

**The Law Society**  
*of British Columbia*



# **Family Law Legal Service Providers: Consultation Paper**

---

**Alternate Legal Service Provider Working Group**

**Miriam Kresivo QC, Chair**  
**Nancy Merrill QC**  
**Craig Ferris QC**  
**Jeff Campbell QC**  
**Lisa Hamilton QC**

September 2018

## I. Purpose of the Consultation

1. To improve access to legal services, the Benchers have resolved to seek amendments to the *Legal Profession Act* to permit the Law Society to create categories of members who are not lawyers and to permit them to provide some legal services directly to clients as regulated alternate legal service providers<sup>1</sup>. At the beginning of this year, the Alternate Legal Service Providers Working Group (the “Working Group”) was created to develop policy recommendations for consideration by the Benchers in connection with this initiative.
2. This consultation paper has been prepared to describe a proposed scope of practice for this new category of members, which is attached as Schedule A to this paper. This draft has been prepared on the basis of policy work undertaken by the Law Society in connection with its study of issues relating to unmet and underserved needs for access to justice in British Columbia and has been refined as a result of discussion within the Alternate Legal Service Providers Working Group and as a result of some preliminary consultation with small groups of stakeholders in relation to an earlier draft.
3. The Law Society of British Columbia seeks input from the public, lawyers, the judiciary, and justice system stakeholders regarding the proposals contained in this consultation paper and in particular as reflected in Schedule A. The purpose of the consultation is to provide the Benchers with input that can be refined to ensure the end product advances the object of improving access to affordable, competently delivered legal services in an area of need, while maintaining public interest in the administration of justice.
4. When reviewing the content of this paper, it is important to keep in mind that the proposed new category of legal professional contemplated in this initiative will, before obtaining a licence to practise law, first have to successfully complete an education and training program approved by the Law Society, and tailored to ensure the provider is able to provide legal services within the scope of the limited licence in a competent and professional manner. This new class of legal service professional will be highly trained, and will be subject to a code of professional and ethical conduct, insured, and regulated by the Law Society.
5. **The concepts advanced in the scope of practice proposed in Schedule A are not conclusions. They have been prepared to focus discussion.** The Working Group will

---

<sup>1</sup> No final decision has been made on the name for these service providers.

analyze the feedback it receives and, based on its analysis, further refine its thinking in order to present a series of recommendations to the Benchers.

## II. Background to the Initiative

6. The foundation of the Law Society's policy decision to seek amendments to the *Legal Profession Act* to permit the creation of new categories of members to provide limited legal services directly to clients has developed over the last decade through the work of various committees and task forces, including the Futures Committee, the Access to Justice Committee, the Delivery of Legal Services Task Force, the Legal Service Providers Task Force and the Legal Services Regulatory Framework Task Force. Where these groups have written reports, the reports are available through the Law Society.<sup>2</sup>
7. The existing marketplace for legal services limits the ability of many to access lawyers' services. Research indicates that perhaps only 15% of those facing a legal problem seek the advice of a lawyer in resolving it. As many as 70% of those facing a problem seek no help at all. People often identify cost as the main reason they do not seek legal assistance when facing a legal problem. Other reasons have been identified as well, including inability to recognize a problem as having a legal aspect, not viewing the legal problem as warranting the help of a lawyer, wanting to solve matters without assistance, and mistrust of lawyers (to name a few). However, it is clear that a large unmet need for legal services exists because many people are unable or unwilling to pay the market rate for lawyers' services. Accepting that it is in the public interest for people to be able to access legal advice and services when facing a legal problem, this result is inconsistent with the Law Society's objects and duty set out in s. 3 of the *Legal Profession Act*. Creating options for the provision of legal services at a lower cost aims at reaching at least a portion of those who are currently seeking no advice at all.
8. In 2014 the Legal Services Regulatory Framework Task Force made a series of recommendations that the Benchers unanimously accepted to permit the Law Society to seek a legislative amendment enabling the Law Society to create new categories of members, other than lawyers, to provide some legal services. At the time, the Benchers accepted that there were seven areas of practice<sup>3</sup> in which the public would benefit from greater access to legal services.

