

Regulation of Legal Services in Washington State



PRACTICE *of* LAW BOARD



Interbranch Advisory Committee

Tuesday June 20, 2023
9:00 AM — 12:00 Noon
Legislative Building—Office of
the Lt. Governor
Senate Rules Room 220A

The Practice of Law Board

Supreme Court Board administered by WSBA

Roles and Responsibilities Defined by General Rule 25

- Educate the public about how-to receive competent legal assistance.
- Consider and recommend to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law as defined by General Rule 24
- Coordinate UPL complaints by receiving and reviewing complaints alleging UPL and forwarding to the appropriate agencies

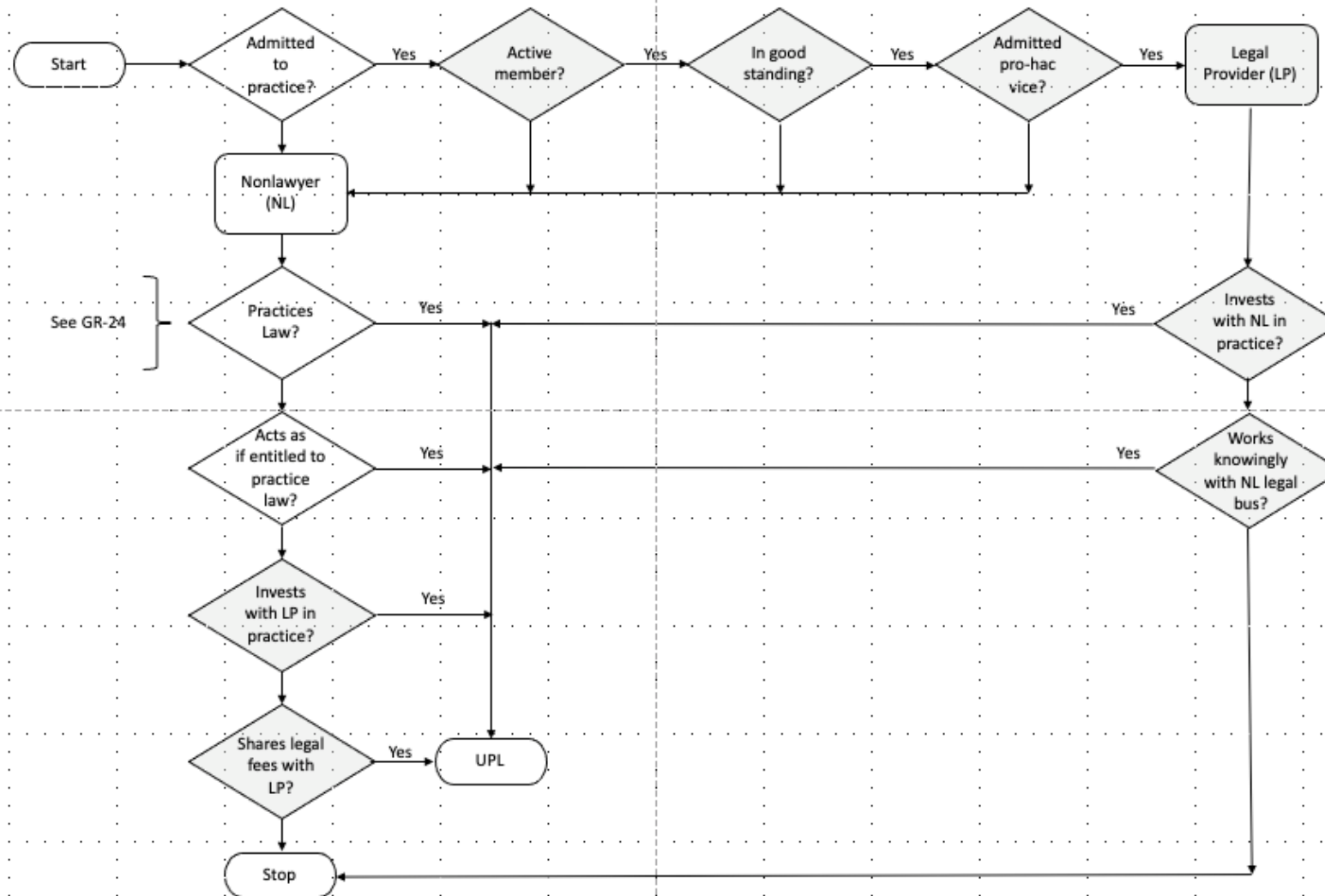


Given the increasing number of non-traditional legal service providers who may be providing services to Washingtonians, how do we best protect the public who needs legal help?

