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Article

LAW SCHOOL TRAINING FOR LICENSED "LEGAL TECHNICIANS"? IMPLICATIONS FOR THE CONSUMER MARKET

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I. INTRODUCTION

The idea of training paraprofessionals to perform simple legal tasks has attracted great interest in recent years among reform-minded lawyers. It is seen as a way to deliver cheaper legal services to poor people and to give slum residents and other less-educated persons a role in the law.

But some legal educators fear that training such students at law schools will lower the quality of the schools ....

This issue arose last Friday at Columbia University Law School in New York when the faculty voted to shift a pilot "paralawyer" training program from Columbia to La Guardia Community College ....

Tomorrow, law professors and lawyers from across the country will meet the paralawyer controversy when they gather here for a conference on a new proposal to streamline legal education. The proposal, worked out by a special study group of the Association of American Law Schools, seeks to reduce the time required to obtain a law degree from the present three years to two.[1]

Déjà vu.[2] But one thing has changed. In 1971, it was reform-minded lawyers calling for paraprofessional training and licensing with legal educators ***580** resisting.[3] Currently, it is reform-minded lawyers calling for paraprofessional training and licensing with at least some legal educators signing on.[4]

In January 2014, the ABA Task Force on the Future of Legal Education released its report calling, among other things, for limited licensing and the expansion of independent paraprofessional training by law schools.[5] In Washington State, all three law schools are collaborating with community college paralegal programs to design and deliver specialized training for "Limited License Legal Technicians" (LLLTs),[6] who will be licensed to deliver limited family law services beginning in 2015.[7] At least three other states, including California and New York--which together contain nearly twenty-six percent of U.S. lawyers[8] and seventy-six law schools[9]--are actively seeking ***581** ways to expand nonlawyer training and licensing in high-need areas such as family law, immigration, landlord-tenant, foreclosure, and consumer credit.[10]

Recent research on access to justice and the changing market for legal services suggests that the expansion of legal service delivery by nonlawyers is in some form inevitable[11] and probably desirable from the perspective of "ordinary ***582** Americans"[12]--low- and middle-income individuals and households with unmet legal needs.[13] Although U.S. lawyers enjoy a de jure monopoly over the "practice of law,"[14] including typically routine tasks such as helping people fill out legal forms,[15] in fact there are numerous exceptions and carve-outs for nonlawyer advising and advocacy in the public sector[16]--as well as a rapid, de facto increase of nonlawyer investment in the corporate sector[17]--and pressures ***583** for market liberalization are increasing.[18] Indeed, one argument in favor of limited licensing by the profession is that the delivery of legal services by nonlawyers is already widespread and expanding, such that the profession's choice has narrowed to one of having a voice in the regulation of nonlawyer practice--or not.[19]

Meanwhile, U.S. law schools face a twenty-four percent decline in J.D. enrollment since 2010 (and falling)[20] and arguably have a strategic incentive to expand their offerings in other markets.[21] The Washington LLLT rule--which requires fifteen credits of specialized practice area training "developed by or in conjunction with an ABA approved law school"[22]--represents a potentially significant revenue stream for law schools, some of which may be less status- ***584** conscious than Columbia Law School in 1971. Moreover, the Washington rule is designed for online delivery of LLLT training,[23] thus creating a market for online education that is not available for the J.D. degree.[24]

The involvement of ABA-approved law schools in the delivery of paraprofessional training could play a key role in the standardization of titles and training for nonlawyer practitioners[25]--that is, the creation of paraprofessional "brands."[26] Such standardization could facilitate the development of a national consumer legal market by promoting quality assessment[27] and professional mobilization[28] on the supply side, as well as consumer awareness of and demand for new paraprofessional roles.[29] Although nonlawyers already provide limited legal services in a variety of contexts, the scope and availability of services vary significantly by location and forum, with little coordination between or within ***585** states.[30] Many people with legal problems do not even recognize their problems as "legal"[31] or, if they do, know how to find help.[32] And while entrepreneurs are moving rapidly to develop online and mobile platforms to deliver standardized legal services to consumers on a national scale,[33] they too face the challenge of engaging the public and channeling consumer demand.[34] Within this context, the Washington LLLT model represents a promising template for a licensed paraprofessional brand--the "legal technician"[35]--as well as, significantly, a possible strategy for promoting its viability via law schools.

***586** Adoption of the legal technician model also could be a win for the profession, which arguably would benefit from market expansion and a welltimed status boost for the traditional three-year J.D. Contrary to the market assumptions that dominate most policy debates about limited licensing within the organized bar,[36] consumer demand for routine legal assistance--at least in solving "back-end,"[37] or after-the-fact, legal problems--appears to be only marginally related to the cost and availability of lawyers[38] such that limited licensing may, in fact, represent an expansion of professional authority.[39] Likewise, rather than threatening the quality of J.D. training, law school expansion into specialized paraprofessional markets could help sustain law schools[40] and shore up the relative status of the traditional three-year J.D.[41]

This Article examines the status of the Washington LLLT initiative and its reception in other states. It argues that, while the Washington model faces strong headwinds in the form of lawyer resistance on the one hand and ***587** unregulated competition on the other, law school training for licensed legal technicians is a promising means for institutionalizing a nationally recognized, independent paraprofessional brand, which itself could promote broader consumer access to--and demand for--routine legal services.

II. THE STATUS OF THE WASHINGTON LLLT INITIATIVE

Washington Admission to Practice Rule (APR) 28 authorizes nonlawyers who meet certain admission requirements to "advise and assist clients in specific areas of law," beginning with domestic relations,[42] under the title "Limited License Legal Technicians."[43] The rule also established the LLLT Board, which is charged with creating and drafting the operational details for the LLLT program.[44]

LLLTs will be licensed to prepare and review documents, inform clients of their legal rights, and (most significantly) provide legal advice--but not to represent clients in court or speak for them in negotiations.[45] Admission requirements include an associate's degree, forty-five core credits of paralegal instruction, fifteen "practice area" credits developed in collaboration with an ABA-approved law school, and 3,000 hours of lawyer-supervised experience, as well as passage of core and practice area exams.[46] LLLTs are also subject to character and fitness requirements[47] and required to carry liability insurance.[48] Certified paralegals with ten years of experience are eligible for a waiver of the associate's degree and core education requirements until the end of 2016.[49]

The Washington rule was the product of twelve years of study[50] and strenuous debate within the Washington Bar[51] and, as written, is limited to ***588** providing assistance to pro se litigants in family court.[52] However, the LLLT Board is actively planning to implement additional areas of practice--such as immigration law, elder law, and landlord-tenant law[53]--and to expand the scope of practice to include negotiation and representation in some contexts.[54] In the words of Washington Chief Justice Barbara Madsen, "[W]e started off very conservatively because it is unwise to put a frog in boiling water; better to start with cold water and apply heat."[55]

Washington bar officials acknowledge the uncertain business model for LLLTs,[56] especially in light of admission requirements that, in some respects, are more onerous than for lawyers.[57] While opponents worry that LLLTs will take solo and small firm lawyers' business,[58] proponents worry that LLLTs may have a hard time making a living--especially given the increasing automation of routine legal services.[59] Although there is no shortage of unmet legal need in ***589** Washington, or elsewhere,[60] it is unclear how private paraprofessional practice aimed at the back-end legal needs of low- and middle-income consumers will be any more viable than private law practice in that market[61]--except possibly by lowering practitioners' educational debt, enabling them to charge lower rates.[62] Yet simply lowering rates does not address problems of consumer engagement[63] or inefficiencies in service delivery.[64] Likewise, while there may be a latent market for "front-end" consumer services--such as business and estate planning[65]--cost competition alone does not solve the delivery problem in that market either.[66]

***590** From a delivery standpoint, the elephant in the room is Rule 5.4,[67] which inhibits lawyers (but not LLLTs?) from partnering with outside investors to develop alternative business structures, such as those enabled by the U.K. Legal Services Act.[68] Proponents of limited licensing clearly are hoping for some kind of reprieve from Rule 5.4, either by way of a carve-out for LLLTs[69] or a wholesale challenge to the rule.[70]

In the meantime, however, proponents' goal was "to get a rule through."[71] In the words of Stephen R. Crossland, chair of the LLLT Board: "If not this, what? If not now, when?"[72] Their hope is that the Washington LLLT initiative can serve as a template for other states and help provide political momentum for the liberalization of the U.S. legal market.[73]

Washington bar officials expect California to be the next state to implement limited licensing.[74] Washington and California bar officials have been working closely together and frequently give joint presentations about the status of limited licensing in their states.[75] Coordination between the two states goes back ***591** at least as far as 1990, when California considered a limited license proposal modeled in part after a 1983 Washington rule allowing Limited Practice Officers (LPOs) to perform real estate closings.[76] But while the 1990 California limited license proposal ultimately failed,[77] the governance structure of the State Bar of California has since changed, with the aim of making the bar more responsive to the needs of consumers.[78] In February 2013, the state bar's Board of Trustees created a Limited License Working Group to "explore the licensing of legal technicians,"[79] and in July 2013, the Board unanimously approved the working group's recommendation to pursue the development of a limited license program in California.[80]

The working group's recommendation builds on testimony from Washington bar officials as well as California's own proposals in the 1990 report.[81] As in Washington, the working group recommended that legal technicians be engaged to provide "discrete,

technical, limited scope" activities in areas such as creditor-debtor law, family law, landlord-tenant law, immigration law, and elder law.[82] As in Washington, the working group recommended that representation in court be reserved for lawyers;[83] however, as in Washington, bar officials say that state ***592** judges are interested in allowing court appearances in some contexts.[84] In November 2013, the Board of Trustees created a Civil Justice Strategies Task Force to prepare an action plan for discussion at the annual state bar meeting in September 2014.[85]

Oregon is also considering a limited licensing initiative based on the Washington LLLT model, motivated in part by a fifty percent decline in funding for "court facilitators"[86] and concerns about "being the only state on the [W]est [C]oast without LLLTs."[87] Noting that "[w]e should do this before the legislature imposes it on us,"[88] the Oregon Limited License Legal Technicians Task Force is considering three areas of practice--landlord-tenant law, family law, and estate planning--and hopes to have a report to the Board of Governors in 2014.[89]

Finally, New York is experimenting with expanded roles for nonlawyer practitioners, beginning--as in other states--with courtside assistance for unrepresented litigants.[90] In 2012, the Unified New York Court System Task Force to Expand Access to Civil Legal Services recommended the establishment of a pilot project to "permit appropriately trained nonlawyer advocates to provide out-of-court assistance in a discrete substantive area ... such as housing assistance, consumer credit or, possibly, foreclosure."[91] In January 2014, New York Court of Appeals Chief Judge Jonathan Lippman announced a pilot program in which "trained non-lawyers, called Navigators, will be permitted to accompany unrepresented litigants into the courtroom in specific locations in Brooklyn Housing Court and Bronx civil court" and to respond to factual questions by the judge.[92] Chief Judge Lippman also announced a collaboration between the state courts, Albany Law School, and the University at Albany-***593** SUNY School of Social Welfare for training nonlawyers to provide benefits information to the elderly in the Albany area.[93]

The New York City Bar (City Bar) has also been active in promoting the expanded recognition of nonlawyer practice. In 2013, the City Bar Committee on Professional Responsibility issued a comprehensive report calling for the recognition of a role for "courtroom aides" in judicial and administrative hearings,[94] a role for "legal technicians" outside of judicial and administrative hearings,[95] and "broader roles for nonlawyers beyond the [se] two modest proposals."[96] While duly applauding the state court task force initiative,[97] the City Bar stated that it would "move forward with its own recommendations in view of the growing severity of the justice gap and the need to promote broadbased discussion of solutions within New York's organized bar."[98]

The City Bar's approach is more ambitious than the state courts' approach in two important respects. First, the courts' initiatives do not authorize new forms of nonlawyer practice, insofar as such practice would involve incursions into lawyers' existing monopoly. On the contrary, Chief Judge Lippman explicitly distinguished the Navigator program and other initiatives from the practice of law, stating:

> All these efforts will help us address the crisis in legal services for the poor in ways that will supplement the services provided by the legal profession, which has nothing to fear from these new projects. These efforts are aimed at groups who cannot afford a lawyer under any circumstances and are unable to access free legal services. And they seek to provide information and help that fall outside the practice of law.[99]

***594** The City Bar report, on the other hand, recognized that the expansion of nonlawyer practice may require changes to statutes defining the unauthorized practice of law[100] and emphasized the need for such change:

> Medicine and other professions have continued to innovate by expanding the areas in which practitioners with lesser qualifications may provide specialized services, at rates lower than those traditionally charged by more highly qualified practitioners. Moreover, even within the field of law, nonlawyers increasingly perform some of the services traditionally provided exclusively by lawyers. Nonlawyers already provide advice and even advocacy in certain judicial and administrative settings, in New York and other U.S. jurisdictions. Notable examples also have developed in England, Wales, and Canada, where nonlawyers perform important roles both inside and outside the courtroom. The need to consider and adapt these experiences to appropriate situations in New York never has been more pressing, as low-income New Yorkers' access to essential legal services has only worsened over the years.[101]

