

NOTE

**CODE AS COUNSELOR: HOW ROBO-WILL
PLATFORMS ARE PRODUCTIZING ESTATE
PLANNING SERVICES**

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The robo-will software industry's market penetration into the world of estate planning has changed how lawyers do their job. An industry taking on a profession—and transforming what traditionally was a service into a product—challenges the lofty ideals of advocacy and professionalism. Meanwhile, lawmakers have taken a largely permissive approach. This Note confronts the robo-will software industry's beauty and flaws, provides a market overview and outlines the productization of estate planning services, explores the implication of mass adoption, and surveys the legislative landscape shaping the future of estate planning norms. Ultimately, it recommends that the software should be adopted with caution by legal practitioners, and avoided completely by most retail users.

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I. INTRODUCTION

Robo-will software is storming the “I don’t want to think about death, but I do want to make sure my Pokémon card collection goes to my nephew Enrique” market. This software, once a pile of static online forms, has evolved into polished digital platforms that attempt to automate a lawyer’s professional judgement into a steady stream of clicks. Brand names like Nolo’s Quicken WillMaker & Trust,¹ LegalZoom,² GoodTrust,³ and Rocket Lawyer,⁴ have gained familiarity and increased use among middle-class Americans seeking affordable estate planning options.⁵ These software tools boast features such as

1. See, e.g., *Quicken WillMaker and Trust by Nolo*, NOLO, <https://store.nolo.com/products/quicken-willmaker-plus-wqp.html> [<https://perma.cc/HB7N-URHN>] (last visited Sep. 30, 2025).

2. See, e.g., *Last Will and Testament*, LEGALZOOM, <https://www.legalzoom.com/personal/estate-planning/last-will-and-testament-overview.html> [<https://perma.cc/UKT7-D8AW>] (last visited Sep. 30, 2025).

3. See, e.g., *Estate Planning Made Easy, Secure, and Affordable*, GOODTRUST, <https://mygoodtrust.com/> [<https://perma.cc/79D3-PNWD>] (last visited Sep. 30, 2025).

4. See, e.g., *Estate Planning: Legal Documents, Advice, and Guides*, ROCKETLAWYER, <https://www.rocketlawyer.com/family-and-personal/estate-planning> [<https://perma.cc/X4C3-Q6z9>] (last visited Sep. 30, 2025).

5. See Rob Burgess, *T3: Rapid Uptick in Tax and Estate Planning Software by Advisors*, WEALTHMANAGEMENT.COM (Jan. 24, 2024) <https://www.wealthmanagement.com>

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dynamic templates, guided interviews, drafting assistance, and attorney-review upgrades.⁶ These tools claim to automate tasks completed daily by thousands of estate planning lawyers nation-wide—interviewing, wills, powers of attorney (“POA” or “POAs”),⁷ health directives,⁸ revocable and irrevocable trusts,⁹ funding, updates, storage, and beneficiary coordination.¹⁰ However, are the software applications more efficient or better at these tasks than attorneys? Should they be used? This Note argues that if these software applications are going to compete with lawyers’ pens and pads, then they should offer a comprehensive solution.

This Note demonstrates how robo-will software productizes estate planning services for both retail consumers and attorneys, which causes downstream issues for users that they simply would not face if they used traditional legal services instead. This Note proceeds in five Parts. Part II provides a high-level overview of robo-will software—what they do and how they do it. Part III considers the greater estate-

nt.com/estate-planning/t3-rapid-uptick-in-tax-and-estate-planning-software-by-advisors [https://perma.cc/D4GF-U7CP].

6. See, e.g., *supra* notes 1–4 (marketing estate planning tools that take the form of dynamic templates, provide drafting assistance, and offer attorney-review upgrades for complex situations).
7. A power of attorney is an “instrument granting someone authority to act as agent or attorney-in-fact for the grantor.” *Power of Attorney*, BLACK’S LAW DICTIONARY (12th ed. 2024). Normally, a power of attorney is “revocable and automatically terminates upon the death or incapacity of the principal.” *Id.*
8. A health directive is a “legal document explaining one’s wishes about medical treatment if one becomes incompetent or unable to communicate.” *Advance Directive*, BLACK’S LAW DICTIONARY (12th ed. 2024).
9. Revocable trusts are used more often than irrevocable trusts in estate planning as they allow for more freedom and flexibility in allocating resources—but both are valid alternatives to a will in transfer property as part of an estate plan. See JEROME SOLKOFF & SCOTT SOLKOFF, § 10:13 *Revocability*, in 14 FLA. PRAC., ELDER L. (2024–25 ed.); see also Leonard L. Scott, *The Revocable-Irrevocable Trust—The Way Out?*, 42 ARK. L. REV. 713, 713 (1989) (discussing the middle ground between the two categories—the so-called revocable-irrevocable trust).
10. Jeffrey Bloomfield, *The Powerful Impact of Beneficiary Designations on NC Probate*, CAROLINA ESTATE PLANNING (July 26, 2024), <https://www.carolinastateplanning.com/blog/the-powerful-impact-of-beneficiarydesignations-on-nc-probate> [https://perma.cc/Q5HJ-S5FY] (discussing the importance of matching all beneficiary designations of various assets with an overall plan).

planning market and criticizes the software for eliminating the “service” in estate planning services. Part IV explores the implications of mass software use by retail users and by attorneys. Finally, Part V analyzes the lawsuits and statutes that affect the estate planning market ecosystems to demonstrate how lawmakers can be complicit in the drawbacks of robo-will software.

II. TECHNICAL CAPABILITIES AND LIMITS

The major players in robo-will software each offer a similar product, but with minor differences.¹¹ Generally, a consumer of these products who wants to purchase access to the software will navigate through a company’s website until they are presented with different bundles and plans.

A. Subscription and Freemium Offerings for Consumers

Retail consumers have several popular options for drafting estate plans. Nolo’s Quicken WillMaker offers three plans: a “Starter Plan” that comes with a will, healthcare directive, and final arrangements; a “Plus Plan” that adds on a durable POA, letter to survivors, a living trust, and a transfer on death deed; and an “All Access Plan” that provides the same documents but includes a one-year subscription to “Everplans,” a document storage service.¹² If users have questions, Willmaker provides a “Legal Manual,” a frequently asked questions page, and a number for technical support, *but does not provide access to an attorney*.¹³ The software license agreement makes clear that Nolo provides a product, not a legal service, that its business will not apply law to the user’s circumstances, and that the user is completely responsible for any and all damages that may come from

11. They differ mainly in pricing, offer structuring, and user interface. Compare *supra* note 1, with *supra* notes 2–4.

12. The plans are priced at \$109, \$149, and \$219, respectively. All three plans allow for revisions within a year of document generation but charge \$39.99 per year for later revisions. *WillMaker Pricing*, QUICKEN WILLMAKER & TR., <https://www.willmaker.com/lander/pricing> [https://perma.cc/7J42-PWDT] (last visited Sep. 30, 2025).

13. *Id.*

inappropriately prepared documents.¹⁴ GoodTrust follows a similar strategy, with no access to an attorney for legal advice with its singular \$149 all-in-one plan.¹⁵

LegalZoom, on the other hand, structures its plans differently.¹⁶ The “Basic Will” plan provides a will, healthcare directive, POA, Health Insurance Portability and Accountability Act (“HIPAA”) authorization, pet care provisions, secure document storage, and unlimited revisions for thirty days.¹⁷ The “Pro Will” plan adds unlimited thirty-minute consultations with an attorney for thirty days. The “Premium Will” plan extends unlimited consultations and revisions to a year and adds an annual one-hour check-in with an attorney plus a permanent 25% discount on any attorney services and 10% discount on LegalZoom products.¹⁸ LegalZoom clarifies in its “Legal Plan Contract” Terms of Service that the company is not a law practitioner and is in no way responsible for any advice provided by its advertised attorneys—who are all considered third-party independent contractors.¹⁹

Rocket Lawyer provides a freemium model, which offers will and trust templates for free but charges \$39.99 monthly for access to legal advice.²⁰ Rocket Lawyer provides access to in-house attorneys through its affiliate, Rocket Legal Professional Services, Inc., which is also

14. See *Quicken WillMaker & Trust License Agreement*, QUICKEN WILLMAKER & TR., <https://www.willmaker.com/support/eula.html> [<https://perma.cc/T77K-KBUM>] (last visited Sep. 30, 2025).

15. GOODTRUST, *supra* note 3.

16. See LEGALZOOM, *supra* note 2.

17. *Id.*

18. The plans cost \$129, \$149, and \$299, respectively. *Id.*

19. See *Legal Plan Contract*, LEGALZOOM, <https://www.legalzoom.com/legal/product-service-terms/legal-plan-contract> [<https://perma.cc/YHG3-966F>] (last visited Sep. 30, 2025).