RCW 2.48.180 Definition of UPL...

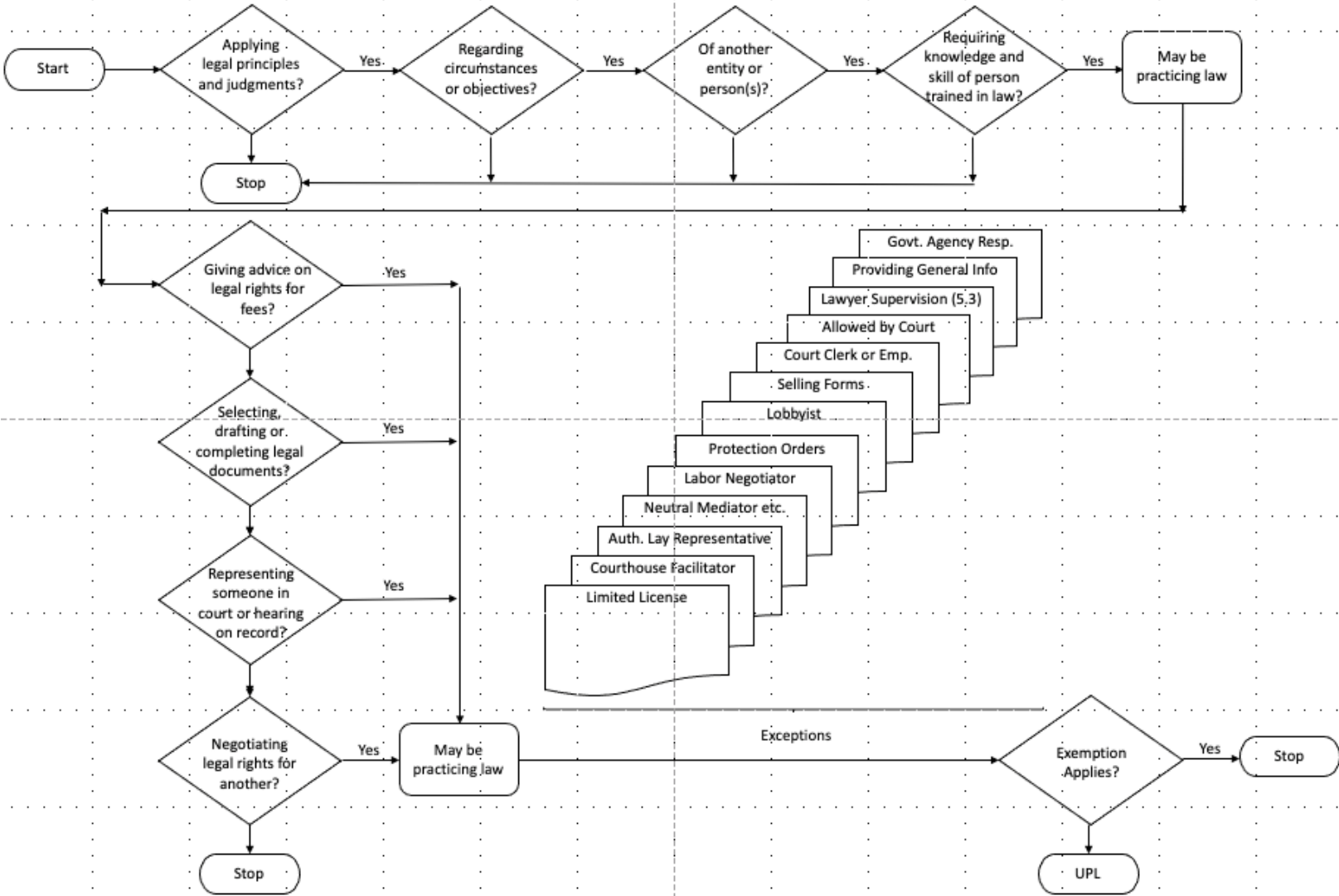
RCW 2.48.180 Definitions—Unlawful practice a crime—Cause for discipline—Unprofessional conduct—Defense—Injunction—Remedies—Costs—Attorney's Fees—Time Limit for Action.

