

## EXECUTIVE SUMMARY

### REPORT AND RECOMMENDATIONS MINNESOTA STATE BAR ASSOCIATION TASK FORCE ON THE FUTURE OF LEGAL EDUCATION

In October 2013, the Minnesota State Bar Association (“MSBA”) Council approved the creation of a Future of Legal Education Task Force (the “Task Force”) to explore and make recommendations regarding steps, if any, which the MSBA, Minnesota courts, and Minnesota’s law schools might take to assure that legal education in Minnesota maximizes its relevance, cost-effectiveness, and value with respect to the needs of students, the justice system, and the public. The Task Force’s work was to be completed no later than June 30, 2015.

From May 2014 through May 2015, the Task Force, led by co-chairs former Minnesota Supreme Court Justices Sam Hanson and Helen Meyer, convened eight times in addition to numerous subcommittee meetings. Twenty-six members<sup>1</sup>, including the co-chairs and the deans of all four Minnesota law schools<sup>2</sup>, participated in the Task Force. To prepare for the Task Force’s work, members conducted focus-group style discussions with the MSBA Governing Council during the September 2014 general assembly meeting. Task Force members organized into three separate subcommittees—Preparing Law Students for Practice, Making Law School Affordable, and Unmet Legal Needs—each focused on separate aspects of the legal education sector. In addition, the Task Force reviewed numerous reports and studies on the legal education sector (see Bibliography), as well as presentations from Dean Robert Vischer of the University of St. Thomas Law School and Margaret Fuller Corneille, executive director of the Minnesota Board of Law Examiners.

Following a brief introduction and description of the role of law and legal education in society, the report provides more detail behind the work of the subcommittees. First, the report examines the delivery of value in legal education to law students. The chief focus of this examination is on methods to increase the practice readiness of graduates as they enter the legal marketplace. Second, the report looks at the accessibility of law school, primarily through the lens of financing and cost. This section includes discussion of the issues surrounding current law school rating systems, scholarship norms in legal education, and the need to promote diversity in local legal education.

Third, the report describes a potential limited license legal technician (“LLLT”) pilot program as a way to increase accessibility to legal services for low- and moderate-income-earners. This section contains consideration of both existing LLLT models and Minnesota’s unique unmet legal needs. Finally, the report looks at ways the MSBA can facilitate connections between future

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<sup>1</sup> See Appendix A for complete listing of Task Force participants.

<sup>2</sup> In January 2015, the law school deans decided to withdraw as voting members of the Task Force in order to ensure no appearance of conflict regarding any of the Task Force’s recommendations. However, they remained involved as advisors to the Task Force and engaged in the formulation of the Task Force’s recommendations throughout the remainder of the Task Force’s work.

lawyers at the metro-area law schools and opportunities in outstate communities. In this section, the Task Force notes the lack of legal services in certain rural and outstate-Minnesota communities but also acknowledges the challenges law schools face in finding and placing students in summer employment and internship positions in outstate and rural communities.

The culmination of these discussions laid out in the following report and appendices is a series of six recommendations directed at the greater MSBA:

1. In order to assist law graduates to become practice ready, the MSBA should (a) engage in conversation with the law schools in order to identify the key competencies that are necessary for beginning lawyers in various practice areas; and (b) offer post-graduate practical training opportunities to improve the transition to practice.
2. In order to make legal education more accessible and reduce law student living expenses, the MSBA should recognize and encourage continued technological and pedagogical innovation by the law schools including the offering of distance and other flexible learning options.
3. In order to be more inclusive and welcoming so as to increase the number of diverse attorneys in the state, the MSBA should link any initiatives taken in response to these recommendations to efforts that involve and promote enrollment and graduation of law students from underrepresented groups.
4. In order to reduce the cost of law student living expenses and provide earning opportunities immediately upon graduation, the MSBA should consider petitioning the Minnesota Supreme Court to amend the Rules for Admission to the Bar to provide the option for law students to complete the bar examination during their last year in law school, for those law schools that offer a curriculum designed to accommodate early examination.
5. In order to identify a less costly path to a career in legal services and address unmet needs for specific types of legal services, the MSBA should establish a separate task force focused on studying the viability of certifying Limited License Legal Technicians (“LLLT”) with authority to provide supervised legal services in defined practice areas. This task force should consist of representatives from the state court administrative office, civil legal services and pro bono programs, private practices from diverse practice settings throughout the state, potential clients, and institutions of higher education (including, but not limited to law schools). The task force should prepare a recommendation to the MSBA Assembly on the question whether to submit a petition to the Minnesota Supreme Court to establish an LLLT practitioner rule by June 2016.
6. In order to increase job opportunities for law graduates and address unmet needs for legal services in outstate areas, the MSBA should develop an ongoing program to identify places needing increased services and promote mentorship between interested graduates and practicing lawyers in those outstate areas.