20. See *Memberships & Pricing*, ROCKETLAWYER, <https://www.rocketlawyer.com/pricing> [<https://perma.cc/6T88-JKNW>] (last visited Sep. 30, 2025).

owned and operated by non-lawyers.²¹ Rocket Lawyer also refers customers out to third-party contractor attorneys.²²

Each of the robo-will platforms offer clear guidance on how to complete tasks traditionally provided by legal professionals: will creation and management, trust management, asset distribution, tax optimization, debt management, document storage and security, and legal compliance assistance. While the everyday consumer benefits from streamlined estate planning tasks via these platforms, a parallel software ecosystem has emerged to support attorneys operating at a more sophisticated level.

B. Software Integration for Attorneys

Robo-will software not only appeals to the average consumer but also to the seasoned legal veteran. Estate planning attorneys incorporate softwares like InterActive Legal,²³ WealthCounsel,²⁴ and Yourefolio²⁵ for their valuable client data entry, encrypted cloud storage, third-party application integration, document generation, complex workflow automation, and client communication tools.²⁶ Companies serving lawyers provide these tools for monthly subscription fees and may increase prices based on the size of the firm, number of clients the firm serves, or state of practice.²⁷ They set prices

21. See, e.g., *General Terms of Service*, ROCKETLAWYER (June 5, 2025), <https://www.rocketlawyer.com/general-terms-of-service> [https://perma.cc/XRC7-WZDE]. These types of service terms raise serious professionalism concerns. See, e.g., Bailey Cunningham, *Nonlawyer Ownership of Law Firms: A Recurring Debate*, 104 ILL. BAR J. 48, 48 (2016) (describing the threat to professionalism posed by non-attorney-run legal corporations).

22. *Id.*

23. INTERACTIVE LEGAL, <https://interactivelegal.com/> [https://perma.cc/C3JJ-RAYX] (last visited Sep. 30, 2025).

24. *WealthCounsel Estate Planning Software*, WEALTHCOUNSEL, <https://www.wealthcounsel.com/> [https://perma.cc/FCU3-57Y7] (last visited Sep. 30, 2025).

25. *Estate Planning Software for Professionals*, YOUREFOLIO, <https://www.yourefolio.com/> [https://perma.cc/VRzT-XMJ2] (last visited Sep. 30, 2025).

26. See, e.g., Klaus Gottlieb, *A Review of Estate Planning and Drafting Systems for Attorneys*, NAT. L. REV. (Sep. 13, 2024), <https://natlawreview.com/article/review-estate-planning-and-drafting-systems-attorneys> [https://perma.cc/42SQ-2KQG].

27. See *id.*

with an understanding of the software's complexity and the relative depth of their target clientele's pockets.

Attorney-focused software providers advertise more complex features. For example, they clarify that their software can generate a “codicil,”²⁸ a “minor’s 2503(c) trust,” and “anatomical gift forms,” all products that would mean little to retail clients at first glance, but which are important parts of some estate plans.²⁹ The fact that robo-will software is able to generate these documents and yet only offers this capability to attorneys implies that offering the full extent of succession possibility to retail clients is a risky venture for non-attorney businesses unauthorized to practice law.³⁰ The deeper a company’s software dives into a retail user’s individual circumstances and adapts its output to those needs, the more closely it resembles practicing law.³¹ Skirting this line too closely could result in a multi-state regulatory issue detrimental to corporate success.³²

C. *What the Tools do Well*

Robo-will software successfully provides a better alternative to informal holographic wills and other unprofessional solutions, like filling in static forms.³³ The software provides “do-it-yourself” issue spotting within narrow fact patterns and encourages consistent boilerplate language.³⁴ It also takes little effort, usually comes with secure online storage, and encourages customers to get an attorney for more complex legal issues.³⁵ The process to draft succession documents can take as few as twenty minutes since the software requires no intake

28. See *infra* note 66 and accompanying texts.

29. *Product Comparison Chart*, INTERACTIVE LEGAL, <https://interactivelegal.com/product-comparison-chart/> [https://perma.cc/8HYV-3NL3] (last visited Sep. 30, 2025).

30. See *infra* Part V.

31. “The definition of the practice of law is established by law and varies from one jurisdiction to another.” MODEL RULES OF PRO. CONDUCT r. 5.5 cmt. (A.B.A. 2016).

32. See *infra* Part V.

33. See Wendy S. Goffe & Rochelle L. Haller, *From Zoom to Doom? Risks Of Do-It-Yourself Estate Planning*, 38 EST. PLAN. 27, 28–30 (2011).

34. *Id.*

35. See *id.*

process and is streamlined for intuitive consumer navigation.³⁶ The success of robo-will software shows that a certain portion of an estate-planning lawyer's workflow is automatable to an extent: intake, document drafting and signing, interviewing, document production, secure storage, and trust funding.³⁷

Additionally, the price point for product use is relatively low.³⁸ A quick glimpse of the plans offered shows that the software and service bundles range from free to \$399. This is significantly lower than the price of legal advice from an attorney. Estate planning attorneys' fees normally range from \$500 to \$2,000 depending on location, complexity, and each individual attorney's practices.³⁹ These online services also lower common barriers for those seeking legal service—geographic distance and need for transportation, lack of attorneys per capita, financial insecurity, and workday time constraints.⁴⁰

D. *What the Tools do Poorly*

Robo-will terms of service state clearly that the software is not for everybody.⁴¹ Complex family structures, special assets, tax-sensitive

36. See Liz Knueven, *The Best Online Will Makers of 2025*, C.N.B.C. SELECT (Aug. 1, 2025), <https://www.cnbc.com/select/best-online-will-makers/> [https://perma.cc/6KGP-DM2G].

37. See Clio, *How to Automate Your Law Office*, A.B.A. L. TECH. TODAY (Apr. 6, 2022), https://www.americanbar.org/groups/law_practice/resources/law-technology-today/2022/how-to-automate-your-law-office/ [https://perma.cc/X5TV-Z2UE].

38. *Do It Yourself Estate Planning*, A.B.A. REAL PROP., TR. & EST. L. SECTION, https://www.americanbar.org/groups/real_property_trust_estate/resources/e-state-planning/diy-estate-planning/ [https://perma.cc/NY8K-SMCF] (last visited Oct. 29, 2025).

39. Attorneys vary on how they structure their fees—with some charging a flat fee and others by the hour. Linda Long, *What Does an Average Estate Plan Cost?*, FINDLAW, <https://www.findlaw.com/estate/planning-an-estate/what-does-an-average-estate-plan-cost-detailed-price-analysis.html> [https://perma.cc/8V94-C4SS] (last updated Sep. 4, 2025).

40. See Janay Haas, *Barriers to Justice: For Low-Income Oregonians, Civil Legal Needs Outpace Resources*, 79 OR. ST. BAR BULL., June 2019, at 19, 20–23.

41. See, e.g., NOLO, *supra* note 1 (limiting service in the frequently asked question drop down menus to exclude special needs beneficiaries, conditional bequests, and in other scenarios); ROCKETLAWYER, *supra* note 21 (demonstrating an adamant statement that the service is *not* providing legal advice, so any user seeking an attorney should find one elsewhere).

trusts, and residence in Louisiana⁴² are all limits to using the software.⁴³ The algorithms' frameworks have a complexity limit. Because the companies refuse to apply law to personal situations, the most the software and company's marketing can do is tell customers to seek legal advice from a lawyer when blended families, special needs beneficiaries, and other complicated scenarios make things difficult.⁴⁴

These software types also lack a human element, which prevents proper funding coordination and support, bespoke counseling on choosing beneficiaries and an executor, and emotional support when discussing sensitive topics surrounding death, family dynamics, and legacy.⁴⁵ Software is unable to provide advice on fiduciary selection, complete a capacity assessment, or detect undue influence, as identifying these traits requires observation of subtle nuances in behavior observed during client interviews by estate planning attorneys.⁴⁶

E. What the Tools Should Refrain from Doing

Robo-will software products nearly all suffer from well-known consumer rights issues. For example, companies hide most of the

42. Louisiana-specific programs are available, such as GeauxPlans and Ayla Legal. See *Online Estate Planning*, GEAUXPLANS, <https://geauxplans.com/estate-planning/> [<https://perma.cc/E7G4-TEWG>] (last visited Sep. 30, 2025); *Louisiana Estate Planning*, AYLA LEGAL, <https://www.aylalegal.com/estateplanning> [<https://perma.cc/3AKF-XL3N>] (last visited Sep. 30, 2025). These two and other companies alter their product to account for Louisiana's estate law being derived from the Napoleonic code, providing validity guarantees that Nolo, for example, refuses to make. See *Legal FAQs*, QUICKEN WILLMAKER & TR., <https://www.willmaker.com/support/legal-faqs.html> [<https://perma.cc/GDM5-WV3W>] (last visited Sep. 30, 2025).