The City Bar's approach is also relatively ambitious in that it looks beyond the creation of localized court initiatives toward

the establishment of a unified framework for nonlawyer licensing.[102] In proposing that New York recognize a role for legal technicians, the report stated:

> This concept has already been adopted by the Supreme Court of Washington. Trained and licensed nonlawyers would be allowed to provide for a fee certain specified services--e.g., explaining procedures, gathering facts and documents, and assisting in the completion of court forms--but would not be allowed to participate in court hearings. In New York and elsewhere, such services (and more) already are provided in specialized settings by nonlawyers with varying levels of expertise. Creation of a regulatory regime that places undue burdens on those activities should be avoided. Nevertheless, the Committee sees value in establishing a legal framework that would attract more people to the field while ensuring the quality of services provided."[103]

Yet while the City Bar is clearly positioning itself ahead of the New York courts on the issue, in the end, the report shies away from endorsing a unified ***595** approach to nonlawyer licensing and instead emphasizes the importance of building on local regulatory regimes.[104] Thus, what begins as a bold blueprint for new categories of nonlawyer practice[105]--including an explicit endorsement of the Washington legal technician model[106]--ends by emphasizing the need for decentralized forum- and task-specific regulation:

> The Committee does not recommend wholesale adoption of these or any other models. The appropriate type of regulation depends on the particular setting and the specified scope of the nonlawyer's activity. For example, where a courtroom aide is authorized to speak only when called upon by the court, the court retains direct control of the proceedings, reducing the need for independent oversight--although in some circumstances further regulation and even licensing will be appropriate, particularly if a nonlawyer advocate provides services for a fee. Similarly, the appropriate types of oversight in non-adjudicative contexts will depend on the breadth and complexity of tasks to be performed. In any context, a balance must be struck between ensuring the quality of services and facilitating entry into the field.[107]

The City Bar report thus illustrates the strategic ambivalence among proponents about the best means for implementing expanded recognition of nonlawyer practice. Washington's approach is to begin with a unified title and licensing framework and build out the operational details over time. New York's approach is to pilot new categories of service providers within existing regulatory regimes. Both approaches are aimed initially at meeting the needs of unrepresented parties in courts and other adjudicative settings--but both states aim to expand service options in nonadjudicative contexts as well.

Part III argues that, as a supply side solution to the problem of unmet legal need, Washington's approach is more promising for consumers. This is not to suggest that the problem of unmet legal need is merely--or primarily--a supply side problem. On the contrary, research suggests that unmet legal need[108] stems ***596** largely from a lack of consumer awareness of, and engagement with, law and lawyers;[109] a lack of alternative ""institutions of remedy";[110] and regulatory barriers to competition in the consumer legal market.[111] Supplying independent paraprofessionals cannot, by itself, solve these problems any more than supplying lawyers or legal software can solve these problems. Also needed are new models for delivering services and channeling consumer demand.[112]

But nonlawyer providers will be a critical feature of any scalable model for the delivery of legal information and services;[113] and, like lawyers and software providers, nonlawyer providers need a platform for engaging consumers and establishing viable national brands. From this perspective, Washington's unified approach to the limited licensing of legal technicians has two significant virtues: it recently passed and has political momentum within the bar--at least on the West Coast--and it involves law schools, which have a national platform and their own incentives for promoting new brands.

III. THE BENEFITS OF A UNIFIED MODEL

As both critics and proponents have noted, Washington has created "a whole new profession,"[114] with its own licensing and regulatory structure-- including a professional oath[115] and rules of professional conduct (in progress).[116] This new ***597** "paraprofession" is designed to be independent of--but subordinate to--the legal profession and to piggyback on the profession's training and regulatory institutions, including law schools.

Proponents of market liberalization--as well as critics of law schools--may be skeptical about the need for paraprofessional licensing, the involvement of law schools, or both. Washington's approach is arguably ill-suited to the immediate problem it sets out to solve: providing routine assistance to pro se litigants in family court.[117] Much of the impetus for Washington's LLLT initiative--and similar initiatives in other states--came from cutbacks to public subsidies for court assistance programs and personnel.[118] As discussed in Part II, it is unclear how licensing paraprofessionals provides a solution to this problem.[119] Viewed cynically, the move toward limited licensing in the context of court assistance is a means for offloading public functions onto a nonexistent private market and hoping that supply side incentives will somehow solve the service delivery problem.[120] At best, this supply side strategy seems naïve. Why should anyone invest in completing the many requirements for an LLLT license only to hang around outside the courtroom and provide routine assistance to pro se litigants?[121] In this context, the New York Navigator model--more access,[122] less overhead[123]--looks pretty good.

***598** But what if we imagine a liberalized, capitalized consumer market with legal services kiosks at Wal-Mart,[124] the hospital,[125] and the public library[126]--and nationally branded online services backed up by live help desk personnel?[127] It does not take much imagination, actually: such delivery models already exist in the United Kingdom[128] and even in the United States,[129] notwithstanding regulatory barriers and uncertainty.[130] And while, so far, U.S. investors are focused primarily on the corporate market[131]--the eDiscovery industry alone is expected to reach nearly $10 billion globally in 2017[132]--the consumer market is ***599** ripe for disruption.[133] One might argue that we are one lawsuit away.[134] What kind of licensing framework do we want for nonlawyer practitioners in that market?

One answer is none.[135] Let the market provide. Professional licensing is an impediment to market entry and competition and, thus, a barrier to efficient delivery of legal information and services.[136] Involving law schools only makes it worse, by playing to the strategic and arguably predatory instincts of the most desperate incumbents in a shrinking educational market.[137] Under this view, limited licensing looks like a power-grab by the profession--a last gasp in the face of inevitable market disruption and liberalization. Under this view, we ought to be focusing on the relaxation of *lawyer* licensing.[138]

Alternatively, we could continue our current approach to nonlawyer practice: avoiding--or resisting--formal incursions into lawyers' existing monopoly, while relieving some pressure in adjudicatory settings through court-and agency-specific carve-outs under a variety of titles and regulatory regimes.[139] This decentralized, de facto approach may better serve the ***600** immediate needs of at least New York City residents[140] than a controversial de jure push to license independent legal technicians. Many lawyers view limited licensing as a threat to lawyers' livelihoods and necessarily an encroachment on lawyers' professional authority.[141] Certainly, a de facto approach has proved more expedient for nonlawyer investment in corporate legal services, which is prospering despite failed attempts to relax or eliminate Rule 5.4.[142]

But while corporate clients have significant resources to select and regulate nonlawyer providers, individual consumers (and potential consumers) may not;[143] thus, consumers' collective access to quality legal information and services arguably would be furthered by the standardization of paraprofessional titles and licensing. Indeed, the same arguments that support a unified approach to lawyer licensing and regulation also apply to nonlawyer practitioners, especially insofar as we aim to promote the development of a national market.[144] Unified licensing creates a foundation for professional socialization and selfregulation,[145] as well as professional independence and collective mobility.[146] A ***601** unified approach also creates a focal point for political and institutional advocacy and momentum. From this perspective, the Washington LLLT initiative represents a promising template--and impetus for further action by "reformminded lawyers,"[147] paraprofessionals, regulators, and legal educators.

A. Quality Assessment

Not surprisingly, Washington reformers pitched limited licensing as a means of protecting consumers from low quality, unauthorized practice.[148] Consumer protection typically is the lead argument in any campaign for professional regulation[149]--or, for that matter, deregulation[150]--notwithstanding the absence of data and quality assessment in many contexts.

In the United States, for instance, we know very little about the relative quality of different types of legal services providers, in part because lawyers' de jure monopoly has limited the recognition of alternative providers.[151] Quality assessment is also impeded by the decentralized, fragmented nature of civil legal services delivery, which relies on a wide variety of delivery models in addition to private practice.[152] What data exist suggest that authorized nonlawyer ***602** practitioners are capable of providing effective, limited-scope legal services in a variety of contexts[153]--including direct service to private clients without lawyer supervision[154]--and are no more likely than lawyers to behave unethically.[155] More systematic assessment, however,

requires greater standardization of delivery models and providers.[156]

The Washington model promotes the standardization of paraprofessional providers in three ways. First, it creates a unified title and license for legal technicians without reference to specialized areas of practice and with substantially unified training.[157] This unified training and licensing structure facilitates the organization and regulation of legal technicians within the state.

Second, it creates a template for other state courts and bar associations to debate and potentially adopt,[158] which facilitates progress toward a national model and coordination between states. Proponents point to the state-by-state campaign to license nurses that led to a model definition of nursing in 1955,[159] and the subsequent recognition and licensing of independent nurse practitioners.[160]

Finally, the Washington model requires the involvement--or at least the imprimatur--of ABA-approved law schools, which themselves are subject to ***603** uniform regulation[161] and competitive assessment on a national scale.[162] To the extent that law schools invest in the design and delivery of specialized paraprofessional training--ideally in collaboration with existing paralegal education programs--law schools could promote the development of national standards for such training, as well as the political and market mobilization of paraprofessionals.

B. Market Mobilization

On the supply side, the viability of the Washington model depends upon the motivation--and mobilization--of paralegals to invest in additional training in exchange for a limited license to practice without lawyer supervision.[163] As noted above, the economic incentives for such an investment are unclear.[164] Washington's first cohort of LLLTs is expected to number sixteen.[165] And while there appears to be momentum building around the Washington model, so far Washington is the only state "to get a rule through."[166] Thus, market mobilization, at this stage, is very much a bootstrap operation.

There are signs, however, that there is room for occupational mobility among paralegals. In 2012, there were an estimated 277,000 paralegals and legal assistants in the United States, earning an average of $46,990 per year.[167] Job growth is projected at seventeen percent for the period between 2012 and 2022,[168] compared to eleven percent for all occupations[169] and ten percent for ***604** lawyers.[170] According to the Bureau of Labor Statistics, "[e]xperienced, formally trained paralegals with strong computer and database management skills should have the best job prospects."[171]

Currently, California is the only state that requires paralegals to be licensed.[172] In other states, there are no special qualifications, training, or licenses required to use the title "paralegal,"[173] although many types of voluntary certification are available.[174] The two major national organizations that offer professional certification to paralegals who meet voluntary educational standards are the National Association of Legal Assistants (NALA), which established its first certification program in 1976,[175] and the National Federation of Paralegal Associations (NFPA), which established its first certification program in 1996.[176]

NALA advertises its proprietary Certified Paralegal (CP) credential as "the career standard for paralegals."[177] Eligibility to sit for the five-part CP exam is based upon completion of a paralegal education program, work experience, or both--but NALA does not provide basic paralegal education directly.[178] Instead, a variety of educational institutions provide paralegal education, including colleges and universities; proprietary programs; and community colleges, which ***605** graduate the greatest number of paralegals.[179] Paralegal education programs also offer a variety of credentials, ranging from certificates and two-year associate degrees to four-year bachelor's degrees and master's degrees.[180]

In response to the emergence of the first paralegal education programs in the early 1970s, the ABA developed voluntary approval standards for paralegal education and approved the first group of programs in 1975.[181] In 1973, there were 31 paralegal programs in the United States; today, there are more than 1,000,[182] including 273 ABA-approved programs.[183] Although some of the earliest paralegal training programs were established at or by law schools,[184] currently only three ABA-approved law schools offer ABA-approved paralegal training:[185] Capital University Law School,[186] University of Oklahoma Law Center,[187] and Widener University Law Center.[188]

The collective mobilization of paralegals to seek limited practice rights will likely depend significantly on the pace and sources of regulatory change. Much of the current focus of paralegal associations is to teach--and reinforce--the boundary between authorized paralegal practice and the unauthorized practice of law.[189] The first Canon in the NALA Code of Ethics and

Professional ***606** Responsibility states that "[a] paralegal must not perform any of the duties that attorneys only may perform ...."[190]

At the same time, paralegal associations are clearly poised to respond to changes in lawyer regulation and take advantage of market opportunities that arise. NFPA has published a Model Act for Paralegal Licensure[191] and issued a position statement supporting the authorization of limited practice by nonlawyers.[192] In 2012, NFPA submitted comments supporting the recognition of alternative business structures by the ABA.[193] As this Article goes to press, NFPA is offering a Continuing Legal Education program on Limited License Legal Technicians, prominently advertised in the top left corner of the NFPA homepage.[194]

Both NALA and NFPA also have recently expanded their certification programs and introduced proprietary education to support new forms of certification. In 2006, NALA introduced an Advanced Paralegal Certification (APC) in a variety of specialty areas,[195] which requires the completion of specialized coursework designed and delivered online by NALA.[196] In 2011, NFPA introduced the Paralegal CORE Competency Exam (PCCE), which is trademarked, and an online review course offered jointly by NFPA and the Advanced Paralegal Institute.[197]

*607 *C. The Role of Law Schools*

Law schools arguably have strategic incentives to enter the market for specialized paraprofessional training even in advance of regulatory changes at the state or federal level. In the short term, applications to J.D. programs have plummeted since the recession and many law schools face financial pressure to diversify their curricular offerings.[198] The design and delivery of specialty courses aimed at experienced paralegals and other "nonlawyer professionals"[199] could be a significant source of revenue for law schools--as evidenced by the number of schools already experimenting with master's degree programs for nonlawyers.[200]