RCW 2.48.180(2) The following constitutes unlawful practice of law:

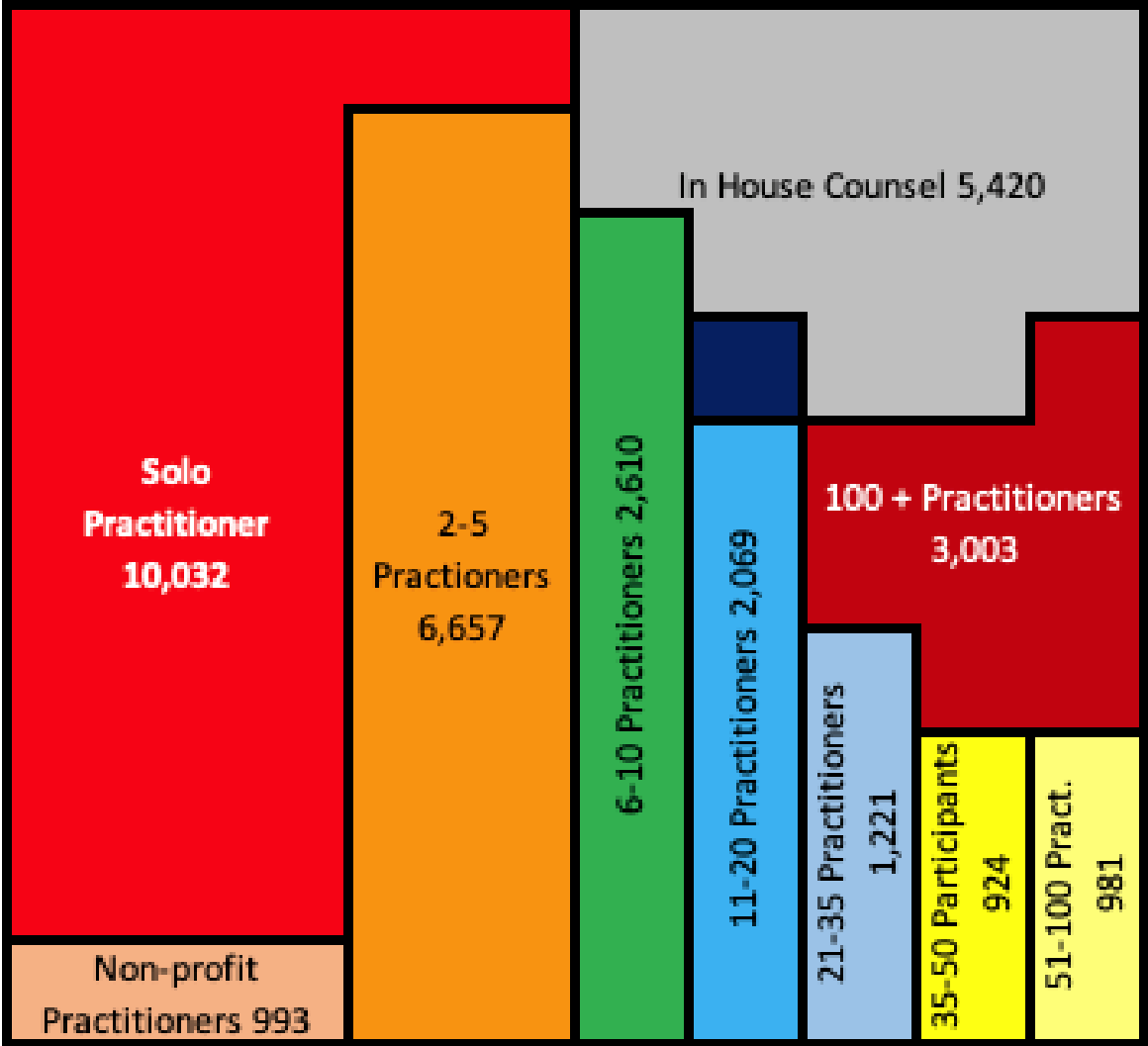


GR 24 Practice of Law

General Rule 24: Definition of the practice of law.



