Press and Outreach Update: July 10, 2023

Press
06.06.2023 email from IAALS Allied Legal Professionals: A National Framework for Program Growth More States Turn to Paraprofessionals to Fill Justice Gap
Statistics
LLLT Statistics: ▪ **Active LLLTs: 80** ▪ **Inactive LLLTs: 7** ▪ **Suspended LLLTs: 1** ▪ **LLLTs currently in pipeline: 3**
Meetings/Events
Upcoming Events: ▪ September 11, 2023, in-person LLLT Board meeting

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Cathy Biestek

From: IAALS, the Institute for the Advancement of the American Legal System <iaals@du.edu>
Sent: Tuesday, June 6, 2023 9:14 AM
To: Cathy Biestek
Subject: [External]IAALS Releases National Framework for States to Create New Tier of Legal Professionals Who Can Offer More Affordable Legal Help

IAALS Releases National Framework for States to Create New Tier of Legal Professionals Who Can Offer More Affordable Legal Help

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, announced today the release of its new report, *Allied Legal Professionals: A National Framework for Program Growth*. As part of IAALS' *Allied Legal Professionals* project—which is generously supported by the Sturm Family Foundation—this report includes multiple research-informed recommendations to help standardize a new tier of legal professionals across states, with the goal of increasing the options for accessible and affordable legal help for the public.

"To hire a lawyer, people either need considerable money or have an income low enough to qualify for the limited legal aid available. The problem is that the majority of people in the middle class don't fit into either of those categories, making access to legal services incredibly difficult," says IAALS Director of Special Projects Michael Houlberg. "Even if every lawyer took on pro bono clients, it wouldn't come close to addressing the need. And IAALS' research shows that people who need legal help are open to receiving it from qualified and authorized providers who are *not* lawyers."

In early 2022, IAALS launched the *Allied Legal Professionals* project in response to an increase in state programs creating a new tier of legal service providers who target this gap in legal services—mirroring in many ways how nurse practitioners joined the medical field alongside doctors. These new providers—which collectively IAALS has referred to as allied legal professionals (ALPs)—are being authorized to provide legal advice in certain case types and under certain circumstances. Data from these programs show that ALPs are making a positive impact in people's lives. Well-trained ALPs are competent, their clients are satisfied with their work product, and they can reach a portion of the population that lawyers are not reaching. ALPs are providing high-quality legal services at around half the cost of lawyers.

Paired with the publication of *The Landscape of Allied Legal Professional Programs in the United States*, a first-of-its-kind review and comparison of existing and planned programs, IAALS hosted a two-day convening in November 2022 on the future of ALP programs. The convening brought together regulatory experts, legal and paralegal educators, representatives from state ALP programs, innovators experimenting with other tiers of legal service providers, access to justice experts, and practicing allied legal professionals.

"This new report came out of the ALP convening and offers insights and recommendations that are so valuable," says Helen Hierschbiel, Executive Director of the Oregon State Bar

and convening attendee. “It summarizes the discussions at the convening, including convergence on best practices, areas of divergence between state approaches, and lessons learned from existing programs.”

The report includes:

- A look at the broader ecosystem of legal service providers, of which ALPs are a part.
- Different stakeholders that have essential voices in creating effective ALP programs.
- High-level and on-the-ground recommendations on the various components of state ALP programs.

“This report represents why the IAALS process is so valuable to legal reform,” says IAALS CEO Brittany Kauffman. “In making sure that we included a diverse set of voices in this process, we are able to get key input from a variety of perspectives and develop recommendations informed by all of these different experiences. This inclusive approach yielded otherwise unachievable results—and recommendations that can serve as a strong guide for states considering, implementing, or refining ALP programs.”

While there is currently variation among state programs, IAALS’ recommendations take into consideration what has worked well and what has not to-date. The national framework notes that complete uniformity is not necessary to achieve success, but uniformity in certain areas of the framework will create an avenue for reciprocity among states and a strong national profession.

Areas for particular focus include:

- Title: thoughtful decisions on titling these professionals can help ALPs gain widespread recognition as legitimate legal service providers. “Legal Practitioner” is a promising option that warrants further research and consideration, which IAALS is spearheading.
- Education and Practical Training: states implementing an ALP program should ensure the education and training requirements are not overly burdensome. Clinics and in-class assignments provide an opportunity for ALPs to fulfill required training hours.
- Testing: in developing licensure for ALPs, states should first determine what is needed for minimum competency and then determine how best to measure that, rather than merely replicating the bar exam.

“The legal profession is failing to protect most people and it is clear that we can no longer rely on lawyers alone to be the answer. We need an ecosystem of legal professionals outside of lawyers, and ALPs are a critical component of narrowing the justice gap,” says Houlberg. “As legal service providers that offer similar services as lawyers but at routinely half the cost, ALPs can radically decrease the number of legal consumers that are forced to handle cases on their own. One day in the not-too-distant future, ALPs will exist across the country and be readily known by consumers as a more affordable option for legal help. Until that day, and as states continue to look into and build out their own ALP programs, this report should serve as a guide toward creating the most comprehensive and effective program possible.”

MORE ABOUT THE PROJECT

- IAALS’ *Allied Legal Professionals* project will establish national best-practice thinking around allied legal professional programs by:

- Analyzing existing and proposed programs, the limited empirical research available, and similar experiences and programs from other countries and other professions (like nurse practitioners);
- Creating a framework for evaluating the relative advantages and challenges in the different models that exist;
- Convening diverse leaders and stakeholders to review the data and experiences, and to establish recommendations and best practices; and
- Building a model for states to follow when considering and establishing allied legal professional programs in the future.

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ALLIED LEGAL PROFESSIONALS:
A NATIONAL FRAMEWORK FOR PROGRAM GROWTH

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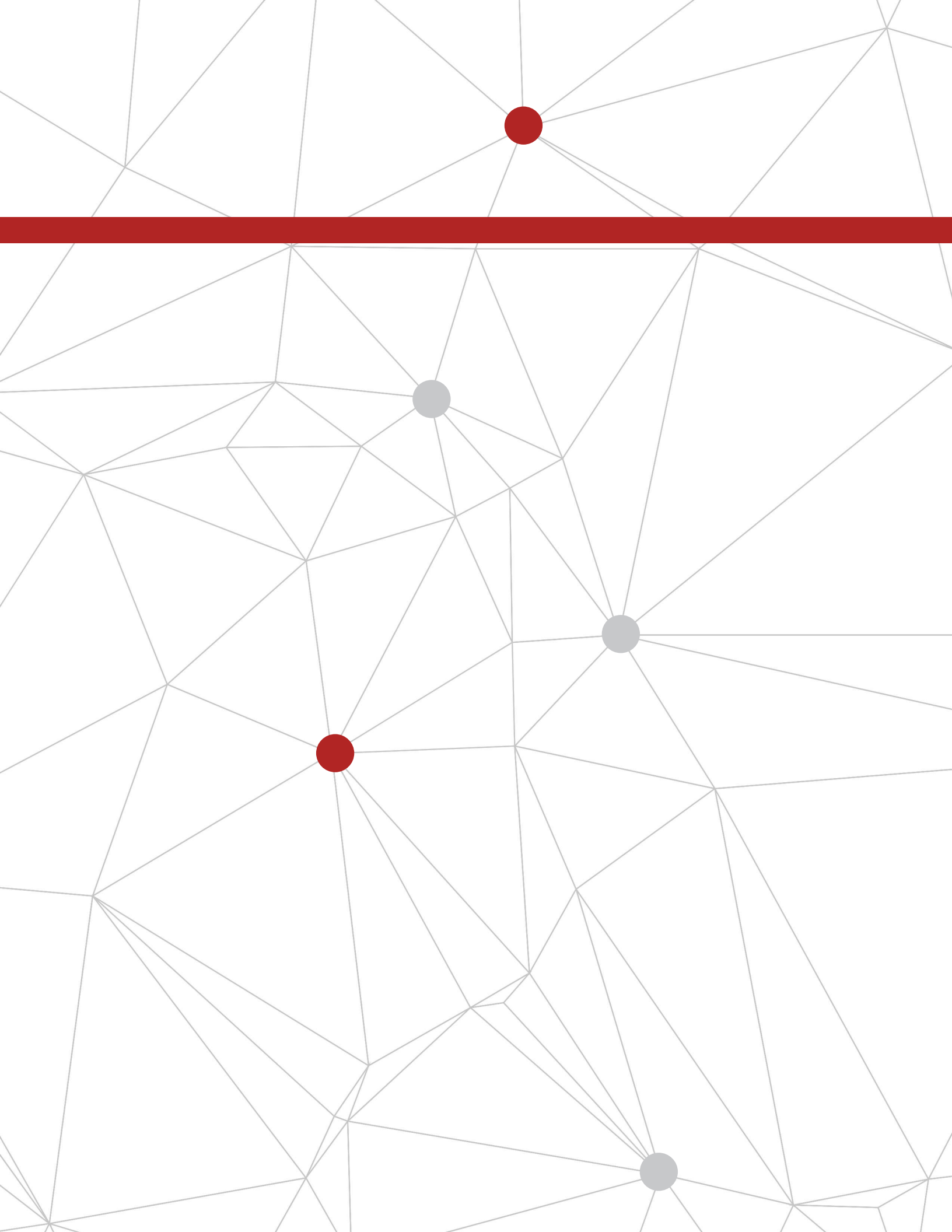

ALLIED LEGAL PROFESSIONALS:
A NATIONAL FRAMEWORK FOR PROGRAM GROWTH

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June 2023

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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a "think tank" that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

Brittany K.T. Kauffman	CEO
Michael Houlberg	Director of Special Projects
Janet Drobinske	Senior Legal Assistant
Natalie Anne Knowlton	Advisor on Regulatory Innovation

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ACKNOWLEDGEMENTS

This national framework for creating, improving, and growing allied legal professional programs stems from the collaborative dialogue fostered at IAALS' Allied Legal Professionals convening in 2022. The recommendations that follow would not have been possible without the invaluable contributions of the convening participants:

- **Page Beetem**, President, Association for Paralegal Education; Associate Professor and Paralegal Program Director, Law & Paralegal Studies, University of Cincinnati
- **Aprille Beyer**, Certified Paralegal, Beaumier Trogdon Orman Hurd and Viegas, PLLP
- **Stacy Butler**, Director, Innovation for Justice (i4J)
- **Christy Carpenter**, Washington Limited License Legal Technician, Pacific Cascade Family Law
- **Steve Crossland**, Washington Limited License Legal Technician Board
- **Kristine Custodio Suero**, Adjunct Faculty, University of San Diego School of Law Paralegal Program
- **Vanessa Finley**, CEO, NALA – The Paralegal Association
- **Helen Hierschbiel**, CEO, Oregon State Bar
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In addition, IAALS thanks **Janet Drobinske** for her important contributions to this work and publication.

IAALS is also deeply grateful for the generous support of the **Sturm Family Foundation** and **El Pomar Foundation**. Their investment in this work opens the door for a more diverse legal profession and greater access to justice.

INTRODUCTION

In early 2022, IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, launched the *Allied Legal Professionals* project in response to an increase in state programs creating a new tier of legal service providers.[1] These new providers—what we are initially referring to as "allied legal professionals" or "ALPs"—are being authorized to provide legal advice in certain case types and under certain circumstances. As of May 2023, there are five active state ALP programs,[2] two state programs in the implementation phase,[3] six states with program proposals,[4] and a few states discussing what such a program might look like.[5]

For too long, state unauthorized practice of law (UPL) rules have for the most part limited the practice of law to attorneys. This has added to the current access to justice crisis, where millions of people up and down the income scale are unable to obtain legal help. There have been concerted efforts to improve access through increased pro bono and legal aid services, along with unbundled legal services, but far too many people are still left to handle their legal matters on their own. States are beginning to recognize that the legal profession needs to be opened to increase access.

The introduction of allied legal professionals into the legal profession is a response to this call for greater access to justice, particularly for people who fall between not qualifying for legal aid and not being able to afford an attorney—which is a considerable portion of the middle class. ALP programs are strategically designed to license legal professionals who are competent to handle a breadth of legal services and at a more affordable cost than attorneys.

IAALS' *Allied Legal Professionals* project sought to understand the landscape of existing programs and serve as a resource to emerging state efforts. In November 2022, IAALS published *The Landscape of Allied Legal Professional Programs in the United States* (*Landscape Report*), an in-depth analysis of current and proposed ALP programs.[6] Shortly before the release of the *Landscape Report*, IAALS hosted a two-day convening on the future of ALP programs at the Penrose House Conference Center in Colorado Springs.[7] The convening brought together regulatory experts, legal and paralegal educators, representatives from state ALP programs, innovators experimenting with other tiers of legal service providers, access to justice experts, and practicing allied legal professionals.

This *National Framework Report* summarizes the discussions at the convening, including convergence on best practices, areas of divergence between program approaches, and lessons learned from existing programs. For quick reference, the first section sets forth the broad recommendations that emerged from the convening and that are positioned in their respective sections throughout the report. Next we consider the broader ecosystem of legal service providers of which ALPs are a part, recognizing that increasing access to justice is a multi-solution effort. We then highlight several of the different stakeholders that convening attendees deemed as essential voices in creating effective ALP programs. The heart of the report then details the convening discussions on the various components of state ALP programs and, to the extent attendees reached consensus on these issues, high-level recommendations. We conclude with broad considerations for the coalition of advocates working to open the legal profession.

IAALS hopes this report—with its framework of national recommendations—can serve as a guide for states considering, implementing, or refining ALP programs. There is currently variation among state programs,

and as more data comes out on what does and does not work, states will likely refine their programs to mirror the best aspects of programs as they emerge. Like with nurse practitioner programs, complete uniformity is not necessary to achieve success, and indeed some regional differences may be important. But IAALS contends that uniformity in certain areas of the framework we describe herein—such as title, education, practical training, and testing—will strengthen programs overall and create an avenue for reciprocity among states. In so doing, it will also help to promote models that can make a greater difference for individuals with legal needs, while also helping to stabilize and support increased opportunities for people to build career opportunities as legal professionals.

RECOMMENDATIONS

Title

Recommendation 1:

Thoughtful decisions on titles can help ALPs gain recognition as legitimate legal service providers. Considerations should include whether the title conveys professionalism instead of limitations, creates clarity instead of confusion, and translates well into other languages.

Recommendation 2:

States should consider collaborating with each other to adopt a single title for ALPs. While complete uniformity among each state's program is not necessary for the growth and success of ALP programs, uniformity in the title will become increasingly important to their success as ALPs spread across the country. "Legal Practitioner" is a promising option that warrants further research and consideration.

Practice Area

Recommendation 3:

In selecting substantive practice areas for ALPs, states should review not only the unmet civil justice needs of their jurisdiction, but also the income levels of populations in the justice gap, and design ALP programs that target unmet civil justice needs experienced by community members who have some purchasing power but cannot afford, or choose not to pay for, standard private attorney rates.

Recommendation 4:

While only a few states are considering authorizing ALPs to do transactional work, such as estate planning, this and other transactional practice areas should be incorporated into more state programs.

Roles & Responsibilities

Recommendation 5:

Instead of restricting the ALP role, states should instead modify the education and testing requirements to ensure ALPs are competent to handle a case from start to finish, including full in-court representation.

Recommendation 6:

The effect of disclosures should be to inform consumers of what an ALP can and cannot do, and not to push consumers away from utilizing an ALP's services.

Attorney Supervision

Recommendation 7:

As a best practice, attorney supervision should not be required in an ALP program, but if it is, states should view supervision along a spectrum of engagement—not as an all-or-nothing proposition.

In-Court Representation

Recommendation 8:

State ALP programs should allow for in-court representation without attorney supervision.

Recommendation 9:

Judicial education on ALP programs and the role of ALPs in the courtroom is an important component of any program.

Eligibility, Education & Practical Training

Recommendation 10:

Use of the same or similar character and fitness application process that is applied to attorneys is appropriate for ALPs given the overlap in services.

Recommendation 11:

States implementing an ALP program should ensure the education and training requirements are not overly burdensome on potential providers.