Specialty courses focusing on state-specific practice in a particular area--such as the fifteen-credit practice area sequence required under the Washington LLLT rule[201]--also may appeal to law students seeking practical training and certification in a tight labor market.[202] Many law schools have developed specialized capstone courses and certificate programs within the J.D. curriculum on precisely this theory.[203] Designed properly, such courses could provide both advanced paralegal and entry-level legal training;[204] and there may be ***608** pedagogical benefits to training experienced paralegals and law students together.[205]

In addition to short-term financial pressures, law schools also have a longterm interest in maintaining their collective authority over legal education. The recession has prompted significant downward pressure on the three-year J.D. degree,[206] as well as renewed calls for practical and experiential training.[207] Institutionalizing stand-alone programs for specialized practice area training is a promising means for responding to such pressures, while at the same time protecting the status of the U.S. J.D. brand.[208]

The recognition and licensing of a subordinate paraprofessional group also is a promising long-term strategy for the profession generally, as it seeks to stave off broader political and market challenges.[209] Historically, the creation of subordinate groups has been a successful means for resolving professional boundary disputes and maintaining professional regulatory authority.[210] Authorizing limited license practitioners could even stimulate greater demand for traditional legal services, by stimulating public awareness of and engagement with law and lawyers.[211]

Finally, some argue that law schools have a duty to promote broader access to legal education and information irrespective of their own economic and status ***609** interests.[212] Access to basic legal education and information is the foundation for an informed citizenry[213] and the rule of law.[214] Under this view, law schools owe it to the public--as well as the profession--to take the lead in promoting public access to routine legal information and services, and in assuring the quality of such services in an increasingly liberalized market. Under this view, the choice is between proactive involvement by law schools and industry capture. As Will Hornsby has written:

> What happens when the practice of law becomes unregulated and anyone can provide legal services? It is not likely a niche online legal service provider fills that space. Instead, the insurance industry become[s] the resource for estate planning documents, no doubt giving discounts to customers with advance directives that prohibit resuscitation. Financial institutions provide incorporation services for their customers as they now provide trusts. Realtors assume the function of land conveyances. All this low-hanging fruit that had

> been a profit center for lawyers and is transitioning to online legal service providers is likely to be assumed by industries that will have collateral economic advantages.[215]

The extent to which law schools outside of Washington will invest in paraprofessional training remains to be seen, of course--and which schools will move next. If the next movers are unaccredited law schools in California,[216] it may exacerbate status concerns for law schools and slow or limit other states' adoption of the Washington "legal technician" brand. But perhaps the next movers will be tech-oriented law schools, seeking ways to scale up legal advising through a combination of legal technicians and legal expert systems;[217] ***610** or state flagship law schools, like Washington, that are relatively secure in their markets and embrace the public purpose of expanding access to justice.[218]

In any event, the pressures on law schools, individually and collectively, are not going away; and the Washington initiative has created an opening on both strategic and normative grounds. The question for law schools--and the profession--is how long this deal will be table; and whether to move proactively in anticipation of market liberalization--or wait for competitors to move first.

IV. CONCLUSION

U.S. lawyers' monopoly over the practice of law is "under siege."[219] Advances in information technology and the liberalization of the U.K. legal market, coupled with the economic recession, have sparked a resurgence of interest in new platforms for the delivery of legal information and services, including expanded roles for nonlawyer practitioners. At stake are the boundaries of both the three-year J.D. and emerging paraprofessional brands-- and these boundaries are codependent.[220]

Rather than viewing the call for paraprofessional training and licensing as a threat, U.S. lawyers and law schools should view it as an opportunity for market expansion--as well as consumer protection--and move proactively to promote the development of a national consumer market. Investing in the design, delivery, and assessment of independent paraprofessional training is a modest but important step toward market development and could help mobilize paraprofessionals as well as broader regulatory change.

Footnotes

a1 Professor of Law & Director, NMRS Center on Professionalism, University of South Carolina School of Law. Thanks to the participants in the NMRS Center Research Roundtable on Limited Licensing and the *South Carolina Law Review* Symposium. I am especially grateful for the cheerful hard work of Lisle Traywick, Robert Osborne, and Kara Grevey.

1 Fred P. Graham, *Educators Fear Paralawyer Proposal*, N.Y. TIMES, May 31, 1971, at 6.

2 Daniel B. Rodriguez & Samuel Estreicher, Op. Ed., *Make Law Schools Earn a Third Year*, N.Y. TIMES, Jan. 17, 2013, http://www.nytimes.com/2013/01/18/opinion/practicing-lawshould-not-mean-living-in-bankruptcy.html?_r=0 (reporting on a gathering of New York bar leaders, judges, and law school faculty to discuss a proposal to allow students to take the New York bar exam after two years of law school).

3 Graham, *supra* note 1.

4 *See, e.g.*, N.Y.C. BAR ASS'N COMM. ON PROF'L RESPONSIBILITY, NARROWING THE "JUSTICE GAP": ROLES FOR NONLAWYER PRACTITIONERS 9 (2013) [hereinafter NEW YORK CITY BAR REPORT], *available at* http://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf (citations omitted) (reviewing legal educators' support for nonlawyer licensing).

5 AM. BAR ASS'N TASK FORCE ON THE FUTURE OF LEGAL EDUC., REPORT AND RECOMMENDATIONS 3, 24-25 (2014)

[hereinafter ABA TASK FORCE REPORT]. According to the report:
There is today, and there will increasingly be in the future, a need for: (a) professionals who are qualified to provide limited law-related services without the oversight of a lawyer; (b) a system for licensing or regulating individuals competent to provide such services; and (c) educational programs that train individuals to provide those limited services .... The Task Force recommends that law schools and other institutions of higher education develop these educational programs. *Id.* at 24-25.

6 *See* Stephen R. Crossland & Paula Littlewood, *The Washington State Limited License Legal Technician Program: Enhancing Access to Justice and Ensuring the Integrity of the Legal Profession*, 65 S.C. L. REV. 611, 617 (2014) (citing *Practice Area Courses Frequently Asked Questions*, WASH. STATE BAR ASS'N, http://www.wsba.org/Licensing-and-Lawyer-Conduct/Limited-Licenses/Legal-Technicians/Practice-Area-Courses#when) (last visited Apr. 30, 2014) (discussing collaboration between schools)).

7 *See Limited License Legal Technician (LLLT) Board*, WASH. STATE BAR ASS'N, http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Limited-License-Legal-Technician-Board (last visited Apr. 30, 2014). The Washington Supreme Court authorized limited licensing in 2012 and created the Limited License Legal Technician Board to design scope of practice and admission rules. *See* In the Matter of the Adoption of New APR 28--Limited Practice Rule for Limited License Legal Technicians, Order No. 25700-A-1005, at 1, 3 (Wash. 2012), *available at* http:// www.courts.wa.gov/content/publicUpload/Press%20Releases/25700-A-1005.pdf [hereinafter APR 28 Decision]. The first specialty exam in family law is scheduled for November 2014, with licensure of sixteen LLLTs expected in early 2015. Email from Stephen R. Crossland, Chair, Wash. State Bar Ass'n Limited License Legal Technician Bd., to Elizabeth Chambliss, Dir., NMRS Center on Professionalism (June 5, 2014, 10:09 EST) (on file with author).

8 AM. BAR ASS'N, NATIONAL LAWYER POPULATION BY STATE (2013), *available at* http:// www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2011_ national_lawyer_by_state.authcheckdam.pdf (listing state populations of resident active attorneys as of December 31, 2012).

9 *Alphabetical School List*, AM. BAR ASS'N SECTION OF LEGAL EDUC. AND ADMISSION TO THE BAR, http://www.americanbar.org/groups/legal_ education/resources/aba_approved_law_schools/in_alphabetical_order.html (last visited Apr. 30, 2014) (listing twenty-one ABA-accredited law schools in California and fifteen in New York, including provisionally accredited schools). California also has sixteen regionally accredited and twenty-three unaccredited law schools. *Law Schools*, STATE BAR OF CAL., http:// admissions.calbar.ca.gov/Education/LegalEducation/LawSchools.aspx#cals (last visited May 13, 2014).

10 *See* Dan Kittay, *An Inside Look at Limited Practice for Nonlawyers in Washington and Other States*, 38 BAR LEADER 1 (Sept./Oct. 2013), *available at* http://www.americanbar.org/publications/bar_leader/2013-14/September-October/inside_look_limited_practice_nonlawyers_washington_other_states.html (discussing the California State Bar Board of Trustees' support for limited licensing); *Limited License Working Group*, STATE BAR OF CAL., http:// www.calbar.ca.gov/AboutUs/BoardofTrustees/LimitedLicenseWorkingGroup.aspx (last visited Apr. 30, 2014) (stating that the committee is studying the "feasibility of developing and implementing standards for creating a limited license to practice law and/or the licensing of legal technicians, for those not fully admitted to the State Bar as attorneys"); TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVS. IN N.Y., REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 31 (2013) [hereinafter 2013 N.Y. TASK FORCE REPORT], *available at* http:// www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceReport_ 2013.pdf (quoting Press Release, Chief Judge Names Members of Committee Charged with Examining how Non-Lawyer Advocates can Help Narrow New York's Justice Gap (May 28, 2013), http://www.nycourts.gov/press/PDFs/PR13_07.pdf) (reporting Chief Judge Lippman's appointment of a committee to examine the roles that "appropriately trained and qualified non-lawyer advocates can play in bridging the justice gap"); NEW YORK CITY BAR REPORT, *supra* note 4, at 2, 3, 29-30 (recommending that New York recognize expanded roles for nonlawyer practitioners). Oregon is also considering nonlawyer licensing based on the Washington LLLT model. *See* OSB CENTER, MINUTES OSB LICENSED LEGAL TECHNICIANS TASK FORCE (Nov. 15, 2013), *available at* http:// bog11.homestead.com/LegalTechTF/Nov15/Minutes15Nov13.pdf. The Law Society of Upper Canada began licensing independent paralegals in 2007 and reports that the program has been a success. *See* LAW SOC'Y OF UPPER CANADA, REPORT TO THE ATTORNEY GENERAL OF ONTARIO PURSUANT TO SECTION 63.1 OF THE LAW SOCIETY ACT 2, 3 (2012) [hereinafter LAW SOCIETY REPORT], *available at* http:// www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147488010.

11 *See* RICHARD SUSSKIND, THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES 1 (2008) (predicting "a future in which conventional legal advisers will be much less prominent in society than today"); Herbert M. Kritzer,

The Professions Are Dead, Long Live the Professions: Legal Practice in a Postprofessional World, 33 LAW & SOC'Y REV. 713, 743-45 (1999) (citations omitted) (arguing that the expansion of nonlawyer practice is inevitable); Bill Henderson, *A Counterpoint to "The Most Robust Legal Market that Ever Existed in this Country,"* LEGAL WHITEBOARD (Mar. 17, 2014), http://lawprofessors.typepad.com/legalwhiteboard/2014/03/a-counterpoint-to-the-most-robust-legal-market-the-ever-existed-in-this-country.html ("[I]t has become crystal clear that when it comes to organizational clients where the decision maker for the buyer is a licensed lawyer (likely accounting for over half of the U.S. legal economy) everything up until the courthouse door or the client counseling moment can be disaggregated into a legal input or legal product that can be provided by entities owned and controlled by nonlawyers."); *see also* Laurel S. Terry, *The Future Regulation of the Legal Profession: The Impact of Treating the Legal Profession as 'Service Providers,'* 2008 J. PROF. LAW. 189 (2008) (discussing the emergence of a regulatory paradigm that treats lawyers as one of many categories of legal service providers).

12 Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L.J. 129, 134 (2010) (assessing the legal resource landscape for "ordinary Americans").

13 *See* Russell Engler, *Opportunities and Challenges: Non-Lawyer Forms of Assistance in Providing Access to Justice for Middle-Income Earners, in* MIDDLE INCOME ACCESS TO JUSTICE 145, 171 (Michael Trebilcock et al. eds., 2012) (arguing that nonlawyer assistance is essential for expanding middle-income access to justice); Gillian K. Hadfield, *Summary of Testimony Before the Task Force to Expand Access to Civil Legal Services in New York* 1, 4 (Oct. 1, 2012), http://richardzorza.files.wordpress.com/2012/10/hadfield-testimony-october-2012-final-2.pdf (arguing that nonlawyer assistance is essential for expanding access to justice for ordinary Americans); Rebecca L. Sandefur, *The Fulcrum Point of Equal Access to Justice: Legal and Nonlegal Institutions of Remedy*, 42 LOY. L.A. L. REV. 949, 957-58 (2009) (emphasizing the benefits of nonlegal "institutions of remedy," such as government ombudsmen).

14 *See* ABA COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 13-32 (1995) [hereinafter ABA NONLAWYER STUDY], *available at* http://www.americanbar.org/content/dam/aba/migrated/cpr/clientpro/Non_Lawyer_ Activity.authcheckdam.pdf (providing a history and survey of state laws prohibiting the unauthorized practice of law).