Currently Authorized Legal Service Providers in Washington



- Lawyers
- Limited Licensed Legal Technicians (LLLTs)
- Limited Practice Officers (LPOs)

New Legal Market Entrants

- Online legal service providers
- Alternative business structures
- Better informed consumers

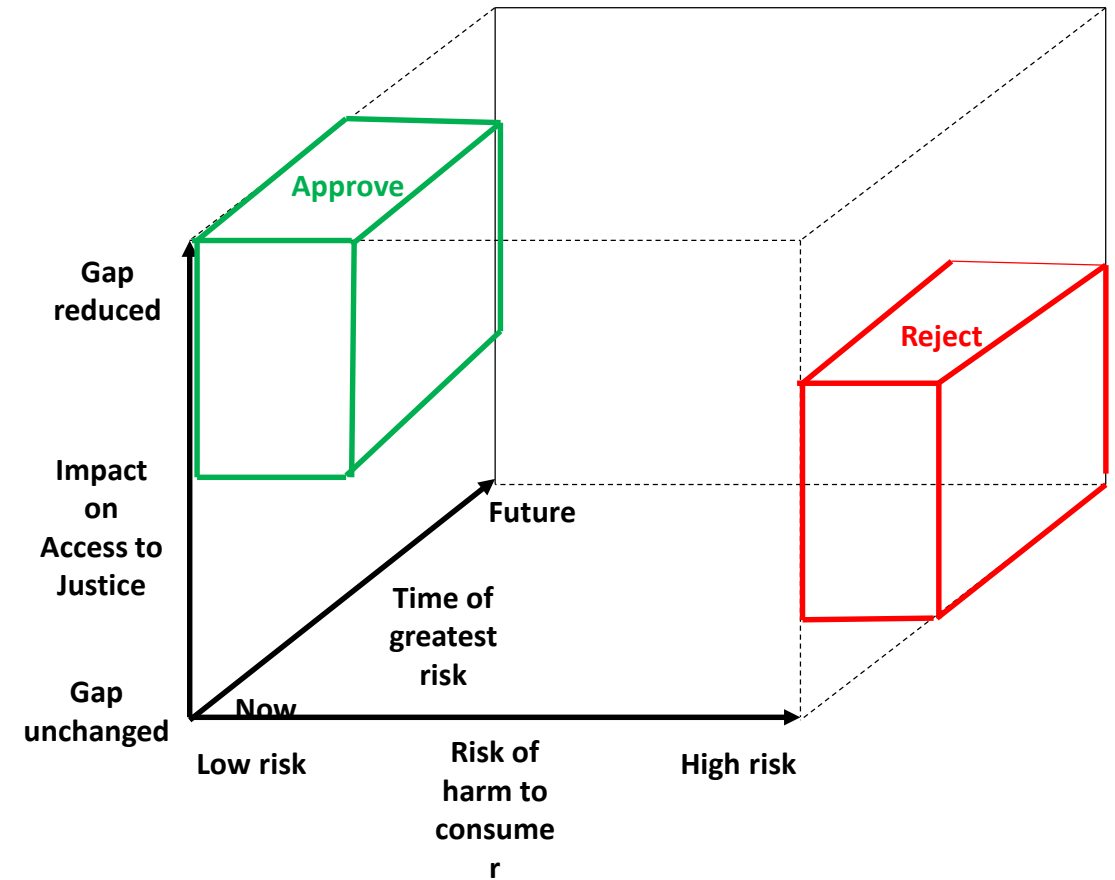


A Market Ripe For Disruption

- Access to Justice Gap
- Marketplace Imbalance
- Approaching Spontaneous Deregulation