---

<sup>2</sup> See <https://www.lawsociety.bc.ca/our-initiatives/legal-aid-and-access-to-justice/alternative-legal-service-providers/>

<sup>3</sup> They identified Family law, Employment law, Debtor/creditor law, Advocacy before administrative tribunals, Advocacy in small claims court, Traffic court matters, Acting as advisor or counsel at mediations and arbitrations.

9. In anticipation of the possibility of obtaining the legislative amendments, the Law Society has chosen to focus first on the area of practice where evidence suggests the public could *most* benefit from greater access to legal services: family law.
10. Family law has been identified as a good starting point given that legal needs surveys have frequently identified this area of the law as one in which there is a sizable segment of the population who have trouble accessing legal services. Court statistics also show a high incidence of self-represented litigants in family law. Difficulties accessing services in an area of law that can be complex and often highly adversarial can result in poor outcomes for individuals seeking a resolution to their legal issues.
11. British Columbia is not the only jurisdiction undertaking this examination. Both Washington State and Utah have recently created regimes that permit alternatives to a lawyer for some family law services. In Canada, Ontario, which has had licensed paralegals for over a decade, is now examining what scope of practice paralegals should be given in family law matters.
12. The Law Society has not identified family law as the area of focus because it is easy. In fact, in many respects, it is one of the more difficult areas of law to practice competently. Nor did the Law Society identify family law out of a belief that lawyers who practice family law are failing the clients they serve. British Columbians who can afford to retain a family law lawyer often benefit from the services of highly skilled, professional and knowledgeable practitioners. If all British Columbians could access this help, it would not be necessary for the Law Society to undertake this work. However, we know from practical experience, research, and courts that year-over-year see a rise in self-represented litigants, that this is not the case.

### **III. Objective of Creating a New Class of Legal Professionals**

13. For the reasons discussed above, the Working Group is looking to identify a scope of practice for the provision of family law services by a new group of legal service providers who are credentialed and licensed by the Law Society that will meet the needs of underserved segments of the population. The expectation is that the initiative will improve the ability for those whose legal needs are not currently being met because they are not able to afford the service. The initiative aims to increase access to services by creating a group of legal professionals who, while trained and credentialed, will have lower costs of entry to the profession and will therefore be able to charge less than a lawyer would charge.

## IV. Developing a Framework for Scope of Practice for British Columbia

14. The Working Group has grappled with the question of how broad or how narrow should the scope of practice be for regulated family law legal service providers in British Columbia. It has wrestled with questions such as “How should that framework be drafted to meet the needs for unmet and underserved legal services in this province?” and “What is the right scope of practice for which service providers can be trained at a lower cost and still provide useful services to meet unmet or underserved needs?”
15. At paragraph 96 of its 2014 report, the Legal Services Regulatory Framework Task Force recommended a broad approach to how services should be provided by alternative legal service providers:

The new scope of legal service providers should be able to practice law (as that term is defined in the *Legal Profession Act*) within the limited scope that is identified. They should be permitted to provide legal information and advice, assist in drafting, filling out forms, coaching, interpreting substantive and procedural law, and, with some limitations, be permitted to provide advocacy services

although it also noted at paragraph 118 that:

...some legal matters might justify a reservation of practice to lawyers such as complex matters of substantive or procedural law, or where there is a significant risk of harm to the client...

16. Schedule A to this paper is a draft Proposed Framework for a scope of practice for family law legal service professionals. **Schedule A is not a final proposal.** It is prepared for the purpose of this consultation to provide a focus point, as it is obvious that the scope of practice of the new professionals contemplated by the Law Society’s initiative will be a key element in the success of this initiative.

