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## A PRESCRIPTION FOR INCREASED ACCESS TO JUSTICE: LESSONS FROM HEALTHCARE

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*The ongoing global pandemic has brought into sharp relief the strains on the American healthcare system, but it has also highlighted a need for more accessible legal assistance. After the Supreme Court's decision ending the eviction moratorium,<sup>1</sup> experts warned of a housing crisis like we have never seen in this country. Many who would not previously have qualified for legal assistance lost their jobs during the pandemic and became part of a growing number of people with legal needs but insufficient funds with which to secure help.*

*The United States has long had a well-documented justice gap. With 71% of low-income Americans facing at least one civil legal problem a year and 86% of those problems receiving inadequate legal help or none at all, there is a clear need for increased legal support.<sup>2</sup> Rural areas are in particularly acute distress, given that 98% of attorneys live in urban centers despite 20% of the population living in rural locales.<sup>3</sup> The medical field struggles with similar shortages, also exacerbated in rural areas, and has sought to address the care gap in part by authorizing the use of Advanced Practice Providers, or APPs, to supplement physician care.*

*With demand for legal assistance increasing in an already strapped legal market, this essay draws on lessons from expanding access to care in the medical context to assess whether non-attorney legal professionals might ease some of the strain.*

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1. See, e.g., Adam Liptak & Glenn Thrush, *Supreme Court Ends Biden's Eviction Moratorium*, N.Y. TIMES (Nov. 7, 2021), <https://www.nytimes.com/2021/08/26/us/eviction-moratorium-ends.html> [https://perma.cc/9B63-B2NS].

2. LEGAL SERVS. CORP., *THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS* 6 (2017), <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report>.

3. See Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 467 (2014).

## I. ADVANCED PRACTICE PROVIDERS AS A SUPPLEMENT TO PHYSICIAN CARE

The Association of American Medical Colleges predicts a national shortage of 54,100-139,000 physicians by 2033.<sup>4</sup> As with access to legal care, this shortage will disproportionately impact rural areas: while 19.2% of the U.S. lives in rural America, only 11.4% of physicians serve those locations.<sup>5</sup> In Georgia in 2013, for example, 31 out of 159 counties had no internal medicine physician, 63 counties had no pediatrician, 79 counties had no OB/GYN, and 66 counties lacked a single general surgeon.<sup>6</sup>

The first Nurse Practitioner (NP) certificate program was created in 1965 to provide for underserved communities in a time of increasing demand for primary care.<sup>7</sup> The first Physician Assistant (PA) programs were created slightly earlier, just after World War II, and became standard throughout the country in the 1960s and 70s.<sup>8</sup> NP and PA practice did not become as widespread as it is today until a 2010 Institute of Medicine (now National Academy of Medicine) report served as a catalyst for healthcare reforms, expanding the scope of practice for non-physician professionals.<sup>9</sup> The report identified a shortage of primary care providers as a key obstacle to equal access to healthcare and proposed increased use of NPs as a potential solution. A new version of the report, released in May 2021, underscored the fact that nurses “often act as the first and most frequent line of contact with people of all backgrounds and experiences seeking care” and that “[t]he nursing workforce [] represents the largest of the health care professions—nearly four times the size of the physician workforce.”<sup>10</sup>

After the Institute of Medicine’s initial report, a number of professional organizations publicly voiced support for the expansion of APPs’ scope of

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4. ASS’N OF AM. MED. COLLS., THE COMPLEXITIES OF PHYSICIAN SUPPLY AND DEMAND: PROJECTIONS FROM 2018 TO 2033 at vii (2020), <https://www.aamc.org/media/45976/download>.

5. ROGER A. ROSENBLATT, FREDERICK M. CHEN, DENISE M. LISHNER & MARK P. DOESCHER, THE FUTURE OF FAMILY MEDICINE AND IMPLICATIONS FOR RURAL PRIMARY CARE PHYSICIAN SUPPLY 6 (2010).

6. KIMBERLY R. RAMSEUR, SHORT STAFFED: ASSESSING THE EFFECTS OF PRIMARY CARE PHYSICIAN SHORTAGES AND POLICY RECOMMENDATION FOR GEORGIA 2 (2016).