Recommendation 12:

Clinics and in-class assignments provide an opportunity for ALPs to fulfill required training hours without creating overly burdensome post-education requirements.

Recommendation 13:

Applicants with varying levels of prior education and experience should not be subject to one-size-fits-all requirements. States should provide different avenues to licensure for people with different levels of education and experience.

Testing Requirements

Recommendation 14:

In developing licensure for ALPs, states should first determine what is needed for minimum competency and then determine how best to measure that, rather than merely replicating the bar exam.

Recommendation 15:

States interested in a portfolio approach should partner with professional educators who are familiar with measuring competence through portfolios. As part of this exploration, states should consider how feasible it will be for licensing bodies to assess portfolios when there is a large volume of applicants.

Fee-Sharing & Co-Ownership

Recommendation 16:

States should create ALP Rules of Professional Conduct—and amend attorney Rules of Professional Conduct—to allow for fee-sharing and co-ownership between each other.

Regulatory Requirements

Recommendation 17:

If states decide to impose similar regulatory requirements on ALPs as they do on attorneys, these requirements should not exceed attorney regulations. Data does not support a need for increased protection, and these requirements can be cost-prohibitive.

Program Costs

Recommendation 18:

States must commit to seeing their ALP programs through for the full period of time they are intended to be in operation. Securing initial seed funding (whether through bar membership fees, grants, or other sources) is a critical part of this commitment.

AN ECOSYSTEM OF LEGAL SERVICE PROVIDERS

The IAALS *Allied Legal Professionals* project launched as a growing number of states were exploring the creation of a new tier of legal service providers who are not licensed attorneys but who could offer legal advice in limited situations and certain case types—at a price point that is more accessible than that charged by attorneys. While state approaches differ, generally speaking these programs are formally structured with robust education, examination, and regulatory requirements.[8] Many of these programs resemble a shortened version of law school, and some of these ALPs are subject to the same licensure processes and regulatory rules as licensed attorneys.[9]

The focus of the ALP project is on the more formal, profit-supported programs, yet we do not mean to suggest that these are the only innovative provider types operating across states. Some legal service providers cannot provide legal advice but can nonetheless aid litigants in parts of their case. Legal Document Assistants in California and Legal Document Preparers in Arizona can assist in preparing legal documents. Many states have also created court navigators, who help self-represented litigants physically navigate the court, get practical information and referrals, and complete court paperwork.[10] There are also a number of programs that are training and authorizing people to provide legal advice in a limited capacity. The American Justice Movement (pending the outcome of litigation) is training community providers to provide free legal advice in certain debt-collection cases.[11] The Innovation for Justice (i4J) program is training community-based advocates who are not lawyers in Arizona and Utah to give legal advice about domestic violence, medical debt, and housing instability.[12] Recently, Alaska and Delaware have authorized certain professionals other than lawyers working with legal aid services to provide discrete legal advice under attorney supervision.[13] Finally, providers other than lawyers have been advocating on behalf of individuals in certain federal agency proceedings for some time now.

All of these new providers, alongside ALPs, are supplementing the ongoing efforts of traditional attorney providers. At the same time, an increasing number of attorneys are delivering legal advice in new ways—through unbundled legal services, for example. This raises an important distinction between ALPs and many of the other provider types mentioned previously. Like private attorneys (providing unbundled services or otherwise), ALPs are not providing subsidized legal services. ALP providers charge for their services, albeit at a price point lower than that of attorneys. These are market-based programs, designed to reach legal consumers who seek legal advice but do not qualify financially for legal aid, and also do not have the means or inclination to hire a private attorney.

VOICES AT THE TABLE

When it comes to the development of any new program or service, it is important to engage diverse stakeholders. At the IAALS convening, attendees discussed the various stakeholder groups that should have a voice in the creation of an ALP program, either as consultants or as members of the committees responsible for developing programs.

Attorneys have been a dominant voice in ALP program development to date. They are a natural stakeholder group, working alongside these new providers in practice and potentially supervising and appearing in court opposite ALPs. Private and legal aid attorneys practicing in the case types being extended to ALPs are important partners for shaping roles, responsibilities, education and testing requirements, etc. Likewise, law schools, universities, and community colleges have been—and should be—playing a role in determining education and testing requirements. Judges, too, have been a vital part of ALP program design at various stages. Judicial leaders are an important stakeholder group to solicit buy-in for these programs. In those states where ALPs can participate in court hearings, it is important for trial judges to understand the role of these new providers and trust them enough to engage them when appropriate.

There are other legal service providers, however, who have been less engaged in state efforts to date, but who would provide a critical contribution to program development. Paralegals are one example. Many existing and under-consideration ALP programs envision that paralegals are prime candidates to serve as these providers, with additional education and testing requirements. Most current ALPs are paralegals who became licensed via a waiver due to their extensive experience. These current providers have real-world experience knowing what works within such a program and what should be modified, from education and testing standards to appropriate practice areas and scope of work. Relatedly, there is a role to play for national paralegal organizations such as the American Association for Paralegal Education, the National Association of Legal Assistants, and the National Federation of Paralegal Associations. These entities have created the education and testing standards for paralegals and legal assistants, and can lend expertise to developing new curricula for ALP programs.

There also are a variety of experts with non-legal expertise who can provide valuable insight into developing professional licensure programs. States anticipate that these ALP programs will provide a more financially accessible career path than the journey through law school and attorney licensure. Consultation with diversity, equity, and inclusion (DEI) experts can assist with designing programs that reflect this intention. Additionally, given the focus of many ALP programs on family law and economic issues, trauma-informed specialists can provide an important perspective on what skills ALPs will need when engaging with people under stress and trauma.

Community advocates and members of the public can provide state program designers with critical information on the legal needs of the community. Many states have requested public comment at some point during their program's creation process, but these requests are often posted where the general public rarely goes, on court and bar association websites. States must ensure that community members have a reasonable opportunity to learn about and comment on the implementation of ALP programs in their state.

Lastly, program creators should prepare to involve their state's legislature when such involvement is necessary. In Oregon, for example, it is the legislature that must approve statute modifications that allow non-attorney associate members of the Oregon State Bar to practice law. Without approval from Oregon's legislature, their program would not be implemented no matter how much support is received from the state supreme court, the state bar association, and members of the community.

States must ensure that community members have a reasonable opportunity to learn about and comment on the implementation of ALP programs in their state.

A NATIONAL FRAMEWORK FOR ALLIED LEGAL PROFESSIONAL PROGRAMS

The IAALS convening agenda was primarily structured around the central components of the framework we adopted to analyze state ALP programs in the *Landscape Report*:

- Title
- Practice areas
- Roles & responsibilities
- Attorney supervision
- In-court representation
- Eligibility, education, & practical training requirements
- Testing
- Fee-sharing & co-ownership
- Regulatory requirements
- Program costs

For each framework component, a convening attendee with expertise in that area gave a short presentation highlighting relevant discussion points. What follows is a summary of these conversations, highlighting the benefits and challenges of different state decisions on these various components along with considerations for states developing future programs.

Title

The *Landscape Report* provides a list of the many different titles that states are either using or considering for their ALPs.[14]

Limited License Legal Technician

Licensed Paralegal Practitioner

Paraprofessional

Legal Practitioner

Licensed Legal Technician

Limited License Legal Practitioner

Limited Legal Practitioner

Licensed Paralegal

Legal Technician

Limited Legal Advisor

Limited Legal Advocate

Licensed Legal Paraprofessional

Legal Paraprofessional

Of all the various components of an ALP program, states vary the most in decisions on how ALPs should be titled. Convening attendees talked through the importance of having a clear and meaningful title—for ALPs and consumers alike—and discussed whether there are certain components a provider title should (and should not) include. There was an informal consensus at the convening around the title "**Legal Practitioner**" for ALPs because it translates well (based on California's testing described later in this section), it conveys professionalism instead of including restricting descriptors such as limited and paraprofessional, and it is clear. "Legal Practitioner" may also be identifiable in comparison to nurse practitioners.

Considerations with Program Development

Legal consumers are often unaware of the nuances distinguishing legal information from legal advice.[15] In most jurisdictions, the rules prohibiting the unauthorized practice of law allow people who are not lawyers to provide information about the law, but not individualized advice or assistance to people about how to solve their legal problems. Naturally, people recognize attorneys as a source of the latter, but they often mistakenly expect that court staff and judges may provide legal advice as well.

There is likely a similar confusion with the purview of paralegals and other providers. Consumer confusion can create real problems for ALPs. Marketing ALP services can be difficult when legal consumers do not immediately understand who these providers are, what they can and cannot do, and whether (and by what criteria) they are qualified. As ALPs become a more established fixture of the legal service marketplace, many of these issues can and will be resolved over time.

Recommendation 1

Thoughtful decisions on titles can help ALPs gain recognition as legitimate legal service providers. Considerations should include whether the title conveys professionalism instead of limitations, creates clarity instead of confusion, and translates well into other languages.

Convening attendees discussed the importance of having a provider title that conveys professionalism rather than emphasizing limitations. For example, the terms "limited" and "paraprofessional" may suggest that ALPs are not fully qualified or are not adequately licensed. Even the descriptor "licensed" is an unnecessary addition, as most licensed professionals—doctors, attorneys, nurse practitioners, teachers, and building contractors—do not require that term be part of their title.

Attendees further agreed it is important that a title be as clear as possible and avoid words that can confuse consumers. Titles already used in the legal profession, such as "paralegal," should be avoided in an ALP title, as to not create confusion between the different services paralegals and ALPs are authorized to provide. This clarity is important for consumers and other legal professionals. The word "technician" has been used by some states, but attendees worried this could create confusion with technicians working in the science and engineering fields.

It is important to have a provider title that conveys professionalism rather than emphasizing limitations.

Individuals with limited English proficiency face additional difficulties navigating complicated and amorphous titles. Hyper-specialized terms ("Limited License Technicians," for example) can be confusing when translated literally. Further, some languages have similar terms as those in English but with different meanings. A notary public in the United States, for example, is only authorized to witness the signature of forms. The Spanish translation is "notario publico" which, in many Spanish-speaking countries, is often an attorney.

The ALP title should be translatable into other languages without suggesting these providers are doing the work of attorneys, paralegals, or other legal service providers. California has done considerable work in testing title options. When its task force was looking into creating an ALP program, it utilized two interpreting and translation companies to produce three titles that translated best: 1) Limited Legal Advisor, 2) Licensed Legal Advisor, and 3) Limited License Legal Practitioner.[16] "Legal Practitioner" overwhelmingly proved to be the favorite of IAALS convening attendees. There is an opportunity for additional research and consideration of the Legal Practitioner title, and IAALS has plans to build on the work already done to move us toward a nationally uniform title for these new providers.

Recommendation 2

2

States should consider collaborating with each other to adopt a single title for ALPs. While complete uniformity among each state's program is not necessary for the growth and success of ALP programs, uniformity in the title will become increasingly important to their success as ALPs spread across the country. "Legal Practitioner" is a promising option that warrants further research and consideration.

There is an opportunity for additional research and consideration of the Legal Practitioner title, and IAALS has plans to build on the work already done to move us toward a nationally uniform title for these new providers.

Practice Areas

According to the *Justice Needs and Satisfaction in the United States of America* survey conducted in 2021 by IAALS and The Hague Institute for Innovation of Law (HiiL), 66% of Americans experienced at least one legal problem within a four-year time period.[17] This study identified family problems, domestic violence and abuse, land problems, work and employment matters, and problems with the police as problems that were particularly impactful and burdensome in people's lives.[18] In the *Landscape Report*, we noted that over 70% of civil and family law cases have at least one self-represented party.[19] And in some jurisdictions, over 90% of eviction and debt-collection cases have at least one self-represented party.[20]

States are focusing on this and related data to shape the scope of practice for these new providers. The majority of states that have created or are creating ALP programs permit ALPs to practice in family law[21] (14 states), landlord-tenant[22] (11 states), and debt collection[23] (8 states). A few state programs have also included more niche practice areas, such as administrative law (4 states), limited jurisdiction criminal cases (4 states),[24] and estate planning (3 states).

During the convening, attendees discussed these practice areas and the factors that should influence decisions on the scope of ALP programs.

Considerations with Program Development

Based on rates of self-representation, it is clear there is a strong unmet need for affordable legal service providers in a number of practice areas, most notably in family law, debt collection, and landlord-tenant cases. Yet convening attendees discussed the critical distinction between legal consumers navigating economic issues (debt collection, eviction, etc.) and other practice areas where money or lack thereof is not the central issue in the matter.

ALP programs are market-based solutions, not subsidized legal services. While the intention is that ALPs will be more affordable for the many who cannot afford or do not want to pay for traditional attorney representation, their clients will still need to have some purchasing power. As is true in the broader legal services market, consumer need for legal services does not always align with consumer ability to pay for services.

Recommendation 3

In selecting substantive practice areas for ALPs, states should review not only the unmet civil justice needs of their jurisdiction, but also the income levels of populations in the justice gap, and design ALP programs that target unmet civil justice needs experienced by community members who have some purchasing power but cannot afford, or choose not to pay for, standard private attorney rates.

Indeed, ALPs seem to be focusing on family law over debt collection or landlord-tenant cases. In Arizona, 99 applicants have taken the family law exam and 33 of the 38 active Legal Paraprofessionals are licensed in family law.[25] Only 31 applicants have taken the civil law exam (authorizing practice in debt collection and landlord-tenant cases), with just four active in civil law.[26] Similarly in Utah, the majority of ALPs appear

to be practicing in family law over debt collection and eviction cases.[27] In Minnesota, there is less discrepancy between case types. As of December 2022, there have been 159 cases filed with the court that have an ALP representing a party.[28] Out of those cases, 88 have been on family matters and 77 were housing related.[29]

Washington's experience suggests that ALPs are successfully reaching family law clients in authorized categories of practice at about half the cost of attorneys. In 2021, Stanford's Deborah L. Rhode Center on the Legal Profession released an evaluation of Washington's Limited License Legal Technician (LLLT) program, noting that LLLTs at law firms were billing around $160 per hour while attorneys were billing between $300 to $375 per hour to perform similar functions.[30]

Recommendation 4

While only a few states are considering authorizing ALPs to do transactional work, such as estate planning, this and other transactional practice areas should be incorporated into more state programs.

Unlike with family law, debt collection, and landlord-tenant issues, where some courts track self-representation rates, it is more difficult to get a picture of the unmet need in transactional case types. Both the *US Justice Needs* study and LSC's Justice Gap report provide insight into these needs,[31] but transactional case types (for example, estate planning and probate) have not been the major focus of ALP programs or access to justice efforts to date. This should not exclude the consideration of these practice areas from ALP programs, though, as there is a real opportunity for ALPs to meet these needs.

Roles & Responsibilities

There are state differences in the roles that ALPs can serve. Most states permit ALPs to provide tailored legal advice; prepare, sign, and file legal documents; review documents from the opposing party and the court; communicate with the opposing party; and represent clients at mediations and settlement conferences.[32] But some state programs are more limited. In South Carolina's proposal, ALPs would be allowed to prepare and file legal documents, but not sign them. In Washington, Utah, and Oregon, ALPs can fully represent their clients in mediations and settlement conferences, but not depositions. Oregon's proposal specifically states that "[k]nowledge and application of the Evidence Code is a basic skill required for taking and defending a deposition that is beyond the scope of LP practice."[33]

	Provide Clear Provisions & Obtain Written Consent	Prepare, Sign & File Legal Documents	Review Documents from Opposing Party	Communicate with Opposing Party	Represent Clients at Depositions, Mediation & Settlement Conferences
AZ[34]	✔	✔	✔	✔	✔
CA[35]	✔	✔			
CO[36]		✔	✔	✔	✔
CT[37]	✔	✔	✔	✔	✔
FL[38]		✔			
IL[39]		✔	✔	✔	✔
MN[40]		✔	✔	✔	✔
NH[41]	✔	✔	✔	✔	✔
NM[42]		✔	✔		
NY[43]		✔	✔		
NC[44]	✔	✔	✔	✔	
OR[45]	✔	✔	✔	✔	✔
SC[46]	✔	✔[47]	✔		
UT[48]	✔	✔	✔	✔	✔
VT[49]		✔			
WA[50]	✔	✔	✔	✔	✔[51]

Considerations with Program Development

Many legal processes are complex and filled with legalese. The more help that a consumer can receive on their legal matter, the better. As shown in the preceding figure, signing forms, communicating with the opposing party, and representing clients at depositions are all services that have been excluded by at least one state. Convening attendees, however, stressed the importance of not creating overly burdensome restrictions that unnecessarily hinder ALPs' ability to serve clients in a seamless way throughout their legal matter.