## V. Education and Training

17. The new class of legal service professionals will be fully trained and regulated. The Law Society will establish the qualification process. After defining and approving the scope of practice, the Law Society will have to consult with education professionals, colleges and universities regarding the development of an education program, and consider internally the extent to which our PLTC program might be applicable to the training of these professionals. However, we anticipate that the training will include the following concepts:

- a. Fundamentals of family law;
  - b. Effective interviewing skills, triage intake and assessment;
  - c. Dealing with families in crisis;
  - d. Screening for family violence and power imbalances;
  - e. Cultural competency training;
  - f. Effective advocacy, negotiation and settlement skills;
  - g. Legal research and writing;
  - h. Understanding forms, applications and procedure in the family law context;
  - i. Division of property and other interests;
  - j. Assessing the financial conditions of the parties;
  - k. Understanding child support and welfare;
  - l. Legal proceedings in both adversarial and alternative dispute resolution forums;
  - m. Management of trust accounts;
  - n. Ethics, professional responsibility and giving and receiving undertakings;
  - o. Enforcing court orders;
  - p. Business and practice management fundamentals;
  - q. Identifying when to get a lawyer involved and/or referring a client for independent legal advice;
  - r. Dealing with unrepresented parties.
18. The deeper details of the education and credentialing will involve ensuring these new legal professionals are properly trained to provide the services they are licensed to provide, and to understand the broader issues in order to identify circumstances where they will be required to advise the client to see a lawyer as the matter involves issues that fall outside the permitted scope of the license. As the education program is developed there will be further opportunity to provide feedback to the Law Society.

## VI. Examples from Other Jurisdictions

19. As noted, other jurisdictions have begun, or are considering, qualifying alternate legal service providers to provide certain family law legal services. They are set out in Schedule B to this Consultation Paper for comparison purposes.

## VII. What We Are Seeking From You

20. We are seeking your views on what should be the permitted scope of practice for alternate family law legal professionals. In formulating your feedback it is important to keep in mind that the object is to improve access to legal services. In practical terms, this requires the legal professionals to have a sufficient scope of practice to be economically viable as a career. It is also critical to understand that when the Law Society approves the scope of practice, it will construct education, skills training and regulatory requirements that ensures the legal professionals are properly trained and regulated. **Keep in mind as well that what is attached in Schedule A has been prepared for the purpose of the consultation, not as a final recommendation.**
21. Without limiting the content of written submissions, we would particularly be interested in your views on the following:
  - What do you like or dislike about the framework outlined in Schedule A?
  - Is the framework likely to achieve the desired outcomes? If not, how might it be modified to achieve the outcomes?
  - Does the framework miss any types of legal services that you consider should be included?
  - Does the framework include any legal services you think should be excluded?
  - Should the service providers be “officers of the court?”
  - Is there a broader possible scope of practice, not contained in the framework that is appropriate for alternate legal professionals who are engaged in collaborative or non-adversarial processes?
  - What services contained in the framework are the most complex and fraught with risk of significant and/or enduring harm to the client (or their children) if not performed by an experienced lawyer? How are these risks mitigated now where they are performed by less experienced lawyers?

- Should the proposed new service providers be subject to the same (or similar) professional conduct/ethical responsibilities as lawyers? Should they be subject to the CBA Best Practice Guidelines for lawyers practising family law?
  - Are there any other reforms to the provision of family law legal services that could be addressed through the use of alternate legal service professionals?
22. Your input on this consultation process is important and will be appreciated. The most useful feedback will explain why you think something contained in this consultation paper will or will not work, and provide practical suggestions for how to improve the initiative to achieve the object of using alternative legal service providers to increase access to cost-effective, competently delivered legal services to people who, at present, struggle to access the services of lawyers in the area of family law.
23. The goal is to identify a scope of practice for family law service providers that will complement the services provided by lawyers, but that will assist a greater proportion of the public to obtain necessary legal information and advice on family law matters.