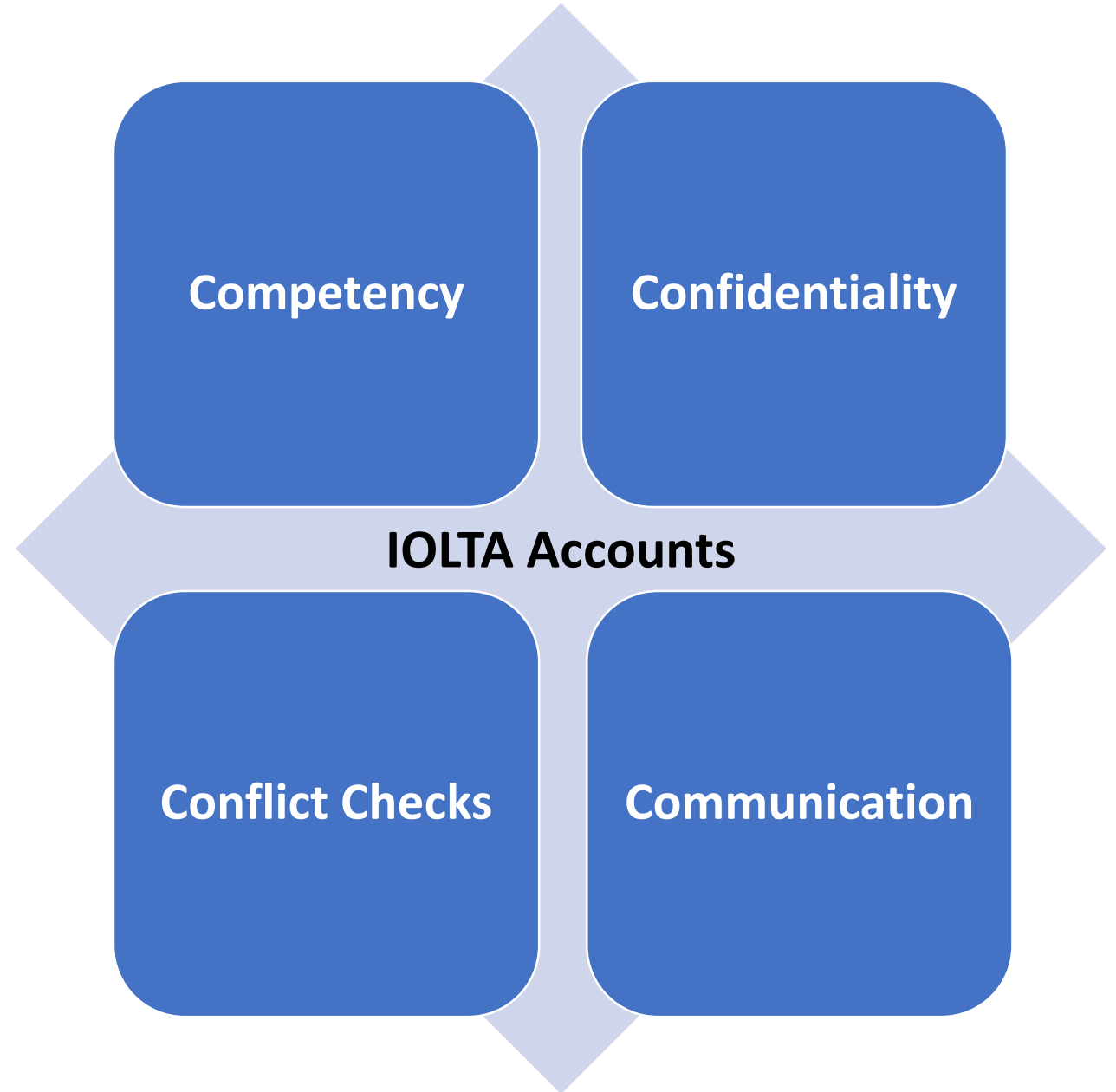
A Framework for Regulation of Legal Services