7. Mary E. Peterson, *Barriers to Practice and the Impact on Health Care: A Nurse Practitioner Focus*, J. ADVANCED PRAC. ONCOLOGY (Jan. 1, 2017), at 74, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5995533/#A12>.

8. Harvard L. Sch. Ctr. on the Legal Pro., *Addressing the Supply Problem: How Medicine Made Space for Physician Assistants*, EMERGING MODELS OF LEGAL PROFESSIONALS, <https://thepractice.law.harvard.edu/article/addressing-the-supply-problem/> (last visited June 5, 2022) [<https://perma.cc/DX5F-MT9F>].

9. INST. OF MED., THE FUTURE OF NURSING: LEADING CHANGE, ADVANCING HEALTH 22 (2011), <https://pubmed.ncbi.nlm.nih.gov/24983041/>.

10. NAT’L ACAD. OF MED., THE FUTURE OF NURSING 2020-2030: CHARTING A PATH TO ACHIEVE HEALTH EQUITY 4 (2021), <https://www.nap.edu/download/25982#register>.

practice.<sup>11</sup> In 2015, the Centers for Disease Control and Prevention published case studies from two states indicating that expanded scope of practice increased the number of patients served by APPs.<sup>12</sup>

#### A. EXPANDED ACCESS TO CARE, BUT IS IT SAFE?

Expanding the number of patients served by APPs increases access to care, often at considerably lower cost to healthcare facilities, insurance companies, and patients,<sup>13</sup> but there is heated disagreement about whether APP care is safe for patients. APP advocates argue that their education equips them to be just as effective as doctors because it involves practical work at the undergraduate as well as postgraduate levels, focuses all their training on going deep with a specific population (*e.g.*, primary care pediatrics)—rather than broadly but shallowly covering a number of specialties—and tests competency rather than just fulfilling a certain number of hours.<sup>14</sup>

The American Medical Association sees things differently, arguing to legislators that expanding the scope of practice for APPs puts public safety at risk. One of their primary arguments is that the training and practical hours required of physicians is dramatically different than the requirements for APPs.<sup>15</sup> Some physicians agree, claiming that these discrepancies have only grown with the proliferation of for-profit nursing schools.<sup>16</sup>

#### B. INDEPENDENCE AND OVERSIGHT

In 2016, APPs accounted for 26% of primary care providers nationally.<sup>17</sup> As the profession grows, the debate about APPs centers not on whether they are valuable members of the medical profession but whether they ought to be

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11. *Think Tank and Stakeholder Position Statements*, AM. ASS'N OF NURSE PRACS., <https://www.aanp.org/advocacy/advocacy-resource/think-tank-and-stakeholder-position-statements> (last visited June 5, 2022) [<https://perma.cc/23BH-BNYF>].

12. CTR. FOR DISEASE CONTROL, FROM POLICY TO IMPLEMENTATION: PRACTICAL IMPLICATIONS OF STATE LAW AMENDMENTS GRANTING NURSE PRACTITIONER FULL ACCESS AUTHORITY 3 (2015), [https://www.cdc.gov/dhdsp/pubs/docs/Nurses\\_Case\\_Study-508.pdf](https://www.cdc.gov/dhdsp/pubs/docs/Nurses_Case_Study-508.pdf).

13. *Cf.* INST. OF MED., *supra* note 9, at 1, 55, 95, 120.

14. *Clinical Outcomes: The Yardstick of Educational Effectiveness*, AM. ASS'N OF NURSE PRACS., <https://www.aanp.org/advocacy/advocacy-resource/position-statements/clinical-outcomes-the-yardstick-of-educational-effectiveness> (last visited June 5, 2022) [<https://perma.cc/6PVD-23DH>].

15. See Erin Sarzynski & Henry Barry, *Current Evidence and Controversies: Advanced Practice Providers in Healthcare*, 25 AM. J. MANAGED CARE 366-67 (2019). Compare INST. OF MED., *supra* note 9, at 87, 90 (stating that increasing scope of practice for APPs will increase patient safety), with Christopher Cheney, *Physician Groups: PAs and NPs Need Supervision*, PATIENT SAFETY & QUALITY HEALTHCARE (Feb. 27, 2019), <https://www.psqh.com/news/physician-groups-pas-and-nps-need-supervision/> (last visited June 5, 2022). [<https://perma.cc/H2QF-3ABF>] (emphasizing physician perspectives that APPs make more mistakes and increase costs by ordering unnecessary tests).