43. *Id.*

44. Goffe & Haller, *supra* note 33.

45. See Peter D. Baird, *Bedside Manners for Lawyers*, 40 ARIZ. ATT'Y 14 *passim* (2003).

46. While some mathematicians are playing with the idea of modeling human behavior and opinions to allow tech to spot deception, this technology is far from being reliable or accessible enough to apply to robo-will software. See Dorje C. Brody, *The Mathematics of Human Behaviour: How My New Model can Spot Liars and Counter Disinformation*, CONVERSATION (June 26, 2022, at 04:30 ET) <https://theconversation.com/the-mathematics-of-human-behaviour-how-my-new-model-can-spot-liars-and-counter-disinformation-185309> [<https://perma.cc/6BTK-7U2D>].

disclaimers, waivers, and practical limitations of the software in extensive terms of service, famously never read by consumers.⁴⁷ These limitations are hidden in legal jargon-laden terms, which can make it easier for companies' marketing teams to over-promise the effectiveness of their services. Further, these companies state repeatedly in their terms of service that they do not practice law.⁴⁸ However, providing situation-specific legal advice based on user input approaches robo-lawyering, which could constitute unauthorized practice of law ("UPL").⁴⁹ Finally, software enables standardized opportunities for dark-pattern upsells, price anchoring, and other manipulative psychological techniques in a way that traditional attorneys cannot implement as consistently.⁵⁰

Simply browsing the websites of the estate planning software companies unveils the use of subtle yet manipulative techniques.⁵¹ For example, several websites exhibit price anchoring by displaying an expensive option that provides very little in value compared to a more reasonably priced middle tier.⁵² Evidence shows that many companies advertise high and low price tiers to drive users toward a middle tier option.⁵³ While sales data for robo-will products are private, these

47. *Good v. Uber Tech., Inc.*, 234 N.E. 3d 262, 275 (Mass. 2024) ("[M]ost users of mobile applications do not read the terms of use.") (internal quotation marks omitted); see also Ian Ayres & Alan Schwartz, *The No-Reading Problem in Consumer Contract Law*, 66 STAN. L. REV. 545, 547–48 (2014) (describing results of empirical studies revealing that the number of consumers who read terms is "miniscule"); Kevin Conroy & John Shope, *Look Before You Click: The Enforceability of Website and Smartphone App Terms and Conditions*, 63 BOS. BAR J. 23, 23 (2019) ("Most users will not have read the terms and, in some instances, may not have even seen the terms or any reference to them.").

48. *Quicken WillMaker & Trust License Agreement*, *supra* note 14; *General Terms of Service*, ROCKETLAWYER, *supra* note 21; *Legal Plan Contract*, LEGALZOOM, *supra* note 19.

49. See *infra* Part V.

50. See, e.g., Jamie Luguri & Lior Jacob Strahilevitz, *Shining a Light on Dark Patterns*, 13 J. LEGAL ANALYSIS 43 *passim* (2021).

51. See *WillMaker Pricing*, QUICKEN WILLMAKER & TR., *supra* note 12; *Estate Planning Made Easy, Secure, and Affordable*, GOODTRUST, *supra* note 3; *Last Will and Testament*, LEGALZOOM, *supra* note 2.

52. Team IA, *What Is Price Anchoring? A Psychological Pricing Strategy That Drives Results*, IMPACT ANALYTICS (June 24, 2025) <https://www.impactanalytics.co/blog/price-anchoring> [https://perma.cc/2KMB-N6WP] (last visited Oct. 22, 2025).

53. *Id.*

platforms use a similar anchoring model, potentially driving users to the middle tiers.⁵⁴

Another “dark pattern”⁵⁵ used by the sites is coercing consumers into divulging more personally identifying information than they intended to.⁵⁶ For example, Trust & Will’s home page provides two options in a high contrast color visible immediately to a site visitor: “Create Your Trust” and “Create Your Will.”⁵⁷ The false dichotomy of these options, along with the imperative form and personalized possessive second tense, influences users to click on whichever of the two options is more on their minds. Neither of these buttons leads to an information page with different options for purchase as many potential customers would expect, but leads instead to a signup page to create an account, immediately prompting visitors to divulge personal information.⁵⁸ If visitors do create an account, then they have been primed to provide personal information and are more likely to do so again.⁵⁹ Even if they choose not to make an account and go back to the main page, they are devoting more time to the site than they originally planned and continue because of the sunk cost fallacy.⁶⁰

54. This is one of several forms of price anchoring. *See also, id.*

55. “Dark patterns are user interfaces whose designers knowingly confuse users, make it difficult for users to express their actual preferences, or manipulate users into taking certain actions.” Luguri & Strahilevitz, *supra* note 50, at 43.

56. *Id.*

57. TRUST & WILL, <https://trustandwill.com> [<https://perma.cc/Y7DH-S4AM>] (last visited Oct. 22, 2025).

58. *Signup*, TRUST & WILL <https://app.trustandwill.com/signup> [<https://perma.cc/QW75-PLFY>] (last visited Oct. 22, 2025).

59. In psychology, this priming is called the “foot-in-the-door” phenomenon. A study in the United States demonstrated that offering an initial request of small magnitude improves later willingness to comply with a much larger request. Robert A. Baron, *The “Foot-In-The-Door” Phenomenon: Mediating Effects of Size of First Request and Sex of Requester*, 2 BULL. PSYCHONOMIC SOC. 113, 114 (2013). *See generally* Eric Chung, *Using Priming in UX Design to Drive Growth and Engagement*, LOGROCKET BLOG (Oct. 8, 2024) <https://blog.logrocket.com/ux-design/priming-ux-design-drive-growth-engagement/> [<https://perma.cc/JSR3-F9NH>] (delineating the variations of priming embeddable in website design, including the kind present in many estate planning software sites).

60. A sunk cost is the “tendency to continue an endeavor once an investment in money, effort, or time has been made.” Markus Domeier, Pierre Sachse, &

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While it is not necessarily malicious to use behavioral economics principles to push for more sales in this way, it can be dangerous. A seemingly innocuous breach of privacy has particularly negative societal effects when multiplied by millions of users, especially because of the software market's tendency toward consolidated oligopoly.⁶¹ After all, consider what is at stake: Trust & Will not only unabashedly states in its privacy policy that it (1) compiles user data files with IP addresses, unique device identifiers, physical GPS coordinates, clicks and cursor movements, and screen recordings; (2) tracks browser history—including that cornbread recipe looked up yesterday—and “match[es] browsing activity on your mobile device with your browsing activity on your laptop;” and (3) “receive[s] information about you” from “business partners, marketing partners, researchers, analysts, social media services, government databases, public records aggregators and APIs” to supplement its profile on you; but it also explicitly states that it *sells your personal information*, whether or not you consent.⁶²

While one person may not be harmed by giving up an email address to Trust & Will in order to see pricing information, the possibility of millions of users simultaneously losing valuable privacy to hacking or data sales is not worth the minimal gain Trust & Will may receive by manipulating people to buy robo-will software. Weaponizing behavioral economics principles for profit as seen here and in many productized services⁶³ leads consumers to divulge private personal information and spend more money on things they may not need—social ills that legal professional guidelines seek to prevent.⁶⁴ The societal harms of these user interface designs are not always

Bernd Schäfer, *Motivational Reasons for Biased Decisions: The Sunk-Cost Effect's Instrumental Rationality*, 9 FRONTIERS PSYCH. 1, 4 (2018).

61. Peter Lee, *Innovation Consolidation*, 54 U.C. DAVIS L. REV. 967, 990–92 (2020).

62. TRUST & WILL, PRIVACY POLICY, <https://trustandwill.com/security/privacy-policy> [<https://perma.cc/G4BK-LCMA>] (last visited Nov. 22, 2025).

63. See *infra* Part III.

64. Lawyers are bound ethically not to manipulate people when they are vulnerable, while software companies have no such hindrances. MODEL RULES OF PRO. CONDUCT rs. 1.14, 7-1, 7.3 (A.B.A. 2019).

obvious on their face, but result in aggregated—and completely preventable—harm to privacy rights and consumer protection.⁶⁵

F. Missed Opportunities for the Tools

Robo-will software platforms could improve their product design for retail consumers by offering expanded branching prompts to include codicils,⁶⁶ more unique and situational trusts,⁶⁷ or expanded guidance for blended families.⁶⁸

For example, for robo-will software to be able to make a codicil, it would need to intake a current will, trust, or other estate planning document and make an addition or change to it. The software would need the ability to scan a document, categorize the sections of the document, identify key terms in relation to expected outcomes, and edit access to make the prompted change.⁶⁹ Codicil creation is beyond what robo-will platforms currently offer retail consumers, but is technologically possible because platforms offer the service to attorneys in different software.⁷⁰

Including unique and situational trusts should be easier for retail software, as the trusts' inclusion would only require some tweaks to the question prompt algorithm and output forms. Similarly, expanding guidance for blended families is likely possible for the software to handle. This too would require more in-depth decision trees for the algorithm to sort out all potential beneficiaries and their relation to the testator. If a lawyer can distinguish each potential beneficiary's status through questioning and logic, why not the software? Perhaps the software companies are avoiding unauthorized

65. Daniel J. Solove & Danielle Keats Citron, *Privacy Harms*, 102 B.U. L. REV. 793, 796–99 (2022).

66. A codicil is a modification of an existing will. 3 MICHAEL P. MCELROY, HORNER PROBATE PRACTICE & ESTATES § 60:4 (last updated June 2025).