- Based on the scientific method
- Allows for thorough evaluation of a new or proposed change to a legal regulation
- Data analysis ensures the proposed reform has a worthwhile effect

Creating a Level Playing Field

All legal service market
participants must follow the
same Rules of Professional
Conduct



Other Options to Address the Problem

Do Nothing

- Continue to regulate people-based legal service providers (WSBA)
- Ignore online legal service providers
- Handle harm when it occurs as Unlawful Practice of Law (UPL) or Consumer Protection Act matters

Expand Traditional Regulation

- Define path to authorization (licensure) that parallels current process for people
- Would require drafting rules and competency tests, approving and propagating rules, monitoring and discipline (but based on anecdotal experience)

Practice of Law Board Recommendation to the Courts

- Begin implementation of data-driven legal regulatory reform, surrounded by the correct set of guardrails to minimize risk of harm to consumers.
- Analyze operational data on on-going basis to adjust the guardrails around the processes.
- Use money collected in fees from participants in the data-driven legal regulatory reform to pay for the process, with licensure monies supporting ongoing monitoring and access to justice programs.



PRACTICE *of* LAW BOARD

Additional Background

The Practice of Law

- RCW 2.48.180 Definitions Unlawful practice a crime...
- General Rule 24 Definition of the Practice of Law
 - The practice of law is the application of legal principles and judgment with regard to circumstances or objectives of another entity or person(s) which requires the knowledge or skill of a person trained in the law.
 - 11 Exceptions including:
 - Limited licenses
 - Courthouse facilitators
 - Protection orders
 - Sale of legal forms
 - 24(c) General Information
 - Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public

The Access to Justice Gap in Washington

[CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf \(wa.gov\)](#)

- Seven in ten low-income households in Washington State face at least one significant civil legal problem each year. The average number of problems per household increased from 3.3 in 2003 to 9.3 in the latest, 2014 survey.
- Health care, consumer/finance and employment now represent the three areas with the highest percentage of problems.
- Race, ethnicity and other personal characteristics affect the number and type of problems people have.
- More than three-quarters (76%) of those who have a legal problem do not get the help they need.
- Most low-income people have limited confidence in the state's civil justice system.

Unlawful Practice of Law Enforcement

- Current Unlawful Practice of Law (UPL) statutes rarely enforced
- Lack of resources in sheriff and county prosecutors' offices to investigate and charge
- Strict liability misdemeanor
- Prosecutors want to see harm (although harm is not an element of the statute)
- AGO generally prosecutes under other statutes, typically as a violation of the Consumer Protection Act

See State of Washington v. Evergreen Paralegal Services Inc., Complaint for Injunctive Relief Under the Consumer Protection Act (RCW 19.86) and the Estate Distribution Act (RCW 19.295) Case # 21-2-07849-1 SEA)



1 EXPEDITE
 2 No hearing set
 3 Hearing is set
 Date: _____
 Time: _____
 Judge/Calendar: _____
 4 _____
 5 _____
 6 _____

**STATE OF WASHINGTON
 THURSTON COUNTY SUPERIOR COURT**

9 In Re the Matter of: 10 LegalZoom.com, Inc., a Delaware 11 corporation, 12 Respondent.	NO. ASSURANCE OF DISCONTINUANCE
---	---

13 The State of Washington, by and through its attorneys, Robert M. McKenna, Attorney
 14 General, and Douglas D. Walsh, Senior Assistant Attorney General, files this Assurance of
 15 Discontinuance pursuant to RCW 19.86.100.