16. NIRAN AL-AGBA & REBEKAH BERNARD, PATIENTS AT RISK: THE RISE OF THE NURSE PRACTITIONER AND PHYSICIAN ASSISTANT IN HEALTHCARE 74–75 (2020).

17. RURAL HEALTH RSCH. & POL'Y CTR., *How Could Nurse Practitioners and Physician Assistants Be Deployed to Provide Rural Primary Care?*, 155 RURAL HEALTH 1–2 (2016), [https://depts.washington.edu/fammed/rhrc/wp-content/uploads/sites/4/2016/03/RHRC\\_PB155\\_Larson.pdf](https://depts.washington.edu/fammed/rhrc/wp-content/uploads/sites/4/2016/03/RHRC_PB155_Larson.pdf).

empowered to work independent of physician supervision.<sup>18</sup> As with legal practice, reform in the medical arena often takes place state by state rather than at a national level given different licensing and education requirements. As a result, jurisdictions vary as to their allowance for APP independence.

Currently, twenty-four states allow “Full Practice” by NPs, defined as “permit[ting] all NPs to evaluate patients; diagnose, order, and interpret diagnostic tests; and initiate and manage treatments, including prescribing medications and controlled substances, under the exclusive licensure authority of the state board of nursing.”<sup>19</sup> Fifteen states have “Reduced Practice” laws that limit NPs from independently engaging in at least one of the activities above.<sup>20</sup> Eleven states have “Restricted Practice” laws that require NPs to be supervised by physicians for their entire careers and restrict the activities in which they can engage.<sup>21</sup>

The federal Rural Health Clinic Services Act of 1977, which established rural health clinics (RHCs), allows PAs and NPs to practice with or without a physician physically present.<sup>22</sup> While there must be at least one physician staffed at each RHC, there must also be at least one PA or NP. Some RHCs are owned and operated by PAs.<sup>23</sup> In 2019, North Dakota became the first state to grant PAs the right to practice completely independent of physician supervision.<sup>24</sup> Given the vast amount of rural area in North Dakota, the legislature was hopeful “that independent physician assistants would expand access to underserved parts of the state.”<sup>25</sup>

### C. OUTCOMES (IN ACCESS AND IN HEALTH)

There is a dearth of data regarding whether APPs reduce healthcare costs,<sup>26</sup> or lead to improved patient outcomes,<sup>27</sup> just as there is mixed evidence

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18. Randy Wexler, *The Primary Care Shortage, Nurse Practitioners, and the Patient-Centered Medical Home*, AMA J. ETHICS (Jan. 2010), <https://journalofethics.ama-assn.org/article/primary-care-shortage-nurse-practitioners-and-patient-centered-medical-home/2010-01> [<https://perma.cc/BR9Q-7JSB>].

19. *State Practice Environment*, AM. ASS’N OF NURSE PRACS. (Apr. 15, 2022), <https://www.aanp.org/advocacy/state/state-practice-environment> [<https://perma.cc/GJD3-RQGX>].

20. *Id.*

21. *Id.*

22. Harvard L. Sch. Ctr. on the Legal Pro., *supra* note 8.

23. *Id.*

24. *PAs Across America Celebrate First State with Key Components of Optimal Team Practice Following the Legislative Victory in North Dakota*, AM. ACAD. OF PHYSICIAN ASSISTANTS (Apr. 9, 2019) [<https://perma.cc/JC8Q-MG7K>].

25. AL-AGBA & BERNARD, *supra* note 16, at 47.

26. Sarzynski & Barry, *supra* note 15, at 366; Kevin Strange, *How Does Provider Supply and Regulation Influence Health Care Markets? Evidence from Nurse Practitioners and Physician Assistants*, 33 J. HEALTH ECON. 1, 2 (2014).

