

## People-Centered Justice through an Expanded Ecosystem of Service Providers

Submission to Margaret Satterthwaite, United Nations Special Rapporteur on the Independence of Judges and Lawyers (IJL) by IAALS, the Institute for the Advancement of the American Legal System at the University of Denver.

### An Undeniable Reality

---

The data documenting the civil justice gap in the United States is considerable.

- Two-thirds of Americans faced at least one legal issue in the past four years, and of the issues experienced, 46% either had no expected future resolution or were resolved in a way perceived as unfair ([IAALS & The Hague Institute for Innovation of Law](#)).
- At least one party was self-represented in 76% of civil cases in state courts ([National Center for State Courts](#)).
- At least one party was self-represented in 72% of domestic relations cases in state courts ([IAALS, National Center for State Courts & National Council of Juvenile and Family Court Judges](#)).
- Over 90% of eviction and debt-collection cases in some jurisdictions involve an unrepresented defendant (Matthew Desmond, [Institute for Research on Poverty](#) & [Pew Charitable Trusts](#); respectively).
- Low-income Americans do not receive any, or enough, legal help for 92% of their substantial civil legal problems ([Legal Services Corporation](#)).

While access to justice issues in the U.S. are more nuanced than simplistic data points, we are drowning in research that demonstrates the myriad ways in which our legal and justice system is broken. Yet for the most part, policymakers in states across the country continue to advocate for traditional solutions (subsidized legal services) with traditional providers (lawyers).

We need new solutions, and we need a lot of them.

### The Existing Monopoly on Legal Advice

---

In response to widespread unmet civil legal needs, courts, legal aid providers, and others are making efforts to expand the accessibility of legal information. Legal *information*, however, is not the same as legal *advice*. Increasing the availability and accessibility of the latter is a critical piece of this puzzle.

Under today's model in most U.S. states, the only professionals that can deliver legal advice are licensed attorneys. Outdated unauthorized practice of law (UPL) rules vary from state to state, and understanding a state's UPL rules involves a lengthy and complicated process of consulting relevant statutes, court

rules, case law, and ethics opinions. By and large, though, what constitutes the “practice of law” (and therefore the “unauthorized practice of law”) is overly broad and inherently vague.

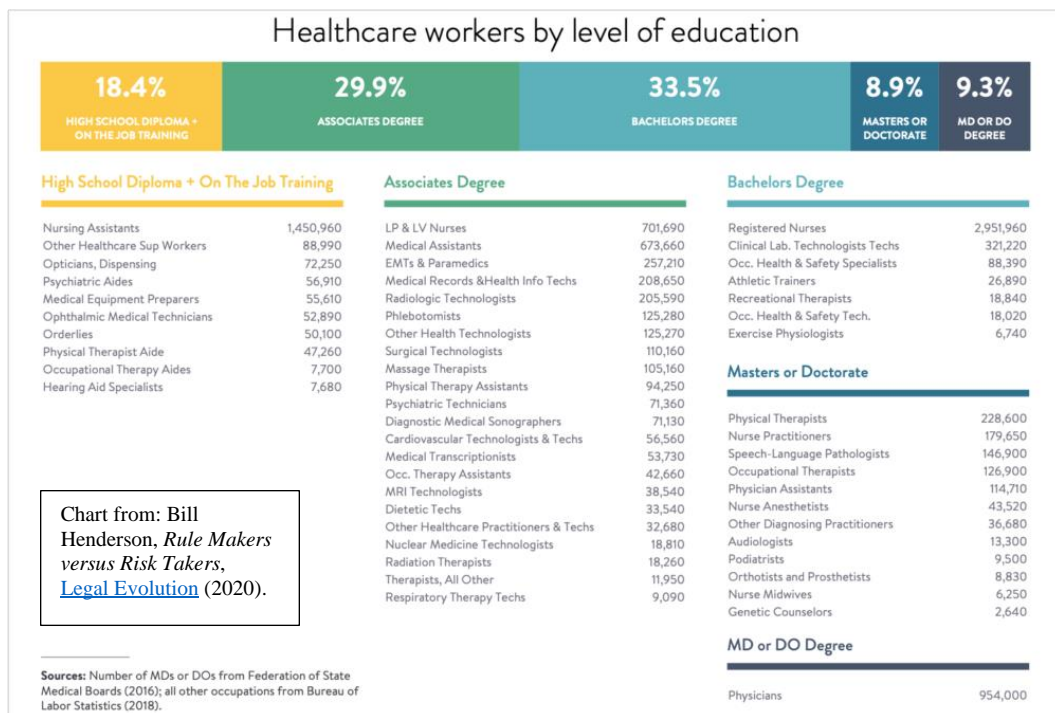
A prohibition that purports to exist to protect the public, UPL determinations require no showing of consumer harm. Further, empirical research has shown that most UPL enforcement actions are brought by market incumbents (lawyers), not consumers. In fact, it is documented that our modern UPL provisions are rooted in protecting lawyers from the [threat of competition](#), not public protection.