For example, in Minnesota, the first iteration of the state's pilot project permitted ALPs to represent clients in paternity cases but not in establishing child support.[52] Because the establishment of child support is often a component of paternity cases, practicing ALPs quickly realized that this restriction limited the available caseload—and impacted clients who needed assistance with both issues.[53] The rules have since been revised and Minnesota ALPs can now help in establishing child support, making it easier for them to represent clients in paternity cases and be more successful in meeting their clients' needs.[54]

Recommendation 5

Instead of restricting the ALP role, states should instead modify the education and testing requirements to ensure ALPs are competent to handle a case from start to finish, including full in-court representation.

With respect to one of the *responsibilities* placed on ALPs, about half of the states (including Washington, Utah, and Arizona) require ALPs to provide clients with a disclosure clearly stating that they are not attorneys, including a description of how their services differ from those of attorneys. The purpose behind this requirement is to protect consumers from confusing ALPs with attorneys—and to reinforce that the ALP role is limited. However, convening attendees noted that state program designers should be cautious with what must be included in these written disclosures. One requirement that has been considered is that ALPs must provide potential clients with a comprehensive list of free and reduced-fee attorney services that are available in their area. This requirement goes well beyond the goals of informing clients that ALPs are not attorneys and that their role is limited. Not only would this requirement be considerably burdensome on ALPs, but it could also have the effect of deterring potential clients from retaining ALPs to help with their legal needs.

Recommendation 6

The effect of disclosures should be to inform consumers of what an ALP can and cannot do, and not to push consumers away from utilizing an ALP's services.

Attorney Supervision

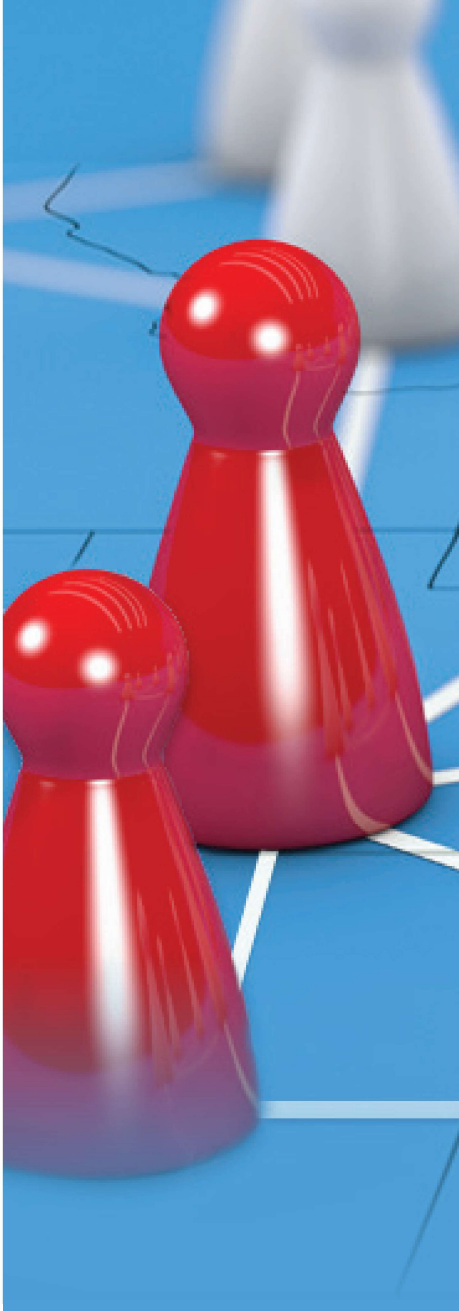
Out of the 16 states that have worked on creating an ALP program, only six have included a requirement of attorney supervision.[55] Two of those states—Minnesota and New Hampshire—have included this requirement in part because their programs are starting as pilot projects. In Minnesota, an ALP must enter into a written agreement with their supervising attorney delineating the appropriate scope and types of work along with the steps the supervising attorney will take to ensure the ALP is serving the client's interests.[56] The Florida Supreme Court rejected the ALP proposal put before it, but the program envisioned that services provided by ALPs would merge with and become the supervising attorney's work product.[57]

While most states have opted to not include a supervisory requirement, attendees nevertheless considered the benefits and drawbacks of this attorney supervision component.

Considerations with Program Development

In the states that require some degree of attorney supervision, the stated goal is to protect consumers from receiving substandard legal services. In the first instance, attendees discussed whether supervision is necessary to reach this goal, assuming robust education, testing, and licensure requirements. Three of the five states with active ALP programs do not require attorney supervision, and there has been little to no consumer harm reported from ALP-provided services. Washington's program was implemented over 10 years ago and there have been a total of six disciplinary grievances received, four of which were resolved, and none of which resulted in disciplinary action.[58] Implemented in 2018, Utah's program is the second oldest, and to date has not received any disciplinary grievances.[59] In November 2021, in response to Oregon's request for public comment on its proposed ALP program, a representative from the nation's largest direct lawyers' malpractice insurance writer remarked that they have deemed the overall risk among paraprofessional communities to be low, and that ALPs are more readily positioned to engage in professional services than graduating law students.[60]

> Three of the five states with active ALP programs do not require attorney supervision, and there has been little to no consumer harm reported from ALP-provided services.



The discussion at the convening also explored whether attorney supervision is an all-or-nothing proposition, as it is sometimes discussed with respect to ALP program design. Attendees considered the model in the medical field of physician supervision of nurse practitioners (NPs). The level of supervision changes from state to state, highlighting a number of potential options for attorney supervision in ALP programs.[61] Some states allow NPs to practice with full autonomy, which often requires a certain level of experience working under a physician. Other states allow a combined approach where NPs can perform some duties without supervision while other duties (prescribing medications, for example) require supervision. And then there are states where NPs must perform all work under the supervision of a physician, with the potential to loosen these restrictions as NPs gain more experience.

Separate from supervision, the medical profession also utilizes a collaborative process.[62] That is, they work together as colleagues but autonomously within the boundaries of their scope of practice. In the context of the legal profession, a potential spectrum of models of supervision can span from direct review of every document and actual presence at every in-person proceeding, to spot review of pleadings and periodic in-person supervision, to scheduled consultations with the supervising attorney.

Convening attendees also thought it important to consider how supervision requirements affect supervising attorneys—and therefore the broader success of these programs. Supervision takes time, and in some state programs this requirement also means assuming personal professional responsibility for ALPs. In Minnesota, supervising attorneys are required to sign all pleadings, assume responsibility for all of the ALP's work (including court appearances), and carry sufficient malpractice insurance to cover both their work and the ALP's work.[63] There is not enough data to know whether this requirement has as of yet deterred attorneys from supervising ALPs, but in states that require this, attorney interest in serving this role could be an important determinate of program success and sustainability.

Recommendation 7

As a best practice, attorney supervision should not be required in an ALP program, but if it is, states should view supervision along a spectrum of engagement—not as an all-or-nothing proposition.

In-Court Representation

In-court representation is among the most hotly debated aspects of ALP program design. Of the five states with active ALP programs, Arizona and Minnesota permit full in-court representation for specific types of cases, allowing ALPs to represent their clients as attorneys do, including presenting their client's case and questioning/cross-examining witnesses. Arizona ALPs can carry out these actions without supervision by an attorney, and while Minnesota does require attorney supervision, the attorneys are not required to be in court with their ALPs.

The other two active states—Washington and Utah—as well as the recently approved ALP program in Oregon allow for limited in-court representation. The scope of limited in-court representation varies slightly from state to state, but Utah's approach represents the common elements. In Utah, ALPs can represent their client by "standing or sitting with the client during a proceeding to provide emotional support, answering factual questions as needed that are addressed to the client by the court or opposing counsel, taking notes, and assisting the client to understand the proceeding and relevant orders."[64] Some refer to this model as reactive representation.

Convening attendees talked through the importance of allowing ALPs to provide clients with in-court representation.

Considerations with Program Development

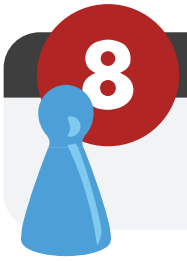
One of the more difficult stages of a case for self-represented litigants is the hearing. In IAALS' *Cases Without Counsel* study, the judges, court staff, and self-represented litigants themselves discussed the difficulties of getting evidence before the court.[65] Judges acknowledged that this impacts case outcomes because they do not get all the information they need in the format in which they need it.[66] A 2011 study in Arkansas found similar results. In a statewide survey of Arkansas judges, 84% expressed that case outcomes favored represented parties due to the inability of self-represented litigants to "sufficiently prove their case" or "know how to get [evidence] in the record."[67]

Attendees discussed how these difficulties can be magnified in situations of domestic violence, where the victim/survivor must confront their abuser. A 2015 domestic violence manual for Washington judges—created by Legal Voice Violence Against Women Workgroup—states that "[l]itigation enables abusers to maintain control over survivors, especially when the survivor is self-represented and must confront the abuser in court alone every time a matter is heard."[68] Survivors reported fearing that they will be forced to appear in court to defend themselves.[69]

In-court representation is among the most hotly debated aspects of ALP program design.

There are additional concerns for both self-represented litigants and judges when one party is self-represented and the other party is represented by counsel. Litigants often feel (and of course typically are) outmatched against a lawyer. As one *Cases Without Counsel* participant stated, "I felt like because they had—the other side had—a lawyer, I didn't really stand a chance."[70] In a 2014 survey of 225 Virginia judges, respondents were asked to rate their level of concern about circumstances that might arise in cases where one party is represented and the other is self-represented.[71] The judges indicated that their top five concerns were: 1) the self-represented litigant feeling railroaded; 2) counsel taking advantage; 3) having to rule against the self-represented litigant; 4) having to explain procedural law; and 5) having to explain substantive law.[72] There has been some concern from the legal community that ALPs would be equally outmatched by attorneys, but judges have been impressed by ALP representation in court. In a November 2022 evaluation survey, one Minnesota judicial officer stated that the "expertise provided by legal paraprofessionals . . . helps make the court process more efficient, and provides greater fairness."[73]

Convening attendees discussed how these and related concerns have provided the impetus for state programs to authorize ALPs to appear fully in court with their clients.

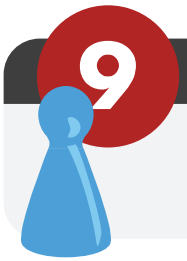


Recommendation 8

State ALP programs should allow for in-court representation without attorney supervision.

In fact, feedback from Minnesota, which allows ALPs to provide full in-court representation, has been very positive. Six months into the implementation of Minnesota's ALP pilot project, judicial officers were surveyed on their experiences with ALPs. Survey respondents agreed that ALPs "displayed appropriate decorum in the courtroom and knew the applicable court rules."[74]

On the other hand, in states that have allowed ALPs to provide limited, reactive in-court representation, there have been reports of confusion among judges with respect to the proper role of ALPs in court. Because this reactive representation model is not part of established court procedure, it is entirely foreseeable in states that have adopted it that judges might underutilize ALPs or expect ALPs to play a more proactive role than permitted. To minimize this issue, judges should be trained on the scope of ALP representation—particularly in the courtroom—and should be provided with tools, such as bench cards, that lay out in detail what ALPs can and cannot do.



Recommendation 9

Judicial education on ALP programs and the role of ALPs in the courtroom is an important component of any program.

Eligibility, Education & Practical Training

The *Landscape Report* highlights that there are variations among each of the states regarding eligibility, education, and practical training, but overall, these state program requirements are fairly similar.[75] The minimum age for eligibility varies between 18 and 21 years old, and states are generally applying their attorney character and fitness requirements to ALPs. Most states require some form of a degree or paralegal certificate, with additional specialized legal courses depending on the level of prior education/certification.[76] Practical training requirements vary from as low as 120 hours to as high as 4,000 hours, with most states settling somewhere around the 1,500 hours mark. Some states even vary the hours within their program based on the applicant's level of education.[77]

Convening attendees reviewed states' requirements and debated the extent to which each requirement was necessary, all while keeping in mind the goal of ensuring ALP competency.

Considerations with Program Development

The character and fitness application asks attorneys for a variety of information, often including criminal and civil violations, academic records, mental health and substance abuse issues, financial history, and employment history. The purpose is to determine whether applicants are morally fit to practice law. It is just as important to ensure that ALPs are morally fit to practice law, and the current model used for attorneys has worked well for these purposes.

Recommendation 10

Use of the same or similar character and fitness application process that is applied to attorneys is appropriate for ALPs given the overlap in services.

The educational and practical training requirements generated a lengthier and more detailed discussion. One of the main issues for attendees was the cost of education for ALPs—and the desire to keep it affordable. The average cost of attending law school is approximately $200,000, with the cost of tuition alone around $138,000.[78] Contrast that with the cost of an ALP education, which in Washington is around $15,000 and in Utah is around $10,000.[79] This reduced cost provides an opportunity for people from diverse backgrounds to obtain an ALP license, including those who may have wanted to go to law school but did not have the means to do so.

This more accessible provider tier, of course, benefits consumers wishing to access a lower price point provider, as has been shown with nurse practitioners (NPs). In 2009, the total tuition cost for an NP degree was less than the tuition cost for one year of a Doctor of Medicine degree.[80] These savings pass on to the consumer, as the hourly cost of NPs is one third to one half the hourly cost of physicians.[81] There is also data showing that NPs have an increasing presence in rural areas while physicians' presence in those areas is decreasing.[82] There are striking similarities among NPs and ALPs with regard to tuition costs and hourly fees, as already discussed in this report, with benefits to both ALPs and their clients.

With respect to practical training, while this is not a requirement for attorneys, all states have implemented some form of a practical training requirement for ALPs. According to an ALP in Washington, such training "provided … [a] valuable networking experience and opportunities to learn more about strategies for running a business."[83] Though beneficial, this requirement can become a barrier if the required training hours are too extensive. When Washington first implemented its LLLT program, it required 3,000 hours of practical training, which equates to about one and a half years of full-time work.[84]

Recommendation 11

States implementing an ALP program should ensure the education and training requirements are not overly burdensome on potential providers.

Apart from drastically lowering the required training hours, as most states have done, there are practical training opportunities available throughout the course of an ALP's education. The University of Arizona Legal Paraprofessional Program, for example, uses this model.[85]

Recommendation 12

Clinics and in-class assignments provide an opportunity for ALPs to fulfill required training hours without creating overly burdensome post-education requirements.

An additional topic of conversation among convening attendees was the suggestion—incorporated into North Carolina's program—of tiered education and practical training requirements based on one's prior education.[86] An ALP applicant with a JD would not be required to take any additional courses or complete any practical training. An applicant with an associate degree or bachelor's degree in paralegal or legal studies would also not be required to take additional courses, but would be required to complete 1,500 hours of practical training. Finally, an applicant with an associate degree or bachelor's degree in any other subject would be required to obtain a paralegal certificate or 15 credit hours of paralegal studies, in addition to completing 1,500 hours of practical training.

Recommendation 13

Applicants with varying levels of prior education and experience should not be subject to one-size-fits-all requirements. States should provide different avenues to licensure for people with different levels of education and experience.