## Schedule A

### Proposed Framework for Scope of Practice for Family Law Legal Service Providers in British Columbia

All new “family law legal service providers” will be members of the Law Society and authorized, within the scope of permitted activity, to “practice law” as that term is defined in the *Legal Profession Act* except as excluded in Part 2 below. They will be trained to standards set by the Law Society to ensure that they are qualified to provide the services contemplated in this proposed Framework.

The Law Society anticipates that this new category of legal professional will also be fully trained as “dispute resolution professionals” as defined by the *Family Law Act*.

#### **1. Family law legal service providers will be permitted to provide legal services relating to the following matters:**

The proposed new category of legal professional will be permitted to practise law in family law matters, including the preparation of documentation and proceedings and to act and advise on all areas of family law, **except with regard to matters or activities specifically excluded in Part 2 below.**

Within the scope of permitted services, professional family law legal service providers would be permitted generally to:

- Establish a contractual relationship with a client not represented by a lawyer or with a client who is represented by a lawyer where the lawyer consents;
- Conduct client interviews to understand client objectives and obtain relevant facts;
- Advise a client about available legal options (including about retaining a lawyer where the matter appears to be beyond the scope of permitted activities);
- Take instructions to begin legal processes, including advising about and deciding on which forms to use and completing forms and organizing service for the client;
- Communicate with another party’s representative, or with another party where unrepresented;
- Advise about the anticipated course of legal proceedings, including where and when the client may need a lawyer to become involved;
- Attend at mediations within scope of permitted activities;

- Act as mediator;

The Task Force's rationale for including this provision in this consultation is that non-lawyer mediators are permitted already to conduct mediations and are required to undertake stringent training requirements. Regulated service providers under the current proposal should be permitted to conduct mediations. As they will be, if the initiative is approved, members of the Law Society, they will be required to meet all of the training and practice requirements set for family law mediators by the Law Society.

- Prepare orders within scope of permitted activities;

Should service providers be allowed to draft orders?

The Task Force recognizes that the Court now prepares orders where self-represented parties are before it. However, the Task Force has tentatively concluded that it nevertheless is advisable to permit service providers to prepare orders. While it is not contemplated that the service provider will be appearing as counsel (see section 3 below), he or she will have a representative role.

- Advise about how agreements or court orders may affect a client's rights and obligations;
- Refer matters beyond scope of permitted activities to a lawyer;
- Accept referrals within scope of permitted activities from a lawyer;
- Represent a client in settlement discussions and prepare settlement agreements and orders incorporating settlements within scope of permitted activities;

Should a service provider be permitted to draft and finalize settlement agreements?

The Task Force debated this at some length. It proposes for the purposes of this consultation that full representation of a client should include finalizing settlements. The model contemplated is therefore beyond that associated with that currently existing for non-lawyer mediators who are not allowed to draft settlement agreements. Service providers contemplated in this initiative are, however, representing clients, and it seems counterproductive to the access to legal services imperative to require a client, having been represented through the settlement negotiations by a service provider, to then have to retain a lawyer to finalize the agreement. The service provider will be educated and trained in preparing agreements and will be regulated for competence.

Others may have different views. What alternatives exist? Should a lawyer be required to vet a final agreement?

- Give and receive undertakings

Should service providers be permitted to give and receive undertakings?

The Task Force has included this provision because, if permitted to represent clients in settlements and at mediations, the service provider likely has to be able to give and receive undertakings. Education on the importance of undertakings to the legal system and the role of undertakings in litigation would have to be included, and the proposal would include regulation of conduct relating to undertakings to the same standard as lawyers. It is worth keeping in mind that the BC *Code* already permits the giving and receiving of undertakings by paralegals working under the supervision of lawyers provided certain processes are followed.

