



State Bar *of*  
New Mexico  
Est. 1886

# 2022 Annual Meeting

August 11-13, 2022 • Hyatt Regency Tamaya Resort and Spa

## *Regulatory Changes in the Southwest!*

by Lynda C. Shely

# What we'll cover:



- Utah: What is a “Regulatory Sandbox”??
- Arizona: Alternative Business Structures
- Arizona: Legal Paraprofessionals
- Arizona: Rule changes involving advertising and referral fees
- California: (Even though it’s not the Southwest....) Task Force update



# Office of Legal Services Innovation

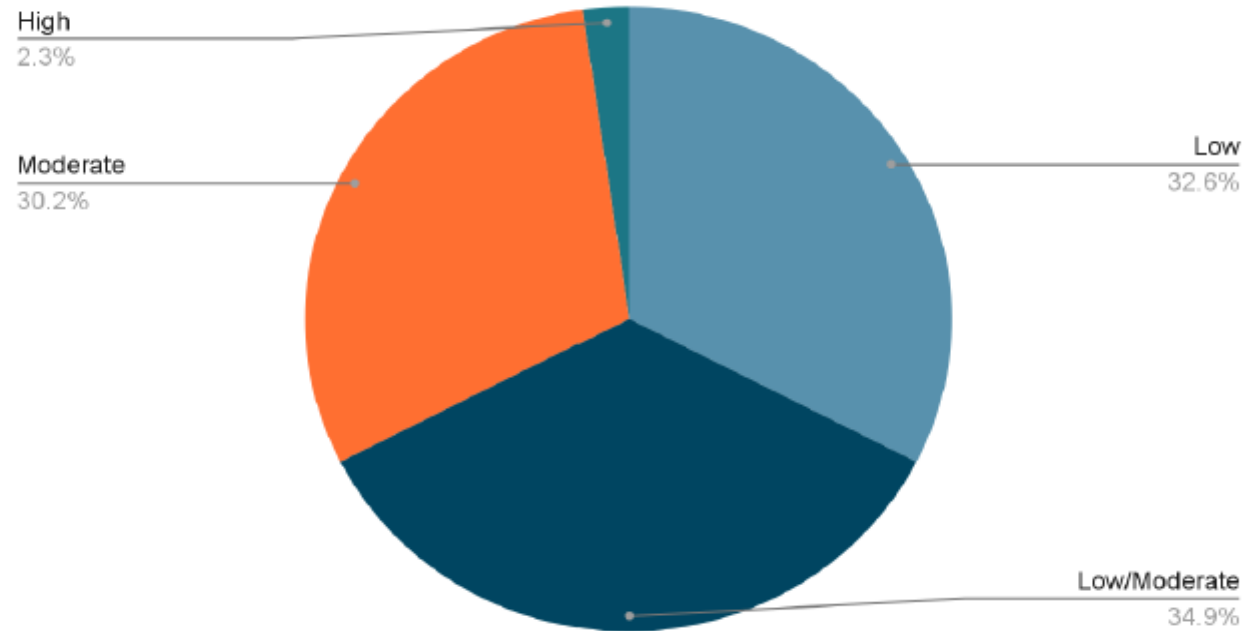
An Office of the Utah Supreme Court

- ▶ 2020 established a “regulatory sandbox” for legal service providers.
- ▶ The “sandbox” is a temporary program designed to try out new concepts and gather data to assess the successfulness of the participants in achieving the regulatory goals of providing competent and diligent legal services.
- ▶ The Utah Legal Services Sandbox has participants apply to provide legal services in Utah and the participants may have nonlawyer owners AND even nonlawyers/technology providing services traditionally deemed the “practice of law”
- ▶ Participants must provide reporting data to the Office, based upon their “risk assessment” (likelihood of significant harm to clients) and lawyer audits are performed to assure compliance with ethical standards. Risk standards will look at:
  - **Consumer achieves inaccurate or inappropriate legal results.**
  - **Consumer fails to exercise legal rights through ignorance or bad advice.**
  - **Consumer purchases an unnecessary or inappropriate legal service.**