15 In the United States, the practice of law includes giving legal advice, which in most states precludes paralegals and other nonlawyer specialists from helping clients fill out legal forms without lawyer supervision. *See, e.g.*, N.C. State Bar v. Lienguard, Inc., 2014 NCBC 11 (72, *available at* http://www.ncbusinesscourt.net/opinions/2014_NCBC_11.pdf ("Lienguard's various statements, including its definition of lien law terms, warnings regarding time requirements, and reminders about sending out preliminary notices within five to ten days of beginning work, when combined with its preparation of legal documents in the manner described above, constitute providing legal advice."); *see also* DEBORAH L. RHODE, ACCESS TO JUSTICE 105-06 (2004) (discussing lawyers' monopoly on giving legal advice). Two exceptions are Arizona and California, which allow independent paraprofessionals to perform such services under the titles "legal document preparer" and "legal document assistant," respectively. ARIZ. SUP. CT. RULE 31: ARIZ. CODE OF JUDICIAL ADMINISTRATION § 7-208, *available at* http://www.azcourts.gov/cld/LegalDocumentPreparers.aspx; CAL. BUS & PROF. CODE § 6400, *available at* http://leginfo.legislature.ca.gov/faces/codes_ displayexpandedbranch.xhtml; *see also* NEW YORK CITY BAR REPORT, *supra* note 4, at 26 (discussing "independent paralegals"). Many states also allow nonlawyers to perform real estate closings. *See* Barlow F. Christensen, *The Unauthorized Practice of Law: Do Good Fences Really Make Good Neighbors--or Even Good Sense?*, 1980 AM. BAR. FOUND. RES. J. 197-98, 208, 210-11.

16 *See* HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NONLAWYERS AT WORK 23-193 (1998) (examining nonlawyer advocacy in unemployment compensation appeals, tax appeals, social security disability appeals, and labor grievance arbitration); NEW YORK CITY BAR REPORT, *supra* note 4, at 12-27 (surveying the many forms of authorized nonlawyer practice in courts and agencies in New York and elsewhere); Leslie Levin, *The Monopoly Myth and Other Tales About the Superiority of Lawyers*, 82 FORDHAM L. REV. 2611, 2615 (2014) (surveying various forms of authorized and unauthorized nonlawyer practice in the United States).

17 *See* Henderson, *supra* note 11, at 6 (discussing the de facto expansion of nonlawyer investment and service delivery in the corporate legal market); Bill Henderson, *Is Axiom the Bellwether for Disruption in the Legal Industry?*, LEGAL WHITEBOARD (Nov. 10, 2013), http:// lawprofessors.typepad.com/legalwhiteboard/2013/11/is-axiom-the-bellwether-for-disruption-in-thelegal-industry-look-what-is-happening-in-houston.html (referring to this expansion as a "bloodless revolution").

18 *See* Gillian K. Hadfield, *Legal Barriers to Innovation: The Growing Economic Cost of Professional Control over Corporate Legal Markets*, 60 STAN. L. REV. 1689, 1695 (2008) (arguing that a "globalized U.S. economy requires a new legal infrastructure"); Renee Newman Knake, *Democratizing the Delivery of Legal Services*, 73 OHIO ST. L.J. 1, 8, 10-11 (2012) (arguing that current market restrictions are vulnerable to First Amendment challenges); Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 531 (2013) (noting that "[t]he recent economic recession has brought new urgency to longstanding problems in the delivery of legal services"); Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-first Century*, 96 IOWA L. REV. 1649, 1660 (2011) (noting that market changes create new groups to "challenge lawyers' political power"); Clifford Winston & Robert W. Crandall, Op-Ed., *Time to Deregulate the Practice of Law*, WALL ST. J., Aug. 22, 2011, at A13 (calling for the deregulation of legal services and an end to licensing requirements).

19 *See, e.g.*, Joseph Dunn, Exec. Dir., State Bar of Cal., Remarks at NMRS Ctr. on Professionalism Research Roundtable on Limited Licensing (Feb. 27, 2014) [hereinafter Dunn Remarks] (comparing law to medicine and advocating the expansion of limited licensing before it is too late); Laurel A. Rigertas, *Stratification in the Legal Profession: A Debate in Need of a Public Forum*, 2012 J. PROF. LAW. 79, 133 (2012) (suggesting that state supreme courts may act to expand limited licensing "due to fear of losing control over the issue").

20 Mark Hansen, *Law School Enrollment Down 11 Percent This Year Over Last Year, 24 Percent Over 3 Years, Data Shows*, A.B.A. J. (Dec. 17, 2013, 9:30 AM), http://www.abajournal.com/news/article/law_school_enrollment_down_11_percent_this_year_over_last_year_data_shows (stating that applications for admission in 2014 are expected to be down an additional ten to fifteen percent).

21 *See* Elizabeth Chambliss, *Two Questions for Law Schools About the Future Boundaries of the Legal Profession*, 36 J. LEGAL PROF. 329, 342 (2012) (predicting "the erosion of monopoly protections and the opening of diverse new markets for law and law-related training"); Elizabeth Chambliss, *Organizational Alliances by U.S. Law Schools*, 80 FORDHAM L. REV. 2615, 2616 (2012) (predicting the emergence of new paraprofessional and law-related positions and credentials in specially regulated areas); Hansen, *supra* note 20 (reporting an increase in the number of students enrolled in non-J.D. programs in 2013-2014, with eighty-four percent enrolled in post-J.D. programs, such as LL.M.s, and sixteen percent enrolled in degree programs for nonlawyer professionals); Karen Sloan, *Law for Laymen: Law Schools Hope to Fill Seats by Offering Master's Degrees*, NAT'L L.J. (May 20, 2013) (reporting that nearly thirty law schools offer or will soon offer master's degrees for nonlawyers, up from "a handful" in 2011).

22 WASH. ADMISSION TO PRACTICE R. 28 (D)(3)(c) (2014).

23 Crossland & Littlewood, *supra* note 6, at 618.

24 *See* ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 2013-2014, Standard No. 306 (2013) (limiting the number of J.D. credits from online courses to twelve).

25 *See* THEODORE CAPLOW, THE SOCIOLOGY OF WORK 139 (1954); Harold L. Wilensky, *The Professionalization of Everyone?*, 70 AM. J. SOC. 137, 144 (1964) (emphasizing the importance of standardized titles and university affiliation in the development of professional groups).

26 *See* STEPHANIE L. KIMBRO, THE CONSUMER LAW REVOLUTION xii (2013) (discussing the increasing importance of "branded networks" and "online brand development" for lawyers in the consumer market); *see also* Elizabeth Chambliss, *The Professionalization of Law Firm In-House Counsel*, 84 N.C. L. REV. 1515, 1518-19 (2006) (examining the institutionalization of the law firm in-house counsel position and coalescence around the title "law firm general counsel").

27 *See* REBECCA L. SANDEFUR & AARON C. SMYTH, ACCESS ACROSS AMERICA: FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT 12 (2011) [hereinafter ACCESS ACROSS AMERICA], *available at* http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf (discussing the "enormous variety" of civil legal assistance programs and the lack of systematic research and assessment); Catherine R. Albiston & Rebecca L. Sandefur, *Expanding the*

Empirical Study of Access to Justice, 2013 WIS. L. REV. 101, 102 (2013) (citations omitted) (discussing the increasing demand for assessment of legal service delivery to low- and middleincome consumers); CAPLOW, *supra* note 25, at 139-40 (discussing the importance of a unified title for professional self-regulation); Wilensky, *supra* note 25, at 144 (discussing name change as a means of separating competent from incompetent providers).

28 MAGALI SARFATTI LARSON, THE RISE OF PROFESSIONALISM: A SOCIOLOGICAL ANALYSIS 66 (1977) (discussing the process of collective mobility by which occupational groups seek to enhance their authority and social standing); Chambliss, *supra* note 26, at 1521 (discussing the importance of professional networks for the authority and independence of law firm general counsel).

29 *See* Albiston & Sandefur, *supra* note 27, at 104 (citing William L.F. Felstiner et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming ...*, 15 LAW & SOC'Y REV. 631, 631, 635-36 (1981)) (discussing the social construction of legal demand); Renee Newman Knake, *Democratizing Legal Education*, 45 CONN. L. REV. 1281, 1299 (2013) (discussing the potential role of law schools in increasing public demand for legal services); Sandefur, *supra* note 13, at 971 ("Institutions of remedy not only receive clients, they also *create* their clienteles."). Proponents use the example of nurse practitioners. *See* Crossland & Littlewood, *supra* note 6, at 613 (stating that the Washington LLLT initiative originally was inspired by the licensing of physician assistants and nurse practitioners in the medical field); Rigertas, *supra* note 19, at 105 (examining the rise of nurse practitioners as an example of how "a successful effort to carve out a broader scope of practice ... can expand consumer options").

30 *See* AM. BAR ASS'N COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 4 (1994) ("[E]ach state has a unique culture, a specific legal history, a distinct record of experience with nonlawyer activity and a current economic, political and social environment which will affect its approach to varied forms of nonlawyer activity."); ACCESS ACROSS AMERICA, *supra* note 27, at v (providing a state-by-state survey of civil legal resources finding significant diversity, fragmentation, and inequality between and within states). "At the national level and within most states, civil legal assistance is organized much like a body without a brain: it has many operating parts, but no guiding center." *Id.* at 21.

31 Rebecca L. Sandefur, *Money Isn't Everything: Understanding Moderate Income Households' Use of Lawyers' Services*, *in* MIDDLE INCOME ACCESS TO JUSTICE 222, 244 (Michael Trebilcock et al. eds., 2012) (reviewing research finding that most people with civil justice problems do not characterize their problems as "legal" or think of courts and lawyers as "appropriate providers of remedy").

32 *Id.* at 243 (discussing the importance of personal networks in finding a lawyer); Sandefur, *supra* note 13, at 950 (noting "widespread resignation" to personal legal problems).

33 *See Access to Justice & Technology: Everyone, Anytime, Anywhere*, NEOTA LOGIC (Apr. 16, 2014), http://blog.neotalogic.com/2014/04/16/access-to-justice-technology-everyone-anytimeanywhere/ (discussing the movement of legal technology entrepreneurs into the consumer market, including major players such as LegalZoom, Rocket Lawyer, Fastcase, and DirectLaw, as well as hundreds of legal start-ups).

34 *See* KIMBRO, *supra* note 26, at xii (discussing the need for lawyers to develop strategies for engaging the public online); Stephanie Kimbro, *The Engagement Game*, LEGALIT TODAY 31 (Mar. 2014), http://www.legalittoday.com/ (subscription required) (stating that "the lack of engagement with the public online" places lawyers at market disadvantage); Knake, *supra* note 29, at 1291 ("The unmet legal need for legal services must be channeled into a demand for legal services."); AM. BAR ASS'N STANDING COMM. ON THE DELIVERY OF LEGAL SERVICES, PERSPECTIVES ON FINDING PERSONAL LEGAL SERVICES: THE RESULTS OF A PUBLIC OPINION POLL 8 (2011) (reporting that only seven percent of Americans surveyed reported that they would use the Internet to find a lawyer).

35 For branding purposes, the LLLT title is problematic: it is difficult to say and it betrays a tension in the regulatory ambitions for the role. *See* Paula Littlewood, Exec. Dir., Wash. State Bar Ass'n, Remarks at NMRS Ctr. on Professionalism Research Roundtable on Limited Licensing (Feb. 27, 2014) [hereinafter Littlewood Remarks] (reporting that she pushed to keep the words "limited license" in the title to emphasize the profession's regulatory authority, but also that Washington plans to expand the scope of practice for LLLTs). The Washington bar refers to the title as "Triple LT." Hon. Barbara Madsen, Chief Justice, Washington Supreme Court,

Keynote Address at *South Carolina Law Review* Symposium: The Promise and Challenges of Limited Licensing (Feb. 28, 2014), *in* 65 S.C. L. REV. 533 (2014). Other jurisdictions considering the Washington model tend to use the simpler short title, "legal technician," which is a better candidate for adoption and standardization. *See Limited License Working Group*, *supra* note 10 (using the title "legal technician"); NEW YORK CITY BAR REPORT, *supra* note 4, at 2-3 (recommending the titles "courtroom aide" and "legal technician"); OSB TASK FORCE MINUTES, *supra* note 10 (noting that the Washington model "needs a better name").

36 *See* Brooks Holland, *The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice*, 82 MISS. L.J. 75, 90 (2013) (discussing the Washington State Bar Association Board of Governors' objections to the LLLT program); Robyn Hagan Cain, *Will California Threaten Lawyer Livelihood with Legal Technicians?*, GREEDY ASSOCIATES (Feb. 4, 2013, 12:01 PM), http://blogs.findlaw.com/greedy_associates/2013/02/will-california-threatenlawyer-livelihood-with-legal-technicians.html (discussing lawyers' concerns that limited licensing will threaten lawyers' livelihoods).

37 Anthony Duggan & Iain Ramsay, *Front-End Strategies for Improving Consumer Access to Justice*, *in* MIDDLE INCOME ACCESS TO JUSTICE 95, 96-97 (Michael Trebilcock et al. eds., 2012) (citing SUSSKIND, *supra* note 11, at 231) (distinguishing between "back-end" and "front-end" strategies for improving access to justice).