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*“Law schools and legal education have been subject to intense criticism in national media, blogs, Congress, the courts, and elsewhere. This criticism is diminishing public confidence in law schools and legal education and it adversely affects attitudes of prospective law students. Yet the criticism has a positive side: it has generated strong pressure for reforms and has induced a climate of receptivity to change.”*

*ABA Task Force on the Future of Legal Education  
January, 2014*

**REPORT AND RECOMMENDATIONS  
MINNESOTA STATE BAR ASSOCIATION  
TASK FORCE ON THE FUTURE OF LEGAL EDUCATION**

**I. OVERVIEW**

The vision of the Minnesota State Bar Association is that it will “improve society by developing professional excellence among its diverse membership and will be a leader in the state of Minnesota in achieving effective and equal justice for all.” In service to this ideal, we have an obligation to examine the widespread concern that the high cost of a legal education, coupled with marked declines in the legal job market, have burdened law students with enormous student loan debt, created a disincentive for otherwise qualified potential students to apply to law school, limited the subsequent career choices of attorneys, impeded efforts to achieve greater diversity in the profession, and exacerbated the inability of the profession to meet society’s needs for legal services, especially among low to moderate income clients.

Although many of the forces at work are beyond the ability of a single law school, or even of a state bar association, to resolve, there are some steps that can be taken to moderate their impact. This report recommends those steps. Perhaps as importantly, this report may be useful to inform the profession of the underlying issues and their social implications.

**II. THE ROLE OF LAW AND LEGAL EDUCATION**

Our work as a Task Force was guided by our belief that the training of lawyers provides an important value to society. Our system of justice and our society depend on having qualified lawyers practicing in all areas of law and being available throughout the state. Government, nonprofit organizations, businesses, and individuals all need legal services at an affordable cost and that access has a public value that goes beyond the benefit that accrues to the client. We desire and need a diverse bar throughout Minnesota. If law school and the profession are not accessible to traditionally underrepresented groups, our efforts falter before they take root.

The Task Force believes that a legal education should provide young lawyers with the necessary skills, knowledge, and credentials to succeed, at a cost that is not prohibitive. We have an ethical obligation to avoid creating large numbers of indebted graduates with no real hope of making an adequate living.

### III. DELIVERY OF VALUE TO STUDENTS IN LEGAL EDUCATION

It is important that law schools pay close attention to the perceived and real value of a legal education. By concerning itself with delivering a legal education that represents “good value”, law schools could address concerns of both quality and price. One key feature of such a “value” assessment is the question of readiness to practice.

Law schools and the practicing bar have acknowledged the concern that even the most focused law school graduates may not be prepared to practice law unsupervised (or at least un-mentored) upon passing the bar examination. Many explanations have been tendered to explain the practice readiness gap. The primary point for practitioners to glean is that the historic doctrinal legal education curriculum may no longer result in all law students graduating ready to practice in our new legal economy.

A larger proportion of new lawyers now practice independently, without the instructive supervision, mentorship, and on-the-job training that new lawyers were more likely to receive in the past. Despite the unfortunate decline of on-the-job, post-law school training, private and public legal employers, under pressure to maximize efficiency in the delivery of legal services, increasingly seek to hire lower-cost junior lawyers to whom senior practitioners may delegate substantive legal tasks. These trends, among others, have coalesced to make the new lawyer practice readiness problem more intense and more critical.