27. *But see* Robert H. Lohr et al., *Comparison of the Quality of Patient Referrals from Physicians, Physician Assistants, and Nurse Practitioners*, 88 MAYO CLINIC PROC. 1266 (Nov. 1, 2013), [https://www.mayoclinicproceedings.org/article/S0025-6196\(13\)00732-5/fulltext#relatedArticles](https://www.mayoclinicproceedings.org/article/S0025-6196(13)00732-5/fulltext#relatedArticles) (finding lower quality of patient referrals from APPs); *see also* Ellen McCleery, Vivian Christensen, Kimberly Peterson, Linda Humphrey & Mark Helfand, *Evidence Brief: The Quality of Care Provided by Advanced Practice Nurses*, VA

identifying how and whether assistance from non-attorney professionals leads to increased access and better outcomes for litigants.<sup>28</sup> Some even argue that poor quality healthcare leads to more death than lack of access to care,<sup>29</sup> so determining whether use of APPs is safe and effective is more than just an academic question. In healthcare, improving outcomes is not just a matter of increasing the quantity of providers but simultaneously ensuring their assistance is of sufficient quality to have a positive impact.

## II. CAN THE LEGAL PROFESSION TAKE THE SAME MEDICINE?

With the legal profession considering the possibility of expanding access to justice by increasing various types of non-lawyer support, lessons from healthcare may provide a lifeline.

The most comprehensive reform involving non-lawyer assistance has been Washington State's Limited License Legal Technician (LLLT) program. Approved by the Washington Supreme Court in 2012,<sup>30</sup> the LLLT program required LLLTs to complete 3000 practical hours, 45 classroom credit hours, pass a licensing exam, complete continuing education, and carry their own liability insurance to be able to assist in specified tasks relating to family law practice.<sup>31</sup> LLLTs would not go to court with their clients or negotiate on their behalf.<sup>32</sup> The target client market was expected to be moderate-income Washington residents earning between \$75,000–\$100,000 a year<sup>33</sup> (hardly the low-income litigants typically discussed in access to justice debates).

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Evidence Synthesis Program Evidence Briefs 1 (2014), <https://www.ncbi.nlm.nih.gov/books/NBK384613/> (finding no difference in quality of care between physicians and APPs).

28. See THOMAS M. CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 9, 15 (2017), for a rare and limited evaluation of the efficacy of Washington state's defunct non-lawyer Limited License Legal Technician program; see also Richard Zorza & David Udell, *New Roles for Non-Lawyers to Increase Access to Justice*, 41 FORDHAM URBAN L.J. 1259, 1274–89 (2016), for one example of increasingly common calls for expansion of paralegal and other non-lawyer roles without the benefit of empirical data on effectiveness due to the dearth of existing programs.

29. Melody Schreiber, *What Kills 5 Million People a Year? It's Not Just Disease*, NAT'L PUB. RADIO (Sept. 5, 2018, 6:17 PM), <https://www.npr.org/sections/goatsandsoda/2018/09/05/644928153/what-kills-5-million-people-a-year-its-not-just-disease> [<https://perma.cc/R9F7-C8TC>] (noting that a report from *The Lancet* found an estimated 5 million people die every year because of poor-quality healthcare, compared to 3.6 million who die from not having access to care).

30. Lyle Morgan, *How the Washington Supreme Court's LLLT Program Met Its Demise*, ABA J. (July 9, 2020, 1:46 PM), <https://www.abajournal.com/web/article/how-washingtons-limited-license-legal-technician-program-met-its-demise> [<https://perma.cc/D2AD-HSXA>].

31. Robert Ambrogi, *Washington State Moves Around UPL, Using Legal Technicians to Help Close the Justice Gap*, ABA J. (Jan. 1, 2015, 5:50 AM), [https://www.abajournal.com/magazine/article/washington\\_state\\_moves\\_around\\_upl\\_using\\_legal\\_technicians\\_to\\_help\\_close\\_the\\_justice\\_gap](https://www.abajournal.com/magazine/article/washington_state_moves_around_upl_using_legal_technicians_to_help_close_the_justice_gap) [<https://perma.cc/7K58-RH5W>].

32. Morgan, *supra* note 30.

33. Mary Juetten, *The Limited License Legal Technician Is the Way of the Future of Law*, ABA J. (Dec. 8, 2017, 8:30 AM), [https://www.abajournal.com/news/article/the\\_limited\\_license\\_legal\\_technician\\_story\\_start\\_with\\_why](https://www.abajournal.com/news/article/the_limited_license_legal_technician_story_start_with_why) [<https://perma.cc/Q9AQ-KY44>].