38 *See* Albiston & Sandefur, *supra* note 27, at 117 (noting that research shows "rich and poor alike" seldom turn to lawyers to solve their civil justice problems); Sandefur, *supra* note 13, at 954-55 (finding that cost plays only a minor role in people's decisions to take their problems to a lawyer); Jordan Furlong, *The Incidental Lawyer*, LAW21 (April 24, 2014), http://www.law21.ca/2014/04/incidental-lawyer/ (discussing the "lawyer irrelevance" crisis). With a few exceptions ... lawyers are simply not relevant to 80% to 85% of all individuals and businesses with legal issues. We're off the table: we're briefly considered and quickly dismissed. We need to recognize and absorb the fact that a huge amount of legal activity already takes place entirely without our involvement. *Id.*

39 ANDREW ABBOTT, THE SYSTEM OF PROFESSIONS: AN ESSAY ON THE EXPERT DIVISION OF LABOR 71-73 (1988) (discussing "subordination" as a strategy for extending professional authority). "The direct creation of subordinate groups has great advantages for the professions .... It enables extension of ... effort without division of ... perquisites. It also permits delegation of dangerously routine work. Most importantly, it settles the public and legal relations between incumbent and subordinate from the start." *Id.* at 72.

40 *See* Elizabeth Chambliss, *It's Not About Us: Beyond the Job Market Critique of U.S. Law Schools*, 26 GEO. J. LEGAL ETHICS 423, 440 (2013) (arguing that the expansion of "pre-J.D. training ... represents a strategic opportunity for law schools ... [and] could be of immense value to consumers with routine legal problems").

41 *See* Chambliss, *Two Questions*, *supra* note 21, at 348 (citations omitted) (discussing foreign demand for "American-style" graduate legal education); Chambliss, *supra* note 40, at 441 (discussing the need to "articulate a positive vision of unified J.D. training" in the face of increasing pressure for stratification).

42 *LLLT Board*, *supra* note 7.

43 WASH. ADMISSION TO PRACTICE R. 28(B)(4) (2014) (defining a Limited License Legal Technician as "a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations").

44 WASH. ADMISSION TO PRACTICE R. 28(C)(2) (defining the Board's responsibilities).

45 WASH. ADMISSION TO PRACTICE R. 28 app. Reg. 2 (defining the scope of domestic relations practice and prohibited acts for LLLTs).

46 WASH. ADMISSION TO PRACTICE R. 28(D)-(E) (defining education and licensing requirements); WASH. ADMISSION TO

PRACTICE R. 28 app. Reg. 3 (providing amended education requirements for applicants).

47 WASH. ADMISSION TO PRACTICE R. 28(D)(2).

48 WASH. ADMISSION TO PRACTICE R. 28 app. Reg. 12 (requiring proof of ability to respond in damages of at least $100,000 per claim and a $300,000 annual aggregate limit).

49 WASH. ADMISSION TO PRACTICE R. 28 app. Reg. 4 (defining the limited time waiver).

50 Crossland & Littlewood, *supra* note 6, at 612; Holland, *supra* note 36, at 92 (outlining the history of the LLLT rule, beginning in 2001, with the state supreme court's creation of the Practice of Law Board to investigate unauthorized practice of law complaints and recommend ways that nonlawyers can improve access to law-related services).

51 Holland, *supra* note 36, at 90 (noting that "a substantial portion of the WSBA strongly and publicly opposed the LLLT rule," and that the Washington State Supreme Court was divided, with three justices dissenting).

52 *See* WASH. ADMISSION TO PRACTICE R. 28(B)(4), *available at* http:// www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&groupName=ga&setName=apr&pdf=1 ("The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.").

53 *Limited License Legal Technician (LLLT) Board Meeting Minutes*, WASH. STATE BAR ASS'N, (Dec. 19, 2013), http://www.wsba.org/~/media/Files/Legal%20Community/Committees_Boards_Panels/LLLT%20Board/Meeting%20Materials/20131219%20Meeting%ĂMaterials.ashx [hereinafter *LLLT Board Meeting Minutes, Dec. 19, 2013*] ("The Board will begin exploring new practice areas in 2014."). Bar officials initially rejected immigration as an appropriate area of practice for legal technicians, but now reportedly are considering it as the next practice area to be implemented. *See* Holland, *supra* note 36, at 99 (discussing the initial study of potential practice areas for LLLTs); Littlewood Remarks, *supra* note 35 (reporting that the Board is considering immigration but awaiting developments in California).

54 Littlewood Remarks, *supra* note 35 (reporting that the LLLT Board was planning to amend the scope of practice rules to allow for negotiation and representation in some contexts); Madsen, *supra* note 35, at 543 (noting that, although the court has discussed amending the rule to allow for negotiation on behalf of clients, "[g]oing into court may be more controversial").

55 Madsen, *supra* note 35, at 542-43.

56 *LLLT Board Meeting Minutes, Dec. 19, 2013*, *supra* note 53 ("Adding a new practice area will make LLLTs more marketable and the profession financially viable."); *see also* APR 28 Decision, *supra* note 7, at 8 (stating "[n]o one has a crystal ball"); Kittay, *supra* note 10 (discussing possible practice models for LLLTs).

57 *See* Levin, *supra* note 16, at 2631 (citing 5 RONALD E. MALLEN & JEFFREY M. SMITH, LEGAL MALPRACTICE § 36:1 (2010)) (noting that lawyers are not required to have practice experience or take area-specific courses before representing clients, nor are they required to carry malpractice insurance, except in Oregon).

58 *See* Holland, *supra* note 36, at 90; Cain, *supra* note 36 (discussing lawyers' concerns that the LLLT initiative threatens lawyers' livelihoods).

59 *See* Richard Granat, *Limited Licensing of Legal Technicians: A Good Idea?* ELAWYERING BLOG (Sep. 21, 2013, 9:21 AM), http:// www.elawyeringredux.com/2013/09/articles/legal-education-1/limited-licensing-of-legal-technicians-a-good-idea/

(questioning the viability of a career as an LLLT given the "accelerating impact of Internet technology" on the market for personal legal services and the resulting downward pressure on fees for routine legal services); Kittay, *supra* note 10 (discussing proponents' concerns about the viability of private practice by legal technicians).

60 TASK FORCE ON CIVIL EQUAL JUSTICE FUNDING, THE WASHINGTON STATE CIVIL LEGAL NEEDS STUDY 23 (2003), *available at* http:// www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf (studying 1,333 low-income households in Washington and finding that "[l]ow-income people face more than 85 percent of their legal problems without help from an attorney"); Hadfield, *supra* note 12, at 139, 142 (reviewing the findings of state and national U.S. legal needs studies).

61 *See* Granat, *supra* note 59; Kittay, *supra* note 10 (quoting Joseph L. Dunn, Exec. Dir., State Bar of Cal.) (noting that independent legal technicians would face the same financial pressures as solo practitioners).

62 *See* Stephen R. Crossland, Chair, Wash. State Bar Ass'n Limited License Legal Technician Bd., Remarks at Research Roundtable on Limited Licensing (Feb. 27, 2014) [hereinafter Crossland Remarks] (discussing the per-credit costs of community college ($100) and online LLLT courses ($250) versus law school ($600) in Washington); Rigertas, *supra* note 19, at 82 (suggesting that, with less educational debt, limited license practitioners "might be able to charge fees that are more affordable to low- and middle-income people"); *see also* Rebecca L. Sandefur, *The Face of Access to Justice: Diversity, Debt and Aspiration among American Lawyers*, IILP REV. 2013-2014: THE STATE OF DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION (Elizabeth Chambliss, ed., forthcoming) (discussing the role of educational debt in dissuading early-career lawyers from solo and small firm practice).

63 *See* Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 112, 114-15 & tbl.1, 123 (Pascoe Pleasence et al. eds., 2007)) (study finding that Americans frequently do nothing in response to legal problems, even when taking action would cost no money); Granat, *supra* note 59 ("There is an issue of connecting consumers with lawyers--but it is becoming less of a price issue and more of an 'engagement' issue.").

64 *See* Hadfield, *supra* note 18 (discussing regulatory barriers to "quality-improving and cost-reducing innovations" in legal service delivery); Will Hornsby, *CodeX FutureLaw 2014: Ethics*, ELAWYERING BLOG (May 16, 2014), http://www.elawyeringredux.com/2014/05/articles/legal-ethics-1/codex-futurelaw-2014-ethics/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed% 3A+eLawyeringBlog+%28eLawyering+Blog%29 (discussing regulatory obstacles to online service delivery).

65 *See* Richard Granat, *The Latent Market for Legal Services: Closing the Justice Gap*, SLIDESHARE, http://www.slideshare.net/rgranat/latent-market-for-legal-services (estimating the latent market for consumer legal services at $45 billion); Gillian Hadfield, *Lawyers, Make Room for Nonlawyers*, CNN (Nov. 25, 2012, 12:25 PM), http://www.cnn.com/2012/11/23/opinion/hadfieldlegal-profession/index.html (estimating the latent market for personal legal services at "tens if not hundreds of billions of dollars").

66 *See* Knake, *supra* note 18, at 2 ("One of the most significant problems faced by the legal profession in the twenty-first century is the ineffective delivery of legal services."); Hadfield, *supra* note 12, at 132 (noting that, while most corporate legal work is before-the-fact, "for ordinary citizens in the U.S., there is almost no functioning legal system in this ex ante sphere").

67 *See* MODEL RULES OF PROF'L CONDUCT R. 5.4(a) (prohibiting lawyers from sharing legal fees with nonlawyers); *id.* R. 5.4(d) (prohibiting lawyers from practicing "with or in the form of a professional corporation or association authorized to practice law for a profit, if a nonlawyer owns any interest therein"); *see also* Knake, *supra* note 18, at 8 (discussing the effect of the ban on corporate ownership and investment on the consumer legal market).

68 Legal Services Act, 2007, c. 29 (U.K.), *available at* http:// www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070029_en.pdf (authorizing the Legal Services Board to license alternative business structures). For a survey and assessment of alternative business structures licensed in the U.K. to date, see Chris Kenny, Chair, U.K. Legal Services Bd., Conference Presentation at Harvard Law School: The Role of Regulation and Innovation (Mar. 6, 2014), *available at* http://www.legalservicesboard.org.uk/news_publications/speeches_presentations/2014/20140307_Harvard_Draft_5.pdf.

69 *See* Kittay, *supra* note 10 (quoting Joseph L. Dunn, Exec. Dir., State Bar of Cal.) (stating "the best place for technicians ... could be as part of a provider such as LegalZoom"); Littlewood Remarks, *supra* note 35 (reporting that Washington is studying the possibility of nonlawyer ownership in the context of LLLT practice).

70 Dunn Remarks, *supra* note 19 (predicting that California will amend its rule prohibiting nonlawyer ownership); *see also* Jacoby & Meyers, LLP v. Presiding Justices, No. 12-1377-cv (2d Cir. Nov. 21, 2012) (challenging Rule 5.4 on First Amendment grounds).

71 Littlewood Remarks, *supra* note 35.

72 Crossland Remarks, *supra* note 62.

73 *See* Holland, *supra* note 36, at 128-29 ("Washington State's legal technician program may not be perfect, and it will not solve the access to justice problem entirely .... [But] Washington State has established a rich resource from which other states can work."); Madsen, *supra* note 35, at 544 (reporting "signs of enthusiasm" for the Washington LLLT initiative at the Conference of Chief Justices and stating that she is "optimistic that the Triple LT program will be a model that others can emulate"); *see also* Rigertas, *supra* note 19, at 128 (noting two advantages of judicial rulemaking for expanding nonlawyer licensing, namely that "it allows the courts to retain control over the scope of regulation of legal services, which resolves any separation of powers concerns," and "it allows the judicial branch to be in a leadership position regarding access to justice, which is a fitting role").

74 Littlewood Remarks, *supra* note 35.

75 *See, e.g.*, NMRS CTR. ON PROFESSIONALISM RESEARCH ROUNDTABLE ON LIMITED LICENSING, UNIV. OF S.C. SCH. OF LAW (Feb. 27, 2014). For a list of speakers and participants at the Roundtable, see *Research Roundtable on Limited Licensing*, UNIV. OF S.C. SCH. OF LAW (last visited May 13, 2014), http:// professionalism.law.sc.edu/conferences/20140227-roundtable.shtml.

76 *See* Kathleen Eleanor Justice, *There Goes the Monopoly: The California Proposal to Allow Nonlawyers to Practice Law*, 44 VAND. L. REV. 179, 194 (1991) (stating that the 1990 proposal by the State Bar of California Commission on Legal Technicians was "heavily influenced" by the Washington LPO rule). *See* WASH. ADMISSION TO PRACTICE R. 12(a) (allowing LPOs to "select, prepare, and complete legal documents incident to the closing of real estate and personal property transactions").

77 *See* Amy Yarbrough, *Limited-Practice License Idea Faces Challenging Path*, CAL. ST. B.J. (May 2013), *available at* http:// www.calbarjournal.com/May2013/TopHeadlines/TH1.aspx (noting that California studied the idea of licensing legal technicians in the 1980s and 1990s, but ""[n]othing came to fruition").