Testing

ALP program testing requirements vary state by state.[87] Out of the three active programs that have testing requirements—Washington, Utah, and Arizona—both Washington and Utah have designed their exams to model the bar examination. For example, the day-long examination in Utah includes a professional responsibility component consisting of 50 multiple-choice questions and up to three practice-area specific questions, which are a mix of multiple choice and essay.[88] Arizona has taken a different approach. It has a core test of approximately 100 multiple-choice questions, covering legal terminology, substantive law, client communication, data gathering, document preparation, the ethical responsibilities of ALPs, and professional and administrative responsibilities pertaining to the provision of legal services.[89] There is also a separate substantive law test for each practice area that consists of approximately 100 multiple-choice questions.[90]

Convening attendees examined the current models and their similarities to the bar exam, along with other models being developed, and discussed the major issues that should be addressed when creating the testing structure for an ALP program.

Considerations with Program Development

The current system for licensing attorneys relies on legal education and the bar exam to determine competence to practice, and most ALP programs have adopted a similar approach of standardized education and testing. Convening attendees discussed, however, the flaws that exist with the current bar exam model. A 2019 study of the bar exam by IAALS and The Ohio State University notes that there has never been an agreed-upon definition of minimum competence, which makes trying to measure minimum competence extremely difficult.[91] The study produced 10 recommendations, two of which called for minimizing or eliminating the use of written and multiple-choice exams.[92]

Recommendation 14

In developing licensure for ALPs, states should first determine what is needed for minimum competency and then determine how best to measure that, rather than merely replicating the bar exam.

Convening attendees discussed in detail a different approach that Oregon is taking, which includes the combination of portfolios and a written examination. The examination—currently under development—will focus on legal ethics and scope-of-practice issues.[93] The portfolio will likely include sample work product that demonstrates competency to work in designated areas of the law or verification of the completion of specific assessments, such as ethics.[94]

Recommendation 15

States interested in a portfolio approach should partner with professional educators who are familiar with measuring competence through portfolios. As part of this exploration, states should consider how feasible it will be for licensing bodies to assess portfolios when there is a large volume of applicants.

Fee-Sharing & Co-Ownership

The introduction of these new legal service providers to the market raises many of the same regulatory issues that are part of attorney regulations.[95] Among these are ABA Model Rule of Professional Conduct 5.4's restrictions on ownership and fee-sharing. These rules are increasingly the topic of discussion among attorney regulators, and they are coming up in ALP program design as well.

Most states that have considered creating an ALP program have either not allowed for law firm ownership interest between ALPs and attorneys (six states) or did not address the issue in their program design (six states).[96] Out of the active state programs, Washington and Utah allow ALPs to own a non-controlling interest in a law firm with attorneys.[97] Outside of Utah's regulatory sandbox and Arizona's Alternative Business Structure licensees, no ALP program has allowed firm co-ownership and fee-sharing between ALPs and non-legal professionals.

With respect to fee-sharing, Washington, Utah, and Arizona—under the rules for alternative business structures—allow ALPs and attorneys to share fees, and fee-sharing among ALPs and non-legal professionals is only allowed under Utah's regulatory sandbox and Arizona's alternative business structures.

Considerations with Program Development

A theme that emerged in the convening conversation was the access to talent that co-ownership opportunities would facilitate. While co-ownership and fee-sharing arrangements between attorneys and ALPs do not necessarily offer the same potential as partnership arrangements between professionals from different disciplines, these existing opportunities in Washington, Utah, and Arizona are important. They offer an avenue for ALPs to integrate into established law practices and for law firms to take advantage of lead generation through ALPs. While firms are able to hire paralegals and others who have been authorized to practice law on a limited basis under current regulations, compensation packages are a far less compelling and effective way of attracting and retaining talent than are ownership opportunities.

States differ in how they are regulating their ALPs, creating a patchwork approach to fee-sharing and co-ownership rules. In Utah, ALPs are bound by the same rules of professional conduct as attorneys, so they can share fees and own a minority interest in law firms because the rules do not consider Utah LPPs as "nonlawyers." Some states that are regulating their ALPs under separate, but similar, regulatory rules are running into issues that inadvertently restrict ALP/attorney co-ownership and fee-sharing. In Oregon, for example, the Rules of Professional Conduct for ALPs allow for them to share fees and partner with attorneys.[98] However, the Rules of Professional Conduct for attorneys do not allow for the sharing of fees with anyone other than lawyers—including ALPs—rendering the fee-sharing and ownership sections of the ALPs' Rules of Professional Conduct void. The rules for attorneys will have to be amended before attorneys and ALPs can share fees and co-own firms.

Recommendation 16

States should create ALP Rules of Professional Conduct—and amend attorney Rules of Professional Conduct—to allow for fee-sharing and co-ownership between each other.

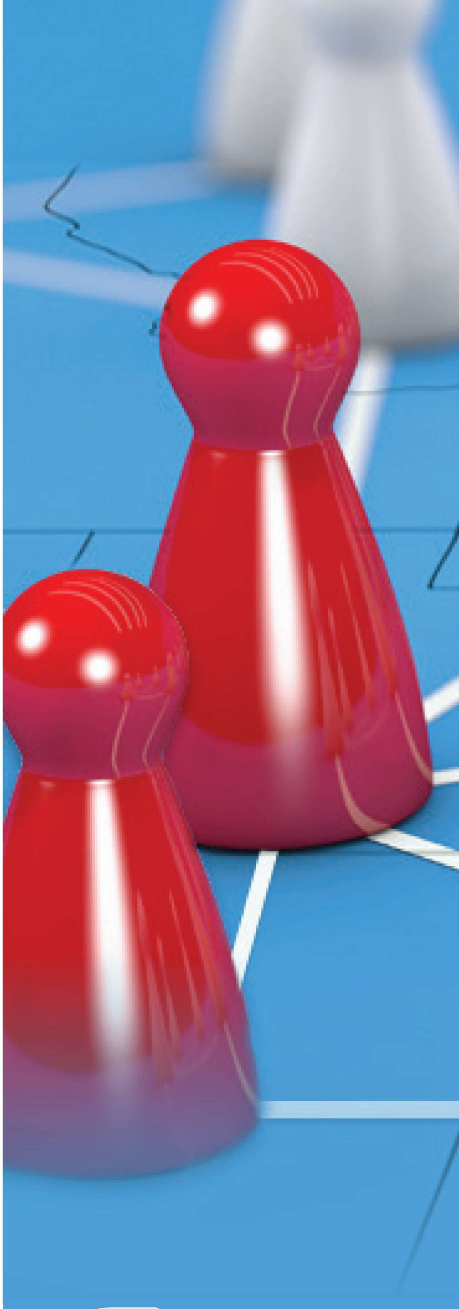
Regulatory Requirements

Aside from co-ownership and fee-sharing rules, convening attendees discussed a number of other regulatory requirements that are often considered during ALP program design:

- Client trust account, or Interest of Lawyers' Trust Accounts (IOLTA), requirements to keep funds from commingling and to support legal aid services
- Malpractice insurance to provide clients with an avenue for redress in the event of negligence and unethical behavior
- Contributions to client security funds to reimburse clients who lost money due to dishonest conduct by attorneys and ALPs
- Continuing legal education requirements to keep providers up to date on developments in law and practice

States have taken one of two approaches with these requirements. One approach is to adopt the same requirements placed on attorneys. Oregon, for example, requires both attorneys and ALPs to use trust accounts, carry malpractice insurance, contribute to the Client Security Fund, and fulfill CLE credits.[99] The other approach is to impose stricter requirements on ALPs than are imposed on attorneys, which often involves discrepancies with malpractice insurance. In Washington, for example, both attorneys and ALPs are required to use trust accounts, contribute to the state's Fund for Client Protection, and fulfill CLE credits, but only ALPs are required to carry malpractice insurance.

Convening attendees reviewed the different requirements being imposed on ALPs and discussed the major issues that should be addressed as states consider which requirements to impose.



The need for increased protection greater than attorneys is not backed by data.

Considerations with Program Development

Not all states require attorneys to comply with each of the regulatory requirements we have listed. In fact, malpractice insurance is mandatory in only a few states. States like Washington and Arizona that require malpractice insurance for only ALPs do so to provide ALP clients with an additional level of protection. However, this need for increased protection greater than attorneys is not backed by data. As discussed in the Attorney Supervision section, Washington has received only a handful of disciplinary grievances—none of which resulted in disciplinary action—and Utah has yet to receive any complaints. Another concern with requiring malpractice insurance on ALPs is that it can be cost-prohibitive, especially for solo practitioners and small firms. In a 2018 survey of California solo and small firm attorneys, 39% of sole practitioners and 12% of small firm attorneys reported they do not carry malpractice insurance, with affordability being the main reason.[100]

Recommendation 17

If states decide to impose similar regulatory requirements on ALPs as they do on attorneys, these requirements should not exceed attorney regulations. Data does not support a need for increased protection, and these requirements can be cost-prohibitive.

Funding does more than just sustain a new program: this is an investment in improving the access to justice gap.

Program Costs

States focus on several key questions around program costs when developing ALP programs, including:

- How much does an ALP program cost to create?
- How much does an ALP program cost to maintain?
- Who sources the funding?
- How long until these programs become self-sustaining?

As described in the *Landscape Report*, the Washington State Bar Association spent approximately $200,000 each year to fund Washington's ALP program, which was less than 1% of its annual budget at the time.[101] The Utah Bar Association spends around $100,000 each year to fund Utah's ALP program: a little more than 1% of its annual budget. The Oregon State Bar has created a projected budget for its program, estimating the first 11 years of costs and revenue. First-year costs of implementation and operation for the ALP program are estimated to be around $90,000.[102] This is less than 1% of the Oregon State Bar's annual budget and is estimated to decrease each year to approximately $44,000 in year 11 as exam development and marketing expenses decrease.[103] Revenue from application fees, annual membership fees, and Client Security Fund fees are expected to start at approximately $14,000 and increase to $65,000 by year 11.[104]

Currently, these active ALP programs are funded through the state bar membership fees of ALPs and attorneys. Compared to the state bar's annual budget, the portion of attorney membership fees going to fund these programs are minimal (approximately 1% of the entire budget). The goal with each of these programs is that they ultimately become self-sustaining. In April 2020, the Washington LLLT Board sent a letter to the Washington Supreme Court with a business plan predicting self-sustainability by 2029, assuming the addition of practice areas and increased educational opportunities.[105] The Oregon State Bar speculates that their ALP program will be self-sustaining in seven to eight years.[106]

Considerations with Program Development

In looking at the budgets from Washington, Utah, and Oregon, the total cost to fund an ALP program is not exorbitant. The number of ALPs in each state has been increasing each year by a small margin, suggesting that more and more of the program costs will be offset by ALP license fees. These programs should be viewed as startups of sort—it will take time to grow and become self-sustaining. It is also important to recognize that these funds are doing more than just sustaining a new program: this is an investment in improving the access to justice gap.

Recommendation 18

States must commit to seeing their ALP programs through for the full period of time they are intended to be in operation. Securing initial seed funding (whether through bar membership fees, grants, or other sources) is a critical part of this commitment.

CONCLUSION

Appropriate and affordable legal help is out of reach for many people in the United States. It is clear that attorneys alone are not the answer, and further that subsidized legal services cannot come close to meeting the present need. An ecosystem of legal professionals is necessary to close this justice gap, and ALPs are an integral part of the solution. So far, a handful of states have championed this cause, with an increasing number following suit. Data from these programs show that ALPs are making a positive impact in people's lives. Well-trained ALPs are competent, their clients are satisfied with their work product, and they can reach a portion of the population that attorneys are not reaching. ALPs are providing high-quality legal services at around half the cost of attorneys.

In the not-too-distant future, ALPs will exist across the country and be readily known by members of the public as a more affordable option for legal help. Until that day, and as states continue to explore and create ALP programs, we hope that this report can serve as a guide toward creating the most comprehensive and effective programs possible. The recommendations set forth here consider what has worked well with ALP programs so far and the problems encountered to date. They also consider aspects of the experience in the medical profession with the introduction of the nurse practitioner role.

Yet the introduction of ALPs into the legal services ecosystem is a rapidly evolving development. In the coming years, state programs and national advocates will need to grapple with several high-level issues.

There are considerable differences across state programs, but there is a point at which uniformity will become desirable—and important. The success and scalability of these new providers will be influenced by the transferability of these roles across states. In this context, transferability has several facets. The public and ALPs alike will benefit from widespread name recognition, which in turn will rely on consistency in provider title across state programs. Achieving this will likely require some degree of uniformity in the services and scope of practice that these professionals provide. From the providers' standpoint, comity and reciprocity between states will become important as more and more states authorize ALPs. The necessary investment by professionals pursuing these roles, in terms of time and money, will be a more compelling proposition if the license can be transferred in some way to a new state.

Given the nascent state of the ALP movement, there remains some degree of uncertainty on the case and client types that will support a sustainable practice. The practice areas with the highest levels of unmet legal needs are understandably driving state ALP program design. But because ALPs are ultimately charging for their services, practice areas that are unlikely to have clients with purchasing power may not be a compelling focus area for these providers. In the states with active ALP programs, we are already seeing a concentration in family law matters over debt-collection and landlord-tenant issues. As states consider which practice areas to include in these programs, it will be important to have a broad understanding of access to justice as encompassing case types outside of poverty law matters.

Finally, states will surely make modifications to ALP programs after implementation in response to issues that arise. Some of these will be small adjustments, but states will also need to be open to making the more substantial modifications needed to reach program-market fit. These programs are attempting to balance a number of policy objectives, including:

- Making participation in the program accessible and attractive to potential ALPs vs. ensuring a sufficient level of education and training
- Targeting practice areas with the greatest need vs. selecting practice areas where ALPs can make a living
- Establishing adequate regulatory requirements vs. ensuring that ALPs are not saddled with unnecessarily burdensome requirements
- Building programs around state-specific needs and circumstances vs. allowing for ALP mobility across state programs

Reaching the optimal balance between these competing objectives will take time—and a commitment by states to experiment with different approaches before declaring failure.

In order to adequately address these issues and others that arise, program evaluation and transparency in lessons learned is critical. Washington's experience with the LLLT program has shaped other state programs, and data emerging from other states will be similarly influential. These efforts are introducing an entirely new tier of provider into a legal services ecosystem that for a century or more has been closed to new entrants. Proof of concept will take multiple iterations—and the more data that is available, the faster states will coalesce around the most effective structure.

IAALS looks forward to working closely with states on these efforts to ensure each program is optimized to bring the most benefit to the public, to the ALPs themselves, and the legal profession as a whole.

Endnotes

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More States Turn To Paraprofessionals To Fill Justice Gap

By **Aebra Coe** | June 2, 2023, 7:02 PM EDT · Listen to article

North Carolina Justice for All Project co-founders S.M. Kernodle-Hodges (left) and Alicia Mitchell-Mercer are urging lawmakers in their state to establish a licensing program that would allow qualifying nonlawyer paraprofessionals to represent clients in discrete areas of law. Six states across the country have adopted such programs in recent years, with others taking steps to do the same. (Courtesy of Alicia Mitchell-Mercer)

After being asked to use her skills as a former paralegal to help a fellow congregant from her church obtain a civil restraining order against her husband, Alicia Mitchell-Mercer realized just how little help she could offer the woman as a nonlawyer.