- Operate a trust account

Similarly, to be able to perform the services contemplated, a service provider will likely need to operate a trust account. Moreover, operation of a trust account better protects clients providing retainers. Again, it is contemplated that education on the operation of a trust account will be required, and the service provider should be regulated to the same standard as a lawyer in the operation of a trust account, including audit.

- Enforce orders.

The Task Force considers that, having represented a client through a proceeding to obtain an order, it would be counterproductive to the initiative to require the client to then retain a lawyer to enforce the order. Should this include all orders, including through to an application for contempt?

2. **The following scope of practice will be excluded from the general provisions outlined above:**

All matters where the involvement of third parties outside the spousal relationship is expected to raise claims within the proceedings;

Such as, for example, family trusts, family corporations, partnership agreements, beneficial interest of third parties in family assets, mortgages in favour of third parties, other than institutional lenders, etc.

All matters with respect to children that:

- involve the relocation of a child;
- raise allegations of alienation of affection;
- identify child protection concerns;
- Matters relating to the division of pensions other than benefits under the Canada Pension Plan;
- All matters relating to the *Hague Convention*;

Is this too limiting an exception? Should alternate service providers be prohibited only from *defending* such an application?

**Note:** the Working Group debated at some length whether to exclude from scope of practice all matters relating to allegations of domestic violence, sexual abuse and substance abuse. Given that the listed allegations are not uncommon, the Group had some concern that including this exception would be too limiting to the initiative, and that people who needed the services of the new category of service provider would be excluded from using them even though the nature of the services sought was otherwise not complicated. Do you agree or disagree?

### 3. Appearances in Court

Subject to the agreement of the Courts, family law legal service providers will be permitted to appear in court to assist a client to represent him or herself. The legal service provider will be permitted, as described above, to prepare court forms, including pleadings, on behalf of the client, to prepare affidavits, and to advise and assist the client in preparing disclosure and discovery of evidence, and will be permitted to appear in court with a client to advise the client on court processes and to support the client's in-person representation, including responding to questions from the Court if requested to do so by either the Court or, with the Court's permission, the client.

The right of audience before a court is ultimately a matter for the court to determine. The proposal is to begin this initiative with a “McKenzie Friend”-like role, where the service provider is able to assist the client in preparing at and appearing in court, and advising the client during the appearance. It is not proposed at the outset that the service provider will be permitted to act in a full representative capacity as counsel in court.

## Schedule B

### Examples from Other Jurisdictions

Set out below is a survey of some of the considerations that have been given to scope of practice in other jurisdictions.

#### 1. Ontario

The Law Society of Ontario (“LSO”) has approved, in principle, a new licence that will permit paralegals to provide some form of family law legal services. The LSO’s approval of the new licence emerged shortly after the release of Justice Annemarie Bonkalo’s *Family Legal Services Review*,<sup>4</sup> a report that was jointly commissioned by the Attorney General of Ontario and the Law Society of Upper Canada (now the LSO).<sup>5</sup>

In her report, Justice Bonkalo highlighted widespread access to justice deficiencies for people involved in family law disputes. To enhance access, Justice Bonkalo recommended, *inter alia*, expanding the scope of practice of paralegals licensed by the LSO to include the provision of family law services.

While the LSO will ultimately establish the regime for family law paralegals, Justice Bonkalo recommended the following framework for an extensive scope of practice:

- The Law Society of Ontario should create a specialized licence for paralegals to provide specified legal services in family law;
- Family law paralegals should be permitted to work in the areas of:
  - Custody;
  - Access;
  - Simple child support cases;
  - Restraining orders;
  - Enforcement; and

---

<sup>4</sup> Available at [https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/family\\_legal\\_services\\_review/](https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/family_legal_services_review/)

<sup>5</sup> The Bonkalo report has received a decidedly mixed reception. The Law Society of Ontario is however pursuing the recommendations and is examining what scope of family law-related legal services could be permitted to paralegal licensees.