67. Such as community property trusts, QTIP trusts, and qualified income “Miller” trusts.

68. Blended families are estate planning nightmares, generally requiring extensive documentation to ensure succession happens as willed by the decedent. 2 FREDERICK K. HOOPS, FREDERICK H. HOOPS III & DANIEL S. HOOPS, FAMILY ESTATE PLANNING GUIDE § 33:15 (2024–2025 ed.).

69. A codicil is not a new document but edits a previously executed will. MCELROY, *supra* note 66.

70. See *supra* Part II.B.

practice of law suits by limiting the extent of personalization.⁷¹ However, in the end, these expanded offerings are quite similar to current offerings, in that they ask questions, provide legal educational information, and embed specific terms into a document based on user input.⁷²

The software could also expand the length of its service by including periodic review triggers, which could prevent unintended revocation and ensure that the client's will is up to date with fluctuating relationships and assets for distribution.⁷³ Though the software arguably has drawbacks, if the industry desires to benefit economically from increased market share and to provide access to legal solutions for more of the population, then why not also incorporate as many suggested solutions as possible?

One of the benefits of legal service software over visiting an attorney is that it is not limited to a specific geographic region. Software services can not only cross state lines, unhindered by bar or licensing requirements, but can also serve clients in legal deserts where legal advice or services are limited. Robo-will software educates users as they draft documents, better serving those with little or no access to lawyers, compared to their unguided efforts to handwrite a holographic will or fill out a form found on Google. For this reason, estate planning software can fill a real need, addressing the serious issue of legal deserts across rural America, and could change its marketing tactics to target these customer-clients.⁷⁴

71. See *infra* Part V.

72. See *infra* Part V.

73. Such as revocation by operation of law, which occurs at death in situations where a person divorces a spouse after making that spouse a beneficiary. If the individual wished their will to go to the ex-spouse anyway, a periodic review trigger and will re-execution could assure that the decedent's will is done.

74. See, e.g., Alexander A. Boni-Saenz, *Distributive Justice and Donative Intent*, 65 UCLA L. REV. 324, 369–70 (2018) (arguing that “mak[ing] it easier to execute a will without an attorney” could reduce the impact of social and economic disparities within inheritance law); Stephen Clowney, *In Their Own Hand: An Analysis of Holographic Wills and Homemade Willmaking*, 43 REAL PROP. TR. & EST. L.J. 27, 31–32 (2008) (“[H]olographs provide testators with a low-cost and effective alternative to dying intestate.”); Iris J. Goodwin, *Access to Justice*:

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The software providers could also better target their services to address a need generally associated with legal deserts—heirs’ property and clouded title.⁷⁵ When people die intestate, often because they do not have convenient access to a lawyer,⁷⁶ their property is distributed according to the state’s intestacy laws.⁷⁷ Multiple generations of intestate succession lead to a disastrous situation where a single piece of property can have hundreds of owners, making the property susceptible to waste and partition.⁷⁸ This issue is prominent among rural and minority real estate owners.⁷⁹ Software use could prompt many individuals to acknowledge their ownership and the future potential consequences of letting their ownership lapse by targeting

What to Do About the Law of Wills, 2016 WIS. L. REV. 947, 951–52 (2016) (connecting “the do-it-yourself will” to the broader “movement to broaden the scope and otherwise facilitate pro se representation in civil law matters”); Emily Robey-Phillips, *Reducing Litigation Costs for Holographic Wills*, 30 QUINNIPIAC PROB. L.J. 314, 315 (2017) (“[T]he home-drawn will is more affordable, achievable, and democratic than the attested will.”); Reid Kress Weisbord, *Wills for Everyone: Helping Individuals Opt out of Intestacy*, 53 B.C. L. REV. 877, 879–81 (2012) (arguing that policymakers should use self-help devices to ensure “universal access to the will-making process”).

75. See *infra* Part V.

76. Or their demographic has historically not had access to lawyers and the public sphere, like women, minorities, and impoverished individuals. Alyssa A. DiRusso, *Testacy and Intestacy: The Dynamics of Wills and Demographic Status*, 23 QUINNIPIAC PROB. L.J. 36, 77–79 (2009).

77. 23 AM. JUR. 2D *Descent and Distribution* § 12 (2025).

78. See, e.g., Kurt Smith & Ryan Thomson, *Heirs’ Property in North Carolina: What is It and Why Should I Care?*, NC STATE EXTENSION (Mar. 24, 2025), <https://content.ces.ncsu.edu/heirs-property-in-north-carolina-what-is-it-and-why-should-i-care> [https://perma.cc/2585-HDKL].

79. *Id.* at 1.

these communities in particular.⁸⁰ Software could also recommend users in these situations to various non-profits addressing the issue.⁸¹

III. MARKET LANDSCAPE AND PRODUCTIZATION

The robo-will software service market is currently valued at \$1.26 billion worldwide in 2025 and is expected to reach \$2.96 billion by 2034.⁸² The growth is largely attributed to the increased convenience over visiting an attorney, allowing “customers to draft and manage their wills from the consolation of their homes or places of work.”⁸³ The market is very concentrated, with most of the value lying in four software firms.⁸⁴

Estate planning attorneys, in comparison, are bringing in \$17.8 billion in revenue in the United States alone.⁸⁵ Also, unlike the robo-will software industry, the estate lawyer industry is very fractionated, with the top four players taking less than 5% of the market combined.⁸⁶

Though the software market is only a fraction of the attorney market’s size, its rise and tendency toward oligopoly⁸⁷ poses a threat to consumers in a market where people deserve a professional

80. While there still exists a “digital divide” due to millions of Americans who “don’t have broadband available to them or can’t afford to pay for it,” government funding and private efforts are making a dent in the issue. *Closing the Digital Divide for the Millions of Americans without Broadband*, U.S. GOV. ACCOUNTABILITY OFF.: WATCHBLOG (Feb. 1, 2023) <https://www.gao.gov/blog/closing-digital-divide-millions-americans-without-broadband> [https://perma.cc/X2X5-T5P3] (last visited Oct. 29, 2025).

81. A great example of this is North Carolina’s Land Loss Prevention Project. Land Loss Prevention Project, <https://www.landloss.org> [https://perma.cc/MH33-AJKN] (last visited Oct. 22, 2025).

82. *Online Will Writing Service Market Size, Share, Growth and Industry Analysis*, BUS. RSCH. INSIGHTS, <https://www.businessresearchinsights.com/market-reports/online-will-writing-service-market-114804> [https://perma.cc/83R9-LT65] (last visited Sep. 30, 2025).

83. *Id.*

84. *Id.*

85. Demetrios Berdousis, *Trusts & Estates in the US - Market Research Report (2015-2030)*, IBISWORLD, <https://www.ibisworld.com/united-states/industry/trusts-estates/1343> [https://perma.cc/4K27-F98B] (May 2025).

86. *Id.*

87. Lee, *supra* note 61, at 967, 990–92.

relationship with someone who can artfully manage the intimate details of their legacy.⁸⁸ A major part of what makes the robo-will software industry tend toward oligopoly is its product: a software that benefits from economy of scale and scope, great market penetration, and the network externality effect.⁸⁹

The increasing presence of software in the market invites the question: Is estate planning a service, or a product? The experience of seeking services like traditional estate planning historically differs from purchasing goods, but the experience gap closes as services are productized.⁹⁰ Productization has flooded through various service industries—finance, banking, individual tax-filing—but it is slower to affect knowledge-intensive business services like corporate accounting and law.⁹¹

Services can be productized through standardized pricing, bundling, and by using self-service user interfaces.⁹² Standardized pricing for various services effectively turns the service into a product

88. Scholars have debated for more than a century as to whether lawyers should be considered a profession, a business industry, or something else. See, e.g., Robert Ferrari, *The Practice of Law: Is It a Profession or a Business?*, 5 J. AM. INST. CRIM. L. & CRIMINOLOGY, 479, 479–84 (1914); Champ S. Andrews, *The Law. A Business or a Profession?*, 17 YALE L.J. 602, 602–10 (1908); Russel G. Pearce, *The Professionalism Paradigm Shift: Why Discarding Professional Ideology Will Improve the Conduct and Reputation of The Bar*, 70 N.Y.U. L. REV. 1229, 1230–33 (1995). Despite the conflict, the different paradigms tend to agree that relationships are central to a lawyer’s “core values of trust, judgment, loyalty, empowerment, and service to clients, as well as renewed commitment to the public good”—values that software companies simply do not share to the same extent. Eli Wald and Russell G. Pearce, *Being Good Lawyers: A Relational Approach to Law Practice*, 29 GEO. J. LEGAL ETHICS 601, 647 (2016).

89. Lee, *supra* note 61 at 1003.

90. Productization can be defined as “the processes that aim to systematize and formalize both the content and process of the service.” Aku Valtakoski & Katriina Järvi, *Productization of Knowledge-Intensive Services: Enabling Knowledge Sharing and Cross-Unit Collaboration*, 27 J. SERV. MGMT. 360, 361 (J2016). These are more specifically categorized into three processes: “specifying and standardizing the service offering; tangibilizing and concretizing the service offering and professional expertise; and systematizing and standardizing processes and methods.” *Id.* at 362.

91. *Id.* at 363.