In recent years, Minnesota law schools have responded to the need to prepare more practice-ready new lawyers by expanding their existing practical curricular offerings and by creating new opportunities for practical legal education.<sup>3</sup> Traditional experiential learning opportunities that Minnesota law schools have expanded include clinical offerings and litigation-focused externships. New experiential opportunities include externships in the corporate law context and mentorship programs that allow current law students to build relationships with members of the practicing bar. Practical education in the legal education context allows law students to cultivate practical legal skills, to build professional networks, and to gain work experience that is valuable on the job market and, eventually, in practice. Given the number of Minnesota law school graduates who choose to practice law in Minnesota, initiatives by Minnesota law schools to expand and improve their practical education offerings can reasonably be expected to enhance the practice readiness of new Minnesota lawyers.

To continue to deliver on the value proposition of legal education, Minnesota law schools should continue on the impressive progress they have made to date and continue to expand their offerings of experiential learning opportunities, such as the clinics and externships discussed in this report, *supra*. In addition, the law schools should continue to encourage and require practical application of the law in all classes, practical or doctrinal in nature.

The Task Force also observes that law students who gain substantive legal work experience in law school enjoy somewhat greater success on the job market. As public and private employers

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<sup>3</sup> For a summary of skills-based education in the local law schools, see Appendix B.

of new lawyers become increasingly sensitive to the abilities of their entry-level lawyers to perform substantive legal work, job candidates who have demonstrated the ability to perform some substantive legal work while still in law school will be more attractive than job candidates who lack the same work experience. Work experience also allows law students to demonstrate professionalism and judgment to future employers, as well as to cultivate a professional network.

Despite the evident benefits and advantages of practical legal education in the law school context, limitations on law school resources and the importance of post-law school professional development suggest that increased practical education in law school should not be the only method employed for improving the practice readiness of new lawyers. Moreover, given the inherent limitations of a three-year generalist legal education discussed in this report, *supra*, the Task Force believes that post-law school professional development is an important component of cultivating practice readiness. For these reasons, the Task Force believes that the practicing bar must take an increasingly active role in the professional development of new lawyers.

The bar association has a unique ability to serve as the link between the practicing bar and Minnesota law schools, communicating the particular skills that add value to a modern legal education. It is also in the position to help carry the burden of providing a practical legal education by tailoring to these needs its practical skills offerings, whether in the form of CLE courses directed at new lawyers or in a formal skills-based mentoring program.

Several states have implemented a continuing legal education style new lawyer program designed to help bridge the practice readiness gap.<sup>4</sup> The programs reviewed by the Task Force vary in their particulars, but most of the programs share certain common features. Most of the CLE-style new lawyer programs are two days in duration. Most programs commit one day to professionalism and one day to professional skills. Although some states require that all newly licensed lawyers attend such programs as a condition to licensure, most states make program participation optional. Attendees generally must pay for the programs, but program costs are reasonable and participants typically receive CLE credit.

The Task Force believes that the CLE option has several advantages. The CLE format is well-established and well-known. The institutional competency to develop and deliver a CLE-style new lawyer program is already developed; the Minnesota CLE, other CLE providers and the practicing bar develop and deliver several CLE institutes every year. Minnesota already offers a voluntary CLE programs aimed at new lawyers including the two-day “New Lawyer Experience” and the “Your First” series.<sup>5</sup> Through the Minnesota New Lawyer website, Minnesota CLE also offers resources including “5-Minute Mentor” videos, question and answer articles, and a calendar of new lawyer events.<sup>6</sup> Both mandatory and optional CLE-style new lawyer programs already developed and implemented in other states could serve as templates for an expanded or modified program in Minnesota. Since Minnesota CLE already offers a CLE program

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<sup>4</sup> For an overview of new lawyer CLE programs offered by other states, see Appendix C.

<sup>5</sup> See Minnesota Continuing Legal Education, *The Minnesota New Lawyer*, MNNewLawyer.org, <http://www.mnnewlawyer.org/index.aspx> (last visited Apr. 21, 2015).

<sup>6</sup> See *id.*

addressed to new lawyers, this program could be expanded or modified to address new lawyer practice-readiness more directly.