The LLLT program, though initially promising, foundered in its first few years, sunsetting in 2020, with the Washington Supreme Court citing budget concerns and lack of interest.<sup>34</sup> Though Washington tried to attract students by waiving requirements for paralegals with ten years of experience and offering courses that cost less than \$15,000 total on average, recruiting efforts did not improve sufficiently.<sup>35</sup> Only 45 LLLTs were in practice after eight years.<sup>36</sup> Clients served reported satisfaction with services and reduced stress in navigating the legal process, but they were often confused about the scope of LLLT practice and why and when they might have to consult a lawyer anyway for additional services.<sup>37</sup> There was also no evidence that LLLTs ventured into rural areas,<sup>38</sup> or planned to work in the public sector.<sup>39</sup> Seeing these trends in Washington, Montana declined to launch its own LLLT program.<sup>40</sup>

Though Washington's experiment ultimately proved unfruitful, Utah continues to allow paralegal practitioners to handle debt-related and landlord-tenant cases.<sup>41</sup> New York has a legal navigator program through which trained volunteers – generally college and law students – help with housing, consumer debt, and elderly benefits cases.<sup>42</sup> Other states have volunteer programs to provide assistance with wayfinding, accessing translated forms, and completing paperwork, often through AmeriCorps.<sup>43</sup> Jurisdictions are very cautiously dipping their toe in the waters of innovation, but the non-lawyer assistance movement has yet to reach a tipping point.

#### A. WITH EXPANDED ACCESS COME QUESTIONS OF INFERIOR SUPPORT

The introduction and expanded employment of alternative professionals prompts questions about whether the system is two-tiered, providing the most trained doctors and lawyers to those with means and leaving lower-income patients and litigants with a “next best” option in AAPs and non-lawyer assistants. But we already have a two-tiered system in which the “haves” receive care and assistance and the “have-nots” get inadequate coverage or, worse, nothing. Until we live in a world in which we have an abundance of attorneys with the time and inclination to take pro bono cases—or a legal system that does

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34. Morgan, *supra* note 30.

35. Ambrogi, *supra* note 31.

36. Morgan, *supra* note 30.

37. CLARKE & SANDEFUR, *supra* note 28, at 9.

38. Juetten, *supra* note 33.

39. Becca Donaldson, *Who Accesses Justice? The Rise of Limited License Legal Technicians*, EMERGING MODELS OF LEGAL PROS., <https://thepractice.law.harvard.edu/article/who-accesses-justice/> (last visited June 5, 2022). [<https://perma.cc/633W-9PK4>].

40. Adam Rhodes, *Legal Technicians Step in to Fight Justice Gap*, LAW360 (Nov. 18, 2018, 8:02 PM), <https://www.law360.com/articles/1101225/legal-technicians-step-in-to-fight-justice-gap> [<https://perma.cc/HA2H-V9B5>].

41. *Id.*

42. Ambrogi, *supra* note 31.

43. AM. UNIV. JUST. IN GOV'T PROJECT, AMERICORPS COURT-BASED NAVIGATOR PROGRAMS I (2020), [https://www.srln.org/system/files/attachments/AmeriCorps%20Court%20Based%20Navigator%20Programs\\_Study%2C%20Justice%20in%20Government%20Project\\_2020.pdf](https://www.srln.org/system/files/attachments/AmeriCorps%20Court%20Based%20Navigator%20Programs_Study%2C%20Justice%20in%20Government%20Project_2020.pdf).

not require professionals to navigate—providing a “next best” option is better than the status quo.

Moreover, with such a dearth of lawyers available to serve lower-income people, important legal tasks are regularly performed by non-lawyers anyway: family and friends of pro se litigants help with paperwork, and court appointed special advocates (CASAs), guardians ad litem, and Native American “lay counselors”<sup>44</sup> assist with legal proceedings on a regular basis in designated ways.

The use of non-attorney professionals might be viewed not as relegating some people to lesser care but providing much-needed assistance with issues or tasks that need not receive attorney attention but may be more complex than a layperson can feasibly handle alone. The goal of reform is not to encroach on lawyers’ work—since members of the bar are not taking these cases anyway—but to provide assistance where it is not currently available.<sup>45</sup>

### B. DANGEROUS TERRITORY OR TURF WARS?

Those opposed to the introduction or expansion of non-physician or non-attorney assistance often frame their concerns in terms of protecting the patient/litigant/consumer, but is it really a question of market protectionism?