- Simple and joint divorces without property.
- Family law paralegals should **not** be permitted to work in the areas of:
  - The *Convention on the Civil Aspects of International Child Abduction* (i.e. the Hague Convention);
  - Child protection (which was outside the scope of Justice Bonkalo's review);
  - Property;
  - Spousal support;
  - Complex child support in which discretionary determinations are necessary to arrive at an income amount (e.g. self-employment, undue hardship); and
  - Relocation.
- Within the permitted practice areas, family paralegals should be allowed to:
  - Conduct client interviews to understand the client's objectives and to obtain facts relevant to achieving those objectives;
  - Perform the following forms-related tasks:
    - Complete court-approved forms on the client's behalf;
    - Advise the client on which form to use;
    - Advise the client on how to complete the form;
    - Sign, file and complete service of the form on the client's behalf;
    - Obtain, explain and file any necessary supporting documents on the client's behalf;
      - Select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document for use in a proceeding;
      - Determine what documents to serve or file in relation to the proceeding, determine on whom to serve or file a document, or determine when, where or how to serve or file a document;
      - Advise the client about the anticipated course of proceedings by which the court will resolve the matter;
      - Communicate with another party or the party's representative;
      - Represent a client in mediated negotiations;
      - Prepare a written settlement agreement in conformity with the mediated agreement;

- Represent a client in court, other than at trials; and
- Advise a client about how a court order affects the client's rights and obligations.

## 2. Washington State

In 2012 the Supreme Court of Washington authorized the creation of Limited License Legal Technicians ("LLLT"s).<sup>6</sup>

The LLLT program is relatively narrow. It permits LLLTs to:

- Inform clients of procedures and course of legal proceedings;
- Provide approved and lawyer prepared self-help materials;
- Review and explain documents and exhibits from opposing parties;
- Select, complete, file and serve approved and lawyer prepared forms and advise of their relevance;
- Advise clients of necessary documents and explain their relevance; and
- Assist clients with obtaining necessary documents.

However, LLLTs may not:

- Represent a client in court, administrative or formal dispute resolution proceedings;
- Negotiate a client's legal rights;
- Communicate a client's position with another person; or
- Convey the position of another party to a client.

---

<sup>6</sup> Washington State Supreme Court *In the Matter of the Adoption of New APR 28 – Limited Practice Rule for Limited Licence Legal Technicians* Order No. 25700 – A -1005, Filed June 15, 2012.  
<http://www.courts.wa.gov/content/publicUpload/Press%20Releases/25700-A-1005.pdf>



### 3. Utah

The Utah Supreme Court recently approved the creation of Licensed Paralegal Practitioners (“LPPs”). The specific rules for the scheme are still in development. However, LPPs have been approved in principle to practise in several areas, including family law.<sup>7</sup>

In designing its recommendations, the Court subcommittee tried to identify the gaps in legal services and tried to find solutions to address those gaps, recognizing at the same time that there was little point to permitting a paraprofessional to provide services in areas in which there is no demand. It chose to focus on areas within family law in which the number of self-represented parties was very high.<sup>8</sup>

In family law, LPPs will be able to work on temporary separation, divorce, paternity, cohabitant abuse, civil stalking, custody/support and name changes. Within those areas, LPPs will be authorized to provide the following services:

- Establish a contractual relationship with a client who is not represented by a lawyer;
- Conduct client interviews to understand a client’s objectives and to obtain facts relevant to achieving that objective;
- Complete court-approved forms on behalf of a client;
- Advise about which forms to use and how to complete forms;
- Sign, file and complete service of forms;
- Obtain, explain and file any necessary supporting documents;
- Advise about the anticipated course of proceedings by which the court will resolve the matter;
- Represent a client in mediated negotiations;
- Prepare a written settlement agreement in conformity with the mediated agreement; and

---

<sup>7</sup> Supreme Court of Utah *Report and Recommendations of Supreme Court Task Force to Examine Limited Legal Licensing* November 2015.  
[http://www.utcourts.gov/committees/limited\\_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf](http://www.utcourts.gov/committees/limited_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf)

<sup>8</sup> *Ibid* pages 14 – 15.

