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PARALEGALS AS NURSE PRACTITIONERS OF THE LEGAL FIELD

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The persistent gap between the need for legal services and the availability of affordable representation presents a significant barrier to access to justice in the United States. This article argues that licensing paralegals to provide limited legal services in areas such as family law, landlord-tenant disputes, and debt collection offers a practical, cost-effective response to unmet legal needs. Drawing on examples from healthcare, the article contrasts restrictions on dental hygienists' scope of practice with the development of nurse practitioners, whose specialized training and certification have expanded access to affordable care. The nurse practitioner model provides a framework for paralegal licensure through specialized education, competency-based examinations, appropriate supervision, and continuing education requirements. Authorizing qualified paralegals to provide limited legal services could expand access to legal assistance, reduce costs for consumers, and help address the shortage of affordable representation. This reform offers a promising approach to advancing access to justice and reducing the harms caused by unmet legal needs.

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Legal services are expensive and many Americans cannot afford them. The Legal Services Corporation, which was created in 1974 (42 USCS § 2996) and is the largest single funder of civil legal aid for low-income Americans, reported in April, 2022 that in one year they received 1.9 million requests for legal aid but were only able to respond to half of those requests. And of the requests they were able to respond to, they resolved only half of them (56%).¹

In order to meet the great need for legal services of those who cannot afford to pay standard legal fees, paralegals should be licensed to practice law under limited circumstances. The other suggested alternatives for meeting these legal needs – more pro bono work by lawyers or government support of Legal Aid Agencies – both involve the use of lawyers. Paying the fees for lawyers, many of whom leave law school over \$150,000 in debt² is one of the reasons why there are not enough lawyers to meet the legal needs of the low-income Americans in the first place. If paralegals were licensed to practice law under limited circumstances, such as in tenant-landlord cases, family law, and debt collection, there would be more sources for the legal help that is needed – and those sources would cost less because paralegal training costs less than law school.

The field of healthcare is illuminating on this point because it provides examples of two different responses to increasing needs for services for the public. In the case of oral healthcare, dentists have largely not allowed less credentialed practitioners (i.e., dental hygienists) to expand their roles to meet the public's growing need for dental care. As Mary Otto explains in *Teeth: The Story of Beauty, Inequality, and the Struggle for Oral Health in America*, the American Dental Association has resisted allowing dental hygienists to expand their area of practice to provide basic public health services, such as filling small cavities.³ The result is poor oral health for millions of Americans: for example, the Center for Disease Control and Prevention reports that 26% of U.S. adults have untreated tooth decay.⁴ In contrast, the creation of the role of Nurse Practitioner (NP) in the field of medicine provides an example of a way in which less credentialed practitioners were given the opportunity to receive additional training and become certified so that they could meet the public need for health care. Today NPs diagnose and treat patients, including being able to write prescriptions, and the cost is generally less than seeing a doctor.⁵

According to the American Association of Nurse Practitioners, NPs are licensed by their state, often by means of attaining a Master's Degree (licensure requirements vary by state) and they become certified by passing board exams.⁶ About half of the states allow their NPs to practice medicine without physician oversight. NPs also must meet requirements for continued education. This template of specialized education, followed by board exam/certification, possible supervision by a licensed expert in the field, and continued education is one that could easily be applied to paralegals interested in working to meet the public's need for legal services in areas such as family law, landlord-tenant issues, and debt collection.

Not having access to timely legal services impacts people's financial health, physical health, and mental health – and that of their children. If a person is not able to get out of a bad marriage, or cannot make use of available legal resources to stay in their home, that can lead to domestic violence and homelessness, which create trauma and hardship. The legal field should do its part to address this unmet need by using the template of Nurse Practitioners to expand the scope of paralegals' credentialing and work so that they can provide lower-cost legal services. It might

even put a dent in some of those lawyer jokes.

¹ LEGAL SERVICES CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2022), at 9, <https://lsc-live.box.com/s/x12v2uraitobbzrhwtjlg0emp3myz1>.

² ABA, STUDENT DEBT: THE HOLISTIC IMPACT ON TODAY'S YOUNG LAWYER (2021), at ii, https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/2021-student-loan-survey.pdf.

³ MARY OTTO, TEETH: THE STORY OF BEAUTY, INEQUALITY, AND THE STRUGGLE FOR ORAL HEALTH IN AMERICA 134-35, 144-46 (2017).

⁴ See CENTER FOR DISEASE CONTROL & PREVENTION, ORAL HEALTH SURVEILLANCE REPORT: 2017-MARCH 2020 (2024), https://www.cdc.gov/oral-health/media/pdfs/2024/10/cs351478-d_oralhealthsurvreprt-28pgs-91824_print_final.pdf.

⁵ AM. ASS'N OF NURSE PRACTITIONERS, NURSE PRACTITIONER COST EFFECTIVENESS, https://storage.aanp.org/www/documents/advocacy/position-papers/Nurse_Practitioner_Cost_Effectiveness.pdf?_gl=1*_l1wauhtl*_gcl_au*NjU0NzIzMTE0LjE3ODcyNDE3ODk

⁶ AM. ASS'N OF NURSE PRACTITIONERS, PATHWAY TO BECOMING A NURSE PRACTITIONER (NP), https://storage.aanp.org/www/documents/research/Pathway-to-Becoming-an-NP-Infographic_FINAL-002.pdf

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