## Active Entities Authorized to Offer Sandbox Legal Services

- 43 active entities approved to offer services

### Entities Authorized



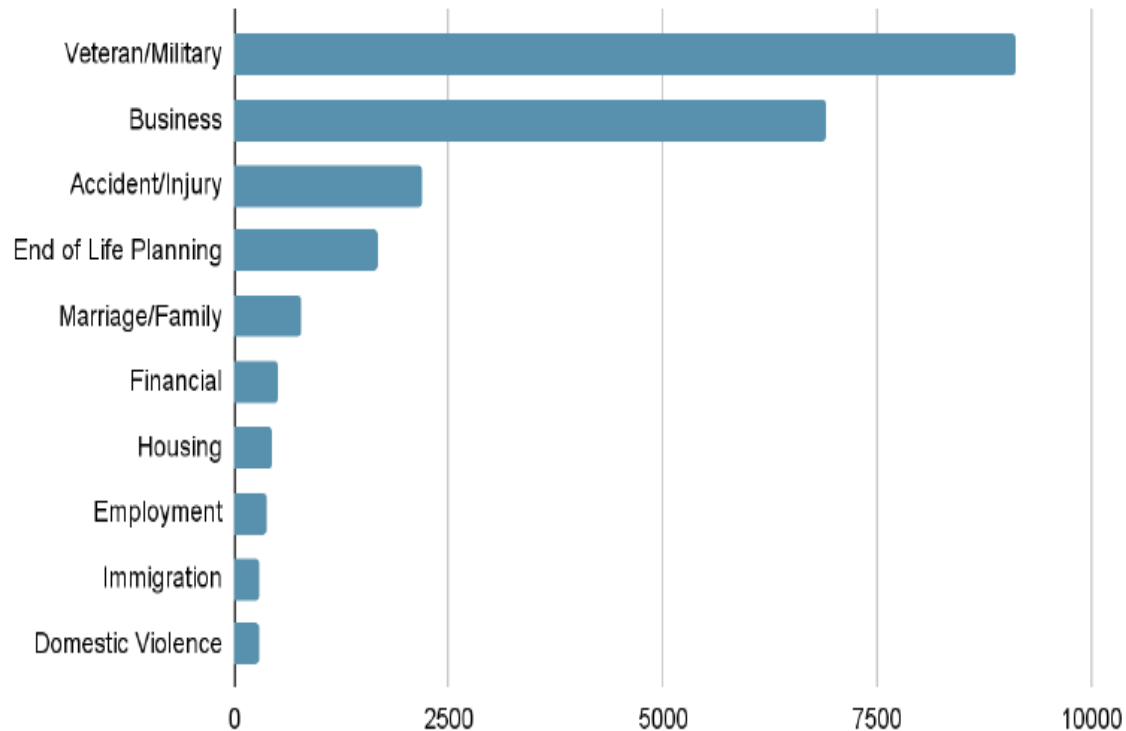
- o **Low Risk=14** (AGS Law, Believe First, Blue Bee, Blue Ridge Law Group, Boundless Immigration, Credit Cop, Esquire Law, Firmly, Hello Divorce, Herbert-Greenwald Law, Immigration Office Solutions, Rocky Mountain Justice, Sawvi Technologies, Trajan Estate)
- o **Low/Moderate=15** (Bike Legal, Davis and Sanchez, FOCL Law, GovAssist Legal, LawPal, Legal Atoms, Legal Claims, Inc. [Trajector Legal], Mountain West Legal Protective, My Immigration, Off the Record, PD Digital Logistics Design, R&R Legal Services PLLC, Rocket Lawyer, WayLit, Xira)
- o **Moderate=13** (1Law, DSD Solutions, Estate Guru, Holy Cross Ministries, Jordanelle Blocks, LawGeex, Law HQ, Law on Call, Nuttall, Brown & Coutts, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center, Utah Legal Advocates)
- o **High=1** (AAA Fair Credit)



# Office of Legal Services Innovation

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## Total Services by Legal Areas (Top 10)



- 23,353 legal services sought from ~18,000 unduplicated clients
  - Low=409 legal services sought; Low/Moderate=13,575 legal services sought; Moderate=9,369 legal services sought
  - 98.2% of legal services were produced via low/moderate or moderate risk entities
  - 20,864 (89%) legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
  - 2,489 legal services have been delivered by non-lawyers (software or person) with lawyer involvement

# Arizona – Three Big Permanent Changes



1. Eliminated Ethical Rules 5.4 (sharing fees with nonlawyers) and modified advertising Rules (eliminated Rule 7.2 regarding not paying for referrals)
2. Alternative Business Structure (ABS) law firm licensing program
3. Legal Paraprofessional licensing program

# What is an ABS?



- ▶ An ABS is a law firm that has some nonlawyer ownership/decision making authority. Ariz. R. S.Ct. 31.1(c)
- ▶ Any law firm that has nonlawyer ownership **MUST** be certified by the Arizona Supreme Court as an ABS.
- ▶ Nonlawyers in an ABS are **NOT** authorized to practice law.
- ▶ ABS regulations can be found in ACJA § 7-209

# ABS Structure



- ▶ An ABS applicant must disclose detailed information about the ownership and operations of the law firm. Minimum application fee = \$6,000.
- ▶ An ABS must have an Arizona “Compliance Lawyer” = managing partner
  - Compliance lawyer must be an employee or manager (need not be a full-time employee)
- ▶ An ABS must disclose every “Authorized Person” (can be a human or an entity) that has *either* :
  - a) a 10% or greater “economic interest” in the ABS; or
  - b) Decision-making authority in the ABS