- Advise about how a court order affects a client’s rights and obligations.

#### **4. Arizona**

Arizona licenses individuals and businesses as Legal Document Preparers (“LDPs”). Effective July 1, 2003, all individuals and businesses preparing legal documents, without the supervision of an attorney in good standing with the State Bar of Arizona, had to be certified pursuant to Arizona Supreme Court Rule 31 and Arizona Code of Judicial Administration §7-208.

LDPs are certified by the Arizona Supreme Court Board of Legal Document Preparers with the purpose of preparing or providing legal documents for an individual or entity engaged in self representation in any legal matter. LDPs do not work under the supervision of a lawyer and they can assist in Family Court related matters such as divorce and separation, paternity, custody, child support, and parenting time.<sup>9</sup>

The scope of practice for LDPs is as follows:

- Can prepare or provide legal documents and general legal information (but not specific advice, opinions, or recommendations about possible legal rights, remedies, defenses, options, or strategies).
- Can provide general factual information about legal rights, procedures, or options and provide forms and documents (and arrange for service of legal forms and documents).
- May not sign any document other than specified notices.
- Cannot give legal advice, legal opinions, or promises, and communications are not privileged.<sup>10</sup>

#### **5. California**

On September 30, 1998 the California Governor signed California State Senate Bill SB1418, regulating the legal document preparation profession in the State of California, and creating a new formal title, Legal Document Assistant (“LDA”).

LDAs have the ability to distribute legal materials to their customers that have been published or approved by a lawyer. They can also prepare legal documents under the direction of their

---

<sup>9</sup>Arizona Association of Independent Paralegals, *What a Certified Legal Document Preparer can do for You*, online: AAIP <<https://www.independentparalegals.com/what-a-certified-legal-document-preparer-can-do-for-you/>>.

<sup>10</sup>Arizona Judicial Branch, *Legal Document Preparers* online: AzCourts <<http://www.azcourts.gov/cld/Legal-Documents-Preparers>>.

customers, and file legal documents in the appropriate courts. LDAs are required by law to be registered and bonded in the county where their principal place of business is located.<sup>11</sup>

The scope of practice for LDAs is as follows:

- Provide general published factual information about legal procedures, rights, or obligations that have been written or approved by an attorney.
- File and serve legal forms and documents at the specific direction of a client.
- Cannot provide advice, explanation, opinion, or recommendation about possible legal rights, remedies, defenses, options, selection of forms, or strategies.
- In order to suggest what forms to complete, the legal document assistant must have a detailed guide, approved by an attorney, stating exactly what forms are needed for a particular objective.
- Client must know what forms to use or must decide on what forms to use based on an attorney-approved guide.<sup>12</sup>
- Cannot give legal advice or represent a client in the courts on any matter, but is permitted to refer such matters to a lawyer.<sup>13</sup>

## 6. Nevada

Legal Document Preparation Services were authorized by the Nevada Legislature in 2013, effective March 2014.<sup>14</sup> These individuals are registered with the Nevada Secretary of State. A legal document preparer is allowed to:

- Prepare or complete any pleading, application or other document for the client.
- Translate an answer to a question posed in such a document.
- Secure any supporting documents, such as a birth certificate, required in connection with the legal matter.

---

<sup>11</sup> California Association of Legal Document Assistants, *What is CALDA?* online: CALDA <<https://www.calda.org/who-we-are>>.

<sup>12</sup> *ibid.*

<sup>13</sup> *ibid.*

<sup>14</sup> National Federation of Paralegal Associations, *Paralegal Regulation by State*, online: <<https://www.paralegals.org/files/2017-08-24%20Regulation%20by%20State%20FINAL.pdf>>.

