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# Overview of Nonlawyer Ownership of Law Firms and Related Issues

National Conference of Bar Presidents  
Midyear Meeting 2022

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- Nonlawyer ownership has been a divisive issue for the bar for many years.
- Many lawyers are concerned about compromising lawyers' judgment and their ethical duties.
- The profession is also concerned about improving difficult issues with access to justice.
- Other models are evolving around the country to address these concerns, including Navigator programs.

**(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.**

**(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:**

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

# Significant Events in the Evolution of NLO

Washington D.C. modifies  
Rule 5.4 to allow NLO in  
certain circumstances

1991

NYSBA MacCrate Report  
opposes adoption of MDP  
proposal that would have  
allowed NLO

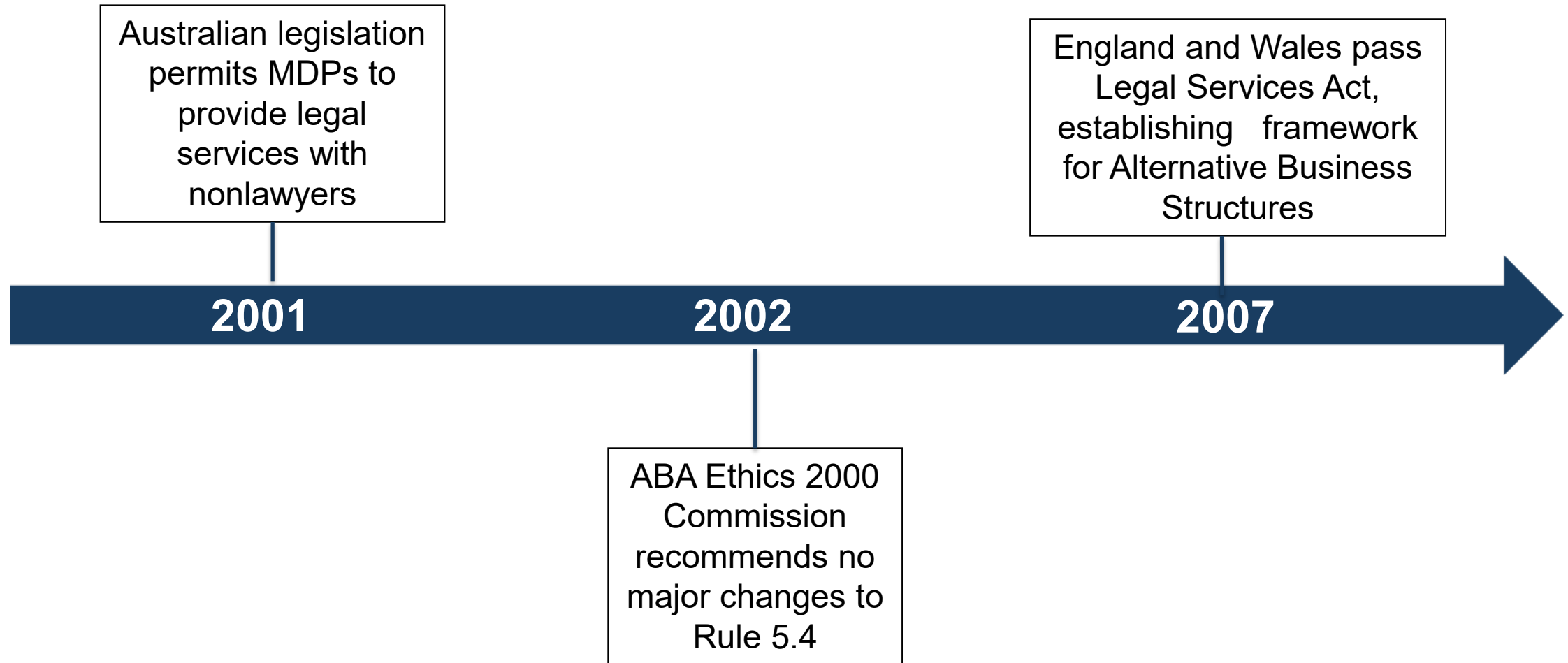
2000

MDP Commission  
reports on interest  
in relaxing Rules  
to allow MDP

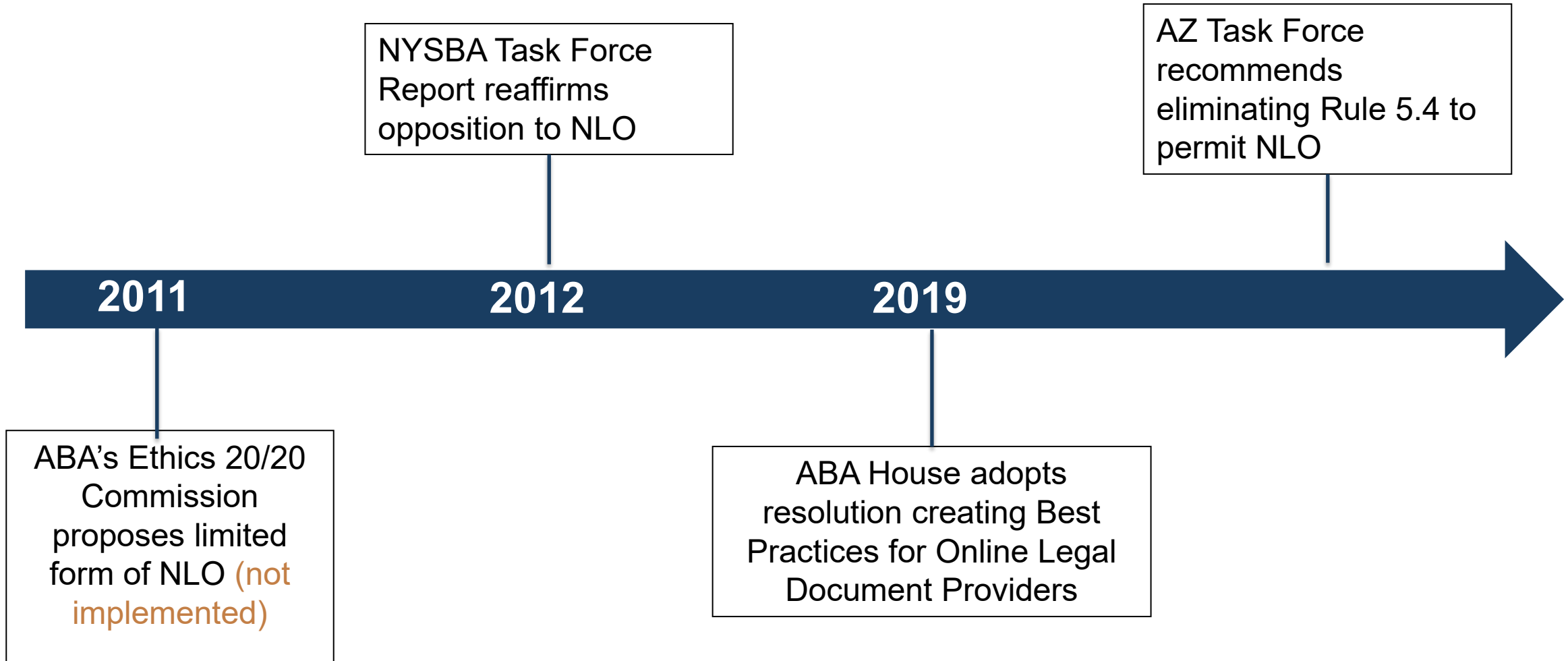
1999

ABA House of  
Delegates rejects  
MDP  
Commission  
recommendation

## Significant NLO Events (Cont.)



# Significant NLO Events (Cont.)



# Significant NLO Events (Cont.)

ABA House passes Resolution 115 to monitor NLO developments, but does not alter Rule 5.4

