

# WASHINGTON STATE BAR ASSOCIATION



## Pilot Project to Test Entity Regulation: Frequently Asked Questions

### Q. What is the entity regulation pilot project?

The pilot project is a mechanism for testing a potential legal regulatory reform using data-driven methods prior to fully implementing that reform, like a sandbox or laboratory environment. As a joint effort, the Washington Supreme Court's Practice of Law Board (POLB) and the Washington State Bar Association (WSBA) have proposed a pilot project for entity regulation using the POLB's *Framework for Data-Driven Legal Regulatory Reform*.<sup>1</sup> The proposed pilot project would test authorizing entities to provide legal and law-related services in Washington under time-bound, limited exemptions from the otherwise applicable rules and statutes governing entities practicing law ("entity regulation").

### Q. Who can currently practice law in Washington and how is the test pilot different?

Historically, only individuals licensed by the Washington Supreme Court have been allowed to own law firms, share legal fees, and practice law in the state of Washington. Currently, there are three license types authorized by the Court to practice law: Lawyers, [Limited License Legal Technicians](#), and [Limited Practice Offers](#). The pilot test would, for the first time, authorize entities with innovative business models to offer legal services to the public.

### Q. What is data-driven legal regulatory reform?

Generally, data-driven legal regulatory reform is a framework based on the scientific method to thoroughly evaluate a new or proposed change to a legal regulation and to help ensure the proposed reform is a worthwhile effect. More specifically, the POLB's *Framework for Data-Driven Legal Regulatory Reform* (Framework) is a methodology that permits regulators and others to assess the potential risks and the benefits of an intended legal regulatory reform by using the scientific method and data-driven processes. The Framework allows innovators, regulators, access-to-justice advocates, and the public to use a consistent set of processes for designing, maintaining, and participating in a test of a legal regulatory reform. One of the goals of the Framework is to provide adequate guardrails to protect the public and others while legal reforms are tested and relevant data is collected, rather than implementing a reform before its impact is fully understood, including whether any potential benefits can be accomplished and any harms mitigated.

### Q. What regulatory rules would be tested in the entity regulation pilot project?

Generally, the entity regulation pilot project (or pilot test) would test reforming rules that prohibit the practice of law and provision of legal services by entities unless the entity providing those legal services is owned and operated by, and fees are shared only among, individuals authorized to practice law. See, e.g., RCW 2.48.180, RPC 5.4, and LLLT RPC 5.4.

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<sup>1</sup> Practice of Law Board, *A Framework for Data-Driven Legal Regulatory Reform*, 14.2 Seattle J. Tech., Env't & Innovation L. 1 (2024), <https://digitalcommons.law.seattleu.edu/sjteil/vol14/iss2/2/>.

## **Q. Why now?**

For years, the POLB has been monitoring and considering how technology is changing the legal landscape, including, for example, how online legal service providers and other innovative business models are delivering legal services to the public and whether their activities may constitute the practice of law. The POLB has studied and engaged with legal technology experts to better understand current and potential ways entities might provide legal services. The provision of these services is already being delivered to the public by national and international companies, unregulated by the WSBA, and is sure to expand in coming years. Also recognizing the profound implications of these changes, the WSBA Board of Governors made it a strategic priority for FY 2024 to “assess technology-related opportunities and threats and determine WSBA’s role vis-a-vis regulation, consumer protection, and support to legal professionals.” A key focus area for that goal includes collaborating with the POLB to propose a pilot for data-driven regulatory reform to the Washington Supreme Court. The question: What role *can* and *should* the Supreme Court take in recognition of threats and opportunities from emerging legal technology? The purpose of the pilot is to determine, before implementing any permanent rule reforms, whether entity regulation will increase access to justice by enhancing access to affordable and reliable legal and law-related services consistent with protection of the public and whether entity regulation will create risks of consumer harm, regulatory challenges, or other risks that would serve as barriers to implementing such reform.

## **Q. Who will operate the pilot test if ordered by the Court?**

If approved by the Washington Supreme Court, the WSBA, and the POLB would collaborate in administering and overseeing the pilot test under the supervision of the Supreme Court, including administering the application and application review process, conducting ongoing monitoring and oversight of participants who have received a limited authorization to practice law from the Supreme Court, and collecting and analyzing aggregate data and information from participants with the intent of making a final data-driven determination regarding whether entity regulation should be implemented. At the end of the pilot test, the POLB and the WSBA will make a recommendation to the Court regarding whether to implement entity regulation and, as appropriate, shall propose regulatory reforms necessary to accomplish the implementation.

## **Q. What is the status of the pilot project? What happens next?**

The WSBA Board of Governors voted in November 2023 to support, and partner with the POLB in, a pilot test of entity regulation. The POLB and WSBA have since prepared a proposed [court order](#) for a pilot test. Before presenting the proposed order to the Court for consideration, all three entities would like to gather feedback regarding the proposal. The Order and feedback will be sent to the Court at the end of September 2024.

## **Q. How do I provide feedback before the package goes to the Washington Supreme Court?**

Email your written feedback to [entityregulationpilot@wsba.org](mailto:entityregulationpilot@wsba.org). Your feedback will be communicated to the Board of Governors, Practice of Law Board, and the Supreme Court. The Board of Governors will also hold an in-person feedback session at its next meeting on Sept. 6-7, 2024. More information will follow regarding timing and how to participate.