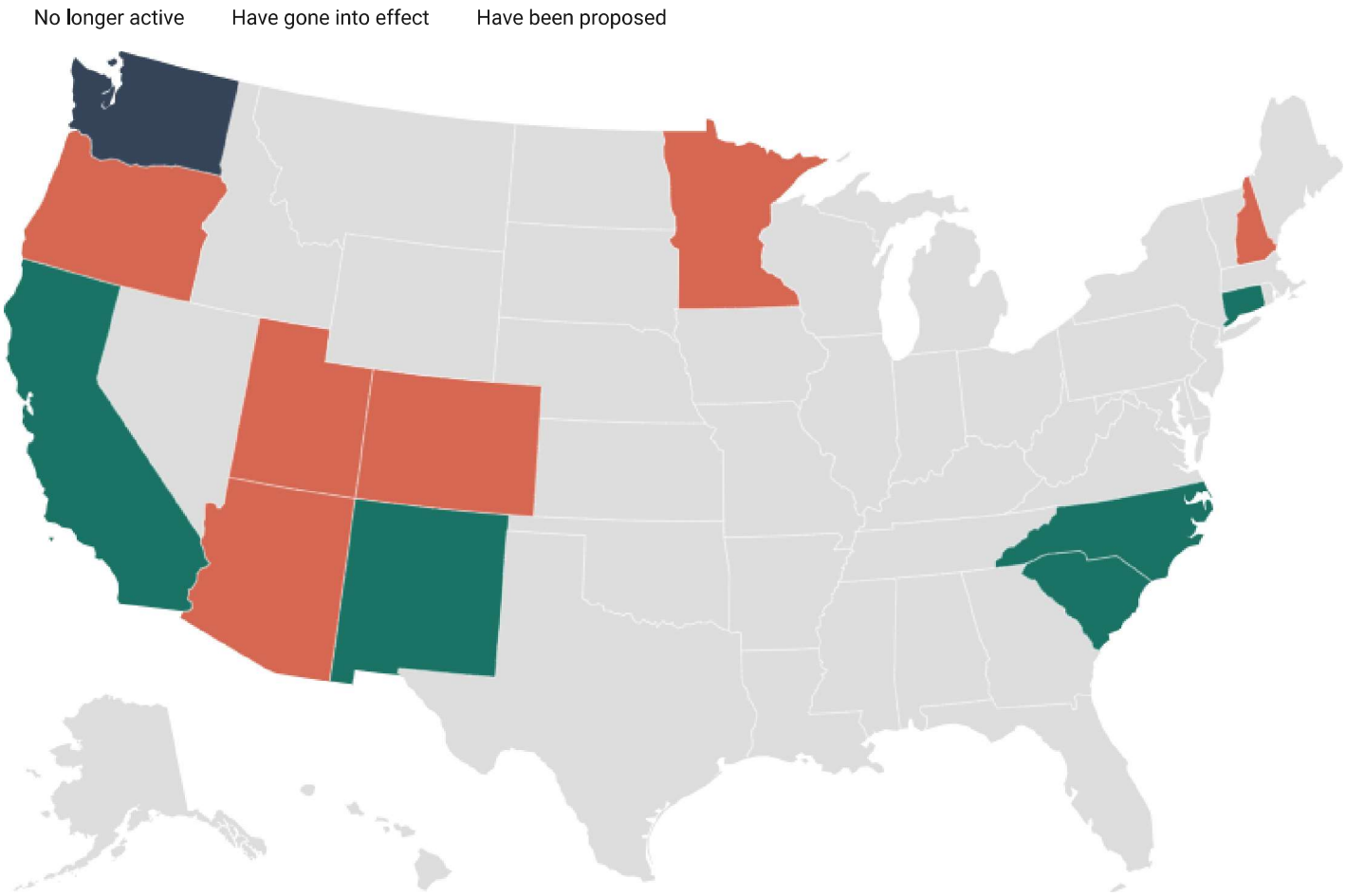
While a magistrate had granted the woman a 10-day protective order after her husband allegedly held her at gunpoint overnight, Mitchell-Mercer said that the woman needed to appear in court to get the order extended to a year.

Given her background as a paralegal and court-appointed guardian, Mitchell-Mercer said her church contacted her in 2019 to see what help she could provide.

Mitchell-Mercer, however, was unable to offer anything more than moral support as the woman, "visibly shaking," was forced to sit six feet from her alleged abuser and to advocate on her own behalf.

Licensed Legal Paraprofessional Programs Spread

Even as some other efforts to open up the practice of law to non-attorneys have stalled, the licensure of paraprofessionals to help legal consumers primarily in the areas of family law and landlord-tenant law have flourished in recent years, with a marked uptick during the last three years.



Note: Similar programs allowing legal aid workers, court navigators and other so-called "allied professionals" to provide legal assistance in discrete areas of the law also exist, but for the purposes of this map only licensed paraprofessional programs were included.

Created with Datawrapper

"It really struck me. She was shaking so violently she dropped her paperwork while walking to the stand. I stood up to help her pick it up and was told to sit down by the bailiff. I couldn't even do that," Mitchell-Mercer said.

Mitchell-Mercer serves as co-founder of the North Carolina Justice for All Project, through which she's spearheading an effort in her home state to establish a legal paraprofessional licensing program. Such programs, which allow nonlawyer paraprofessionals to represent clients in discrete areas of law, have begun to spread across the U.S. in recent years.

Lindsey Brandt

The Law Offices of Peter A. Kern

Brandt became a Utah licensed paralegal practitioner, or LPP, in May 2022. She works alongside lawyers in a family and criminal law office in Lehi, Utah, and currently has about 25 of her own clients.

After a previous career in finance, Brandt spent time as a stay-at-home parent before pursuing her paraprofessional license at the advice of a neighbor who is also a judge. She has a master's degree in public administration, with an emphasis in nonprofit work, and has also volunteered at a free legal clinic for the last three years.

"There's so much need and just not enough help," Brandt said. "There are so many times we see clients that need help undoing what they have done [through pro se filings]. It's so unjust, it's so unconscionable and inequitable to the extreme. Those individuals deserve the same help as someone who can afford an attorney."

The number of states implementing programs to license paraprofessionals to practice law has swiftly multiplied over the last three years, growing from two states to six and counting as courts seek ways to meet the legal needs of low- and moderate-income residents.

In 2019, Washington and Utah were the only two states that allowed paraprofessionals to seek licensing to practice in discrete areas of law, but now that list has ballooned. Even as Washington sunset its program, states including Arizona, Colorado, Minnesota, New Hampshire and Oregon have all joined Utah in embracing the licensing programs.

Licensed legal paraprofessionals, as they are typically called, usually take on legal work for clients in the areas of family law, landlord-tenant disputes and debt collection, but some states have allowed them to handle limited jurisdiction civil matters, criminal law, juvenile court and state administrative law.

The idea behind the programs is to create a new tier of legal service provider who can offer more help than a paralegal or court navigator, and is available to consumers at a lower price point than a lawyer. In many cases, the programs are an outgrowth of access to justice task forces or committees aimed at finding ways to meet currently unmet legal needs in the United States.

"This issue of who can practice law and how to provide legal assistance is intimately wrapped up in the fact that there are huge numbers of people who come to court without lawyers. The current system isn't satisfying that need," said Danielle Hirsch, interim court services director of the court consulting division at the National Center for State Courts.

The programs have not been without criticism, though, with some members of the bar strongly opposing the licensing programs on grounds that nonlawyers cannot provide the quality of services needed to meet client needs.

"What I think is that there are undoubtedly very complicated legal needs for which there is no substitute for a lawyer," Hirsch said in response to the criticism. "However, not everything is that way and we need to be resourceful."

Nichol Fitzpatrick

Code 4 Legal

Fitzpatrick obtained her Arizona legal paraprofessional, or LP, license in 2021, specializing in family law. She started her career in the law as a paralegal in 2007 and also spent some time in law school. She now has her own solo practice and has a paralegal working under her.

According to Fitzpatrick, many of the cases she takes on are custody and child support cases. And, she said, many of her clients would not be able to afford legal representation if there wasn't an LP option.

The paraprofessional licensing programs in New Hampshire, Colorado and Oregon are brand-new, but in the other states with such programs, professionals are already licensed and, in some cases, have been practicing law for years now.

In Utah, there are currently 28 licensed paralegal practitioners, also called LPPs. In Arizona, there are 38 legal paraprofessionals, or LPs. And in Minnesota, there are 25 LPs, according to the three states' judicial websites.

In addition to the six states that have approved or implemented programs, at least five others are considering them, including South Carolina, North Carolina, New Mexico, Connecticut and California. Other states have implemented or are considering implementing similar programs to allow legal aid workers to provide certain legal services under the supervision of legal aid lawyers.

While the licensing process for legal paraprofessionals differs from state to state, typically applicants must meet educational or experiential requirements and then take exams that cover legal ethics and the areas of law they'd like to practice. They typically must also pass a character and fitness hurdle and complete continuing education requirements.

The professionals are usually regulated by the same authorities that regulate attorneys, and complaints of misconduct can similarly be filed with the state.

Peggy Cochran

Elkins & Muir

Cochran obtained her Arizona LP license in November 2022, specializing in family law. Since being licensed, she has taken on divorce and child custody cases. She works alongside three lawyers in a Tuscon, Arizona, family law firm.

As a longtime paralegal, Cochran says has seen how people suffer and the court system is burdened when large numbers of self-represented litigants attempt to wade through the complexities of a divorce or child custody dispute.

"There is absolutely a need. There are a lot of people I talk to that have all of the same legal problems, but they need a lower rate," she said. "As an LP I can do the work that's necessary, but it will cost them less money."

Even as more states begin experimenting with the idea, however, Washington state opted in 2020 to sunset its limited license legal technician program — the first of its kind in the nation — after eight years. According to a memo at the time by the state's chief justice, the small number of participants in the program didn't warrant its cost, although those who had already obtained licenses were permitted to continue practicing.

According to Lucy Ricca, executive director of the Deborah L. Rhode Center on the Legal Professional at Stanford Law School, the program's demise was due in part to onerous registration requirements that made it time-consuming and difficult to become licensed, blunting the impact of the program.

States working to implement programs now, meanwhile, are hoping to learn from Washington's example and find the proper balance between protecting consumers and avoiding overregulation that can make the programs too burdensome to participants, Ricca said.

"If you make the requirement to become a licensed legal paraprofessional so onerous it undermines the affordability and accessibility ... providers can't actually offer low-cost legal services independently on the back side," she said.

Law360 spoke to four licensed paraprofessionals in Utah and Arizona, and each expressed satisfaction with the licensing process they went through, and all felt that they were able to provide services to clients at a rate substantially lower than many lawyers in their community. The most common rate cited by the paraprofessionals was around $200 per hour, and many said they forgo the large retainers often required by lawyers.

The services, unless provided under the auspices of a legal aid organization, are generally aimed more toward moderate-income consumers, as opposed to those who are truly low-income.

Susan Astle

Astle Family Law

Astle obtained her Utah LPP license in 2021, with a specialization in family law. She was previously a paralegal at a law firm and continued as an LPP at the firm before launching her own practice, Astle Family Law.

She says that as a paralegal she saw many people confused and overwhelmed within the courts because they were unable to afford a lawyer, often taking years to resolve a divorce or custody dispute.

"I love being in a position where I'm able to share that information with people so they can make the best decisions in their family law matter," Astle said.

"We know that middle-class Americans are a big part of this justice gap," Ricca said. "If we can have independent paraprofessionals meeting the needs of those people, that should be a high priority whether or not the fees are so low that low-income people can access them. We need solutions all across the spectrum."

Astle said she considers herself middle-income and is aware that she and her peers are often priced out of being able to hire a lawyer. Astle says many of her clients are teachers and nurses.

"There is this portion of the population that does not have access to justice, and gets stuck in the system and needs some help," Astle said. "When there's someone they can afford, that's a relief for them."

Each of the four licensed legal paraprofessionals whom Law360 spoke to practice in the area of family law, and all of them shared stories about how important it was for their clients — who otherwise would likely be unrepresented — to have someone advocating on their behalf in matters as potentially life-altering as custody proceedings or a divorce.

"These cases are truly pivotal and people are emotionally drained and frustrated because they don't know what to do and aren't familiar with the process," said Fitzpatrick, the Arizona LP. "Often they don't get needed information out when the judge asks them questions because they are flustered. At the end of the day they need that mouthpiece."

--Editing by Marygrace Anderson.

Have a story idea for Access to Justice? Reach us at accesstojustice@law360.com.

Clarification: This story has been updated to clarify the timeline of Mitchell-Mercer's experience trying to help in an acquaintance's protective order proceeding.

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Required Supplemental Education for LLLT Use of New Real Property Division Form as Approved by the LLLT Board at its July 10, 2023 meeting

In light of recent substantial increases to the Washington homestead exemption, the LLLT Board has approved a revised Real Property Division Form for use by LLLTs. Due to this change to the LLLT scope of practice, the LLLT Board will require all LLLTs to attend a mandatory supplemental education seminar on this subject. **LLLTs must complete the supplemental education by February 1, 2025, in order to maintain their license.** See Appendix APR 28 Regulation 3C.

APR 28F.(6), under Scope of Practice Authorized by Limited Practice Rule, authorizes LLLTs to complete forms approved by the LLLT Board.

> (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the LLLT Board; and advise the client of the significance of the selected forms to the client's case;

APR 28 Reg. 2B.2.(b) identifies the scope for real property division in domestic relations matters.

> (b) LLLT legal services regarding the division of real property shall be limited to matters where the real property is a single family residential dwelling with owner equity less than or equal to twice the homestead exemption (see RCW 6.13.030). LLLTs shall use the form for real property division as approved by the LLLT Board.

At the time this real property division regulation was adopted by the Washington Supreme Court in May 2019, Washington's homestead exemption under RCW 6.13.030 was $125,000; therefore, LLLTs were limited to real property division where the owner equity was twice that amount, or $250,000, or less. Effective May 12, 2021, the Washington legislature amended RCW 6.13.030 such that the homestead exemption amount increased to the "county median sale price of a single-family home in the preceding calendar year". For example, the median sales price for a home in King County in the fourth quarter of 2022 was $914,300 and in San Juan County, $958,300.* Therefore, LLLTs can now use the real property division form for homes in these counties with owner equity up to $1.9M. This change by the legislature caused a significant change in scope to a LLLT's practice given the complexity of issues involved with a single family home worth $1.9M compared to one worth $250,000. It is for these reasons that the LLLT Board developed and approved a much more detailed and complex form for dividing real property; and, is why the LLLT Board is requiring all LLLTs be educated on this subject by attending the mandatory supplemental education.

*Median Home Prices, State of Washington and Counties Annual, 2015-2022, https://wcrer.be.uw.edu/wp-content/uploads/sites/60/2023/03/HMR-4Q2022-annual-medians.pdf (downloaded 07.03.2023) (showing the median home price for all counties listed as greater than $125,000).

Real Property Division Form and Worksheet Instructions

The information provided on this document does not and is not intended to constitute legal advice; instead, all information and content are for general informational purposes only.

The primary purpose of the real property division form and worksheets is to clearly define what will happen with the real property in a dissolution action, and the agreed responsibilities of the owners/parties. See Appendix A Real Property Basics for more information about the ownership and transfer of real property.

Once signed by both owners/parties, the agreement is intended to be a binding contract enforceable by the court.

Limited License Legal Technician (LLLT) Real Property Division Scope of Practice

Under APR 28, LLLT legal services regarding the division of real property shall be limited to matters where the real property is a single-family residential dwelling with owner equity less than or equal to two times the homestead exemption[1] (*see* RCW 6.13.030). LLLTs shall use the form for real property division as approved by the LLLT Board.

Only real property that is either unencumbered or secured by a promissory note and deed of trust or real property contract may be divided by an LLLT. If the marital community holds real property that is encumbered by a mortgage (see 3. Encumbrances below for information on the difference between a mortgage and a deed of trust), the LLLT must advise the client to seek the direction of an attorney.

An LLLT must complete the real property form for any single-family residential dwelling owned by one or both spouses in a dissolution action when the final orders in a dissolution effectuate the division of real property held by the marital community. **It is not required if the real property is sold or refinanced prior to the entry of final orders. An LLLT should not prepare any deed to effectuate the transfer of title.**

The real property division form and worksheet and schedules do not have to be filed with the court. If the form (and any attachments) is filed, it should only be filed under seal.

Real Property Division Form and Worksheet and Schedules A-F

1. Owner Information

List all legal and equitable owners. A thorough check of all deeds recorded in the county auditor's office should reveal the name(s) of all persons on title. There may be multiple transfers of the real property over a long time period. Care must be taken to verify the chain of title is complete and accurate. A title search by a title company or litigation guarantee by a title company is strongly recommended to identify all legal owners and whether there is any cloud on title.