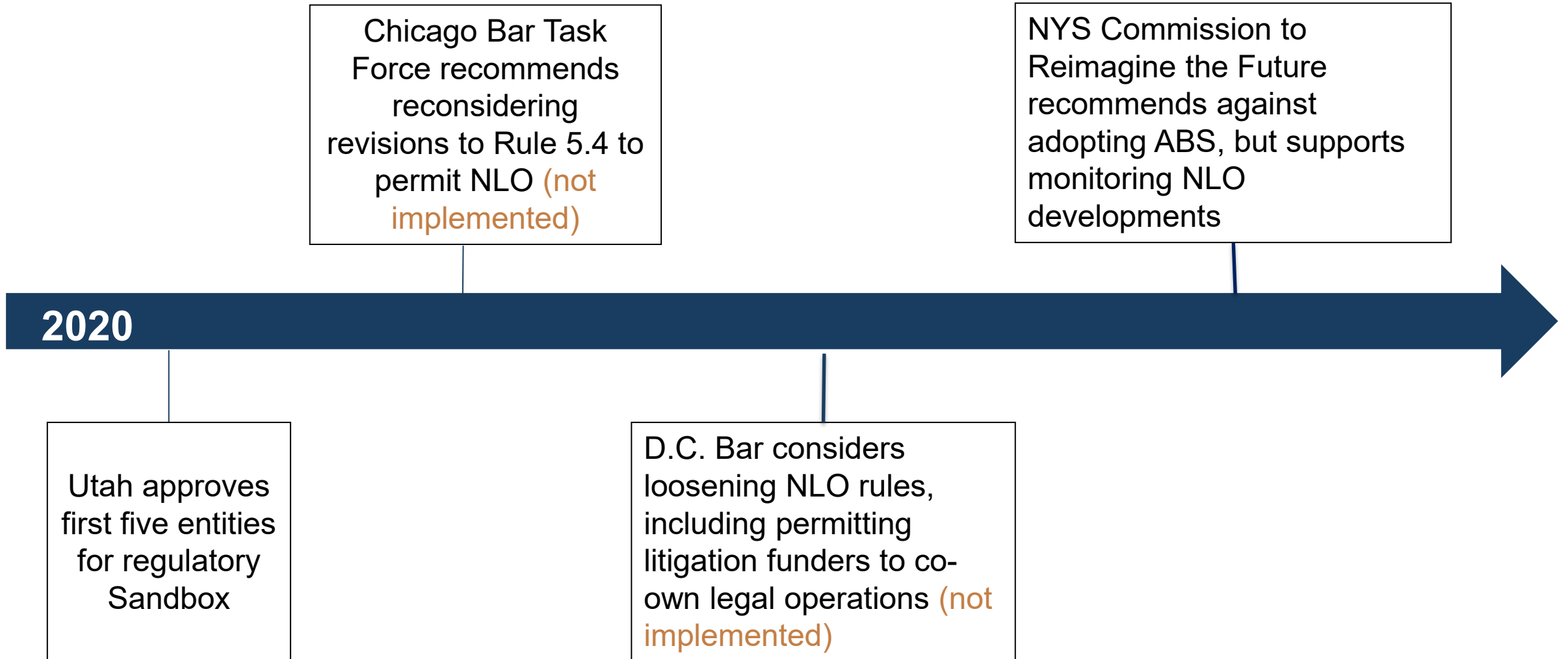
CA State Bar Board votes to form a working group to explore development of regulatory sandbox (not implemented)

Arizona Supreme Court is first state to eliminate Rule 5.4 prohibition on NLO

2020

CA Bar Task Force recommends broadened Rule 5.4 to expand fee sharing (not implemented)

Utah Supreme Court approves a 2-year Sandbox pilot



## Significant NLO Events (Cont.)

Arizona approves  
first two ABS  
licenses

FL Bar Board of Governors  
unanimously opposes  
Special Committee's  
recommendations regarding  
nonlawyer ownership and  
fee sharing.