I. INQUIRY

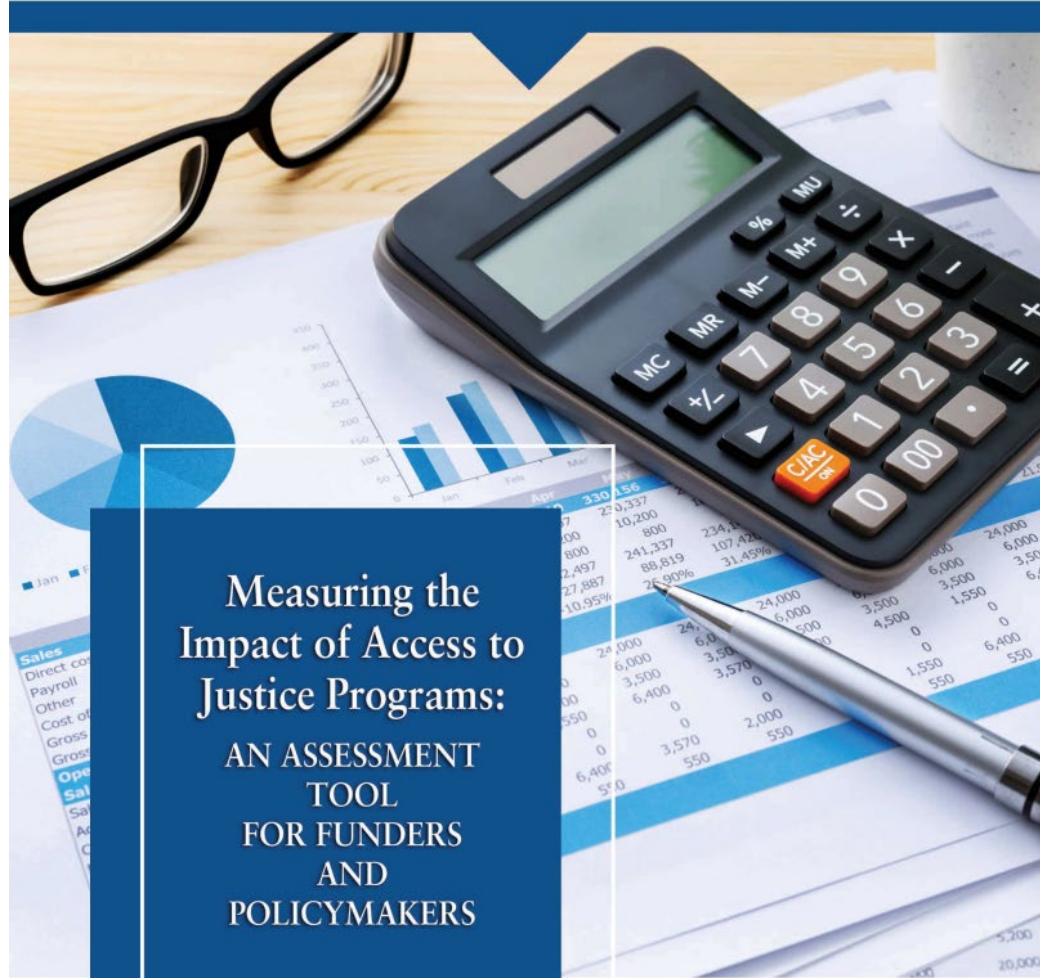
17 1.1. The Attorney General initiated an investigation into the business practices of the
 18 Respondent, LegalZoom.com, Inc.

19 1.2. Respondent is engaged in the business of offering certain legal forms over the
 20 Internet to consumers throughout the United States of America, including the State of
 21 Washington.

22 1.3. Respondent has offered and the Attorney General has accepted an Assurance of
 23 Discontinuance. This Assurance of Discontinuance shall not be considered an admission by
 24 Respondent that it has engaged in any of the below-described acts or an admission by
 25 Respondent of a violation of Chapter 19.86 RCW for any purpose.
 26

ASSURANCE OF DISCONTINUANCE-
 LEGALZOOM.COM, INC. - 1
 72557-0001/LEGAL19068040.1

ATTORNEY GENERAL OF WASHINGTON
 Consumer Protection Division
 800 Fifth Avenue, Suite 2000
 Seattle, WA 98104-3188
 (206) 464-7745



Measuring the
Impact of Access to
Justice Programs:
AN ASSESSMENT
TOOL
FOR FUNDERS
AND
POLICYMAKERS

National Center for State Courts
300 Newport Avenue
Williamsburg, Virginia 23185
1.800.616.6109
www.ncsc.org