These advantages notwithstanding, the Task Force has several concerns regarding the efficacy of a CLE-style new lawyer program. While a CLE program could be one part of a more comprehensive response to the practice readiness problem, it would not be sufficient, without more, to make a material difference in new lawyer practice readiness. A CLE program delivered to all new lawyers would be wasteful for new lawyers whose employers do provide on-the-job training. The competencies that constitute entry-level practice readiness vary from practice area to practice area, so a successful new lawyer CLE program would include different curricular options that new lawyers could choose to attend based on their practice area. A new lawyer CLE program should be evaluated to determine whether the program is in fact helping to close the new lawyer practice readiness gap; such an evaluation would likely be a cumbersome undertaking. If all new lawyers are required to attend a new lawyer CLE program, many new lawyers who do not need the program will be conscripted into attendance and required to pay the fee; if not all new lawyers are required to attend such a program, some new lawyers who would otherwise benefit from the program will fail to attend. Finally, the Task Force believes a CLE-style new lawyer program would likely be a less effective method of improving new lawyer practice readiness than the learning-by-doing apprenticeship model that other options replicate more closely.

In contrast to the new lawyer CLE option, the Task Force prefers a formal MSBA-facilitated mentoring program<sup>7</sup> that matches new lawyer mentees to established lawyer mentors who practice in the same practice area as an option that fulfills this learning-by-doing aspiration.<sup>8</sup> Several state bar associations have developed mentor programs that could serve as templates for an MSBA-sanctioned mentoring program.<sup>9</sup>

A mentorship program that replicates the apprenticeship-style “learning-by-doing” model would be of most value to new lawyer development. Such an arrangement would help new lawyers establish meaningful professional connections. Consumers of legal services delivered through a mentorship program would likely enjoy better legal service where qualified mentors help new lawyer mentees to navigate the assigned matter. Additionally, to the extent that mentors and

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<sup>7</sup> Concurrently, the Minnesota State Bar Association’s Task Force on Challenges to the Practice of Law is proposing that the bar (1) support a change to CLE rules to allow for CLE credit for mentors and mentees; and (2) both support existing mentor programs by creating an information clearinghouse on such programs as well as exploring a formal MSBA-sponsored mentor program. This Task Force supports those goals and feels that they address needs explored here.

<sup>8</sup> As an example, the mentor-mentee teams could collaborate either on matters that are assigned by mentorship program managers, or on matters that are generated by the mentor or mentee and approved by mentorship program managers. This Task Force notes that the MSBA’s Task Force on the Challenges to the Practice of Law is assessing the possibility of an MSBA-sanctioned mentoring program; any mentoring program recommended by that Task Force could have a positive effect on the practice readiness gap that is the subject of this Task Force’s work.

<sup>9</sup> See e.g., <http://www.sconet.state.oh.us/AttySvcs/mentoring/faq.asp> (Ohio’s voluntary program matching new lawyers with experienced mentors for CLE credit); <http://www.nvbar.org/tip/faq> (Nevada’s mandatory mentoring program for new lawyers); and <http://coloradomentoring.org/> (Colorado’s voluntary mentoring program funded by a portion of the annual attorney registration fees).

mentees collaborate on pro bono matters, a mentorship program could also increase the amount of pro bono legal service delivered by the practicing bar.<sup>10</sup>

**Recommendation 1: In order to assist law graduates to become practice ready, the MSBA should: (a) engage in conversation with the law schools in order to identify the key competencies that are necessary for beginning lawyers in various practice areas; and (b) offer post-graduate practical training opportunities to improve the transition to practice.**

Minnesota law schools and Minnesota legal employers have a strong history of collaboration, reflected, for example, in their cooperative efforts to develop externship opportunities for law students. The MSBA has strong substantive law sections that include legal practitioners with immense expertise in varied practice areas. The Task Force believes that the Legal Education Stakeholders<sup>11</sup> should collaborate further to identify and develop (the “Outcome Project”) specific competencies that entry-level attorneys working in particular practice areas should be able to demonstrate upon graduation (“Outcomes”). The goal of the Outcome Project is to increase the practice-readiness of law school graduates by aligning legal education outcomes more closely with the competency expectations legal employers have of entry-level lawyers.<sup>12</sup> The Outcomes Project would also assist law schools as they comply with new American Bar Association accreditation standards that require law schools to establish learning outcomes and to conduct ongoing evaluation of the programs of legal education based on student attainment of competency in the learning outcomes they have identified.<sup>13</sup>

This Outcome Project and any Outcomes that may result would not be intended to impose requirements on the Minnesota law schools. Indeed, the Minnesota legal community benefits from pedagogical diversity, experimentation, and healthy competition among the law schools. Nevertheless, identifying and developing practice area specific competencies in collaboration with the law schools (either collectively or on a school-by-school basis) will help them align their peda-