[1] APR 28 Regulation 2(B)2(b)

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2. Real Property, Value and Equity Information

Real Property Information
The real property must be clearly and distinctly identified, and the identification must satisfy RCW 60.04.010 and the statute of frauds and be sufficient to locate the real property without extrinsic evidence. Address information or tax parcel ID or account # alone is not sufficient to identify the real property.

Assessor's property tax parcel ID or account # may be found on the county tax assessor's website. If the property consists of more than one parcel, include all parcel ID or account #s and full legal descriptions for all parcels. If the county does not provide this information on its website, the auditor's office will have those records. This information may also be included on the deed(s).

The abbreviated and full legal description is included on the Deed of Trust (or other deed) and recorded in the county in which the real property is located. Recorded documents are available on the county's website or at the county auditor's or recorder's office. The most recent conveyance recorded should be reviewed to obtain the current legal description.

The assessed value is primarily used for the calculation of property taxes and shall not be used as the fair market value[2] of the real property.

Value Information
An appraisal is generally the most reliable indicator of a property's fair market value. Real property values fluctuate, sometimes greatly—an appraisal completed within the last six months is highly recommended.

A reasonable no-cost or low-cost alternative is a comparative market analysis (CMA) prepared by an experienced local licensed real estate agent. An amount based on a CMA is a non-binding value, in that a later appraisal or value determination by a lender supersedes a value provided on a CMA.

Online real estate listing sites are not reliable indicators of a property's fair market value. Although it is not recommended, if the parties choose to make their own determination of the real property's value, a written agreement must be completed using Schedule A.

Schedule A: If the real property's value is based on the owner's written agreement, complete Schedule A.

Schedule B. If there is deferred maintenance or repairs required which detract from the value of the real property, complete Schedule B.

[2] The fair market value is the price the property would sell for on the open market.

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Equity Information

Equity is the value of the property minus the total of all encumbrances and unsecured obligations on the property. If the equity exceeds two times the homestead exemption amount in the county in which the real property is located, the division of the real property is outside of the LLLT's scope.

Determining Equity

Example 1: A property is appraised at $300,000. The owners owe $100,000 on their bank loan (i.e. mortgage). The equity is $200,000.

$300,000 (value)
- $100,000 (loan/mortgage)

$200,000 (equity)

Example 2: The property owners obtained several CMAs on their property, and the average value (which they agree is the fair market value) is $250,000. The owners have both a first and second mortgage (bank loan and home equity line of credit, or HELOC) on the property for $175,000 and $50,000 respectively, amounting to $225,000. The equity is $25,000.

$250,000 (value)
- $175,000 (1st mortgage)
- $50,000 (2nd mortgage/HELOC)

$ 25,000 (equity)

Example 3: A property has an assessed value of $350,000. The owners obtained an appraisal showing the property's fair market value is $500,000. The owners have a first mortgage of $100,000, and also owe a family member $100,000. They have a written agreement with the family member to pay back the loan when they sell the house. The equity is $300,000. (The assessed value shall not be used when determining the equity.)

$500,000 (value)
- $100,000 (1st mortgage)
- $100,000 (personal loan)

$300,000 (equity)

3. Encumbrances

An encumbrance may be a loan from a financial institution (frequently called a mortgage loan) home equity line of credit (HELOC), lien, promissory note with deed of trust, judgment, Uniform Commercial Code (UCC) filing, or other interest secured against the property.

A lien is a charge, hold claim, or other encumbrance upon the property of another as a security for some debt or charge. There are numerous types of liens, such as tax, judgment, mechanic's, or attorney's lien. In general, the lien is recorded with the county in which the real property is located.

Often, people refer to a home loan as a "mortgage," but a mortgage is not actually a loan agreement. It is the promissory note that contains the promise to repay an amount borrowed to

buy a home/real property. A "mortgage" is a contract between an owner/borrower and the lender that creates a lien on the property. Some states use mortgages to create the lien, while other states, such as Washington, also use deeds of trust. The mortgage or deed of trust gives the lender the right to foreclose if a borrower fails to make the monthly payments or breaches the loan contract in some other way.

While mortgages and deeds of trust are similar because they are both agreements in which a borrower puts up the title to real estate as security (collateral) for a loan, these legal instruments do have some differences. For instance, mortgages and deeds of trust differ in the parties involved and, often, how the foreclosure process works.[3]

Schedule E: All encumbrances must be listed on the real property division form and on Schedule E.

Generally, a monthly/periodic statement from the mortgage lender or loan servicer[4] will contain the required loan information. The mortgage lender is the financial institution that loaned the money. The mortgage servicer is the company that sends out the mortgage statements. The servicer also handles the day-to-day tasks for managing the loan.

4. Unsecured Obligations

An unsecured obligation may be a personal loan from family or friends, a fee due to a homeowner's association, or a promissory note (without a deed of trust). The unsecured obligation is any money that should be disclosed—and possibly paid—upon transfer of ownership of the real property.

Because these types of obligations are rarely recorded against the property, the owner(s) must be advised to provide all records relating to the purchase of the real property, as well as all records regarding the real property.

Schedule E: All unsecured obligations related to the real property must be listed on the real property division form and on Schedule E.

5. Total Encumbrances and Unsecured Obligations

Add the amount of all encumbrances and unsecured obligations to arrive at the total amount owed on the real property. This is the amount subtracted from the value of the real property to determine the equity. (*See Examples in section 2.)*

[3] For further information regarding foreclosures in Washington, see RCW 61.24: Deeds of Trust and RCW 61.12: Foreclosure of Real Estate Mortgages and Personal Property Liens. Largely excerpted from https://www.nolo.com/legal-encyclopedia/understanding-mortgages-deeds-trust

[4] See https://www.consumerfinance.gov/ask-cfpb/whats-the-difference-between-a-mortgage-lender-and-a-servicer-en-198/

6. Value Adjustments

A value adjustment is an amount that may be deducted from the real property's value. Value adjustments should be based on written bids or quotes from licensed contractors for necessary repairs and/or deferred maintenance which detract from the value of the real property. Oftentimes, a lender may require certain repairs/maintenance be completed prior to refinancing a loan, or as a condition of the purchase and sale of the real property.

The repairs/maintenance must be necessary and not purely cosmetic or routine maintenance items.

Schedule B: All value adjustments must be listed on Schedule B.

7. Occupancy, Encumbrance Payment(s), Maintenance, Repairs, and Costs

Occupancy
In most cases, one owner will occupy the real property, while the other owner establishes a new residence. The non-occupying owner should be provided a reasonable timeframe to vacate the property. If a court order set a date for the non-occupying owner to vacate, that same date should be listed.

If an owner continues to occupy the real property beyond the agreed date or after the sale of the real property, the occupancy is subject to RCW 59.12.030 (1): Unlawful Detainer Defined or RCW 7.28: Ejectment; Quieting Title.

Encumbrance Payment(s) Specify who will make required loan payments, and which costs are included in the payment. If there are additional required payments, such as for unsecured obligations, include that information in the Other: section.

Routine Maintenance
The general upkeep of the real property falls under routine maintenance. It should be clear who is responsible for routine maintenance costs. Routine maintenance includes but is not limited to:

- seasonal landscaping, mowing, weeding, mulching, and trimming
- fixing small plumbing issues, such as leaks, drips, continuous running, and drain clearing
- fixing small electrical issues, such as replacing fixtures, outlets, fuses/breakers, and smoke/carbon monoxide detectors
- keeping roof, gutters and downspouts clear, cleaning exteriors surfaces, clearing driveways & sidewalks, and removing hazards
- keeping interior clean and hazard free, exterminating pests, removing rubbish, and cleaning and maintaining appliances, hot water tank, heating/cooling system, and other installed systems
- cleaning and maintaining outdoor fixtures, such as pools, hot tubs, fireplaces/firepits, and ponds

Routine Costs
Payment for utilities associated with the real property (i.e. water, sewer, power) and minor/cosmetic repairs (i.e. paint, light bulbs, batteries) are routine costs. It should be clear who is responsible for these costs, and how reimbursement (if any) will be made.

Repair and Deferred Maintenance Costs
Costs for repairs and deferred maintenance are those items not considered routine. For example, replacing an aging furnace with a more efficient model because the old furnace no longer heats well could be considered a repair or deferred maintenance. It is not, however, an issue that would likely require replacement by a lender, therefore a value adjustment would not likely be needed.

Uncompleted repairs and maintenance which may affect the value of the real property and likely require repair in order to get financing should be listed on Schedule B.

Schedule B: All value adjustments must be listed on Schedule B.

Completion of Necessary or Agreed Repairs
It should be clear who is responsible for arranging and ensuring completion of repairs. It is recommended the owners establish a method for exchanging information or documentation as needed.

Sample Necessary Repairs/Deferred Maintenance Items

Example 1: An inspection as part of a pending refinance was completed which noted the following issues:

1. 30-year-old roof has failed and there is water damage to interior ceilings
2. concrete driveway is crumbling and has several potholes
3. two of the windows on the south side of the house are broken
4. yard is weedy, grass is overgrown, and planting beds need new mulch
5. several rain gutters and downspouts blocked

Items 1 to 3 above are necessary repairs/maintenance that may require a value adjustment.
Items 4 and 5 are routine maintenance and should not be included as a value adjustment.

8. Final Disposition Provisions

The owners must identify what is ultimately expected to happen with the real property and, if there will be a transfer of ownership, how and when that transfer will occur. If the property will be retained solely by one owner and no equity buyout is required, no additional provisions need be clarified in the real property division form. Owners may add additional provisions in section **15** as desired.

In most cases, however, the real property will be sold or refinanced and/or an equity buyout will occur.

9. Equity Division Provisions

The amount of equity to be awarded to each owner (if any) must be listed as either a lump sum or percentage of the total.

If the real property will be sold more than two years after the entry of the final decree, the parties are to obtain an appraisal or CMA to determine the value at that time. A property value agreement using Schedule A does not suffice in this instance. Although real property values fluctuate, and current equity is not determinative of future equity, it is vital both owners/parties are aware of the real property's current value at the time of the dissolution.

10. Refinance Provisions

If the real property will be refinanced, specify the timeframe or deadline for the refinance process to be initiated, and the expected completion date. An anticipated refinance may later prove to be impossible if the owner is unable to obtain financing, or the owner expected to refinance may default, i.e. not follow through with the process. As noted in section **13**, remedies for default or impossibility must be included in the final decree.

11. Sale Provisions and Default or Impossibility Provisions

If the real property will be sold, specify the timeframe or deadline for the sales process to be initiated, and the expected completion date.

Listing and Showing
One owner should be responsible for working with a realtor to list and show the real property. Agreement in advance on the listing agent/realtor is highly recommended.

Offer Acceptance
The owners must agree in advance on what constitutes an acceptable offer, particularly regarding the price.

Schedule C: Complete this schedule to document the acceptable price range and contingencies. An anticipated sale may later prove to be impossible if a prospective buyer owner is unable to obtain financing, or the owner expected to list the real property for sale may default, i.e. not follow through with the process. As noted in section **13**, remedies for default or impossibility must be included in the final decree.

12. Retained or Refinanced with Future Buyout Provisions

While it is generally preferable in a dissolution to refinance the real property into only one owner's name, or to sell the real property, there are instances in which neither option appeals to the owners. As real property is often the largest asset owned by a married couple, the division of equity may play a large role in the division of marital assets.

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A future division of equity based on a refinance or sale more than two years after the entry of the final decree requires additional thought on how the buyout will occur. Additionally, if one owner is required to relinquish title (such as by signing a Quitclaim Deed), that owner's interest in the real property must be protected, and Schedule D must be completed. The final decree must include a judgment, and both a promissory note and deed of trust may need to be recorded against the real property.

Schedule D: Complete this schedule with specific details of the future equity buyout and remedies for default or impossibility.

13. Remedies in the Event of Default or Impossibility

The final decree must include these remedies. Additional remedies may also be included as agreed by the owners, such as penalties and fees.

14. Other Provisions and Required Creditor Payment from Sale Proceeds

Use this section to include owner and property specific provisions not already listed in the real property division form or schedules. If the real property is to be sold and there is a Required Creditor Payment from Sale Proceeds, Schedule F must be completed. The final decree should include sufficient detail to be enforceable in court.

Schedule F: Complete this schedule with details of any required creditor payments from sale proceeds.

15. Proposal, Temporary Agreement or Final Agreement of the Owners

The form may be completed and provided as a proposal to assist the owners in coming to agreement. The form may also be a temporary agreement while one or both owners seek additional information, such as whether refinancing is likely.

If the Final Agreement provision is checked, the form with its worksheets and schedules is intended to become a binding contract, enforceable in court.

Appendix A
Real Property Basics

The information provided on this document does not, and is not intended to, constitute legal advice; instead, all information and content are for general informational purposes only.

Property Deeds[5]

Every piece of real property in the United States is tracked or recorded. Usually, these files are kept with the County Recorder's office. They are public record, which means that anyone who wants the information can take certain steps to obtain it. It also means that when property is transferred from one owner to the next, the official documents must reflect the transfer. In fact, a failure to record the required documents accurately can undermine and even invalidate the transfer altogether.

The legal term used to describe the act of transferring real property or title to a new owner is "conveyance." A conveyance translates the wishes of the buyer and the seller into a legal document, and the transfer process happens by way of deed. The person transferring ownership is often referred to as the "grantor." The person receiving property is the "grantee."

A property deed is a formal, legal document that transfers one person or entity's rights of ownership to another individual or entity. The deed is the official "proof of transfer" for real estate, which can include land on its own or land that has a house or other building on it.

Every deed should contain the following information:

- An indication that it is a deed
- A description of the property involved
- The signature of the individual or entity that is transferring the property
- Data regarding who is taking title to the property

As deeds do not require much information, the document itself is often very short. However, the document may also contain additional information such as the conditions or assurances that go along with the transfer. Each deed must also be validly delivered to the individual taking ownership of the property. In most situations, it should also be filed with the appropriate authority as well. Every real property transfer will require the use of some type of deed. There are several types of deeds. Each type varies based on the warranties provided to the grantee. Different varieties of deeds provide varying levels of title.

Common Types of Deeds Available

The kind of deed used to transfer property will depend on title to the property. When there is a valid title, for example, the deed used to transfer that property may be different than the deed used if the title's integrity is uncertain. The following is a brief list of some of the various types of deeds available to transfer property:

- Statutory Warranty Deed

[5] Largely excerpted from https://www.legalnature.com/guides/what-you-need-to-know-about-deeds-and-property-transfer

Appendix A
Real Property Basics

The information provided on this document does not, and is not intended to, constitute legal advice; instead, all information and content are for general informational purposes only.

- Special Warranty Deed
- Bargain and Sale Deed
- Quitclaim Deed

RCW 64.04: Conveyances provides information about the specific types of deeds used in Washington State. Descriptions of the different types of deeds may be found by searching online at reputable sources.

Title to Property

Deeds help show ownership of the property. However, the deed itself is really only used for transfer of the property. While ownership of real property in Washington State is not strictly based on whether or not an owner's name is on the title, the inclusion of an owner's name on title provides certain rights, such as the right to:

- access and occupy the property;
- place encumbrances on the property (i.e. mortgage);
- use the property as desired within legal bounds; and
- transfer the property in whole or in part.

Often, titles will be in more than one person's name. For example, if a married couple owns real property (such as their home) together, both of their names will often (but not always) be on the title. When this occurs, each spouse *generally* holds a one-half interest in the property. That also means the property cannot be transferred without both spouses' permission.

As property is held in such high regard in the United States, having a good title is critical when transferring property. Every time a property is transferred, it is recorded in a public way, usually with the County Recorder's office. When a property transfer is not recorded properly, there may be "holes" or "gaps" in the title, oftentimes called *cloud on title*. These deficiencies make ownership questionable because it is unclear whether the person who received the transfer after a gap did so validly. That is, the person transferring the property may not have had the necessary ownership rights to assign it.

These concerns about titles lead to products such as title insurance, which will indemnify losses related to defects in the title to real property. Problems associated with the title become particularly relevant if there are encumbrances or debts the owners are unaware of or to which they did not agree.

Real Property Division

If this form is filed with the court, it should only be filed under seal.