78 *See generally 2014 Supreme Court Appointment Board of Trustees*, STATE OF CAL. BAR, http:// www.calbar.ca.gov/AboutUs/BoardofTrustees/SupremeCourtAppointments.aspx (last visited June 12, 2014); S. 163, 2011 Reg. Sess. (Cal. 2011), *available at* http://legiscan.com/CA/text/SB163/2011.

79 STATE OF CAL. BAR LTD. LICENSE WORKING GRP., AGENDA ITEM (Feb. 20, 2013), *available at* http:// board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000010373.pdf; *see also* Laura Ernde, *State Bar to Look at Limited-practice Licensing Program*, CAL. ST. B.J. (Feb. 2013), *available at* http:// www.calbarjournal.com/February2013/TopHeadlines/TH1.aspx.

80 STATE OF CAL. BAR LTD. LICENSE WORKING GRP., AGENDA ITEM *30-2*: EXPANDING STUDY OF THE CAUSES, EFFECTS, AND POSSIBLE SOLUTIONS TO ACCESS TO JUSTICE CHALLENGES IN CALIFORNIA (Jul. 19, 2013), *available at* http:// board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000011084.pdf (reporting the Board's approval); Dunn Remarks, *supra* note 19 (reporting that the Board was unanimous).

81 STATE OF CAL. BAR LTD. LICENSE WORKING GRP., AGENDA ITEM *III.A.*: WORKING GROUP RECOMMENDATION: SUPPORT OF LIMITED LICENSE PROGRAM AND POSSIBLE GOVERNANCE STRUCTURES, AT 1 (Jun. 17, 2013), *available at* http:// board.calbar.ca.gov/Agenda.aspx?id=10692&tid=0&show=100007193#10011303.

82 *Id.* at 3.

83 *Id.*

84 Dunn Remarks, *supra* note 19 (stating that California wants to allow court appearances and negotiation, as well as advising).

85 *Civil Justice Strategies Task Force*, STATE BAR OF CAL. http:// www.calbar.ca.gov/AboutUs/BoardofTrustees/CivilJusticeStrategiesTaskForce.aspx.

86 *Licensed Legal Technicians Task Force Minutes*, OR. STATE BAR (Jul. 27, 2013) http://bog11.homestead.com/LegalTechTF/July27/Minutes27July13.pdf.

87 *Licensed Legal Technicians Task Force Minutes*, OR. STATE BAR (Sep. 20, 2013), http://bog11.homestead.com/LegalTechTF/Sept20/Minutes20Sep13.pdf.

88 *Licensed Legal Technicians Task Force Minutes*, OR. STATE BAR (Jul. 27, 2013), http://bog11.homestead.com/LegalTechTF/July27/Minutes27July13.pdf.

89 *Legal Technicians Task Force 2013 Agenda*, OR. STATE BAR (Jan. 24, 2013), http://bog11.homestead.com/LegalTechTF/Jan24/agenda24Jan.pdf.

90 Joel Stashenko, *Non-lawyers May Get Role in Closing New York's "Justice Gap,'* N.Y. L.J. (May 30, 2013).

91 TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 39 (Nov. 2012) [hereinafter 2012 N.Y. TASK FORCE REPORT], *available at* http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLSTaskForceREPORT_Nov-2012.pdf.

92 Jonathan Lippman, *The State of the Judiciary 2014: Vision and Action in Our Modern Courts*, N.Y. STATE UNIFIED COURT SYS. 8 (2014), https:// www.nycourts.gov/ctapps/soj2014.pdf (announcing the pilot program).

93 *Id.* at 9.

94 NEW YORK CITY BAR REPORT, *supra* note 4, at 2. Courtroom aides would be permitted "to assist litigants in proceedings before selected courts and agencies, subject to varying degrees of regulation and oversight." *Id.* at 2-3.

95 *Id.* at 3 ("This concept already has been adopted by the Supreme Court of Washington State. Trained and trained and licensed nonlawyers would be allowed to provide for a fee certain specified services--e.g., explaining procedures, gathering facts and documents, and assisting in the completion of court forms--but would not be allowed to participate in court hearings.").

96 *Id.* at 3 (stating "a number of currently unfulfilled tasks can be performed by someone without special training, or with a level of training below that of an attorney, subject to varying degrees of regulation and oversight" and that "the Committee sees an urgent need to examine greater possibilities for providing nonlawyer assistance").

97 *Id*. at 1 ("The Committee applauds this initiative.").

98 *Id*. at 4.

99 Lippman, *supra* note 92, at 9.

100 NEW YORK CITY BAR REPORT, *supra* note 4, at 3 (stating that the recognition of legal technicians "may require changes in existing law").

101 *Id*. at 2 ("The line between providing information or administrative assistance on the one hand, and legal advice or advocacy on the other, may not always be clear, but the Committee sees an urgent need to examine the issue ....").

102 *Id*. at 3.

103 *Id*.

104 *Id*. at 30 ("Our current proposal should not be viewed as attempting to modify any tribunal's existing regime for nonlawyer advocacy.").

105 *Id*. at 2-3.

106 *Id*. at 3.

107 *Id*. at 31 ("A basic premise of the Committee's approach is that each tribunal should retain discretion to tailor its regulation in accordance with the special features of its caseload and jurisdiction.").

108 Most studies define legal needs as problems or disputes that can be resolved through the civil justice system--such as problems with personal finances, housing, and domestic relations. *See, e.g.*, AM. BAR ASS'N, LEGAL NEEDS AND CIVIL JUSTICE: A SURVEY OF AMERICANS, MAJOR FINDINGS FROM THE COMPREHENSIVE LEGAL NEEDS STUDY 11 (1994) [hereinafter ABA LEGAL NEEDS STUDY] *available at* http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/sclaid/legalneedstudy.authcheckdam.pdf (defining legal needs); HAZEL GENN, PATHS TO JUSTICE: WHAT PEOPLE DO AND THINK ABOUT GOING TO LAW 12 (1999) (using the term "justiciable events"). Studies typically measure whether such needs are met according to whether people seek help from a lawyer or other third party. *See, e.g.*, ABA LEGAL NEEDS STUDY, *supra*, at 17; Hadfield, *supra* note 12, at 134-42 (providing a comparative summary of the results of legal needs studies in the United States and elsewhere).

109 *See* Sandefur, *supra* note 13, at 950; Sandefur, *supra* note 31, at 234 (describing a pattern of pervasive "alegality" in people's responses to civil justice problems); *see also* Bridgette Dunlap, *Anyone Can "Think Like a Lawyer": How Lawyers' Monopoly on Legal Understanding Undermines Democracy and the Rule of Law in the United States*, 82 FORDHAM L. REV. 2817, 2817 (2014) (arguing that access to justice requires increasing the basic legal knowledge of nonlawyers); Knake, *supra* note 29, at 1297 (calling for public education to help people recognize legal problems and potential solutions).

110 *See* Sandefur, *supra* note 13, at 965 (comparing the institutions of remedy available for civil justice problems in the United States versus the United Kingdom). According to Sandefur:
The United States provides law, administrative agencies, and a patchwork of other resources that are limited in the assistance they

can provide with legal problems and are available only in some localities. The United Kingdom provides law, administrative agencies, government ombudsmen, and highly visible, nationally distributed auxiliary resources that can provide legal advice as well as information and referrals.
Id. at 967.

111 *Id.* at 967; *see also* Knake, *supra* note 18, at 7-8 (discussing the effects of regulatory prohibitions on the development of the consumer legal market).

112 *See, e.g.*, Knake, *supra* note 18, at 40 (discussing the potential benefits of retail partnerships such as those recently introduced in the United Kingdom).

113 *See* Hadfield, *supra* note 13, at 4 ("[T]here is no way to generate the kind of legal help that ordinary [people] need solely through the expenditure of public money on legal aid and the provision of pro bono and other charitable assistance. No way. Any solution ... will also have to involve expanding the types of people and organizations that are authorized to provide legal help.").

114 Littlewood Remarks, *supra* note 35.

115 WASH. ADMISSION TO PRACTICE R. 28 app. Reg. 10E.

116 *Limited License Legal Technician (LLLT) Board Meeting Minutes*, WASH. STATE BAR ASS'N, (Apr. 17, 2014), http:www.wsba.org/~/media/Files/Legal% 20Community/Committees_Boards_Panels/LLLT%20Board/Minutes/2014-04-17%20Meeting% 20Minutes.ashx (reporting that the RPC Subcommittee is "almost done with the rules and has taken action on almost all titles").

117 *See* WASH. ADMISSION TO PRACTICE R. 28(B)(4).

118 *See* Madsen, *supra* note 35, at 537 (discussing federal cutbacks in legal aid funding); *id.* at 540 (discussing unstable county funding for Washington's court facilitator program); *Licensed Legal Technicians Task Force Minutes*, OR. STATE BAR (Jul. 27, 2013), http:// bog11.homestead.com/LegalTechTF/July27/Minutes27July13.pdf (reporting a fifty-percent decline in funding for court facilitators).

119 *See supra* notes 61-64 and accompanying text.

120 *See Washington Supreme Court Adopts Limited Practice Rule for "'Legal Technicians,"* ACCESS TO JUST. WEB (July 16, 2012), http:// www.atjweb.org/washington-supreme-court-adoptslimited-practice-rule-for-legal-technicians/ (noting the concerns of local legal services organizations about potential unintended consequences of the Washington rule); Engler, *supra* note 13, at 152, 159 (discussing the civil right to counsel movement and urging the recognition of a civil right to counsel for the most vulnerable litigants).

121 *See* Granat, *supra* note 59 (questioning the viability of the LLLT model); Levin, *supra* note 16, at 2631 ("It is not clear why [LLLTs] should not be permitted to do more for clients--including negotiate for clients and appear in certain courts.").

122 Navigators are permitted to accompany litigants into the courtroom and respond to factual questions from a judge. Lippman, *supra* note 92 (describing the scope of practice for navigators). Under current regulation, family law LLLTs are not permitted to speak on behalf of clients or represent them in court. WASH. ADMISSION TO PRACTICE RULE 28 app. Reg. 2 (defining the scope of domestic relations practice and prohibited acts for LLLTs).

123 Lippman, *supra* note 92 (stating only that navigators will "receive training" to provide pro bono assistance to unrepresented litigants); *see also Court Navigators*, UNIV. SETTLEMENT, http://

www.universitysettlement.org/us/programs/project_home/court_navigators/ (describing the navigator pilot project in Brooklyn Housing Court).

124 *See* Knake, *supra* note 18, at 6 n.28 (noting that Wal-Mart already offers such services as optometry and banking); Ylan Q. Mui, *Retailers Take on New Role: Banker*, WASH. POST, Feb. 1, 2011, at A12 (stating that "Wal-Mart has opened roughly 1,500 MoneyCenters that process as many as 5 million transactions each week"); *see also* Knake, *supra* note 29, at 1288 (citing Stephanie Clifford & Jessica Silver-Greenberg, *On the New Shopping List: Milk, Bread, Eggs and a Mortgage*, N.Y. TIMES, Nov. 14, 2012, at A1) (reporting that Costco offers home mortgages and insurance).

125 *See* Marsha M. Mansfield & Louise G. Trubek, *New Roles to Solve Old Problems*, 56 N.Y.L. SCH. L. REV. 367, 373-74 (2011-2012) (discussing the more than 200 medical-legal partnerships in which lawyers are integrated into health care settings "to help patients navigate the complex government and community systems that often hold solutions to many social determinants of health").

126 *See Circuit Riders Outreach Program*, UNIV. OF S.C. SCH. OF LAW, http://www.law.sc.edu/library/circuit_riders/ (providing workshops to teach legal research skills to public and academic librarians); *see also* RICHARD ZORZA, THE SUSTAINABLE 21ST CENTURY LAW LIBRARY: VISION, DEPLOYMENT AND ASSESSMENT FOR ACCESS TO JUSTICE 16 (2012), *available at* http:// www.zorza.net/LawLibrary.pdf (discussing the role of public law libraries in providing legal information and services to self-represented litigants); *Access to Justice Special Committee*, AM. ASS'N OF LAW LIBRARIANS, http:// www.aallnet.org/main-menu/Leadership-Governance/committee/activecmtes/accessjustice.html (describing an American Association of Law Librarians committee to "identify and evaluate existing law library programs and strategies for enhancing citizens' access to the justice system").

127 *See, e.g.*, LEGALZOOM, http://www.legalzoom.com/ (offering personal and business legal services online, with telephone assistance from "Customer Care Specialists"); Knake, *supra* note 18, at 6-7 (speculating about Google's entry into the legal services market).

128 *See* Knake, *supra* note 29, at 1296 (discussing online and retail businesses such as the Co-Operative Legal Services, Legal365, QualitySolicitors, and Riverview Law).