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<sup>10</sup> The Task Force recognizes that a successful mentorship program would require substantial resources. A process for matching mentors and mentees who are likely to work well together would need to be developed; unproductive mentor-mentee relationships would defeat the purpose of the program and increase the risk of poor service to consumers of mentor-mentee-provided legal services. Experienced lawyers who would be mentors must be screened to ensure that they are qualified, ethical practitioners, as well as capable mentors. Benchmarks must be developed for assessing mentee progress and mentoring program success; mentees must be then assessed, and the mentoring program must then be evaluated. The Task Force notes that Twin Cities pro bono organizations, such as the Volunteer Lawyer Network, have developed mentorship programs that could be expanded or replicated. Expanding existing mentorship programs or replicating those programs in new organizations would likely require additional funding, however. Finally, state ethics rules might frustrate mentor-mentee cooperation where the mentor and mentee do not both represent the client to whom they are providing legal services. However, states that have implemented mentoring programs have generated solutions to this issue.

<sup>11</sup> “Legal Education Stakeholders” or the “Stakeholders” refers collectively to the four local law schools, the MSBA, and members of the practicing bar.

<sup>12</sup> The concept of “competency” should be construed broadly. Entry-level lawyer competencies include substantive legal knowledge and practical legal skills, as well as secondary non-legal competencies that practice-ready lawyers possess. For example, an entry-level lawyer practicing general corporate law should possess basic familiarity with financial statements. In the new legal environment, “competency” should be construed to mean more than “basic knowledge of the substantive law and elementary practical skills.”

<sup>13</sup> ABA Standards for Accreditation of Law Schools, Std. 302 and 315 (effective for the entering class of fall 2016).



gical outcomes more closely with the expectations of the legal employers who hire or work with their graduates.

#### IV. THE PRICING AND COST OF LEGAL EDUCATION

Over the course of the past two decades, the attitude toward legal education has transitioned from one focused on personal growth and development to one focused on education as a means to a job or career. As the American Bar Association Task Force on the Future of Legal Education acknowledged, law schools have traditionally been seen as pathways to providing an advanced general purpose education based on the view that the law school's main job is to teach students to think in a certain way. However, students' evolving notions of legal education now require law schools to address the more transactional and consumer-based aspects of student expectation. These expectations have been affected greatly by economic challenges experienced over the past decade.<sup>14</sup>

The law school marketplace has changed dramatically in recent years. Both applications and enrollment numbers are down significantly in recent years, reflecting a difficult employment environment and the perception that a law degree is no longer the key to a lucrative job upon graduation. The number of law school applications dropped from 604,300 in Fall 2010 to 355,100 in Fall 2014.<sup>15</sup> Matriculation numbers over that same period were down by 27.7%, dropping to their lowest level since 1973.<sup>16</sup> However, data in the legal marketplace is not all bleak: early figures this year indicate stability in law school application rates, with only a 2.8% drop from 2014<sup>17</sup> and recent studies report that the negative effects on earnings of a poor economy at graduation fade as workers gain experience.<sup>18</sup>

Nonetheless, the current climate has led to a significant reliance on scholarship awards as schools compete for the most highly-credentialed students. More than half of the students at two Minnesota law schools receive merit-based scholarships.<sup>19</sup> Many critics say that these scholar-

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<sup>14</sup> *Navigating Through a Storm, Final Report — 2014*, ABA TASK FORCE ON THE FUTURE OF LEGAL EDUCATION, 11–12 (2014).

<sup>15</sup> *Data: Three Year Application Graphs*, LSAC.ORG, <http://www.lsac.org/lisacresources/data/three-year-volume> (last visited 4/8/2015 at 9:42 p.m.).

<sup>16</sup> ABA, *ABA Section of Legal Education Reports 2014 Law School Enrollment Data*, AMERICANBAR.ORG, [http://www.americanbar.org/news/abanews/aba-news-archives/2014/12/aba\\_section\\_of\\_legal.html](http://www.americanbar.org/news/abanews/aba-news-archives/2014/12/aba_section_of_legal.html) (Dec. 16, 2014). For a discussion of these trends, see Elizabeth Olson & David Segal, *A Steep Slide in Law School Enrollment Accelerates*, N.Y. TIMES DEALBOOK, <http://dealbook.nytimes.com/2014/12/17/law-school-enrollment-falls-to-lowest-level-since-1987/> (Dec. 17, 2014).

