

**ALLIED LEGAL  
PROFESSIONALS:**  
A NATIONAL FRAMEWORK  
FOR PROGRAM GROWTH







# **ALLIED LEGAL PROFESSIONALS:**

## **A NATIONAL FRAMEWORK FOR PROGRAM GROWTH**

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INSTITUTE *for the* ADVANCEMENT  
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## **IAALS—Institute for the Advancement of the American Legal System**

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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.

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# 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.<sup>1</sup> 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,<sup>2</sup> two state programs in the implementation phase,<sup>3</sup> six states with program proposals,<sup>4</sup> and a few states discussing what such a program might look like.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> Recently, Alaska and Delaware have authorized certain professionals other than lawyers working with legal aid services to provide discrete legal advice under attorney supervision.<sup>13</sup> 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.<sup>14</sup>

|                                     |  |                                    |
|-------------------------------------|--|------------------------------------|
| Limited License<br>Legal Technician | Licensed Legal Technician              | Limited Legal Advisor              |
| Licensed Paralegal<br>Practitioner  | Limited License<br>Legal Practitioner  | Limited Legal<br>Advocate          |
| Paraprofessional                    | Limited Legal Practitioner             | Licensed Legal<br>Paraprofessional |
| Legal<br>Practitioner               | Licensed Paralegal<br>Legal Technician | Legal<br>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.<sup>15</sup> 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.<sup>16</sup> “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

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.<sup>17</sup> 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.<sup>18</sup> In the *Landscape Report*, we noted that over 70% of civil and family law cases have at least one self-represented party.<sup>19</sup> And in some jurisdictions, over 90% of eviction and debt-collection cases have at least one self-represented party.<sup>20</sup>

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<sup>21</sup> (14 states), landlord-tenant<sup>22</sup> (11 states), and debt collection<sup>23</sup> (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),<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup> Similarly in Utah, the majority of ALPs appear

to be practicing in family law over debt collection and eviction cases.<sup>27</sup> 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.<sup>28</sup> Out of those cases, 88 have been on family matters and 77 were housing related.<sup>29</sup>

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.<sup>30</sup>



#### 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,<sup>31</sup> 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.<sup>32</sup> 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."<sup>33</sup>

|                         | 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 |
|-------------------------|---|--------------------------------------|--------------------------------------|---------------------------------|--|
| <b>AZ</b> <sup>34</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>CA</b> <sup>35</sup> | ✓   | ✓                                    |                                      |                                 |  |
| <b>CO</b> <sup>36</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>CT</b> <sup>37</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>FL</b> <sup>38</sup> |   | ✓                                    |                                      |                                 |  |
| <b>IL</b> <sup>39</sup> |   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>MN</b> <sup>40</sup> |   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>NH</b> <sup>41</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>NM</b> <sup>42</sup> |   | ✓                                    | ✓                                    |                                 |  |
| <b>NY</b> <sup>43</sup> |   | ✓                                    | ✓                                    |                                 |  |
| <b>NC</b> <sup>44</sup> | ✓   | ✓                                    | ✓                                    | ✓                               |  |
| <b>OR</b> <sup>45</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>SC</b> <sup>46</sup> | ✓   | ✓ <sup>47</sup>                      | ✓                                    |                                 |  |
| <b>UT</b> <sup>48</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓  |
| <b>VT</b> <sup>49</sup> |   | ✓                                    |                                      |                                 |  |
| <b>WA</b> <sup>50</sup> | ✓   | ✓                                    | ✓                                    | ✓                               | ✓ <sup>51</sup>  |

## 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.<sup>52</sup> 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.<sup>53</sup> 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.<sup>54</sup>



### 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.<sup>55</sup> 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.<sup>56</sup> 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.<sup>57</sup>

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.<sup>58</sup> Implemented in 2018, Utah's program is the second oldest, and to date has not received any disciplinary grievances.<sup>59</sup> 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.<sup>60</sup>

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.<sup>61</sup> 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.<sup>62</sup> 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.<sup>63</sup> 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.”<sup>64</sup> 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.<sup>65</sup> 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.<sup>66</sup> 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.”<sup>67</sup>

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.”<sup>68</sup> Survivors reported fearing that they will be forced to appear in court to defend themselves.<sup>69</sup>



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.”<sup>70</sup> 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.<sup>71</sup> 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.<sup>72</sup> 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.”<sup>73</sup>

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.

