

Opinion: New Class of Legal Professionals Could Help Close Justice Gap

By: **Karen Morin**

In his article "[Help for the Unrepresented: A Look at a New Approach](#)," published in the Sept. 21, 2016, issue of *Bar News*, attorney Chuck Douglas advocates for the use of non-lawyer legal professionals to close the justice gap in New Hampshire. In contemplating how to provide low-income, unrepresented litigants with the legal help they need, he suggests that, "Just urging lawyers to take more pro bono cases is not going to solve the problem..."

I couldn't agree more, and as a paralegal in New Hampshire, I would like to add that many paralegals are already in a position to play a role in bridging the justice gap. Paralegals already handle substantial legal work, and in a limited capacity, we could provide significant assistance to unrepresented litigants.

As Mr. Douglas points out, an astounding number of people are trying to navigate the justice system without an attorney because they cannot access representation. They fill courtrooms and clerks' offices, trying to figure out what forms to fill out, what laws to read, and the roles of the professionals in the courtroom. They need assistance in obtaining justice.

As part of a comprehensive approach, a new class of legal professionals could be instrumental in providing assistance to unrepresented litigants. Legal needs are not all created equal. Many legal needs could be addressed by properly trained, non-lawyer legal professionals (NLPs); individuals with experience and skills similar to those of a paralegal, perhaps with some additional training depending upon the area of law and the scope of their services.

Around a dozen states are contemplating or have implemented programs using NLPs to provide limited legal services, including preparing and filing forms, reviewing and explaining exhibits and other legal documents, and providing support and guidance. NLPs are not lawyers and do not represent clients in court.

One example of a NLP program is New York's Court Navigators Program. Volunteers (often college students and law students) are trained to assist unrepresented litigants in the Housing Court's nonpayment proceedings. The Court Navigators do not give legal advice. They act as guides or interpreters, helping unrepresented litigants to access courthouse computers and other resources, and to collect and organize case documents. They can sit in on conferences with the judge or opposing party and respond to the judge's request for factual information. They also help secure pro bono attorney services as needed.

In Washington State, Limited License Legal Technicians (LLLTs) have more latitude in their representation. They also have much more rigorous education and training requirements, must be licensed, and must secure professional insurance. LLLTs can represent clients in family law matters. They can open their own practices. At this time, LLLTs cannot represent a client in court (though that may come in the future), but they can help clients prepare legal forms, advise them on documents they will need, explain legal procedures and proceedings, and gather facts and explain their significance to the case.

Research will need to be done to determine how NLPs could help close the justice gap in New Hampshire. Personally, I don't think an LLLT program would be effective in addressing New Hampshire's justice gap. With all the costly requirements LLLTs must meet, how can they charge a significantly reduced rate?

I believe a program with less rigorous requirements could serve New Hampshire well in its efforts to close the justice gap. We could identify specific areas of law or specific services that are in high demand, and could tailor a NLP program to help meet the need. Relevant courses, taught by attorneys or other qualified individuals, could provide targeted information to paralegals for handling the need in these areas. Some paralegals may be able to show they have the required knowledge by taking an exam. Paralegals could assist litigants in a limited capacity and at a reduced cost.

Paralegals could make a big difference in the lives of the unrepresented litigants that stream into New Hampshire's courts on a regular basis. Doing so would take pressure off court employees, who do their best to guide unrepresented litigants while performing their own jobs. It would also help free up attorneys to handle the more complex legal matters that are better suited to their education and experience.

NLP programs vary, but the programs have a common goal. They are designed to be part of a comprehensive approach to bridge the justice gap. Our justice system is not designed for those who do not normally operate within it. Concepts and procedures that are basic and routine to those of us in the legal field are completely foreign to many others. That's why people hire lawyers and why the growing justice gap has resulted in new programs designed to help those who can't afford to hire one.

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