92. These three techniques are examples of tangibilizing, concretizing, systematizing, and standardizing. *Id.*

in the minds of consumer-clients. For example, people find the idea of buying an iron-clad will for \$1,500 more attractive than spending \$500 per hour for three hours of a lawyer's expert advice on a succession plan.⁹³ Same cost, different presentation. Add bundling as a concretizing marketing and sales strategy—a will, a power of attorney, and a health directive for \$2,000, and it becomes easier for the firm or company to upsell the customer-client.⁹⁴ Self-service user interfaces can only be adopted once a set of services have been fully standardized and optimized into a menu of “products,” and at that point, the need for a professional has been virtually eradicated.

Estate planning⁹⁵ is uniquely susceptible to productization because of its relative universality, standardization, and low dispute salience ex-ante.⁹⁶ First, estate planning is relatively universal compared to many other practices of law.⁹⁷ Most clients who walk into an estate planning law firm share common motivations and expectations.⁹⁸ They want their succession to go exactly as they wish, and there are only so many ways to accomplish those wishes. Second, each state's estates statutes are standard enough to allow for an almost one-size-fits-all approach to estate planning procedures.⁹⁹ Though not completely standardized, the statutes' variance in implication is minor enough to

93. Mario Kienzler, Christian Kowalkowski, & Daniel Kindström, *Purchasing Professionals and the Flat-Rate Bias: Effects of Price Premiums, Past Usage, and Relational Ties on Price Plan Choice*, 132 J. BUS. RSCH. 403, 403 (2021).

94. Ruiliang Yan, Chris Myers, John Wang & Sanjoy Ghose, *Bundling Products to Success: The Influence of Complementarity and Advertising*, 21 J. RETAILING CONSUMER SERVS. 48, 48–53 (2014).

95. As opposed to estate administration.

96. Salience here means how important the perceived dispute is to an interested party, and ex ante means that the dispute was calculated before a given event—in essence, people often do not complain about estate planning services until well after receiving them.

97. Estate administration law in the United States has trended from formalism to functionalism, standardizing largely under the Uniform Probate Code and the Restatement 3d of Property. David Horton, *Wills Law on the Ground*, 62 UCLA L. REV. 1094, 1104–20 (2015).

98. Succession, while complicated in some situations, really boils down to the transfer of assets on death; everybody seeking an estate plan wants to receive services like drafting wills, setting up trusts, and guiding families through probate processes. *Id.*

99. *Id.*

make most wills valid across state lines. A will, written by an adult of sound mind, without undue influence, signed and properly witnessed or notarized is valid in any state.¹⁰⁰

Finally, the fact that most disputes a customer-client might have with their lawyer's work "product" cannot occur until after the customer-client dies makes the service more fit for productization. If the only person who could complain about the service has died, then all that is left to focus on is the product, and this makes the service aspect of the lawyer's work less important than that product. If people focus on a product that is concrete, uniform, and standardized, then the service aspect of the planning becomes less important. Estate planning's increased susceptibility to productization as a practice of law is what makes it possible for software companies to enter the practice of law in the first place.¹⁰¹

The most provocative role robo-will software plays is as a lawyer-replacing technology. Software is increasingly used as a "do-it-yourself" solution, much like TurboTax¹⁰² software has been adopted in the tax-filing industry. Consumer adoption of robo-will software increases as consumer trust in the software fulfilling their needs increases.¹⁰³ Only some software is designed to be fully

100. 95 C.J.S. *Wills* § 224 (2025). Even Louisiana's civil law system has this requirement. LA. CIV. CODE ANN. art. 1576 (2025).

101. This also provides insight as to why estate planning practice is susceptible to absorption into accounting firms and banks, a recent trend. Chad D. Cummings, *The Expansion of Accounting Firms into Legal Services: A Structural and Regulatory Evolution*, CUMMINGS & CUMMINGS L.J., <https://www.cummings.law/the-expansion-of-accounting-firms-into-legal-services-a-structural-and-regulatory-evolution/> [https://perma.cc/Y5DJ-5NEH] (last updated Mar. 6, 2025).

102. TurboTax, INTUIT, <https://turbotax.intuit.com/> [https://perma.cc/JSP5-QM63] (last visited Sep. 30, 2025). Also, financial services companies are increasingly providing consumers the option to use robo-advisors to create and manage their stock portfolios. See Tara Siegel Bernard, *Robo-Advisers for Investors Are Not One-Size-Fits-All*, N.Y. TIMES (Jan. 26, 2016), <https://www.nytimes.com/2016/01/23/your-money/robo-advisers-for-investors-are-not-one-size-fits-all.html> [https://perma.cc/PV8W-4CUT].

103. Nidhi Singh et al., *An Analysis of Consumer's Trusting Beliefs Towards the Use of e-Commerce Platforms*, 11 HUMANS. SOC. SCI. COMM'NS. 899, 900 (2024).

self-contained, however, as much of the software is designed with lawyers in the loop or as tools for legal offices.¹⁰⁴

Lawyers themselves are using software to streamline and productize their own practice.¹⁰⁵ Robo-will companies market their software to attorneys as combining client relation managers and billing portals with document generation tools, including specialized templates, scenario modeling, and probate tax calculators.¹⁰⁶

Robo-will software companies use three different pricing models: subscription-based, one-time license fee, and freemium.¹⁰⁷ Subscription-based pricing “dominates with nearly 70% market share,” while one-time license fees are used by 20%, and freemium models by 10%.¹⁰⁸ For attorneys to adopt tools that streamline office workflows, the price has to be low enough to justify the time saved on potential billed hours, and continuous use demands a subscription model.

IV. IMPLICATIONS OF MASS ADOPTION

A. Retail Adoption

An increased use of estate planning software could be a net positive for society to the extent that said use complements attorney-guided estate planning, rather than replacing it. Robo-will software has the potential to expand the availability of estate planning, prevent clouded title issues, and impact court and clerk systems in estate administration.

¹⁰⁴. For example, attorneys play a major role in supervising the retail use of legal software in Utah and Arizona. David Freeman Engstrom et al., *Legal Innovation After Reform: Five Years of Data on Regulatory Change*, STAN. L. SCH. DEBORAH L. RHODE CENT. LEGAL PRO. 1, 8 (2025).

¹⁰⁵. JoAnn L. Hathaway, *Legal Tech Revolution: Practice Management and Accounting Software Reimagined*, 104 MICH. B.J. 39, 40 (May 2025).

¹⁰⁶. David Brilliant, *Estate Planning Software for Attorneys*, BRILLIANT L. FIRM (May 23, 2025), <https://brilliantlaw.com/estate-planning-software-for-attorneys> [<https://perma.cc/42N4-7DN3>].

¹⁰⁷. *Global Estate Planning Software Market Size*, VERIFIED MKT. REP., <https://www.verifiedmarketreports.com/product/estate-planning-software-market> [<https://perma.cc/2PV8-KNCH>] (last visited Sep. 30, 2025).

¹⁰⁸. *Id.*

First, software can increase the accessibility of succession planning.¹⁰⁹ A 2016 Gallup poll found that only 44% of surveyed U.S. adults reported having a will.¹¹⁰ The survey also showed that that number is skewed racially, as White individuals are 51% likely to have a will, compared to an only 28% likelihood for non-White individuals.¹¹¹ One report states that 76% of African Americans do not have a will,¹¹² and another survey indicates that the number is even worse in the Latinx demographic.¹¹³ The demographics least likely to have a will are also the demographics most likely to lack accessibility to attorneys.¹¹⁴ Age is also a factor in determining whether a person is likely to have a will. 66% over the age of 65 have a will, while only 18% of those in the 18–34 range take the time to get their affairs in order.¹¹⁵ Wealth also impacts that likelihood, as wealthier people are more likely to have wills.¹¹⁶

These trends in age and wealth indicate that lack of urgency is a major factor in the estate planning cost-benefit calculus. As urgency is unlikely to increase on a macro scale for demographics that currently put less stock in estate planning, lowering cost and time-commitment should increase adoption of estate planning. Robo-will software's primary selling points are those exact factors, so the software's adoption should better serve minorities and younger generations—pushing more of them to have an estate plan in place. Software companies stepping up their marketing and serving these demographics could go a long way toward providing the simplest

109. Horton, *supra* note 97.

110. Jeffery M. Jones, *Majority in U.S. Do Not Have a Will*, GALLUP (May 18, 2016), news.gallup.com/poll/191651 [<https://perma.cc/WX4P-C7VZ>].

111. *Id.*

112. Lizzie Presser, *Kicked Off the Land*, NEW YORKER (July 15, 2019), <https://www.newyorker.com/magazine/2019/07/22/kicked-off-the-land> [<https://perma.cc/7RKA-APL3>].

113. Rachel Lustbader, *2019 Survey Finds that Most People Believe Having a Will is Important, but less than Half Have One*, CARING (last updated Sep. 18, 2025), <https://www.caring.com/resources/2019-wills-survey> [<https://perma.cc/X8GK-HJPX>].