See the Real Property Division Form and Worksheet Instructions for details on completing this form.

1. Owner Information

All legal owners must be listed.[1] *The award of a property to one owner as their separate property, even without an equity division, is still the division of real property within a marital community.* ***If there are more than two legal owners, if there is an owner who is not a party to the dissolution, or if the owners are not married, an LLLT may not advise the client regarding the division of the real property under APR 28.***

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Street Address		Street Address	
City, State, Zip		City, State, Zip	
Phone		Phone	
Email		Email	

2. Real Property, Value, and Equity Information

Real Property		Value and Equity	
Street Address		Value	**$**
City, State, Zip		As of (date)	
Assessor's Tax Parcel ID/Acct [2]	**1) #** **2) #**	Value Based on	☐ Property Value Agreement of the parties –**Schedule A attached**
Abbreviated Legal Description [3]	**- last recorded conveyance document (i.e. Deed of Trust/other deed) copy attached**		☐ Adopted Comparative Market Analysis (CMA) [4] –**attached** ☐ Adopted Appraisal [5] –**attached** *Obtain an appraisal if there will be a future equity buyout.*
		Total of All Encumbrances & Obligations from 3 and 4 below	**$**
Current Assessed Value[6]	**$** **- current tax assessment attached**	Total Equity *Value less encumbrances and unsecured obligations*	**$**

[1] Legal owners are generally—but not always—shown on title records, deeds and/or recorded documents, as title is not determinative of character. A title search by a title company or litigation guarantee from a title company is recommended to identify all legal owners and any cloud on title.
[2] Assessor's property tax parcel ID or account # may be found on the county tax assessor's website. If the property consists of more than one parcel, include all other parcel and legal description information.
[3] The abbreviated and full legal description is included on the Deed of Trust (or other deed) and recorded in the county in which the real property is located. Recorded documents are available on the county's website or at the county recorder's office.
[4] A CMA is a non-binding value.
[5] An appraisal completed within the last six months is recommended.
[6] Assessed value is not conclusive of actual, fair market value.

3. Encumbrances (mortgages, HELOCs, liens, etc.)

*Complete **Schedule E** for every encumbrance.*

Encumbrance 1	
Encumbrance may be a mortgage loan, home equity line of credit (HELOC), lien, promissory note with deed of trust, judgment, Uniform Commercial Code (UCC) filing, or other interest secured against the property. *For more than two encumbrances, attach additional sheets.* **Attach copies of all encumbrance documents**.	
Secured Party Name[7]	
Principal Balance	**$** **- Note & current statement attached**
As of (date)	
Encumbrance 2 **Attach copies of all encumbrance documents**.	
Secured Party Name	
Principal Balance	
As of (date)	

4. Unsecured Obligations (personal loans, fees due, etc.)

*Complete **Schedule E** for every unsecured obligation.*

Unsecured Obligation 1	
Unsecured obligation may be a personal loan from family or friends, a fee due to a homeowner's association, or a promissory note (without a deed of trust.) *For more than two unsecured obligations, attach additional sheets.* **Attach copies of all unsecured obligation documents**.	
Unsecured Party Name[8]	
Principal Balance	**$** **- documentation attached**
As of (date)	
Unsecured Obligation 2	
Unsecured Party Name	
Principal Balance	**$** **- documentation attached**
As of (date)	

[7] A secured party may be a mortgage lender, noteholder, lienholder, or holder of a judgment. Many mortgage loan payments are made to a loan servicer, which collects payments on behalf of the actual lender or noteholder. The loan servicer should be able to provide information on the mortgage company. Federally backed loans may be searched at www.freddiemac.com and www.fanniemae.com.

[8] An unsecured party may be a family member, friend, homeowner's association, holder of a promissory note (without a deed of trust recorded against the real property), or other party to whom money is owed, and who would have to be paid off so the real property ownership could be transferred. Unsecured obligations are not generally recorded against the real property.

5. Total Encumbrances and Unsecured Obligations

This is the total amount owed, which is subtracted from the value of the property to determine the equity amount in the property before value adjustments.

Total Amount of All Encumbrances	**$**
Total Amount of All Unsecured Obligations	**$**

6. Value Adjustments

*Complete **Schedule B** if there are uncompleted, necessary repairs and/or deferred maintenance which reduce the value of the property.*

7. Occupancy, Encumbrance Payment(s), Routine Maintenance, Repairs, and Costs

a. Occupancy[9]

The property shall be occupied by (*owner's name*) _____ beginning (*date*)_____.

Check all that apply.

[ ] The other owner, (*owner's name*) _____, shall vacate the property by (*date*):_____.

[ ] (O*wner's name)* _____will occupy the property until (*check one)*:
- [ ] the property is sold as specified in the dissolution decree.
- [ ] the property is sold for any other reason.
- [ ] the property is refinanced into the other owner's name.
- [ ] Other:

b. Encumbrance Payment(s) (i.e. mortgage, loans)

Check all that apply.

[ ] All encumbrance payment(s) will be made by (*owner's name*) _____.
[ ] Encumbrance payment(s) will be made as follows: _____ (*describe the payment method and any due dates*).
[ ] Encumbrance payments made by (*owner's name*) _____ shall be offset against any sale proceeds.
[ ] Other:

The payment(s) includes (*check all that apply*):
- [ ] principal
- [ ] interest
- [ ] property taxes
- [ ] insurance premiums

[9] Occupancy is subject to RCW 59.12.030(1) and RCW 7.28.

[ ] Other:

c. Routine Maintenance

The real property shall be maintained in a safe and livable condition, either at or better than its current condition. Decisions on routine maintenance will be made by:_____.

Routine maintenance costs, such as interior/exterior upkeep, will be paid by (*owner's name*) _____.

Routine maintenance costs are (*check one*):

[ ] subject to reimbursement from the marital community (receipts required).
[ ] not subject to reimbursement.
[ ] subject to reimbursement if over $_____.
[ ] Other:

This owner shall continue to pay routine maintenance costs until *(check one*):
[ ] the property is sold as specified in the dissolution decree or for any other reason.
[ ] the property is refinanced into the other owner's name.
[ ] Other:

d. Routine Costs

Routine costs shall be paid timely to avoid the property becoming subject to utility liens, and to help prevent the property failing into disrepair due to a lack of heat or sewer service or other reasons. Decisions on routine costs will be made by:_____.

Check one.

[ ] Routine costs, including but not limited to utilities and minor/cosmetic repairs, will be paid by (*owner's name*) _____

[ ] Routine costs will be paid as follows:_____

e. Repair and Deferred Maintenance Costs

Decisions on repair and deferred maintenance will be made by:_____. Costs to repair the property prior to sale or refinance (*check all that apply*):

[ ] Does not apply. There are no repair or deferred maintenance costs.
[ ] are shown on **Schedule B** (attached) and will be deducted from the property's net value prior to the division of equity.
[ ] will be paid as follows:_____
(*describe who will pay for repairs and maintenance and whether/how costs will be reimbursed*)
[ ] Other:

f. Completion of Necessary or Agreed Repairs

(O*wner's name*) _____ is responsible for (*check all that apply*):

[ ] obtaining bids/quotes for repairs.
[ ] authorizing repairs.
[ ] ensuring repairs are timely completed.
[ ] Other:

8. Final Disposition Provisions

If the property will be sold, refinanced by one owner, or if one owner must buy out the other owner without refinancing the property, complete all sections below. *Check one.*

[ ] Does not apply. The property will not be sold or refinanced as a requirement of the final decree and neither owner is required to buy out the other owner's interest in the property. ***Skip to section 14***.
[ ] The property will be refinanced into one owner's name only, who will buy out the other owner's equity at the time the refinance is completed. (*detailed in section 10*.)
[ ] The property will be sold. (*detailed in section 11*.)
[ ] The property will be retained by one owner, who will buy out the other owner's equity at a date more than two years in the future. (*detailed in section 12*.)
[ ] The property will be retained by one owner via a Veteran's Administration (VA) loan assumption. (*complete section 9 or 11 as needed*)
[ ] Other:

9. Equity Division Provisions

List dollar amount or percentage of equity each owner will receive upon refinance or sale of the property. If one owner is buying out the other owner without refinancing the property, list the amount of the equity to be paid as a buyout.

Current Equity[10] *Choose one:*		**Owner 1** will receive	**Owner 2** will receive
☐	$_____	$_____ OR % _____	$_____ OR % _____
☐	There is no equity to be divided. ***Skip to section 10.***		
Payment of Equity/Buyout (*after deducting closing costs and cost of repairs*)			

[10] Current equity is not determinative of future equity. If the property will be sold more than two years after the entry of the final decree, the parties agree to obtain an appraisal prior to listing for sale to determine the current value.

Check one: ☐ Owner 1 ☐ Owner 2 ☐ Both owners	Shall receive their portion of equity (*check one*):	☐	as a lump sum payment on or before date/time period: _____ *i.e. dd/mm/yyyy, or no later than X months from final order entry/other event (if more than two years complete Section 12.)*
		☐	as a future buyout as described in section **12**.
		☐	as a lump sum when youngest child turns 18 or graduates high school, whichever occurs last, but in no event after the youngest child turns 19.
		☐	Other:

10. Refinance Provisions

Check one.

[ ] Does not apply. ***Skip to section 11.***
[ ] (O*wner's name*) _____will refinance the property solely in their name. This owner shall be responsible for timely initiating and completing the refinance. The other owner will be paid their share of equity upon the completion of the refinance. Both owners shall timely cooperate in providing and signing any necessary documents required to refinance the property into one owner's name, including any deed required to transfer the vesting of the property.
[ ] Other:

Refinance Timeframes			
Refinance shall be INITIATED on or before	☐	Date:_____ *dd/mm/yyyy*	
	☐	Time period: _____ *Example: No later than x months from final order entry*	
	☐	Other: *Example: By _____ date unless interest rate drops below ___%, and then by _____ date*	
Refinance is EXPECTED TO BE COMPLETED on or before	☐	Date:_____ *dd/mm/yyyy*	
	☐	Time period: _____ *Example: No later than x months from final order entry*	
	☐	Other: *Example: By _____ date unless interest rate drops below ___%, and then by _____ date.*	
Refinance Costs			
Refinance costs will be paid by: *This includes but is not limited to loan closing costs.*	☐	Owner 1	$_____ OR % _____

	☐	Owner 2	$_____ OR % _____

If the refinance is not initiated or completed as expected, then (*check all that apply*):
[ ] The remedies as described in section **13** shall apply.
[ ] The property shall be sold as described in section **11**.
[ ] Other:

11. Sale Provisions and Default or Impossibility Provisions

Completion of this section is required if the property will be sold, refinanced, or if there is an equity buyout provision.

C*heck all that apply.*

[ ] The property will be sold within the next two years.
[ ] The property will be sold more than two years in the future. (Also complete section **12**.)
[ ] These provisions apply only in the event of default or impossibility of the intended final property disposition as indicated in section **8**.

Default means an owner did not meet a requirement of this agreement. For example, if an owner was required to initiate a refinance by a certain date and chose not to apply, or if an owner chose not to make required payments or repairs, then a default has occurred.

Impossibility means an owner was unable to meet a requirement of this agreement due to unanticipated circumstances. For example, if an owner was unable to qualify for a refinance, was unable to sell the property due to market conditions, or was unable to make payments or repairs due to incapacity, then impossibility of performance has occurred.

Both default and impossibility must be contemplated in the division of real property, and related provisions and remedies must be described on this form.

Both owners shall timely cooperate in providing and signing any necessary documents required to sell the property.

Sale Timeframes		
The property shall be LISTED FOR SALE on or before	☐	Date:_____ *dd/mm/yyyy*
	☐	Time period: _____ *Example 1: No later than x months from final order entry* *Example 2: xx days after default or impossibility has occurred.*
	☐	Other:
	☐	Date:_____ *dd/mm/yyyy*

The sale is EXPECTED TO BE COMPLETED on or before	☐	Time period: _____ *Example: No later than x months from final order entry*
	☐	Other:

If the property is not listed for sale, or the sale is not completed as expected, then (*check one*):

[ ] The remedies as described in section **13** shall apply.
[ ] Other:

a**. Listing and Showing**
Both owners shall cooperate to make the property available as needed, such as for showings or open houses. The property shall be maintained in a clean and orderly state.

Check all that apply.

[ ] The listing agent is (*agent's name*)_____.
[ ] The listing price is $_____.
[ ] (O*wner's name)* _____ will arrange showings.
[ ] The listing and showing details are not yet determined. (O*wner's name*) _____ is responsible for (*check all that apply*):

[ ] choosing the listing agent.
[ ] determining the listing price.
[ ] arranging showings.
[ ] Other:

b**. Offer Acceptance**

Complete and attach **Schedule C**.

12. Retained or Refinanced with Future Buyout Provisions

Check one:

[ ] Does not apply. ***Skip to section 13.***
[ ] The property will be retained by or refinanced solely into the name of (*owner's name*)_____ on a date that is more than two years in the future. The owner retaining or refinancing the property shall remain current on all encumbrances. The other owner will receive a buyout of their share of equity in the property as described below and in section **9**.

Check one:

[ ] Both owners shall remain legal co-owners on title (also called tenants in common) of the property until the buyout is completed or the property is sold.

[ ] (*Owner's name*) _____ shall transfer title to the other owner prior to the completion of the buyout. On or before the date of transfer of title the owners shall complete **Schedule D** which describes how payment will be made. **The final decree shall include the information on Schedule D in the form of a judgment.**

[ ] A promissory note and deed of trust or mortgage shall be recorded against the property on or before _____.

[ ] Other:

13. Remedies in the Event of Default or Impossibility

When there are post-decree events which may require enforcement remedies, the final decree shall include the following statements:

Once an owner becomes aware of default or impossibility, that owner must notify the other owner. The non-defaulting owner has a right to enforce the provisions of this agreement. The defaulting owner shall be responsible for all attorney's fees and costs, and any costs incurred relating to curing the default.

If the defaulting owner fails to promptly sign documents, the other (non-defaulting) owner is authorized to have the commissioner or clerk of the court sign any documents necessary to enforce this agreement, ex parte without notice to the defaulting owner.

[ ] Prejudgment interest shall accrue at _____%
[ ] Other:

14. Dispute Resolution

Any disputes about this Real Property Division form or what it means shall be resolved by:

[ ] Binding arbitration on the written materials only. The arbitrator shall be:

_____.

[ ] Mediation with _____.

[ ] Other:

15. Other Provisions

Check one:

[ ] Does not apply.
[ ] The following other provisions apply (*specify*):
[ ] Required Creditor Payment from Sale Proceeds applies. Complete and attach **Schedule F**.

[ ] Other:

16. Proposal, Temporary Agreement or Final Agreement of the Owners

This agreement is a (*check one*:)

[ ] Proposal presented by (*owner's name*) _____ and expires _____ (*date/time period*). It is protected by Evidence Rule (ER) 408 as a settlement proposal and neither enforceable nor evidence of actual value or agreement.

[ ] Temporary agreement of the owners if signed below. The agreement is temporary because the parties have not yet obtained all information and documentation required to make a final agreement, or the court will make the final determination of the division of property.

[ ] Final agreement of the owners if signed below, and replaces any temporary agreement.

I declare under penalty of perjury of the laws of the state of Washington that the facts I have provided on this form and any attachments are true.

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	
Represented by		Represented by	
Signature		Signature	
Date		Date	

Limited Licensed Legal Technician (if any):

Prepared with the assistance of a Family Law Legal Technician.

_____ _____ _____

LLLT signs here *Print name and WSBA #* *Date*

Schedule A

to Real Property Division

Property Value Agreement

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Value Agreement – do not use this schedule if equity buyout is two or more years in the future; in that case, obtain an appraisal or CMA.

Owners agree the property's value is set at $_____ as of (*date*) _____. This value shall be the value used to determine the amount of equity in the property, after total encumbrances and value adjustments (if any).

The owners have based the property value on (c*heck all that apply):*

[ ] appraisal(s).

[ ] CMA(s).