## 8

### 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.”<sup>74</sup>

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.

## 9

### 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.<sup>75</sup> 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.<sup>76</sup> 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.<sup>77</sup>

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.

10

#### 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.<sup>78</sup> Contrast that with the cost of an ALP education, which in Washington is around \$15,000 and in Utah is around \$10,000.<sup>79</sup> 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.<sup>80</sup> These savings pass on to the consumer, as the hourly cost of NPs is one third to one half the hourly cost of physicians.<sup>81</sup> There is also data showing that NPs have an increasing presence in rural areas while physicians' presence in those areas is decreasing.<sup>82</sup> 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.”<sup>83</sup> 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.<sup>84</sup>

**11**

### **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.<sup>85</sup>

**12**

### **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.<sup>86</sup> 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.

**13**

### **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.<sup>87</sup> 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.<sup>88</sup> 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.<sup>89</sup> There is also a separate substantive law test for each practice area that consists of approximately 100 multiple-choice questions.<sup>90</sup>

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.<sup>91</sup> The study produced 10 recommendations, two of which called for minimizing or eliminating the use of written and multiple-choice exams.<sup>92</sup>

14

### 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.<sup>93</sup> 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.<sup>94</sup>

15

### 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.<sup>95</sup> 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).<sup>96</sup> Out of the active state programs, Washington and Utah allow ALPs to own a non-controlling interest in a law firm with attorneys.<sup>97</sup> 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.<sup>98</sup> 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.

**16**

#### 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.<sup>99</sup> 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 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.<sup>100</sup>



### 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.<sup>101</sup> 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.<sup>102</sup> 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.<sup>103</sup> 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.<sup>104</sup>

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.<sup>105</sup> The Oregon State Bar speculates that their ALP program will be self-sustaining in seven to eight years.<sup>106</sup>