<sup>17</sup> *Data: Three Year Application Graphs*, LSAC.ORG, <http://www.lsac.org/lisacresources/data/three-year-volume> (last visited 4/8/2015 at 9:42 p.m.). See also Steven Davidoff Solomon, *Law Schools and Industry Show Signs of Life, Despite Forecasts of Doom*, N.Y. TIMES DEALBOOK, Mar. 31, 2015, <http://www.nytimes.com/2015/04/01/business/dealbook/despite-forecasts-of-doom-signs-of-life-in-the-legal-industry.html?smprod=nytcore-iphone&smid=nytcore-iphone-share>.

<sup>18</sup> Frank McIntyre & Michael Simkovic, *Timing Lawschool* at 2 (Apr. 4, 2015), available at SSRN: <http://ssrn.com/abstract=2574587>.

<sup>19</sup> Note that although the source shows statistics for conditional scholarships, meaning scholarships that can be revoked based on performance; neither Hamline University nor University of Minnesota's law schools have a high percentage of students losing funding after their first year. The University of St. Thomas and William Mitchell law schools do not offer conditional scholarships so their data is not included in this source. The only purpose of includ-

ships, which are dependent on maintaining a certain grade point average, tend to benefit the students that will already have more career opportunities with higher earning potential after graduation.<sup>20</sup> Nevertheless, although precise numbers are hard to come by, it is fair to say that legal education today is a buyer's market and the actual cost for many students is well below the sticker price.

Moreover, financial assistance to law students and lawyers does not end with these scholarships. There are a variety of different loan programs and repayment options, as well as income based repayment plans and loan forgiveness options. These include both governmental subsidies, such as the Public Service Loan Forgiveness Program<sup>21</sup> and Income Driven Repayment<sup>22</sup> plans, and those largely financed by the schools and the bar, such as the Loan Repayment Assistance Program of Minnesota.<sup>23</sup>

There's no question that law school costs and student debt have some impact on our justice system. Cost, or perceived cost, may persuade otherwise qualified and interested individuals to choose other careers. Ultimately, a smaller pool of lawyers is likely to mean less access for those of more moderate means, as businesses willing and able to pay higher rates will have a significant advantage in competing for these resources.

An emphasis on awarding scholarships primarily on the basis of LSAT scores and undergraduate GPA further narrows the potential field of lawyers. While law schools have an obligation to turn away students who will not be able to pass the bar or practice competently, the measure of a good lawyer cannot always be evaluated by a handful of statistics. Common sense, personal skills, integrity, and a commitment to justice are equally important measures. If we want a profession that reflects our increasingly diverse state, we need to find more holistic ways to identify, recruit, and mentor students who have the potential to become valued colleagues.

Cost also has an impact after graduation. Some new lawyers may forego nonprofit, government, or other types of employment in order to pursue other higher-paying careers they find less satisfying. They may work longer hours, spending less time with their families and in their communi-

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ing this data is to illustrate the amount of merit-based scholarships awarded in the state's law programs. *Conditional Scholarships*, LAW SCHOOL TRANSPARENCY, <http://www.lawschooltransparency.com/reform/projects/Conditional-Scholarships/> (last visited Apr. 9, 2015).

<sup>20</sup>See David Segal, *Law Students Lose the Grant Game as Schools Win*, N.Y. TIMES, Apr. 30, 2011, available at [http://www.nytimes.com/2011/05/01/business/law-school-grants.html?\\_r=2&nl=todaysheadlines&emc=th25&pagewanted=all](http://www.nytimes.com/2011/05/01/business/law-school-grants.html?_r=2&nl=todaysheadlines&emc=th25&pagewanted=all).

<sup>21</sup> Under the Public Service Loan Forgiveness Program, a borrower that is employed full-time by a public service organization may have his or her eligible loans forgiven after making 120 consecutive payments (10 years). Though this plan is not income-driven, the monthly payment amount may be determined by income. See Federal Student Aid, *Public Service Loan Forgiveness Program: Questions and Answers (Q&As) for Federal Student Loan Borrowers*, STUDENTAID.ED.GOV, <https://studentaid.ed.gov/sites/default/files/public-service-loan-forgiveness-common-questions.pdf> (Nov. 2014).