114. See *supra* note 70 and accompany texts.

115. Lustbader, *supra* note 113.

116. *Id.*

forms of estate planning to a broader scope of people, and more people having wills leaves society better off.¹¹⁷

Second, increased robo-will adoption could prevent heirs' property and clouded title issues, especially in rural areas. Clouded titles pose a prevalent racial issue in rural America, as they are a leading cause of involuntary Black land loss.¹¹⁸ Clouded titles also lower property value as they can constitute a form of encumbrance, further exacerbating a wealth gap on racial and geographic lines by making the poorest Americans' land worth even less.¹¹⁹ Minorities and rural dwellers making wills and trusts through software would contribute at least in a small way to lessening wealth inequality.

Third, as more individuals opt to use software rather than approach death without a plan, court systems will have to adapt when time comes for estate administration. Thus far, this Note has discussed estate *planning*. However, in the end all people die and estates must be administered. How effective is an estate plan drafted by algorithm when it lands in court?

Currently, courts treat software-drafted wills as if the testator him or herself wrote the will.¹²⁰ As a result, there is no attorney to blame should a will contain contestable errors.¹²¹ Courts can normally only correct ("reform") errors in a will where there is a typographical or

117. What does society look like without wills? The nation already has a demographic suffering from the results of lack of succession planning: rural communities facing heirs' estate issues. More wills mean more dead-hand control. The fact that our current intestacy system attempts to follow as closely as possible indicates that doing what the decedent would have wanted in disposing of property is societally desirable. Thomas W. Mitchell, *From Reconstruction to Deconstruction: Undermining Black Landownership, Political Independence, and Community Through Partition Sales of Tenancies in Common*, 95 NW. U. L. REV. 505, 507 (2001).

118. *Id.*

119. One real estate website claims that a clouded title "can reduce a property's value by 15-30% because buyers and lenders fear legal problems." Zach Koops, *How a Clouded Title Affects Property Value*, ALIGN, <https://alignrealestatesolutions.com/how-a-clouded-title-affects-property-value/> [https://perma.cc/9HLH-P3AS] (last visited Oct. 22, 2025).

120. See, e.g., *General Terms of Service*, ROCKETLAWYER, *supra* note 21.

121. *Id.*

clerical error, the testator's instructions have been misunderstood, or the testator's instructions have not been carried out properly.¹²²

Robo-will software makes a court's determination of whether and how to reform errors particularly difficult. A testator's instructions to a software, an algorithm's interpretation of those instructions, and the creation of a final product by the software each presents potential points of failure. If these errors arise, then most courts can only "conform the terms to the transferor's intention if it is proved by clear and convincing evidence what the transferor's intention was and that the terms of the governing instrument were affected by a mistake."¹²³ As such, more errors means more work for the courts in chasing extrinsic evidence to determine each testators' intentions. If attorneys were involved instead, they would be more likely to spot errors—or at least be held accountable for an error that passed on their watch.

Other than simply making mistakes, robo-will software could also potentially turn evil one day—influencing people to dispose of their assets against their will. Could an undue influence claim against a software company arise at some point? A donative transfer is procured by undue influence when the influence "exerted over the donor overcame the donor's free will and caused the donor to make a donative transfer that the donor would not otherwise have made."¹²⁴ As robo-will software provides prompts and people respond to them, the software in effect pushes users to think in certain ways about their property. Could courts one day see a disgruntled nephew taking a software company to court arguing that Grandma only wrote to give her residual estate to charity because the software pushed via pop-up the societal value of charitable giving?

Increased adoption of robo-will software could also entail fraudulent and criminally organized activity spoofing the software for data mining. Though less likely to occur, such activity could theoretically leave individuals with faulty, error-ridden, or unduly influenced wills that end up in court one day.

¹²². See 76 C.J.S. *Reformation of Instruments* § 28 (2025).

¹²³. UNIF. PROB. CODE § 2-805 (UNIF. L. COMM'N 2019).

¹²⁴. RESTATEMENT (THIRD) OF PROPERTY: WILLS AND OTHER DONATIVE TRANSFERS § 8.3(b) cmt. e (AM. L. INST. 2003).

These sorts of issues demonstrate why mass retail adoption of robo-will software is a mixed bag. It does well in its lane—functioning as a replacement for holographic wills or intestacy—but quickly crashes if allowed to replace expert attorneys with ethical responsibility.

B. Attorney Work-flow Integration

Attorneys, as licensed professionals, are more educated on the potential pitfalls of using robo-will software than retail users and are held responsible for misuse. This Section will address the benefits and costs to the profession of incorporating software, innovative business models, and how malpractice carriers, platform indemnities, and lawyer supervision duties allocate liability in hybrid models.

1. Pros and Cons

When an attorney adopts software into practice, that practice changes—the question is how it changes. The primary implications discussed here are the practical intra-office effects of outsourcing legal decision-making, the shifting relational dynamics of client engagement, and the preservation or degradation of core ethical legal values.

Software adoption changes the experience of running a firm. Estate planning firms that integrate applications of assistive software into their practices will face a training hurdle followed by an eventual increase in efficiency.¹²⁵ A successful integration requires an awareness that software use can take more time than it saves at the beginning, as lawyers need to change the way they do things to fit the new member of their team.¹²⁶ For example, a certain guided interview software may not allow for input to the firm's current client relation manager

¹²⁵. See generally Yaser Ghanam, Frank Maurer & Pekka Abrahamsson, *Making the Leap to a Software Platform Strategy: Issues and Challenges*, 54 INFO. SOFTWARE TECH. 968 (2012) (exploring business, organizational, technical, and people issues that arise when adopting software in business practice).

¹²⁶. Arie Brish, *Learning Curve Management of New Products and Services*, FORBES <https://www.forbes.com/councils/forbestechcouncil/2021/11/22/learning-curve-management-of-new-products-and-services/> [<https://perma.cc/F2S7-ZJBM>] (last updated Apr. 21, 2022, at 08:16 ET).

or billing software, requiring each lawyer in the firm to learn to navigate new user interfaces.

The lawyers will also have to shift their interactions with clients to fit the software into their intake and counseling—a potentially significant change from the traditional pen-and-notepad method of taking client information down. As estate planning firms overcome initial implementation hurdles, they should see a decrease in time spent on routine document drafting, data entry tasks, and clerical coordination.¹²⁷ They should also see a simultaneous increase in time available for seeking new clients, improving processes, and expansion.¹²⁸ A firm taking advantage of this time will find more clients, receive more revenue, and expand to fill the current or neighboring markets' estate planning needs.¹²⁹

Firms that change their processes and grow as a result may find that their interactions and relationships with clients have changed as well. Clients may begin to see estate planning as a software service rather than a personal fiduciary relationship, depending on the extent of automation in the process. As a result, clients may value firms' service less because of the degradation of the traditional counselor role, forcing the firms to lower their fees. For example, a firm that has clients fill out all intake information before coming in for a brief consultation may see the intake software as the primary drafter of their will or trust. Clients may also receive less education from their planning sessions, either because they spend less time interacting with an attorney or because the attorney's reliance on software dulls their ability to provide complex or obscure guidance.¹³⁰

¹²⁷. *Id.*

¹²⁸. Tim Mucci & Cole Stryker, *What Is Business Process Automation (BPA)?*, IBM: THINK, <https://www.ibm.com/think/topics/business-process-automation> [<https://perma.cc/EXJ7-8776>] (last visited Oct. 30, 2025).

¹²⁹. *Id.*

¹³⁰. This phenomenon is called individual “deskilling,” and has been observed across professions with the introduction of technology. Tapani Rinta-Kahila, Esko Penttinen, Antti Salovaara & Wael Soliman, *Consequences of Discontinuing Knowledge Work Automation—Surfacing of Deskilling Effects and Methods of Recovery*, 51st HAW. INT'L CONF. ON SYS. SCIS., at 5244 (Jan. 3, 2018), https://aisel.aisnet.org/hicss-51/os/dark_side/2/ [<https://perma.cc/YK9F-FAT8>].

On the other hand, increased software adoption can assist attorneys in helping clients better visualize why changes to a plan may be necessary, specifically important figures like the (1) “anticipated estate taxes at death;” (2) “amount of cash that will be required to pay those taxes as well as to satisfy other liabilities, and the amount of cash that will be required to pay any pecuniary gifts to beneficiaries net of taxes;” and (3) “net amount of assets that will pass to designated beneficiaries.”¹³¹ Software can essentially provide clients with a visual “before and after” of any changes to their plan, making it much easier for a lawyer to convince them to make the choice in their best interest. An attorney who improves visualization to standardize output for clients, however, is taking steps on the path of productization that can be harmful to clients and the integrity of traditional lawyering. In the end, the way an attorney chooses to implement software into practice shows how he or she defines the role of attorneys in estate planning: drafter, interpreter, and counselor; or simply a software user and information broker.