## 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

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

- 1 To learn more about the project and to track state ALP programs through the IAALS Knowledge Center please visit <https://iaals.du.edu/projects/allied-legal-professionals>.
- 2 Washington, Utah, Arizona, Minnesota, and New Hampshire.
- 3 Colorado and Oregon.
- 4 Connecticut, New Mexico, New York, North Carolina, South Carolina, and Vermont.
- 5 Michigan, Texas, and Washington D.C. There are likely additional states that are not yet on our radar but are beginning to discuss the possibility of an ALP program.
- 6 MICHAEL HOULBERG & JANET DROBINSKE, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., THE LANDSCAPE OF ALLIED LEGAL PROFESSIONAL PROGRAMS IN THE UNITED STATES (2022), [https://iaals.du.edu/sites/default/files/documents/publications/landscape\\_allied\\_legal\\_professionals.pdf](https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf) [hereinafter LANDSCAPE REPORT].
- 7 *Allied Legal Professionals Convening*, IAALS, <https://iaals.du.edu/events/allied-legal-professionals-convening> (last visited Apr. 1, 2023).
- 8 LANDSCAPE REPORT, *supra* note 6, at app. A-C.
- 9 *E.g.*, UTAH CODE OF JUDICIAL ADMIN. § 13 pmbl. (2021), <https://legacy.utcourts.gov/rules/view.php?type=ucja&rule=13>.
- 10 MARY E. MCCLYMONT, GEORGETOWN LAW CTR. JUSTICE LAB, NONLAWYER NAVIGATORS IN STATE COURTS: AN EMERGING CONSENSUS (2019), <https://www.srln.org/system/files/attachments/Final%20Navigator%20report%20in%20word-6.11.hyperlinks.pdf>.
- 11 AM. JUSTICE MOVEMENT, <https://www.americanjusticemovement.org> (last visited Apr. 1, 2023).
- 12 *Our Work*, INNOVATION 4 JUSTICE, <https://www.innovation4justice.org/work> (last visited Apr. 1, 2023).
- 13 ALASKA BAR R. 43.5 (2022), <https://courts.alaska.gov/rules/docs/bar.pdf>; Order Adopting Rule 57.1 of the Rules of the Supreme Court of Delaware (Del. 2022), <https://courts.delaware.gov/forms/download.aspx?id=167228>.
- 14 LANDSCAPE REPORT, *supra* note 6, at 34-35.
- 15 NATALIE ANNE KNOWLTON ET AL., INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT 27-29, 40-41 (2016), [https://iaals.du.edu/sites/default/files/documents/publications/cases\\_without\\_counsel\\_research\\_report.pdf](https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf) [hereinafter CASES WITHOUT COUNSEL].
- 16 On file with author.
- 17 HAGUE INST. FOR INNOVATION OF LAW & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 32 (2022), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf> [hereinafter US JUSTICE NEEDS].
- 18 *Id.* at 7.
- 19 LANDSCAPE REPORT, *supra* note 6, at 3.
- 20 *Id.*
- 21 The most commonly included case types within family law are divorce and dissolution, child custody and support, domestic violence, and paternity. A few of the excluded case types—or those that require additional qualifications—include qualified domestic relations orders (QDROs), nullity matters, contempt actions, division or conveyance of formal business entities or commercial property, and appeals to the court of appeals or supreme court. *Id.* at 19-22.
- 22 The most commonly included case types with landlord-tenant are those that deal with evictions/forcible entry and detainer and lien clearing. *Id.* at 22-23.
- 23 Some states have placed restrictions on debt-collection/consumer-debt cases, such that the dollar amount does not exceed the statutory limit for small claims cases or that it be applied to only non-bankruptcy aspects of the relationship between creditors and debtors. *Id.* at 23.
- 24 ARIZ. CODE OF JUDICIAL ADMIN. § 7-210(F)(2)(c) (2022) (providing the following: “Legal paraprofessionals may render authorized services: (1) At any initial appearance, or, when the defendant is not represented by counsel in subsequent criminal proceedings, for the limited purpose of advocating for release of a defendant from pretrial detention; (2) For criminal misdemeanor matters before a municipal or justice court of this state where, upon conviction, a penalty of incarceration is not at issue, whether by law or by agreement of the prosecuting authority and trial court.”).
- 25 ARIZ. JUDICIAL BRANCH, LEGAL PARAPROFESSIONAL PROGRAM DIRECTORY (May 12, 2023), <https://www.azcourts.gov/Portals/26/LP%20Master%20Directory%20-%20205-12-2023.pdf> (access via “Directory” at *Legal Professionals*, ARIZ. JUDICIAL BRANCH, <https://www.azcourts.gov/cld/Legal-Paraprofessional>) (last visited May 14, 2023) [hereinafter ARIZ. LP DIRECTORY]; ARIZ. SUPREME COURT, CERTIFICATION AND LICENSING DIV., LEGAL PARAPROFESSIONAL EXAMINATION CUMULATIVE: PASS RATES (Mar. 7, 2023), <https://www.azcourts.gov/Portals/26/Overall%20LP%20Stats%20203-10-2023.pdf>.
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- 31 US JUSTICE NEEDS, *supra* note, 17, at 49; LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 38 (2022), <https://lsc-live.app.box.com/s/xl2v2uraiothbzrhwtjgi0emp3myz1>.
- 32 But not depositions or trial. *See infra* In-Court Representation.
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