# Approved ABS firms to Date (Total 22)



*Elias, Mendoza, Hill Law Group, P.C.*  
MENDOZA IMMIGRATION



SINGULAR LAW GROUP PLLC



# Practice areas of approved ABS law firms



- ▶ Tax and financial planning partnerships
- ▶ Personal injury/mass tort
- ▶ Estate planning
- ▶ Immigration
- ▶ General business services (some with specialized target client groups including Spanish speaking, military)
- ▶ Litigation and e-discovery management
- ▶ Large scale online subscription legal services



**ABS Question:**

**Can a compliance lawyer be a compliance lawyer in more than one ABS?**

**And must the Compliance Lawyer have an economic interest in the ABS?**

# Answers:

- **Yes, a Compliance lawyer may serve in that role in more than one ABS, but will need to consider imputed conflicts of interest between the firms and whether the lawyer has sufficient time to competently serve in more than one ABS.**
- **And no - Compliance Lawyers do *not* need to have an economic interest in the ABS – they just must be an employee or “manager” of the ABS.**



**ABS Question:**

**Can a New Mexico lawyer practice law through an Arizona ABS??**

# Answer:

**Probably not because NM  
Rule 5.4 prohibits  
nonlawyer  
owners/partners.**

*However, ABA Op. 499  
(2021) explained that a  
Model Rule state lawyer  
(such as NM), may be a  
“passive investor” in an ABS  
– but can’t practice law  
through one.*



**ATTORNEY TO PARALEGAL:**



**OK, IT'S 4PM... TIME  
TO GET THIS DAY STARTED!**

**ABS Question:**

**Since Ethical Rule 5.4 was eliminated, if a traditional law firm shares fees with a paralegal employee, will that trigger ABS licensing requirements?**

# Answer:

## NO!

**Arizona lawyers - in traditional law firms – may now share fees with nonlawyers, such as staff, referral sources, and others!**







# **LEGAL PARAPROFESSIONALS**

# Legal Paraprofessionals



- Requires passing at least TWO exams – one in “core skills” and one in either family law, civil law, criminal law, or administrative law.
- Requires either certain legal educational background or at least seven years of experience working in a law firm as a paralegal, etc.
- Also requires going through essentially Character & Fitness review and recommendation for licensing by the Arizona Supreme Court’s Nonlawyer Legal Service Provider Board.

## Arizona Code of Judicial Administration § 7-210(A)

- ▶ **“Legal paraprofessional” (LP) means an individual licensed pursuant to this section to provide legal services without the supervision of an attorney in the areas of law and within the scope of practice defined herein.**

# Limited Areas of Practice:



## Family Law

- domestic relations matters (QDRO, division of business or retirement assets, or appeal to court of appeals or Supreme Court excluded)

## Civil Law

- civil matters before a municipal or justice court

## Criminal Law

- Initial appearance and to negotiate pretrial release
- criminal misdemeanor matters before a municipal or justice court where incarceration is not at issue

## Administrative Law

- matters before any Arizona administrative agency (does not extend to appeals)

# Arizona Legal Paraprofessionals:



**Currently 21 licensed Legal Paraprofessionals: one in criminal, one in civil, and the remainder in family law.**

**Most are employed in law firms.**



Legal Paraprofessionals are associate members of the State Bar of Arizona and can be located on the State Bar website.

Are you an Arizona attorney? [Log in here](#) to see additional member profile details.


First Name

Last Name

Exact match

[+ more options](#)

Attorneys **Legal Paraprofessionals** ←

 **Lynda Shely**  
Active  
[View Profile](#)

The Shely Firm PC  
6501 E Greenway Pkwy Ste 103-406  
Scottsdale, AZ 85254-2067

1 attorney record(s)



**ARIZONA  
ADVERTISING  
ETHICS RULE CHANGES**

# ADVERTISING RULES

## ER 7.1 and 7.3



- ▶ Still can't engage in "false and misleading" advertising
- ▶ Much of Rules 7.4 and 7.5 merged into Rule 7.1 because they are explanations of what things may be "false and misleading"
- ▶ Still can't solicit clients in person or by phone unless they are friends, family, former clients, other lawyers or [NEW] business people



# 7.1(c) – Firm name and contact information



Still must include firm name and contact information in ads

Still can't use deceptive firm names



**Question: Can an Arizona lawyer pay someone a percentage of fees just for referring a client to them?**

# Answer:

**Yes – they can!**

**But there's some ambiguity about whether paying a percentage of fees to another *lawyer* just for a referral would require complying with Rule 1.5(e)(fee sharing between firms).**

**Stay tuned...**





# The State Bar of California

## Working Group Proposals in 2021/2022:

- Paraprofessionals – 2021 recommendations for services and licensing
- Closing the Justice Gap Options –  
not considering nonlawyer ownership at this time...





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**Thanks for participating!**  
**Be open to change – and**  
**stay ethical!**