Attorney-client relations are also central to the ethical aspects of lawyering—the core legal values. For example, adopting software contributes to equal treatment under the law to the extent that all clients are receiving very similar services. Similarly, if attorneys can serve clients more efficiently and at a lower cost, then they can better reach out into legal deserts through pro bono or lower-cost work, providing equal service to both those who have and those who have not. Mass adoption of estate planning software by firms would likely better allow intergenerational outcomes to arise from law, principle, and facts rather than social status or power—acting as an equalizer. The nature of software allows for procedural fairness and due process in the form of uniform application for each client, reducing risk of human error or bias.¹³² On the other hand, bias may be encoded

¹³¹. FLORIDA BAR, ESTATE PLANNING CHECKLISTS AND COMPUTER SOFTWARE, BEP FL-CLE § 15-3 (12th ed. 2024).

¹³². This nature stems from the decrease of mechanical errors compared to human efforts, but only to the extent that human bias is not coded into the software’s task. Mucci & Stryker, *supra* note 128.

algorithmically into the software, amplifying its negative effects.¹³³ After all, software tends to lack transparency in process, as even the attorney who administers it may not know how clauses are populated by various user inputs.

The negative of clients clicking through on their own also raises the question of informed consent—are clients being taught the legal significance of their inputs as they go? Finally, though the expanded use of software by estate planning attorneys may improve efficiency within estate planning practices, it may simultaneously strain the efficiency of local courts. The simpler the planning process is, the more difficult administration can become in cases of poor application or ambiguity. On the other hand, uniform documents and integration with e-filing systems could streamline processes, reducing court workload.¹³⁴ In all, the pros and cons balance out, leaving the question of whether to integrate software or not to each practitioner’s preferred workflow.

2. *Innovative Business Models*

Widespread robo-will software integration can prompt the formation of unique and innovative business models that not only challenge traditional estate planning norms, but uproot them entirely. Estate planning has historically been particularly resistant to disruption and change for several reasons,¹³⁵ but at least partially because people are uncomfortable considering their mortality. It is difficult for a person to imagine loved ones living a life without them, and sometimes just as difficult to imagine them without their valued,

¹³³. Sandra G. Mayson, *Bias in, Bias Out*, 128 YALE L.J. 2218, 2221 (2019) (“Algorithmic prediction has the potential to perpetuate or amplify social inequality, all while maintaining the veneer of high-tech objectivity.”).

¹³⁴. E-filing and automation improves judicial efficiency by minimize time wasted by court administrators on incomplete, irrelevant, and incorrect forms, managerial burdens, and getting to the meat of substantive arguments. *Forms & Filing Processes: Understandable, Accessible & Digital* 42, STAN. L. SCH. FILING FAIRNESS PROJECT (Nov. 2023) https://filingfairnessproject.law.stanford.edu/wp-content/uploads/2023/11/SLS_FilingFairnessProject_FF.pdf [<https://perma.cc/8EQ8-C55C>].

¹³⁵. Horton, *supra* note 97 (“These profound changes did not go over smoothly in a field that was already known for its ability to ‘resist[] modernity . . . successfully.’”).

and often hard-earned, assets. For difficult topics such as succession, people seek comfort in developing a deep relationship with an individual attorney who can counsel them for decades. That sort of personal attorney-client relationship was the only option for much of American history,¹³⁶ but as time passes, law firms have shifted toward corporate-modeled BigLaw firms with systems in place to optimize profit—boosting revenue, upping efficiency, cutting costs, ensuring client retention, and expand reach.¹³⁷ Now, however, software’s momentum of increased capability is prompting estate planning to consider going the way of many other legal practices—call it innovation or industrialization.¹³⁸

For example, Arizona and Utah have opened up regulatory “sandboxes” for attorneys to explore the viability of non-lawyer ownership of legal practices, relaxing American Bar Association (“A.B.A.”) Model Rule of Professional Conduct 5.4’s ban on fee-sharing and co-ownership between lawyers and non-lawyers in what they call “alternative business structures.”¹³⁹ These jurisdictions found that after five years in the sandbox, five types of innovation emerged.¹⁴⁰ First, traditional law firms made changes such as taking non-lawyer investments to expand and gave non-lawyer equity ownership.¹⁴¹ Second, law companies like LegalZoom were empowered to provide legal services without lawyer ownership.¹⁴² Third, some non-law companies such as accounting firms and travel services began offering legal services in conjunction with their standard offerings.¹⁴³ Fourth,

136. Victoria L. Collier, *From Tradition to Innovation: Modern Era Succession Planning*, A.B.A. L. PRAC. MAG. (July 1, 2024) https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2024/july-august-2024/from-tradition-to-innovation-modern-era-succession-planning/ [https://perma.cc/3RSA-72SY].

137. *Id.*

138. See generally David Ka Wai Chui, *Legal Industrialisation: The Rise and Its Implications for Access, Ethics and Expertise*, 3 INT. J. LEGAL STUD. & SOC. SCIS. 290, 290–307 (2025), (exploring more recent developments of technological innovation as forms of industrialization).

139. Engstrom et al., *supra* note 104.

140. *Id.* at 20.

141. *Id.*

142. *Id.*

143. *Id.*

intermediary brokers began connecting consumers with law firms.¹⁴⁴ Finally, the areas saw a growth in entities that use non-lawyers and technology to practice law, finding “new ways of providing legal services that otherwise are not permitted under most state regulatory schemes.”¹⁴⁵

Relaxing ethical rules and allowing non-traditional business structures to flourish encourages productization and industrialization. Though the Stanford researchers cited above argue that attorneys continuing to play a role in the innovative firms “mitigate[s] concerns that ‘corporate’ practice of law will sideline lawyers or forego their unique ethical training, perspective, and obligations,”¹⁴⁶ it is ultimately unconvincing that attorneys will be able to uphold their professional integrity and autonomy under non-lawyer bosses. In-house attorneys are only able to work under non-lawyers because their only client is the business that employs them.¹⁴⁷ An attorney who works in a business not owned by attorneys but serves individual clients—as in estate planning—has a professional duty to clients that supersedes profit, while that attorney’s entrepreneurial boss should be focused on profit if the business is to succeed. Profit and professional duty can definitely coexist, but the ability for a legal service business to focus on profit without that professional duty is concerning.

The Stanford researchers also argue that “[p]ublicly available information on consumer complaints and disciplinary actions in Utah and Arizona shows little to no evidence of consumer harm,”¹⁴⁸ but the negative societal impact of the legal industrialization and productization is not something that consumers would be able to readily identify or address.¹⁴⁹ Indeed, consumer harm may be

^{144.} *Id.*

^{145.} *Id.* at 21.

^{146.} *Id.* at 4.

^{147.} Though in-house counsel functions under non-lawyer executives, they are considered by ethical rules to be sufficiently independent through substantive duties as exhibited in Rules 1.13(b), 1.2(d), and 2.1. MODEL RULES OF PROFESSIONAL CONDUCT *rs.* 1.13(b), 1.2(d), 2.1 (A.B.A. 2016).

^{148.} *Id.*

^{149.} For example, many privacy-related injuries are intangible, dispersed across many people, and therefore do not fit traditional legal notions of “cognizable

footnote continued on next page

increasing unobserved due to these relaxed ethical standards. Law firms can and should use technology to fundamentally shift the way they assist people with their succession, but that adoption should not come at the cost of professional integrity or societal good.

3. *Malpractice Implications*

Unlike retail consumers' use of robo-will software, where the user is liable for any mistakes made, lawyers are still on the hook as professionals for mistakes made by software they implement into practice. Lawyers get in trouble if they owe a duty, breached that duty, and caused financial harm to the person filing a malpractice claim. While it is not unusual for clients to appoint their attorney as trustee or executor to an estate—establishing a strong fiduciary duty—attorneys owe them professional duties as well.¹⁵⁰

For example, A.B.A. Model Rule 1.1 requires that attorneys provide “competent representation,” which requires “legal knowledge, skill, thoroughness and preparation.”¹⁵¹ Estate planning software can help attorneys be more competent, in the sense that it can improve their knowledge, increase their skill and thoroughness, and make them more prepared to serve clients' needs. On the other hand, a potential issue may arise when attorneys implement software they are not well trained on, or do not yet understand fully. A.B.A. Model Rule 1.1 also states that lawyers should understand “the benefits and risks associated” with the technologies used to deliver legal services to clients in order to provide competent representation, or else risk breaching their duty.¹⁵² Not knowing how the software works, such as which inputs lead to various drafting outputs, could result in careless drafting or a failure to draft what the client wants.

harm,” which makes them hard to detect, aggregate, or remediate through conventional complaint processes. Solove & Citron, *supra* note 65.

150. Kim D. Fetrow & Ryan J. Ahrens, *The Attorney as Fiduciary: Permissible Actions & Problem Areas*, in WHEN, IF EVER, SHOULD AN ATTORNEY SERVE AS A CLIENT'S FIDUCIARY 2–8 (2019), <https://midatlanticfellowsinstitute.org/wpcontent/uploads/2019/11/Kim-D.-Fetrow-2019-MAFI-Updated-Written-Materials.pdf> [<https://perma.cc/G7EB-EBY4>].