[ ] an online search of the property. Printouts of each website searched showing the estimated value of the property are attached.

[ ] an online search of similar properties. Printouts of each website searched showing the estimated value of similar properties are attached.

[ ] Other:

Owner 1		Owner 2	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

Schedule B

to Real Property Division

Repair and Deferred Maintenance Value Adjustments

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Value Adjustments

Use this section to describe necessary repairs/maintenance which detract from the value of the property. Unless otherwise agreed in writing by both parties, costs shall be based on reasonable written quotes/estimates and/or contractor bids. **Attach copies of estimates, bids or receipts.**

Generally, only lender-required repairs should be included. Cosmetic or routine maintenance issues should not be listed here.

Description of required repairs/maintenance – attach additional sheets as needed

Cost of Repairs/Value Adjustment	$ - cost estimates & contractor bids **attached**	Covered by Insurance?	☐	No
			☐	Yes

Schedule B

to Real Property Division

Repair and Deferred Maintenance Value Adjustments

If this form is filed with the court, it should only be filed under seal.

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

Schedule C

to Real Property Division

Offer Acceptance Provisions

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Offer Contingencies

Check all that apply.

[ ] An offer contingent upon the buyer's sale of their own property [ ] will [ ] will not be accepted.

[ ] An offer contingent upon the buyer's inspection of the property [ ] will [ ] will not be accepted.

[ ] The contingency must be satisfied within _____ days (30 days if left blank).

[ ] Other:

3. Offer Acceptance Provisions

An offer within (*$/%*) _____ of the listed price must be accepted. This is the upset price.

If repairs are required by the lender as a result of an inspection, then the costs of the repairs shall be deducted from the list price before the upset price will apply.

If the property has not sold within _____ days, then an offer within (*$/%*)_____ must be accepted.

Other Provisions:

Schedule C

to Real Property Division

Offer Acceptance Provisions

If this form is filed with the court, it should only be filed under seal.

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

Schedule D

to Real Property Division

Future Buyout Provisions

Use only when equity buyout will be made more than 2 years in the future

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Future Buyout Provisions

[ ] Buyout shall be made as follows (provide detailed description including dates/time periods, owner responsibilities, and amounts if different from section 9 of the Real Property Division form):

3. Remedies in the Event of Default or Impossibility

All remedies described on this schedule shall be included as provisions written into the final decree.

Check all that apply.

[ ] The remedies as described in section 13 of the Real Property Division form apply.
[ ] The following remedies apply:

Schedule D

to Real Property Division

Future Buyout Provisions

Use only when equity buyout will be made more than 2 years in the future

If this form is filed with the court, it should only be filed under seal.

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

Schedule E

to Real Property Division

Encumbrances and Unsecured Obligations

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Encumbrance Information

Encumbrance	
Encumbrance may be a mortgage loan, home equity line of credit (HELOC), lien, promissory note, judgment, Uniform Commercial Code (UCC) filing, or other interest secured against the property. *For more than one encumbrance, complete additional schedules.* **Attach copies of all encumbrance documents**.	
Secured Party Name	
Mailing Street Address	
City, State, Zip	
Physical Street Address	
City, State, Zip	
Phone	
Fax	
Email	
Principal Balance	**$** **- Note & current statement attached**
As of (date)	
Monthly Payment	**$**
Most Recent Payment Date	
Next Payment Due Date	

Schedule E

to Real Property Division

Encumbrances and Unsecured Obligations

If this form is filed with the court, it should only be filed under seal.

Payment Includes:	☐	Annual property taxes
	☐	Annual insurance
Taxes Not in Payment	**$**	
Insurance Not in Payment	**$**	
VA Assumable Loan?	☐	No
	☐	Yes – **attached**
Balloon Payment[1]?	☐	No
	☐	Yes $_____ due on _____**- Note attached**
Lis Pendens[2] filed?	☐	No
	☐	Yes – **attached**
Any Other Cloud on Title?[3]	☐	No
	☐	Yes – **attached**

3. Unsecured Obligation Information

Unsecured Obligation	
Unsecured obligation may be a loan from family or friends, a promissory note (without a deed of trust), or a fee due to a homeowner's association. *For more than one unsecured obligation, complete additional schedules.* **Attach copies of all unsecured obligation documents**.	
Unsecured Party Name	
Mailing Street Address	
City, State, Zip	
Physical Street Address	
City, State, Zip	

[1] A balloon payment is a lump sum principal balance payment due at the end of the loan term.
[2] A lis pendens is an official, public notice that a property has a pending lawsuit or claim attached to it.
[3] A title search by a title company or litigation guarantee from a title company is recommended in order to identify all legal owners and any cloud on title. A cloud on title is any document, claim, unreleased lien or encumbrance that might invalidate or impair a title to real property or make the title doubtful.

Schedule E

to Real Property Division

Encumbrances and Unsecured Obligations

If this form is filed with the court, it should only be filed under seal.

Phone		
Fax		
Email		
Principal Balance	**$** **- documentation attached**	
As of (date)		
Monthly Payment	**$**	
Most Recent Payment Date		
Next Payment Due Date		
Balloon Payment?	☐	No
	☐	Yes $_____ due on _____**- - documentation attached**
Lis Pendens filed?	☐	No
	☐	Yes – **attached**
Any Other Cloud on Title?	☐	No
	☐	Yes – **attached**

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

Schedule F

to Real Property Division

Required Creditor Payment from Sale Proceeds

If this form is filed with the court, it should only be filed under seal.

1. Owner(s) and Property Address

Petitioner/Owner #1		Respondent/Owner #2	
Name		Name	
Real Property			
Street Address			
City, State, Zip			

2. Creditor Payment Information

Use this section to detail creditor payments that must be paid out of real property sale proceeds, either prior to or after disbursement to owners. The final dissolution decree should include sufficient detail to be enforceable in court.

Creditor Payment	
Creditor payments may include credit card balances, loan balances, legal fees, or other unsecured debts. *For more than one creditor, complete additional schedules.*	
Creditor Name	
Mailing Street Address	
City, State, Zip	
Physical Street Address	
City, State, Zip	
Phone	
Email	
Payment Amount[1]	**$**

[1] Payment amount may be the entire outstanding balance or may be a certain dollar amount; use specific dollar amounts whenever possible.

Schedule F

to Real Property Division

Required Creditor Payment from Sale Proceeds

If this form is filed with the court, it should only be filed under seal.

Payment Deadline	☐	Payment shall be made prior to the disbursement of net sale proceeds. *Owners/parties will receive their share of net sale proceeds only after this payment has been made.*[2]
	☐	_____ (*owner's name*) shall make this payment within _____ (*days/months*) of receipt of net sale proceeds. *Owners/parties will each receive their share of net sale proceeds, out of which this payment must then be made.*
	☐	Other:

Owner 1		**Owner 2**	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

[2] All payments to be made prior to the disbursement of net sale proceeds to the owners/parties should be included in escrow closing instructions.

Ms. Margaret Ann Bridewell
WSBA #20903
Active Attorney
Congressional District: 2

Applied Committee: Limited License Legal Technician Board
Application Reason: I have served on this Board since its inception and would like to continue being involved in its process.

History of Committee Service:
Practice of Law Board: 10/1/2009 - 11/30/2015
Limited License Legal Technician Board: 10/1/2020 - 9/30/2023

Employer: Unemployment Law Project
Number of Lawyers: 6-10 Lawyers in Firm
Areas of Practice: Administrative/ Regulatory, Employment<br /
Years of Practice: No response
Years of Membership: 31
Learned of Service From: Colleague or friend

February 16, 2020

Selection Committee
WSBA Limited Licensed Legal Technician (LLLT) Board
Seattle, Washington

Re: Application for Acceptance -- LLLT Board

Dear Selection Committee.

Please accept my application to be accepted onto the LLLT Board. I have attached my resume for your review. As some of you may remember, I was on the Practice of Law Board during LLLT's inception. I would consider it a privilege to now serve on the LLLT Board and help out with the now established program.

Until recently, I was the Lead Long-Term Care Ombudsman for southeastern Colorado, advocating for long-term care residents in19 facilities over a six county area, supervising three ombudsman. The State Ombudsman often recommended me to other lead ombudsman as well as attorneys on how to appeal involuntary discharges. She referred to me as the "go to" expert because of my success rate in this area. I also served on the Aging and Disability Resources (ADRC) Board, and participated in outreach for the Area Agency on Aging (AAA) program, working with their state and local community shareholders.

Currently, I am a staff attorney with the Spokane YWCA, representing victims of domestic violence in family law matters. The paralegal member of our legal team has been enrolled in the LLLT Program for over a year. She says she would like to see me on the Board so she can communicate through me about her experiences. The Director here says she would like to see me on the Board because she supports the LLL program, and sees a place for LLLTs in the Y's Civil Legal Department.

Thank you for considering my application. If you have any questions or need additional information, please let me know. Thank you again.

Sincerely,

Meg Bridewell

Meg Bridewell

[redacted]

EDUCATION

Juris Doctor, University of Washington School of Law, Seattle, Washington -- 1990
Bachelors of Arts - Psychology, University of Washington, Seattle, Washington -- 1983

ADMITTED TO PRACTICE

Washington State Bar Association (WSBA No. 20903)
Colorado Bar (Admitted December 2019)
US District Court for the Eastern District of Washington
Court of Appeals for the Ninth Circuit

PROFESSIONAL

Staff Attorney – May 2020 to Present
Unemployment Law Project – Seattle/Spokane, Washington
Represent claimants at OAH adminstrative hearings on denial/overpayment of benefits; draft claimant declarations for lawsuit seeking declaratory judgment against ESD; draft Constituency Service Letters to mediate claimant concerns with ESD process

Staff Attorney – February 2020-May 2020
YWCA – Spokane, Washington
Represent victims of domestic violence in family law matters.

Lead Ombudsman--Region VI, Southeastern Colorado – July 2016-February 2020
Disability Law Colorado, Denver, Colorado
Advocated for long-term care (LTC) residents in 17 facilities over a six county, 10,000 square mile rural area. Supervised three part-time ombudsmen. Mediated disputes between LTC residents and facility staff, family members, or other residents. Worked effectively with other professionals, including attorneys, LTC staff, mental health professionals, social security staff, Medicaid/Medicare eligibility workers, and case managers to resolve concerns or improve resident care. Coordinated and provided in-service LTC staff trainings, including two recent trainings on understanding and managing challenging behaviors. Served on the Board of Aging and Disability Resources (ADRC) and regularly attended Adult Protective Services (APS) community meetings.

Attorney - 2009-2016
Margaret Bridewell Attorney at Law
General practice with a focus on advocating for disabled students and their families under Section 504 and the federal and state Individuals with Disabilities in Education Act (IDEA) in administrative, state and federal courts. Mediate disputes between school and families.

Staff Attorney - 2006-2009
Northwest Justice Project, Seattle, Washington
Advocated for low-income clients in civil legal matters, including family, consumer, social security, public benefits and public housing matters. Representation including litigation at administrative, state and federal courts hearings. Also mediated disputes in several legal areas.

VOLUNTEER

WSBA Board Member, Limited License Legal Technician (LLLT)
Volunteer Lawyers Program
Housing and Justice Project

Crystal Victoria Lambert
WSBA #41317
Active Attorney
Congressional District: 3

Applied Committee: Limited License Legal Technician Board
Application Reason: I believe that my historical knowledge regarding the creation of the rule and practical experience in the area of family law would be a beneficial addition to the current board. I firmly believe there is a growing need for the program, and I have enjoyed my previous terms of service.

History of Committee Service:
Limited License Legal Technician Board: 10/1/2019 - 9/30/2023

Employer: Lambert Law Office, PLLC
Number of Lawyers: Solo
Areas of Practice: Family<br /
Years of Practice: 14
Years of Membership: 14
Learned of Service From: Colleague or friend

Lambert Law Office PLLC

Crystal V. Lambert, *Attorney at Law*
Tahnee W. Grant, *Paralegal*

1014 Franklin Street
Vancouver, WA 98660

(360)737-1473
fax (360) 859-5259

June 15, 2023

RE: Limited License Legal Technician Board

To Whom it May Concern,

I am writing to express my interest in continuing to serve on the Limited License Legal Technician Board. I have been practicing family law in Clark County for over 14 years. I previously served on the Practice of Law Board from 2009 to 2014 and have been a member of the LLLT Board since November 2019.

I am interested in continuing to serve on the board to continue an involvement with the Limited License Legal Technician program now that the rule is in practice. I am interested in growth of the LLLT program within the area of family law and the expansion of the program to other areas of law serving our underserved community members. I believe my historical knowledge regarding the creation of the rule and practical experience in the area of family law is a beneficial addition to the current board.

I am a firm believer that there is a growing need for the program within our community and that serving on the Limited License Legal Technician Board will give me an opportunity to help not only those who are interested in the program but also help find ways that the program can better help serve our community.

In my short time as a member of the board, I have been involved on the exam committee. I look forward to further service on that committee and others. I am excited for the possibility of continuing to serve in the capacity of a board member for the LLLT program. I look forward to helping make the program an important and critical part of bettering our community.

Thank you for your attention to this matter.

Sincerely,

/s/ Crystal V Lambert

Crystal V Lambert
Attorney at Law

1014 FRANKLIN STREET • VANCOUVER, WA 98660
PHONE (360) 737-1473 • FAX (360)859-5259
E-MAIL CRYSTAL@LAMBERTLAWPLLC.COM

CRYSTAL V. LAMBERT

EDUCATION

2005-2009 Washington State Law Clerk Program Seattle, WA
Law School Education
Bar Exam Date: February 17-19, 2009
Mentor: Karin J. DeDona

2002-2004 Washington State University Vancouver, WA
Psychology Major Human Development Minor
Bachelor of Arts - May 2004
3.98 GPA, Summa Cum Laude, Honors College

2000-2002 Mt. Hood Community College Gresham, OR
Psychology Major
President's Honor Roll

LEGAL WORK EXPERIENCE

June 2009 – Present Lambert Law Office PLLC Vancouver, WA
Attorney at Law

Practice Area: Family Law

April – October 2009 Robert C. Russell, P.C. Vancouver, WA
APR 9 Legal Intern/Of Counsel (June 2009-October 2009)

Practice Area: Bankruptcy

May 2006 – April 2009 Karin J. DeDona Law Firm Vancouver, WA
Law Clerk / APR 9 Legal Intern (since August 2007)

Practice Area: Family Law

May 2004 – May 2006 Law Office of Alfred A. Bennett Vancouver, WA
Law Clerk

July 2003 – May 2004 Karin J. DeDona Law Firm Vancouver, WA
Undergraduate Legal Intern

LEGAL PROFESSIONAL ORGANIZATIONS

Washington State Bar Association, Limited License Legal Technician Board, 2019-Present Member (appointed through 2023)

Washington Board of Judicial Administration Court Recovery Task Force: Family Law/Technology Committee, July 2020-Present Member

Washington State Bar Association, Practice of Law Board, 2009-2014 Member

Clark County Bar Association, Family Law Section, Current Member, 2012-2013 President

Washington Women Lawyers, Clark/St. Helens Chapter Judicial Evaluation Committee, Current Member

Washington Women Lawyers, Current Member, 2008-2013 Treasurer (Clark/St. Helens Chapter)

Association of Family and Conciliation Courts, Current Member

International Academy of Collaborative Professionals, Current Member

Collaborative Professionals of Washington, 2019 & 2020 Annual Conference Committee Member

Clark County Bar Association Social Committee 2004-2010 Member, 2007, 2008, & 2010 Chair

Clark County Young Lawyers Section, 2006–2009 Social Committee Chair, 2009-2010 Vice President, 2010-2012 President

American Inns of Court George and Donald Simpson Inn, 2005–2014, 2020 Member,

AWARDS RECEIVED/PUBLICATIONS

2014 Clark County Bar Association's first annual Rising Star Award

Co-Author
19 Scott J. Horenstein, Washington Practice: Family and Community Property Law, (2d ed. 2015)

2016 Top 10 Family Law Attorneys Under 40 by National Academy of Family Law Attorneys

REFERENCES