformative opportunity to address our country's deep-rooted access to justice crisis, but the legal profession must consider the implications for its current regulatory structure. Will the existing rules continue to cast a chill over the landscape of would-be innovations, or will new reforms "let a thousand flowers bloom?" If that field of flowers is indeed the best outcome for consumers, what steps does the profession need to take to help them grow? Many important questions remain, and IAALS is committed to working alongside the regulatory innovation community in finding answers. We will continue to share resources in this space through our [AI Knowledge Center](#)⁶¹ and to collaborate with partners toward our shared goal: helping create a robust ecosystem of legal service providers and models—AI models now among them—to better meet the needs of the people.

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.

ENDNOTES

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