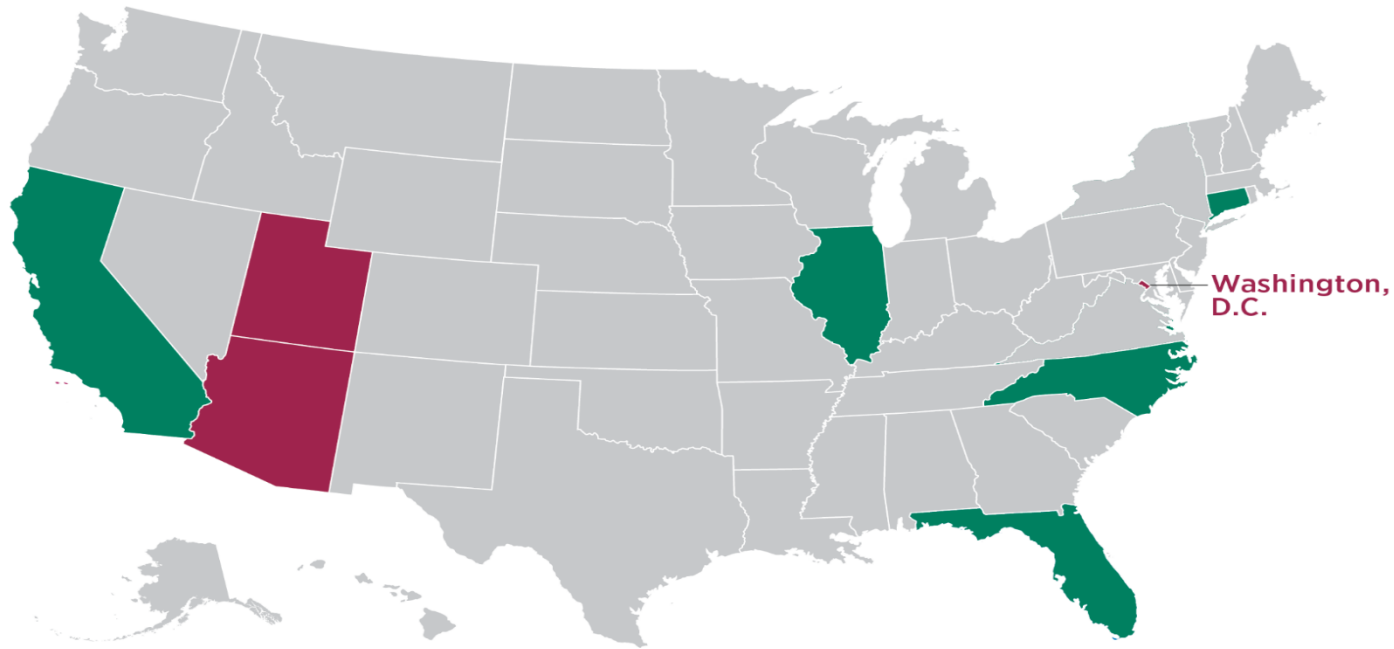
2021

FL Supreme Court's Special  
Committee recommends  
establishing a regulatory  
sandbox and easing fee  
sharing rules.

## Growing trend

*Arizona was the first state to eliminate Professional Conduct Rule 5.4, but committees in several other states are either studying or recommending nonlawyer ownership.*

- States examining nonlawyer ownership
- States where nonlawyer ownership is permitted