Some physicians argue that patients with complex conditions—or seemingly simple conditions with underlying complexity—cannot safely be treated by APPs.<sup>46</sup> Similarly, there are concerns that lower-income litigants’ legal problems may not be discrete or straightforward enough for service by non-attorneys.

Regulations prohibiting the unauthorized practice of law vary widely across jurisdictions, but they all purport, in part, to protect the public from someone masquerading as a trained attorney or offering legal advice without meeting certain requirements of education and examination.<sup>47</sup> This concern is not without some basis in reality, for example, in the case of “notarios publicos” posing as immigration lawyers,<sup>48</sup> but there is little evidence to support the idea that these prohibitions really protect the public outside of the immigration context.<sup>49</sup>

The prohibition on non-lawyers practicing law has been described in the American Bar Association’s Model Code as being grounded in “the need of the public for integrity and competence of those who undertake to render legal

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44. See, e.g., *Jackson v. Tracy*, No. CV 11–00448–PHX–FJM, 2012 WL 3704698, at \*3 (D. Ariz. Aug. 28, 2012) (permitting the use of a non-attorney “lay counselor” in tribal court and finding no reason to deem defendant’s representation ineffective under *Strickland v. Washington*, 466 U.S. 688 (1984)).

45. Ambrogi, *supra* note 31.

46. See Sarzynski & Barry, *supra* note 15, at 366–67.

47. Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 *FORDHAM L. REV.* 2581, 2593 (1999).

48. See Chris Kudialis & Camalot Todd, *Notary Scams a Grave Danger for Immigrant Community*, AP NEWS (Apr. 13, 2018), <https://apnews.com/article/9de9e4cea01c463faac7e072473df2a1> [<https://perma.cc/T2H2-JGS4>]; Jessica Weisberg & Bridget O’Shea, *Fake Lawyers and Notaries Prey on Immigrants*, N.Y. TIMES (Oct. 21, 2011), <https://www.nytimes.com/2011/10/23/us/fake-lawyers-and-notaries-prey-on-immigrants.html> [<https://perma.cc/LE4W-EVGD>].

49. See Lauren Sudeall, *The Overreach of Limits on ‘Legal Advice’*, 131 *YALE L.J. F.* 637, 642 (2022).

services.”<sup>50</sup> But law school and the bar exam are regularly criticized as inadequate preparation for being an attorney.<sup>51</sup> If those critiques are to be believed, they undermine the argument that lawyers are automatically well equipped, by virtue of completing law school or passing the bar, to do . . . anything in particular. It is often experience and learning on the job that make a good attorney. More specialized training in the relevant law and the tasks involved in filing, prosecuting/defending, or appealing a case would be a straightforward ask of a non-attorney training program and would likely prepare that trained professional to service clients in a given area of specialty.

Complexities arise when there are overlapping or interconnected issues that extend beyond the specialized training, of course, but the same would be said of comorbidities in medicine, even for doctors. An orthopedist, well trained in recognizing issues with bones and joints after 15 years in practice, is not likely to recognize or treat her patient’s myopia. As lawyers become more and more specialized, the same logic applies in the legal system: whether an attorney or a non-attorney, experience lends itself better to addressing specific needs rather than general ones.

### C. TRAINING, SCOPE OF PRACTICE, AND OVERSIGHT ARE KEY

If protecting the public while increasing access to legal assistance is the aim, training programs for non-attorney assistants ought to be robust and well-regulated, with accreditation standards and a practical component. APP training programs are much more widespread and vary considerably in their selectivity and the stringency of their graduation standards: some have more competitive admissions rates than Ivy League undergraduate programs, with strict prerequisites of a bachelor’s degree, clinical experience, anatomy courses, etc., while others have 100% acceptance rates and are entirely online with no practicum component.<sup>52</sup> Training programs for non-attorney professionals ought to be wary of the same quick proliferation that can lead to a decrease in standards or inconsistent requirements.