As a result of this stranglehold that existing regulations have on the delivery of legal services, consumers who cannot afford a licensed attorney have no alternatives for obtaining legal advice.

## Envisioning A New Approach: An Ecosystem of Service Providers

A promising strategy for increasing access to legal advice involves expanding the ecosystem of professionals who can deliver these services. This is not a particularly new or innovative approach—at least not outside of the legal industry.

Consider the medical profession. In response to systemic access to service issues (akin to those we are facing in the legal industry), the nurse practitioner and physician assistant roles were introduced into the field. Today, a range of diverse professionals with varying education levels and licensure requirements deliver a continuum of healthcare services to patients. According to one assessment involving 52



worker roles, fewer than [one in 10 healthcare workers](#) has a master’s or doctorate degree. Eighty percent of this workforce directly serving patients has no more than a bachelor’s degree.

Nothing similar is available to most legal consumers.

Nearly [eight in 10 legal service workers](#) have a law degree. The other 20% are paralegals and other legal support workers that hold an associate degree. Three worker roles in total make up the legal services marketplace, and only one of these can practice law in the technical sense.

## What Our Evolving Legal Services Ecosystem Looks Like

---

There is movement in a growing number of states to rethink who can “practice law” beyond licensed attorneys. The new provider roles being envisioned and implemented are diverse across several fronts.

- *Tasks & Activities:* The practice of law is not one, singular task that attorneys perform, but rather a collection of different tasks and activities. Some of the new provider types emerging in states can undertake a range of tasks and activities that technically constitute the practice of law. Those in [paralegal and paraprofessional licensure](#) programs, for example, are able to perform a variety of tasks for clients (as an attorney would) within certain case or subcase types. Other roles are limited to a very specific activity—for example, [legal document preparers](#).
- *Education & Training:* Education and training requirements differ considerably across this growing ecosystem of legal service providers. These requirements, of course, are closely tied to the authorized tasks and activities that these new provider roles can undertake. In some of these formal programs, the education requirements resemble a shortened version of law school. For some of the new provider roles, however, a less formal and less time-consuming level of training is adequate and appropriate. As we see with the variety in education level across healthcare worker roles, different legal service provider roles necessitate different approaches to education and training.
- *Licensure Requirements:* The more formal programs to authorize new roles are licensing these providers (either alongside attorneys or separately). This formal and administratively heavy regulatory structure is less appropriate for provider types that are more limited in scope and activities.
- *Target Client Base:* A number of these new legal service provider types are being embedded in [legal aid organizations](#) and [other subsidized legal services programs](#). Access to justice (or lack thereof) in the U.S., however, is not just an issue for low-income individuals. There exists a large and often-forgotten “Missing Middle”—individuals who do not qualify for subsidized legal services but for whom full representation by an attorney is financially unfeasible. This client base can benefit from the profit-supported programs that are enabling service providers to offer legal advice at a price point lower than that of attorneys.

The considerable variety in these new legal service provider roles holds promise for creating a more people-centered approach to delivering legal advice to those who need it. A more diverse ecosystem of providers can be responsive to the differing and diverse needs of legal consumers.

## IAALS’ Role in Supporting This New Ecosystem

---

Launched in 2019, the IAALS [Unlocking Legal Regulation](#) project works to lay the foundation for a consumer-centered regulatory system that is broadly accessible, competitive, and better meets the needs of the public. We provide support and advocacy to organizations building out diverse service provider roles—formal and informal; institutional- and community-based) within this broad ecosystem.

---

John Moyer Hall, 2060 South Gaylord Way, Denver, Colorado 80208

tel 303.871.6600 | fax 303.871.6610 | [iaals.du.edu](http://iaals.du.edu)

---

Now, through the [Allied Legal Professional \(ALP\) project](#), IAALS is focusing on one specific provider type within this broader ecosystem: the more formal, profit-supported programs that are authorizing paralegals and other paraprofessionals to provide limited legal advice in certain case types. The project objectives are to broaden understanding of the existing and proposed legal paraprofessional programs, and the relative advantages and challenges that exist within them. IAALS has released a comprehensive report detailing the [landscape of state ALP programs](#), with a follow-up publication forthcoming. We also recently launched a [Knowledge Center](#) to capture the ongoing work and developments by states around the country exploring the expansion of legal services through new tiers of legal professionals.

As of April 2023, there are five active state ALPs programs, two state programs in the implementation phase, six states with program proposals, and a few states discussing what a program might look like. IAALS' hope is that states can draw on existing research, best practices, and lessons learned when implementing or updating an allied legal professional program.

The proliferation of these programs is a response to the myriad calls for greater access to justice, particularly for people who fall between not qualifying for legal aid and not being able to afford an attorney. The Missing Middle is a diverse and expansive consumer segment—one that is often overlooked but no less in need of access to justice.

No one deserves to be shut out of our justice system.



---

Brittany Kauffman  
CEO, Institute for the Advancement of the American Legal System



---

Natalie Anne Knowlton  
Regulatory Innovation Advisor, Institute for the Advancement of the American Legal System