129 *See id.* (citing Lorraine Sanders, *Inside the Curious Bricks-and-Mortar Store for Legal Advice, Books, Tablets*, FAST COMPANY (Mar. 27, 2013), http://www.fastcompany.com/3007499/tech-forecast/inside-curious-bricks-and-mortar-store-legal-advice-books-tablets) (discussing the LegalForce Bookflip store in Palo Alto, where customers can purchase books, tablets, and legal advice); Daniel Fisher, *Entrepreneurs Versus Lawyers*, FORBES, Oct. 24, 2011, at 76, *available at* http://www.forbes.com/forbes/2011/1024/entrepreneurs-lawyers-suh-legalzoom-automate-daniel-fisher.html (discussing the launch of LegalZoom in 2001).

130 *See* Hornsby, *supra* note 64 (discussing LegalZoom's state-by-state strategy for challenging restrictive regulation).

131 *See* Henderson, *supra* note 11 (discussing nonlawyer investment in corporate legal and law-related services).

132 *EDiscovery Market is Expected to Reach USD 9.9 Billion Globally in 2017: Transparency Market Research*, PR WEB, Aug. 6, 2013, http:// www.prweb.com/releases/2013/8/prweb11000853.htm.

133 *See* SUSSKIND, *supra* note 11, at 1 (arguing that the legal profession "is on the brink of a fundamental transformation"); Knake, *supra* note 29, at 1293 (suggesting that the United States is at a tipping point for wide-scale adoption of new models for delivering legal services).

134 Knake, *supra* note 18, at 17 (arguing that current restrictions on unauthorized practice and nonlawyer investment in legal services are vulnerable to First Amendment challenges).

135 *See* Winston & Crandall, *supra* note 18 (calling for an end to lawyer licensing); *Unlocking the Law: Deregulating the Legal Profession*, TRUTH ON THE MARKET (Sept. 20-21, 2011), http://truthonthemarket.com/unlocking-the-law-symposium/ (presenting various proposals from an online symposium about the deregulation of legal services).

136 Winston & Crandall, *supra* note 18 ("Occupational licensing limits competition and raises the cost of legal services."); *see also* Morris M. Kleiner, Op-Ed., *Why License a Florist?*, N.Y. TIMES, May 29, 2014, at A35 (criticizing the "explosion of licensing laws" since the 1970s for restricting labor markets, innovation, and worker mobility).

137 *See* John O. McGinnis & Russell D. Mangas, Op-Ed., *First Thing We Do, Let's Kill All the Law Schools*, WALL ST. J., Jan. 17, 2012, at A15 (recommending that colleges be allowed to offer law as an undergraduate degree); Karen Sloan, *Plaintiffs' Firms Target Another 20 Law Schools, Alleging Fraud*, NAT'L L.J. (Mar. 14, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202545575181&Plaintiffs_firms_target_another__law_schools_alleging_fraud (discussing class action lawsuits against lower-ranked law schools alleging fraud in law school marketing materials); Bernie Burk, *Proliferation of Pre-JD Master's Programs Casts Doubt on the Value of "JD Advantaged" Employment*, THE FACULTY LOUNGE (May 22, 2013, 12:35 PM), http://www.thefacultylounge.org/2013/05/proliferation-of-pre-jd-masters-programs-casts-doubt-on-the-value-of-jd-advantaged-employment.html (questioning whether the proliferation of pre-J.D. master's degrees is "just another case of More Universities that Like to Collect Tuition").

138 *See* Winston & Crandall, *supra* note 18 ("Every other U.S. industry that has been deregulated, from trucking to telephones, has lowered prices for consumers without sacrificing quality.").

139 *See* ABA NONLAWYER STUDY, *supra* note 14, at 32-56; NEW YORK CITY BAR REPORT, *supra* note 4, at 12-27 (surveying various regimes for service delivery by nonlawyers and paralegals).

140 *See* Sandefur, *supra* note 13, at 966 (noting that Americans' access to nonlawyer assistance with civil justice problems "depends largely upon where they live").

141 *See* Holland, *supra* note 36, at 90 (discussing the Washington State Bar Association Board of Governors' objections to the LLLT program); Cain, *supra* note 36 (noting that the California limited license proposal "may not be popular among lawyers").

142 *See* Henderson, *supra* note 11, at 6 (discussing the de facto expansion of nonlawyer investment in corporate legal services).

143 *See* Rhode, *supra* note 18, at 537 (noting that low-income clients "may not always have sufficient information or sense of entitlement" to question the adequacy of the legal aid that they receive); Sandefur, *supra* note 31, at 241-42 (discussing the importance of personal networks for finding and selecting attorneys, despite the expansion of Web-based services); Hornsby, *supra* note 64 (cautioning proponents of deregulation to "[b]e careful what you wish for" and predicting industry capture of routine legal services).

144 *See, e.g.*, Paul T. Hayden, *Putting Ethics to the (National Standardized) Test: Tracing the Origins of the MPRE*, 71 FORDHAM L. REV. 1299, 1321 (2003) (discussing calls for a national bar exam on efficiency and quality grounds); Andrew M. Perlman, *A Bar Against Competition: The Unconstitutionality of Admission Rules for Out-of-State Lawyers*, 18 GEO. J. LEGAL ETHICS 135, 139 (2004) (arguing that state barriers to the admission of out-of-state lawyers are both socially undesirable and unconstitutional); Fred C. Zacharias, *Federalizing Legal Ethics*, 73 TEX. L. REV. 335, 385-86 (1994) (discussing the legal profession's commitment to unified ethics rules); *see also* Hadfield, *supra* note 13, at 4 (noting that the scale of demand for routine legal assistance is a great virtue because "it is possible to come up with relatively standardized approaches that will suit the needs of many people").

145 *See* CAPLOW, *supra* note 25, at 139-40 (discussing the importance of unified titles and training for professional self-regulation); WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 185-86 (Carnegie Found. for the Advancement of Teaching 2007) (identifying professional socialization as a positive feature of unified J.D. training); Elizabeth Chambliss, *Chambliss on Law School Socialization and Sorting*, NEW LEGAL REALISM CONVERSATIONS (Mar. 20, 2013), http://newlegalrealism.wordpress.com/2013/03/20/chambliss-onlaw-school-socialization-and-sorting/ (urging legal education reformers

not to lose sight of questions about professional socialization and identity formation).

146 *See* LARSON, *supra* note 28 (discussing the "professional project" of collective mobility by which occupational groups seek to enhance their authority and market position).

147 Graham, *supra* note 1.

148 *See* Crossland & Littlewood, *supra* note 6, at 613; Madsen, *supra* note 35, at 533-34 (discussing concerns about unauthorized practice).

149 *See* ABBOTT, *supra* note 12, at 15 (discussing the functional explanation for professional self-regulation); CHARLES WOLFRAM, MODERN LEGAL ETHICS 828-34 (1986) (explaining the justifications for unauthorized practice legislation); Talcott Parsons, *Equality and Inequality in Modern Society, or Social Stratification Revisited*, *in* SOCIAL STRATIFICATION: CLASS, RACE, & GENDER IN SOCIOLOGICAL PERSPECTIVE 670, 679 (David B. Grusky ed., 1994) (arguing that professional regulation is justified by the "competence gap" between professionals and laymen); *see also* State v. Sperry, 140 So. 2d 587, 595 (Fla. 1962) ("The reason for prohibiting the practice of law by those who have not been examined and found qualified to practice is frequently misunderstood. It is not done to aid or protect members of the legal profession either in creating or maintaining a monopoly or closed shop. It is done to protect the public from being advised and represented in legal matters by unqualified persons over whom the judicial department can exercise little, if any, control ...."), *vacated*, Sperry v. State of Florida *ex rel*. Florida Bar, 373 U.S. 379 (1963).

150 *See, e.g.*, Legal Services Act, 2007, c. 29, § 1 (U.K.), *available at* http://www.opsi.gov.uk/acts/acts2007/ukpga_20070029_en_2#ptl-llgl (defining a central objective of the act as "promoting the interests of consumers" through market liberalization).

151 *See* Hadfield, *supra* note 12, at 133 ("Empirically, we lack any real data on the quantity or quality of legal services available to ordinary individuals .... Indeed, we could say that the utter lack of attention to the size and vitality of the legal markets serving ordinary individuals in the conduct of their everyday lives in a law-thick world is itself testament to how the profession has defined these markets out of existence."); Rhode, *supra* note 18, at 533 (citations omitted) ("Although the importance of evidence-based practice has gained widespread recognition in other contexts, its application to the United States justice system has lagged behind.").

152 *See* ACCESS ACROSS AMERICA, *supra* note 27, at v ("States exhibit a great diversity of models for delivering civil legal assistance ...."); *id.* at 13 (mapping states' use of salaried legal aid offices, organized civil pro bono programs, legal information and advice hotlines, court forms and information on court websites, courthouse staffed self-help centers and computer kiosks to assist pro se litigants, judicare programs, courthouse lawyer-for-a-day programs, and high volume law school clinics); Rhode, *supra* note 18, at 535-42 (examining the many delivery models for personal legal services and the inadequacies of existing data).

153 *See* Rhode, *supra* note 18, at 541 ("The limited data available suggest that many routine needs of low- and middle-income people could be met by those with less expensive educational preparation."); Holland, *supra* note 36, at 109 (discussing the "positive track record" of nonlawyer providers in Arizona and California); Levin, *supra* note 16, at 2619 (review of research comparing lawyers to nonlawyer practitioners in specific contexts provides "little evidence to support the legal profession's claims of superiority"); NEW YORK CITY BAR REPORT, *supra* note 4, at 10 (reviewing evidence that some types of routine legal assistance "could be performed effectively by nonlawyers with some degree of training, or even by untrained but intelligent laypersons").

154 *See* ABA NONLAWYER STUDY, *supra* note 14, at 43; Levin, *supra* note 16, at 2619 (discussing nonlawyer delivery of legal services to the public).

155 Levin, *supra* note 16, at 2629 (finding "scant evidence" that lawyers' personalities or psychological characteristics make them ethically superior to nonlawyer representatives).

156 *See* Richard Zorza, *Progress in Three States on Non-lawyer Access Innovations*, RICHARD ZORZA'S ACCESS TO JUSTICE

BLOG (Apr. 4, 2014), http:// accesstojustice.net/2014/04/04/progress-in-three-states-on-non-lawyer-access-innovations/ ("I am particularly concerned that we are able to do good evaluations that are built on a common approach, at least asking the same questions, and using data that is sufficiently similar that real comparisons of the costs and benefits of different approaches can be made.").

157 WASH. ADMISSION TO PRACTICE R. 28(D)-(E) (defining LLLT education and licensing requirements).

158 *See supra* note 73 and accompanying text.

159 *See* Rigertas, *supra* note 19, at 106 (citing MATHY D. MEZEY & DIANE O. MCGIVERN (eds.), NURSES, NURSE PRACTITIONERS: EVOLUTION TO ADVANCED PRACTICE 269 (1993)) (discussing the American Nurses Association model definition of nursing).

160 *Id*. at 108-09 (discussing the legislative campaign to recognize nurse practitioners); *see also* Crossland & Littlewood, *supra* note 6, at 613 (stating that the LLLT initiative was modeled after the licensing of physician assistants and nurse practitioners).

161 AM. BAR ASS'N, SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, STANDARDS AND RULES OF PROCEDURES FOR APPROVAL OF LAW SCHOOLS (2013-2014), *available at* http:// www.americanbar.org/content/dam/aba/publications/misc/legal_ education/Standards/2013_2014_final_aba_standards_and_rules_of_procedure_for_ approval_of_law_schools_body.authcheckdam.pdf.

162 *See, e.g.*, *Best Law Schools*, U.S. NEWS & WORLD REP., *available at* http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings?int=992008 (last visited Jun. 8, 2014). Calling all futurists: What year will *U.S. News & World Report* begin ranking law schools' legal technician programs? (A) Never, because the J.D. market will recover and most law schools will not offer paraprofessional training. (B) Never, because the J.D. market will be further disrupted and *U.S. News* will go defunct. (C) Never, because in a liberalized market, organizational providers will train their own employees without the involvement of professional institutions. *See* Hornsby, *supra* note 64 (warning of industry capture of routine legal services); Chambliss, *Organizational Alliances*, *supra* note 21, at 2616 (citing James Faulconbridge, *Alliance "Capitalism" and Legal Education: An English Perspective*, 80 FORDHAM L. REV. 2651 (2012)) (discussing the move toward proprietary training of lawyers in the United Kingdom).

163 *See supra* notes 46-49 and accompanying text (discussing the admission requirements for LLLTs).

164 *See supra* notes 59-66 and accompanying text (discussing the financial viability of the LLLT model).

165 *See supra* note 7.

166 Littlewood Remarks, *supra* note 35.

167 U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, OCCUPATIONAL OUTLOOK HANDBOOK: PARALEGALS AND LEGAL ASSISTANTS, http:// www.bls.gov/ooh/legal/paralegals-and-legal-assistants.htm (last visited Jun. 8, 2014).

168 *Id.*

169 *Id.*

170 U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS, http://www.bls.gov/ooh/legal/lawyers.htm (last visited Jun. 8, 2014).

171 U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, OCCUPATIONAL OUTLOOK HANDBOOK: PARALEGALS AND LEGAL ASSISTANTS, http:// www.bls.gov/ooh/legal/paralegals-andlegal-assistants.htm (last visited Jun. 8, 2014).