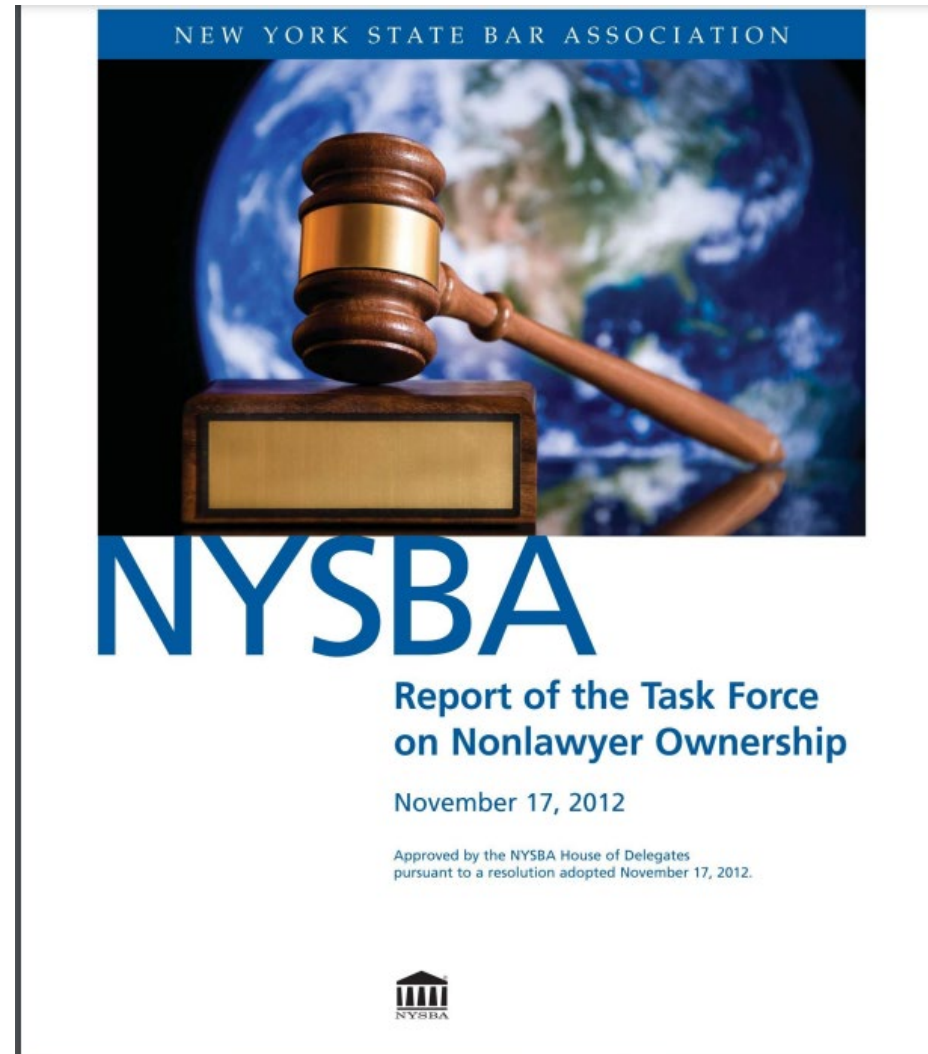


## NLO Trends Across the US

Map adapted from ABA Legal Innovation Regulatory Survey.

- D.C. has had a historically less-restrictive version of Rule 5.4
- Allows partnerships with non-lawyers only if their “sole purpose” is to provide legal services to clients, among other conditions.
- D.C.’s Rule 5.4 does **not** permit corporations or investment banks to acquire parts of law partnerships or law practices.
- Rule goes essentially unused in practice.
- In 2020, DC requested public comment on alternative business structures (ABS) and multidisciplinary practice (MDP).

- New York rejected multidisciplinary practice in 2001.
- New York rejected nonlawyer ownership in 2012.
- New York adopted the Navigator program in 2014.
- Commission to Reimagine the Future again rejected nonlawyer ownership in 2021.



- In 2012, New York State Bar Task Force reviewed nonlawyer ownership issues
- Task Force survey reported that 78% of respondents opposed ABA proposal on NLO.
- Members wanted to see studies on: “the impact of nonlawyer ownership on access to justice, professionalism, lawyer independence, the relationship between the lawyer and the client, regulation of lawyers, and feedback from clients and ‘consumers’.”
- Task Force recommended adopting a proposal allowing lawyers in states that prohibit nonlawyer ownership to share legal fees with lawyers in jurisdictions that allow nonlawyer ownership.
- State Bar House of Delegates reaffirms its opposition to any form of nonlawyer ownership absent proof that it is in the best interest of clients and society.

- Utah adopted regulatory sandbox program for 2-year experimental period in August 2020.
- Utah has granted 30 applications thus far.
- In May 2021, Utah extended the regulatory sandbox pilot until August 2027.

## **Rocketlawyer**

- Online legal technology company providing individuals and small/medium-sized businesses with online legal services in a variety of areas, as well as on-call network of attorneys

## **LawHQ**

- Salt Lake City law firm planning to offer equity ownership to certain software developers both in the firm and in a software application that allows consumers to report spam telephone calls and texts

- Arizona abolished Rule 5.4 in 2020.
- Arizona established the ABS Committee in 2021 and adopted rules for ABS structures.
- Arizona approved the first ABS in 2021.

## Payne Huebsch PLC

- Transactional legal services paired with tax and accounting advice (50/50 ownership between attorney and accountant)

## Trajan Estate LLC

- Legal service provider focused on estate planning
- Advertises estate planning, fiduciary advisors, and wealth and tax planning under the same roof (owned by a fiduciary advisor and an attorney)

- In 2021, a Special Committee appointed by Florida's Supreme Court recommended testing nonlawyer ownership and fee sharing.
- Later in 2021, the Florida Bar's Board of Governors unanimously rejected proposals to let non-attorneys own law firms and share in legal fees.
- Florida is awaiting a decision by its Supreme Court on these issues.