- Submit a completed document on behalf of the client to a court or administrative agency, or preparing or assisting in the preparation of all or substantially all of a federal or state tax return or claim for a tax refund.<sup>15</sup>

## 7. New York

In 2014, New York City launched the Court Navigator Program Pilot Project. This is a volunteer program to help self-represented litigants navigate through the court process in landlord-tenant disputes and consumer debt cases at the City's Housing and Civil Courts.<sup>16</sup> In total there were three pilot programs launched.

Court Navigators can provide general information, written materials, and one-on-one assistance to eligible unrepresented litigants. A Court Navigator has the authority to assist litigants with keeping paperwork in order, in accessing interpreters and other services, explain what to expect and what the roles of each person is in the courtroom. Court Navigators are also permitted to accompany unrepresented litigants into the courtroom in the Bronx, New York, Kings, and Queens County Housing Court and Bronx Civil Court. While these Court Navigators cannot address the court on their own, they are able to respond to factual questions asked by the judge. Colorado and Maryland have implemented their own Court Navigator pilot programs.<sup>17</sup>

Court Navigators have the following scope of practice:

- Can assist litigants in using computers located in the courthouse to obtain information and fill out court forms using Do It Yourself (DIY) computer programs.
- Can help find information about the law and how to find a lawyer on a website called Law Help, help persons find resources in the courthouse, and outside the court to assist in resolving their cases and help persons collect and organize documents needed for their cases.
- Can accompany persons during hallway negotiations with opposing attorneys, in conferences with the judge or the judge's court attorney, and respond to a judge's or court attorney's questions asking for factual information on the case.

---

<sup>15</sup> Nevada Secretary of State, *Document Preparation Services*, online: <<https://www.nvsos.gov/sos/licensing/document-preparation-services>>.

<sup>16</sup> New York Courts, *Court Navigator Program*, online: <<https://www.nycourts.gov/courts/nyc/housing/rap.shtml>>.

<sup>17</sup> Doug Donovan, "Baltimore Court Expands Tenant Aid in Housing Cases", (January 4, 2018) online: *Baltimore Sun* <<http://www.baltimoresun.com/news/maryland/investigations/bs-md-rent-court-navigators-20171221-story.html>>.

- Cannot give legal advice or get involved in negotiations or settlement conferences. Generally, court navigators also do not give out legal information except with the approval of the Chief Administrative Judge of the Courts.

## 8. Colorado

A subcommittee of the Colorado Supreme Court Advisory Committee was formed in 2015 to examine the Washington State LLLT program.<sup>18</sup> However, this committee was later expanded and renamed the Provider of Alternative Legal Services Subcommittee (PALs) to study the Washington State Program, the New York City Court Navigators program, and the Law Society of Upper Canada paralegal program.<sup>19</sup>

The recent minutes of the committee indicate that Colorado has moved away from the Washington State model, and has taken steps towards implementing the New York City Court Navigators program.<sup>20</sup> In 2016, the Colorado Judicial Branch posted an advertisement seeking volunteers for a Court Navigator Program. According to an October 2016 posting on the Colorado Judicial Branch, volunteer court navigators began training on November 15, 2016.<sup>21</sup>

---

<sup>18</sup>Colorado Supreme Court, *NY pro se Program Possible Model for Colorado*, (Spring 2016) online: Office of Attorney Regulation Counsel <[http://www.coloradosupremecourt.com/newsletters/spring2016/ny\\_pro\\_se\\_program\\_possible\\_model\\_for\\_colorado.htm](http://www.coloradosupremecourt.com/newsletters/spring2016/ny_pro_se_program_possible_model_for_colorado.htm)>/

<sup>19</sup> *ibid.*

<sup>20</sup> Colorado Supreme Court, *Limited License Legal Technicians Subcommittee Minutes*, online: Office of Attorney Regulation Counsel <<http://www.coloradosupremecourt.com/AboutUs/LLLTMinutes.asp>>.

<sup>21</sup>