172 *See* Susan Mae McCabe, *The Paralegal Profession: A Brief History of the Paralegal Profession*, 86 MICH. BAR J. 18, 19 (2007) (citing CAL. BUS. & PROF. CODE § 6450-6456, *available at* http:// leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=3.&title=&part=&chapter=5.6.&article=). California also licenses "legal document assistants," who are authorized to provide factual information and document preparation assistance to self-represented parties without the supervision of a lawyer. *See supra* note 19 and accompanying text.

173 *See* McCabe *supra* note 172, at 19; Rigertas, *supra* note 19, at 106 n.142.

174 *See* McCabe *supra* note 172, at 19 (discussing voluntary certification programs).

175 *Certification*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http:// www.nala.org/Certification.aspx (last visited Jun. 8, 2014) (stating that "[a]s of March 2014, there are 17,822 Certified Paralegals and over 3,000 Advanced Certified Paralegals in the United States").

176 *About NFPA--History of NFPA*, NAT'L FED. OF PARALEGAL ASS'NS, http://www.paralegals.org/default.asp?page=76 (last visited Jun. 8, 2014) (discussing the Paralegal Advanced Certification Exam); *see also The History of the National Federation of Paralegal Associations, Inc. (NFPA)*, NAT'L FED. OF PARALEGAL ASS'NS, *available at* http://www.paralegals.org/default.asp?page=76 (download the "History of NFPA" PDF file for the history of the association since its founding in 1974). NFPA represents more than 50 paralegal associations and more than 9,000 individual members. *About NFPA: Introduction*, NAT'L FED. OF PARALEGAL ASS'NS, http://www.paralegals.org/default.asp?page=1 (last visited Jun. 8, 2014).

177 *About NALA & Join*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http:// www.nala.org/Aboutnala.aspx (last visited Jun. 8, 2014).

178 *Applying for the Exam and Form Requirements*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http://www.nala.org/app-applying.aspx (last visited Jun. 8, 2014) (follow the "Guide to this Section, Booklets, Links, and Forms" hyperlink under the "Certification" tab, then select the "Applying for the Exam and Form Requirements" hyperlink).

179 McCabe, *supra* note 172, at 21.

180 *Id.*

181 *Id.* at 20.

182 *Id.* at 21.

183 AM. BAR ASS'N STANDING COMM. ON PARALEGALS, DIRECTORY OF ABA APPROVED PARALEGAL EDUCATION PROGRAMS [hereinafter ABA APPROVED PARALEGAL PROGRAMS], http:// apps.americanbar.org/legalservices/paralegals/directory/allprograms.html (last visited Jun. 8, 2014).

184 *See* Stephen A. Rosenbaum, *The Juris Doctor Is* In*: Making Room at Law School for Paraprofessional Partners*, 75 TENN. L. REV.

315, 318-19 & nn.17-18 (2008) (citing Brief for National Paralegal Institute as Amicus Curiae Supporting Respondents, Procunier v. Martinez, 414 U.S. 973 (1973) (No. 72-1465), 1973 WL 171721) (discussing pilot programs for paralegal training at Boston College, Columbia University, and University of Denver in the 1970s).

185 ABA APPROVED PARALEGAL PROGRAMS, *supra* note 183 (providing an alphabetical list of programs).

186 *Paralegal Program*, CAPITAL UNIV. LAW SCH., http:// law.capital.edu/Paralegal/ (last visited Jun. 8, 2014). The program was founded in 1972. *Paralegal Director's Welcome*, CAPITAL UNIV. LAW SCH., http:// law.capital.edu/ParalegalDirectorsWelcome/ (last visited Jun. 8, 2014). In 2001, Capital also established a Legal Nurse Consultant program. *Id.*

187 *Legal Assistant Education*, UNIV. OKLAHOMA LAW CENTER, http:// www.law.ou.edu/content/legal-assistant-education (last visited Jun. 8, 2014) (stating that the program was established in 1968).

188 *Paralegal/LNC*, WIDENER UNIV. SCH. LAW, http:// law.widener.edu/paralegallnc.aspx (last visited Jun. 8, 2014) (listing both paralegal and legal nurse consultant programs). Widener's paralegal program was established in 1990. ABA APPROVED PARALEGAL PROGRAMS, *supra* note 183.

189 *See, e.g.*, *About Paralegals: Model Standards and Guidelines for Utilization of Paralegals*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http:// www.nala.org/model.aspx (last visited Jun. 8, 2014) (identifying duties that require attorney supervision versus those that may be delegated to paralegals).

190 *About Paralegals: NALA Code of Ethics and Professional Responsibility*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http:// www.nala.org/code.aspx (last visited Jun. 8, 2014).

191 *Model Act for Paralegal Licensure*, NAT'L FED. OF PARALEGAL ASS'NS, http://www.paralegals.org/associations/2270/files/Licensed_Paralegal_Plan.pdf (last visited Jun. 8, 2014) (follow the "Regulation" hyperlink under "Positions and Issues," and then select the "Model Act for Paralegal Licensure" hyperlink).

192 *Positions and Issues: Nonlawyer Practice*, NAT'L FED. OF PARALEGAL ASS'NS, http://www.paralegals.org/default.asp?page=29 (last visited Jun. 8, 2014) (stating that "NFPA supports legislation and adoption of court rules permitting non-lawyers to deliver limited legal services").

193 *Positions and Issues: NFPA Comments to ABA Discussion Draft on Alternative Law Practice Structure*, NAT'L FED. OF PARALEGAL ASS'NS, http:// www.paralegals.org/associations/2270/files/2011content/2012.01.27_NFPA_Comments_to_ABA.PDF (last visited Jun. 8, 2014) (noting that nonlawyer ownership would enhance opportunities for law firms to "recruit and retain quality paralegals").

194 *Continuing Legal Education (CLE): Limited License Legal Technician*, NAT'L FED. OF PARALEGAL ASS'NS, http://www.paralegals.org/ (last visited Jun. 8, 2014).

195 *Certification: Advanced Paralegal Certification*, NAT'L ASS'N FOR LEGAL ASSISTANTS, http://www.nala.org/apc.aspx (last visited Jun. 8, 2014).

196 *Id.* (listing eighteen online APC courses in areas including family law, personal injury, real estate, commercial bankruptcy, social security disability, and eDiscovery). Each course is about twenty hours long. *Id.*

197 *Paralegal Certification: Paralegal CORE Competency Exam and Credentialing*, NAT'L FED. OF PARALEGAL ASS'NS, http:// www.paralegals.org/default.asp?page=18 (last visited Jun. 8, 2014).

198 *See supra* notes 20-21 and accompanying text.

199 Debra Cassens Weiss, *Law School Offers a Three Day Taste of Campus Life for about $1,000*, A.B.A. J. (Jun. 7, 2013), *available at* http:// www.abajournal.com/news/article/law_school_offers_a_three-day_taste_of_campus_ life_for_about_1000/ (discussing law schools' programs for "nonlawyer professionals").

200 *See* Sloan, *supra* note 21 (discussing the increasing number of law schools offering master's degree programs for nonlawyers); Jennifer Smith & Ashby Jones, *More Often, Nonlawyers Try Taste of Law School*, WALL ST. J. (May 19, 2013), http://online.wsj.com/news/articles/SB10001424127887323463704578492932332188 ("ABA officials report anecdotally that such programs have mushroomed"). Most programs are aimed at mid-career professionals in heavily regulated fields such as health law--or at foreign lawyers seeking a primer in U.S. practice--and cost about the same as one year of law school. *Id.*

201 WASH. ADMISSION TO PRACTICE R. 28(D)(3)(c); *see also* Crossland & Littlewood, *supra* note 6, at 617 (discussing the practice area sequence).

202 *See* SULLIVAN ET AL., *supra* note 145 (identifying the lack of ""direct training in professional practice" as a major limitation of U.S. legal education); John Caher, *N.Y. State Bar Asks ABA to Support "Practice Ready" Law School Education*, N.Y. L.J. (Aug. 5, 2011), *available at* http:// www.law.com/jsp/law/article.jsp?id=1202509595910&NY_State_Bar_Asks_ABA_to_Support_Practice_Ready_Law_School_Education (calling on law schools to provide more practical training).

203 *See* Chambliss, *Organizational Alliances*, *supra* note 21, at 2626 (discussing law school certificate programs); Richard A. Matasar, *The Viability of the Law Degree: Cost, Value, and Intrinsic Worth*, 96 IOWA L. REV. 1579, 1621-22 (2011) (discussing the market for training certificates).

204 *See* Chambliss, *Two Questions*, *supra* note 21, at 335 (urging law schools to rethink the sequencing of legal education, to create more flexible entry and exit points at various stages of specialization); Chambliss, *supra* note 40, at 440 (discussing the potential benefits of "structured off-ramps" for law students, such as paraprofessional and certificate programs geared toward existing and emerging markets).

205 *See* Crossland & Littlewood, *supra* note 6, at 617 (stating that Washington's training requirements are designed to expose "LLLTs to areas beyond their scope of authority ... [so they] know when they need to refer clients to a lawyer"); Rosenbaum, *supra* note 184, at 319 (arguing that exposure to experienced paralegals would benefit law students by teaching them collaboration, communication, and practical skills).

206 *See* Chambliss, *Organizational Alliances*, *supra* note 21, at 2646 (citations omitted) (discussing the trend toward accelerated J.D. training); Chambliss, *supra* note 40, at 439 (discussing the resurgence of interest in a two-year J.D. degree); McGinnis & Mangas, *supra* note 137 (recommending that law be an undergraduate degree); Rodriguez & Estreicher, *supra* note 2 (calling for bar eligibility after two years of law school).

207 *See* Chambliss, *Two Questions*, *supra* note 21, at 345 (citations omitted) (discussing calls for more practical and experiential J.D. education and the costs of delivering such training).

208 *Id.*at 348 (citations omitted) (discussing foreign demand for ""American-style" graduate legal education); Chambliss, *Organizational Alliances*, *supra* note 21, at 2622 (discussing global competition among elite law and business schools).

209 *See* ABBOTT, *supra* note 12, at 71-73 (discussing the benefits of ""subordination" as a strategy for political and market control); Rigertas, *supra* note 19, at 79-80 (arguing that, without formal stratification through limited licensing, the profession risks "losing all control" over the scope of its monopoly); Dunn Remarks, *supra* note 19 (predicting that the California legislature will act to

liberalize the legal market if the state bar does not).

210 ABBOTT, *supra* note 12, at 71-73.

211 *See* Knake, *supra* note 29, at 1293 (noting significantly more interest in Internet legal services in the U.K., where consumers have been "exposed to a flurry of new, innovative models" for delivering legal services); Sandefur, *supra* note 13, at 962-76 (examining the ways in which institutional alternatives shape both the level and distribution of legal demand); *see also* Albiston & Sandefur, *supra* note 27, at 117 (calling for increased attention to the "demand side" of access to justice, particularly factors that shape people's understanding of legal problems and solutions).

212 *See* Chambliss, *supra* note 40, at 437 (arguing that law schools have a duty to focus on improving legal education in the interests of clients and consumers); Dunlap, *supra* note 109, at 2817 (arguing that access to justice requires "a significant commitment to increasing the basic [legal] knowledge of nonlawyers"); Elizabeth Chambliss, *Law for All? The First Thing We Do, Let's Educate the Nonlawyers*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS) (April 29, 2013), *available at* http://legalpro.jotwell.com/law-for-all-the-first-thing-we-do-lets-educate-thenon-lawyers/ (arguing that law schools have a duty to invest in nonlawyer education, whether or not such investment generates greater demand for lawyers).

213 *See* SUSSKIND, *supra* note 11, at 238 (discussing the importance of ""legal awareness raising" in empowering citizens to use information technology to select the level of legal service desired and stating "we need to empower citizens to sort out some of their own legal issues").

214 *See generally* Dunlap, *supra* note 109 (applying lessons from rule of law projects abroad to debates about access to justice domestically).

215 Hornsby, *supra* note 64.

216 Dunn Remarks, *supra* note 19 (reporting California law schools' expressions of interest in nonlawyer training).

217 *See* Richard Granat, *13 Top Law Schools Teaching Law Practice Technology*, ELAWYERING BLOG (May 6, 2013, 9:14 AM), http:// www.elawyeringredux.com/2013/05/articles/training-and-education/13-top-law-schools-teaching-law-practice-technology/ (identifying thirteen law schools with at least one full-time faculty member and at least two credit courses focusing on the impact of information technology on law practice).

218 *See* Connie Lenz, *The Public Mission of the Public Law School Library*, 105 LAW LIBR. J. 31, 37 (2013) (discussing historic and contemporary understandings of public law schools' mission); ACCESS TO JUSTICE SPECIAL COMM., AM. ASS'N OF LAW LIBRARIANS, PROVIDING ACCESS TO JUSTICE, https:// www.surveymonkey.com/results/SM-8CL779L/ (last visited June 24, 2014) (providing a survey of access to justice services and initiatives by academic law librarians).

219 Levin, *supra* note 16, at 1.

220 *See* Chambliss, *Two Questions*, *supra* note 21, at 334 ("[American] law schools face increasing pressure to rethink the boundaries of the J.D. degree in both the corporate and personal services sectors.").