151. MODEL RULES OF PRO. CONDUCT r. 1.1 (A.B.A. 2016).

152. MODEL RULES OF PRO. CONDUCT r. 1.1 cmt. (A.B.A. 2016).

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Especially if the use of software increases efficiency and allows attorneys to draft more documents than they would otherwise, lawyers must always give wills and trusts careful review. After all, a misplaced semicolon can cost residuary heirs \$8 million.¹⁵³ Software may not contemplate that clients may move to another state, that a named heir is a minor, or the ramifications of failing to conform non-probate documents to the client's estate plan. An attorney could not blame the software for any of these failures if neglected.¹⁵⁴

Even if lawyers act as supervisors to tech-advanced administrators, they are still responsible for the service provided in their representation of clients by software. A.B.A. Model Rule 5.3(a) states that lawyers must “make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the [nonlawyer]'s conduct is compatible with the professional obligations of the lawyer”—in other words, that everyone under them must uphold the same rules of ethics they were sworn to.¹⁵⁵ Software's role in the growing presence of alternative business structures and increased client intake almost guarantees more mistakes being made along the way.

The more estate planning attorneys implement software into their practices, the more malpractice suits they should expect, and the more estate planning attorneys should expect insurance carriers to not want to pay the claims.¹⁵⁶ In response to an uptick of recent

¹⁵³. See *Estate Planning Traps: Risk Management Practice Guide of Lawyers Mutual*, LAWS. MUT. 7 (Sep. 2017), https://lawyersmutualinc.com/wpcontent/uploads/2024/03/Estate_Planning-1.pdf [<https://perma.cc/9RJU-75QG>] (“Among other things, the court looked at the fact that there was a semicolon after each general bequest (except one), but a period at the end of the last bequest before the paragraph disposing of the residuary estate. The court held that this punctuation, along with the language and circumstances of execution, supported the position that Mrs. Cone intended for the distribution to the foundation to be a separate bequest and not a part of the residuary estate, resulting in \$8 million less to the residuary heirs.”).

¹⁵⁴. Malpractice insurance companies explicitly warn attorneys to be careful about these failures. *Id.* at 8.

¹⁵⁵. MODEL RULES OF PRO. CONDUCT r. 5.3 (A.B.A. 2016).

¹⁵⁶. Danielle Braff, *Does Your Professional Liability Insurance Cover AI Mistakes? Don't Be So Sure*, A.B.A.J. (Feb. 1, 2025, at 05:55 CT), <https://www.abajournal.com/magazine/article/does-your-professional-liability-insurance-cover-ai-mistakes-dont-be-so-sure> [<https://perma.cc/23P7-J2MZ>].

technology-related claims, carriers have responded with exclusions on losses due to use of tools that do “not satisfy the definition of professional service” and by limiting coverage amount via low sublimits.¹⁵⁷ In effect, liability will likely stay on the attorney. This liability can serve as a deterrent against the hasty adoption of imperfect technology and the accompanying risk it poses to professional integrity.

V. LEGAL & REGULATORY LANDSCAPE

Robo-will software is not completely supported by attorneys. Lawyers in North Carolina,¹⁵⁸ Missouri,¹⁵⁹ Texas,¹⁶⁰ California,¹⁶¹ and more¹⁶² led the charge against software companies with UPL lawsuits.¹⁶³ Many of these suits failed on procedural matters, but at least some were successful.¹⁶⁴ Texas had already amended its statutes to protect software companies from UPL suits as early as 1999¹⁶⁵ in response to a suit against Quicken Family Lawyer, a predecessor of Quicken

¹⁵⁷. *Id.*

¹⁵⁸. Complaint at 26, *LegalZoom.com v. N.C. State Bar*, No. 11CVSI5111, 2011 WL 8424700 (N.C. Super. Ct. Aug. 27, 2012).

¹⁵⁹. *Janson v. LegalZoom.com, Inc.*, 802 F. Supp. 2d 1053 (W.D. Mo. 2010).

¹⁶⁰. *Solotko v. LegalZoom.com, Inc.*, No. 03-10-00755-CV, 2013 WL 3724770 (Tex. App. July 11, 2013).

¹⁶¹. *LegalForce RAPC Worldwide v. LegalZoom.com, Inc.*, No. 17-cv-07194-MMC, 2018 WL 2013552 (N.D. Cal. Apr. 30, 2018).

¹⁶². Cf. Emily McClure, *LegalZoom and Online Legal Service Providers: Is the Development and Sale of Interactive Questionnaires That Generate Legal Documents the Unauthorized Practice of Law?*, 105 KY. L.J. 563, 573 (2017) (discussing several cases where unauthorized practice of law claims were brought against online legal service providers).

¹⁶³. Though each state differs in its code of professional conduct, most follow roughly the A.B.A. Model Rule 5.5(b) on this matter: “A lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.” MODEL RULES OF PRO. CONDUCT r. 5.5(b)(1–2) (A.B.A. 2016).

¹⁶⁴. McClure, *supra* note 162, at 570–73.

¹⁶⁵. TEX. GOV'T CODE ANN. § 81.101(c) (West 2025).

WillMaker and Trust.¹⁶⁶ In North Carolina, the legislature followed up in 2015 by passing an act titled “Unauthorized Practice of Law Changes” which was signed and codified as North Carolina General Statute § 84-2.2 in protection of the software.¹⁶⁷ As these and other statutes allow the estate planning software industry to penetrate the legal services market, it is safe to say that for the foreseeable future, legislatures will continue to permit their growth.

Another trend benefiting the growth of robo-will software market share is the adoption of the Uniform Law Commission’s Electronic Wills Act.¹⁶⁸ As of this Note’s writing, ten states have enacted the Electronic Wills Act, and three have introduced bills to their legislatures.¹⁶⁹ The Act follows the same formalities required in Uniform Probate Code § 2-502 to execute a will but also allowed it to be executed electronically, even if the testator and witnesses are in different locations.¹⁷⁰ This effort to digitize processes improves accessibility to legal services in some states,¹⁷¹ but it also further moves the service of estate planning into the domain of software companies.

The contractual agreements that users enter into when using the robo-will products put them in a disadvantageous position. By using the products, users are agreeing to disclaimers, arbitration, limitations of liability, and often unfair venue selection that they likely never even

166. Act effective June 18, 1999, ch. 799, 1999 Tex. Gen. Laws 3423; *Unauthorized Practice of L. Comm. v. Parsons Tech. Inc.*, No. Civ.A. 3:97CV-2859H, 1999 WL 47235, at *1, *6-7 (N.D. Tex. Jan. 22, 1999), *vacated*, 179 F.3d 956 (5th Cir. 1999) (vacating because the Texas legislature amended the unauthorized practice of law statute to explicitly exclude computer document services).

167. N.C. GEN. STAT. § 84-2.2 (2025).

168. ELEC. WILLS ACT (UNIF. L. COMM’N 2019).

169. *Id.*

170. *Id.* § 5(a)(3).

171. Not all states that adopted some form of the Uniform Electronic Wills Act allow for remote witnessing of electronic wills; though as of 2022, at least “eight states that validate e-wills permit remote witnessing.” Adam J. Hirsch, *Electronic Will Legislation in the US*, ACTEC FOUND. (July 2022), <https://actecfoundation.org/podcasts/electronic-will-legislation-us-2022/> [<https://perma.cc/2TUA-MBTJ>].

read.¹⁷² In contrast, clients of attorneys are protected somewhat by the professional standards and the potential for malpractice recovery. Average people seeking to protect their legacy and get their affairs in order would be better off with attorneys from a products liability standpoint.

VI. CONCLUSION

Should the proliferation of robo-will software and the growing reach of legal technology companies be allowed to productize estate planning services? This analysis says no. Near-term advances in the robo-will software industry might change the calculus of capability and risk for the betterment of society, but that would require companies to prioritize user welfare alongside profit. Several potential policy options can balance innovation and protection, such as limiting software use to attorneys, drawing clearer lines for what constitutes UPL, and implementing obstacles for oligopoly to rule the market. More transparent disclosure standards and outcome-based certification of the industry could help with the dispute-salience issue inherent in wills and estates service so that society could accurately determine if the software is doing a good job before mass adoption does mass damage. Finally, mandatory human review triggers could be integrated to safeguard customer-client interests.

Estate planning attorneys should only adopt the software into practice with the understanding that it may force them into productizing and industrializing their profession.¹⁷³ Or else they could resist adoption by boycotting use of the tools and organizing to improve client, community, and legislative awareness of the regulatory

172. See *Good v. Uber Techs., Inc.*, 243 N.E.3d 262, 275 (Mass. 2024) (“[M]ost users of mobile applications do not read the terms of use.”) (internal quotation marks omitted). See also Ian Ayres & Alan Schwartz, *The No-Reading Problem in Consumer Contract Law*, 66 STAN. L. REV. 545, 547–48 (2014) (describing results of empirical studies revealing that the number of consumers who read terms is “miniscule”); Conroy & Shope, *supra* note 47, at 23.

173. Research shows that “productization may limit improvisation, and reduce employees’ abilities to identify and respond to highly variable customer problems”—skills vital to attorneys who are called on to advocate for their clients’ unique situations. Valtakoski & Järvi, *supra* note 90, at 360, 360–90.

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and micro/macro effect of mass adoption of the tools. In the end, the lawyers reading this Note may be among the few positioned to shape estate planning's future—before automation shapes it for them.