- In 2020, California State Bar Task Force recommends broadening R. 5.4 to expand fee sharing.
- In 2019, the California State Bar Board of Trustees issued for public comment 16 options for innovation in the delivery of legal services, including the development of a regulatory sandbox.
- Numerous comments from the profession opposed nonlawyer ownership.

- Approximately 73% of the commenters opposed one or more of the California State Bar proposals.
- “When duties to the client clash with the motivation for profit, which will win out?”
- NLO and fee sharing threaten the independence of professional judgment in legal services.
- “[Nonlawyer ownership] will not improve access to qualified law providers but will allow unqualified providers to flood the market and undercut qualified attorneys.”
- “There is no proven data that allowing non-lawyers to practice law will increase access to justice.”

## New York Ethics Opinion 2020-1

- Permits New York lawyers to engage with firms with nonlawyer owners located in a jurisdiction that allows NLO.
- Opines that engaging with NLO organizations in jurisdictions that permit them does not constitute improper fee sharing or improper partnership with a non-lawyer.
- NY lawyers may **not** be employed by an ABS.

- Washington adopted Limited License Legal Technicians (“LLLT”) program in 2015.
  - Provided ability for legal professionals (e.g., paralegals) to provide limited representations or legal help in certain instances.
  - Washington abolished the program in 2021 due to lack of use.
- New York adopted Navigator program in 2014 to allow nonlawyers to help unrepresented persons navigate the court system.
- Michigan Navigators: non-profit organization that provides DIY tools and court forms, staff available to provide legal information (not legal advice), and answers to FAQs for those who are unable to afford a lawyer in certain civil matters.
- Arizona ABS program includes Limited License Legal Providers (LLLPs).



## Creating your Last Will



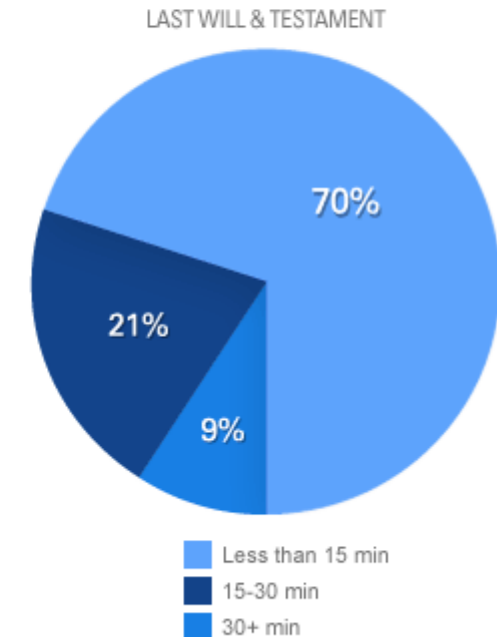
### Finish your Last Will and Testament in less than 15 minutes.

To complete your Last Will and Testament, just answer a few questions, like:

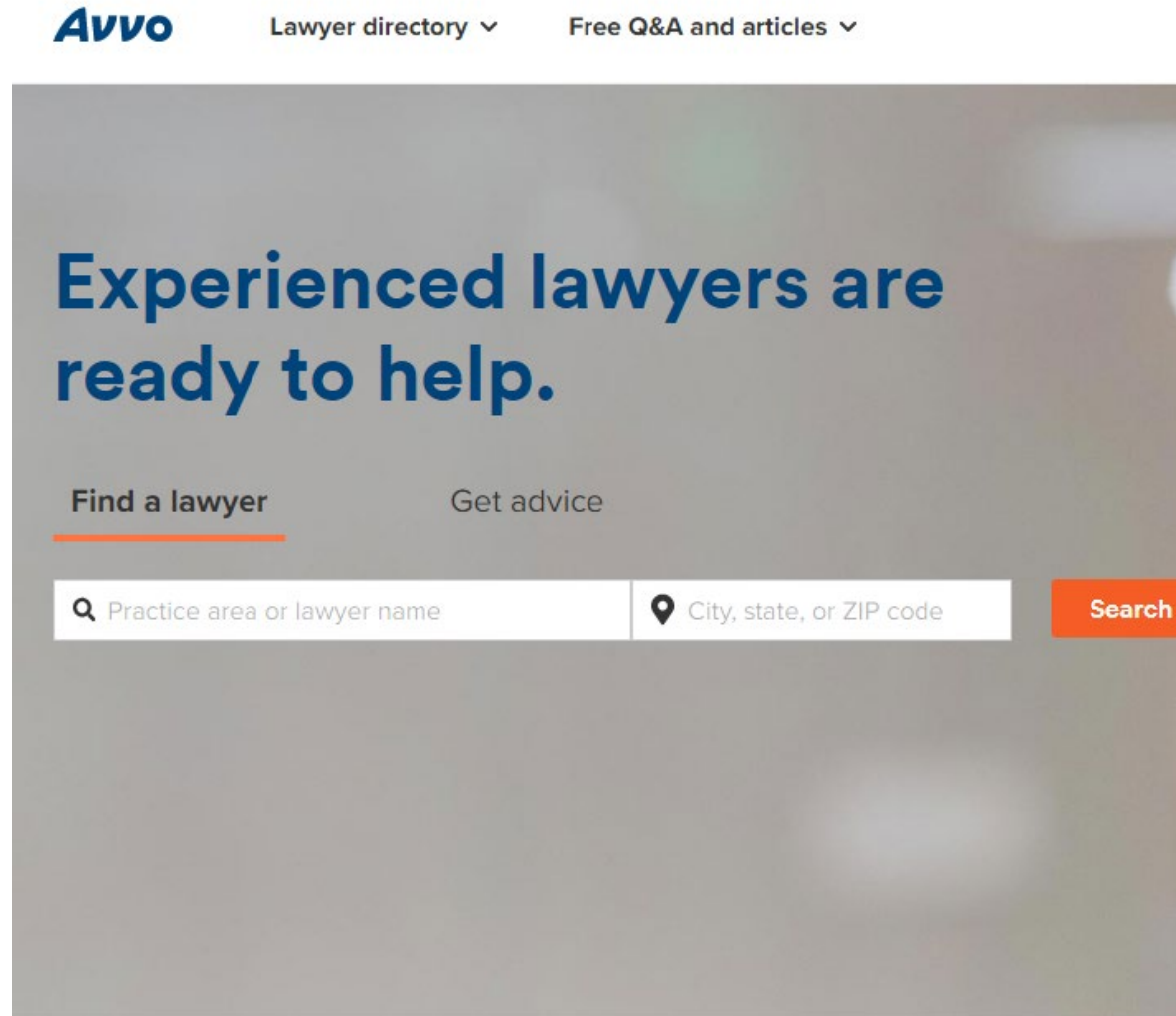
- Your name  
-----
- The names of your heirs  
-----
- Your last wishes

Filling out the questionnaire is completely free. Most people complete our secure questionnaire in less than 15 minutes. We save your answers so that you can return at any time. And you can always change your answers – **even after you purchase.**

Next Step: [Sign in to LegalZoom](#)



- Websites like Rocket Lawyer, LegalZoom, etc. – provide “customizable” legal documents to users for fraction of cost of hiring a lawyer
  
- ABA adopted resolution creating best practices for online document providers in 2019, which recommend:
  - Provide clear, valid forms to customers.
  - Adopt protections for customers.
  - Inform customers that the providers are not substitutes for legal advice.
  - Provide information for customers to file complaints and resolve disputes with the provider.
  
- Some of these providers offer time with a lawyer on an hourly basis.



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- Traditionally bar associations offered legal referral services.
- More recently, online legal referral services such as Avvo have developed to provide referrals to lawyers by specialty and background.
- Generally, any sharing of legal fees between lawyers and nonlawyers is prohibited by ABA Model Rule 5.4, and by all states to varying degrees.

- Litigation finance providers have developed around the country to finance commercial, personal injury, and other actions.
- The availability of litigation finance has helped make financially feasible pursuit of litigation for those who may not be able to pay for legal services up front.
- In August 2020, the ABA adopted guidance for lawyers when using litigation financiers.

- ABA Best Practices for litigation funders include, among others:
  - The arrangement should be spelled out in writing with details about the non-recourse nature of the investment, how and when funders will be compensated, etc.
  - The arrangement should be structured so that the client retains control of the litigation, and not the funder (or lawyer, if the lawyer is receiving the funding).
  - Lawyers should be cautious in making case-related reports or predictions.