Non-attorney professionals should be trained in the areas of law in which assistance is most inaccessible and where limited assistance would be particularly helpful (*e.g.*, housing or family law). In medicine, most of the conversation around APPs centers on primary care rather than specialties because of the dearth of primary care physicians and the particular importance of primary care to health outcomes. In law, however, there is no “primary care” equivalent, so areas of specialty would allow for more discrete training modules for paraprofessional programs.

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50. See Denckla, *supra* note 47.

51. See, *e.g.*, Sam Skolnik, ‘*Serious Reexamination*’ of Bar Exam Looms as Grads Sit for Test, BLOOMBERG L. (Oct. 6, 2020, 4:51 AM), <https://news.bloomberglaw.com/business-and-practice/serious-reexamination-of-bar-exam-looms-as-grads-sit-for-test> [<https://perma.cc/JSS2-4MHH>]; see also, *e.g.*, Jessica Williams, *Abolish the Bar Exam*, CAL. L. REV. ONLINE (Oct. 2020).

52. See Harvard L. Sch. Ctr. on the Legal Pro., *supra* note 8; see also AL-AGBA & BERNARD, *supra* note 16, at 17–18.

If we concentrate non-attorney assistance in areas of greatest need and impact, with clear training on when and how to direct clients to an attorney when the case or issue extends beyond the scope of the paraprofessional's practice, we are taking best practices from the healthcare field's training, oversight, and limitations on scope of care. We would also be addressing the most acute needs with the advent of limited assistance from these non-attorney professionals who can fill an ever-growing gap.

### III. CONCLUSION: A MULTI-PRONGED TREATMENT PLAN

Increased use of non-attorney professionals will not close the justice gap on its own, nor would unfettered access to APPs mean that healthcare is equally available for all. Use of technology—to assist litigants, automate simple lawyering tasks, increase virtual court hearings and client meetings, and expand rural access to attorneys located elsewhere<sup>53</sup>—will continue to be critical, as will lower law school tuition rates<sup>54</sup> and incentives to practice in rural areas or take on pro bono or low-bono cases in greater numbers. Funding for legal services organizations—which were already struggling financially and are now seeing unprecedented demand during the ongoing pandemic<sup>55</sup>—is also critical to any genuine attempt to meet the growing need for legal assistance. And, as a foundation for any of this reform, we should continue to push for simplified systems that do not always require expertise to navigate. But expanding availability of trained, supervised assistants is part of the solution to the parallel crises of insufficient medical and legal care. In both contexts, a multi-pronged approach to innovation should be welcomed rather than feared.

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53. Mary E. Juetten, *How Can Technology Solve Our Access to Justice Crisis?*, ABA J. (Sept. 8, 2017, 8:00 AM), [https://www.abajournal.com/news/article/how\\_can\\_technology\\_solve\\_our\\_access\\_to\\_justice\\_crisis](https://www.abajournal.com/news/article/how_can_technology_solve_our_access_to_justice_crisis) [<https://perma.cc/G9CC-DYNJ>].

54. AM. BAR ASS'N TASK FORCE ON THE FUTURE OF LEGAL EDUC., DRAFT REPORT AND RECOMMENDATIONS, 1–2, 34 (2013), [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/taskforcecomments/task\\_force\\_on\\_legal\\_education\\_draft\\_report\\_september2013.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/taskforcecomments/task_force_on_legal_education_draft_report_september2013.authcheckdam.pdf).

55. See, e.g., Jack Karp, *'Not Our Best Days': The Fiscal Crisis Coming for Legal Aid*, LAW360 (Apr. 12, 2020, 8:02 PM), <https://www.law360.com/articles/1262255> [<https://perma.cc/GXT8-3QKE>] (discussing reductions in legal aid funding from IOLTA accounts as interest rates fall); see also, e.g., Adiel Kaplan, *More People Than Ever Need Legal Aid Services. But the Pandemic Has Hit Legal Aid Funding Hard*, NBC NEWS (Apr. 25, 2021, 5:00 AM), <https://www.nbcnews.com/business/personal-finance/more-people-ever-need-legal-aid-services-pandemic-has-hit-n1264989> [<https://perma.cc/3F3Z-AGGK>] (discussing inability of legal aid organizations to meet increased demand during COVID-19 pandemic).