<sup>22</sup> See Federal Student Aid, *Income-Driven Plans*, <https://studentaid.ed.gov/repay-loans/understand/plans/income-driven> (last visited Nov. 13, 2014). These options include Income-Based Repayment, Pay As You Earn, and Income-Contingent Repayment plans. *Id.*

<sup>23</sup> For a more detailed breakdown of the cost of law school and loan repayment in Minnesota, see Appendix D.

ties. They may wait to buy a home, or decide not to return home to their community in Greater Minnesota, or make any number of decisions that are driven by a need to pay their student loans. Others may never find a career, legal or otherwise, that allows them to fully shoulder their student loans. Especially for those who graduate in the lower quintiles of their class, who can generally expect to earn less than their more highly ranked classmates, the cost of law school can be difficult to justify on a purely financial basis.

Of course, many people do not go to law school solely to maximize their income. Service to the community, personal interests, and a belief in the law are all important reasons a person may choose to attend law school. And, a public defender or a small-town sole practitioner can find as much satisfaction and provide as much social value as a corporate lawyer. In short, it is an oversimplification to judge the value of a legal education solely through a return on investment calculation. As recently as 2014, 64.4% of the prior year's law school graduates were employed in positions that required bar passage and an additional 13.8% employed in JD-advantage positions.<sup>24</sup> When considering these figures, it is important to recognize that practicing law is not the ultimate goal of all law graduates. Thus, finding employment in a JD-advantage position such as a compliance or political role is not always a fall back. While federal loan program options like income based repayment plans provide some relief, student debt can still be a lifelong burden for people in these situations, one that is compounded by the difficulty of discharging it in bankruptcy. The fact that income is not the only measure of a successful career does not mean that it is irrelevant.

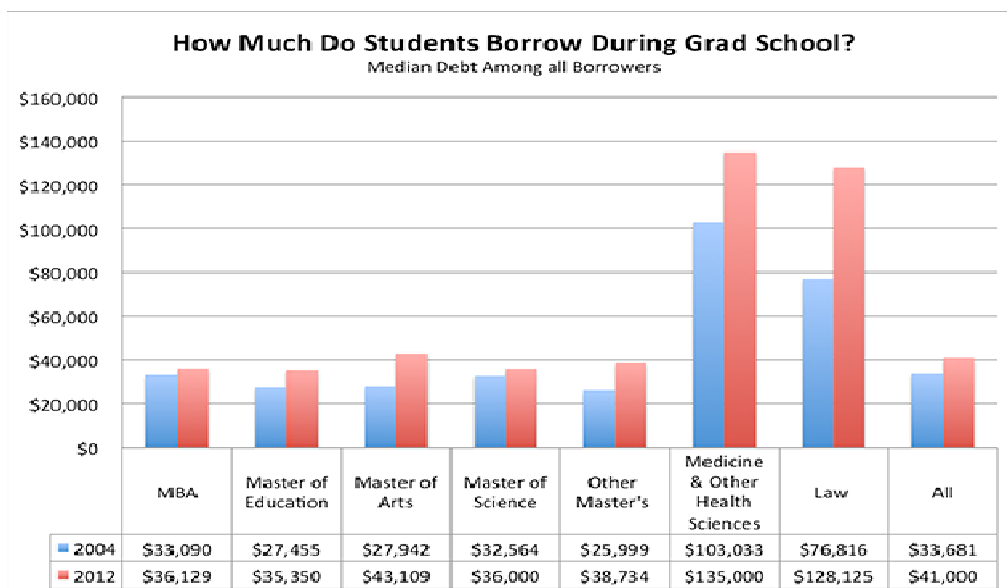
Law schools are not alone in facing this conundrum and law students are not the only ones who borrow to finance their education. Nationally, 69% of college and university students graduated with debt in 2013, a percentage that was mirrored in Minnesota.<sup>25</sup> Those who went on to graduate school incurred even more, as the chart below shows.<sup>26</sup>

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<sup>24</sup> NALP, EMPLOYMENT FOR THE CLASS OF 2013 – SELECTED FINDINGS 2 (2014), available at <http://www.nalp.org/uploads/Classof2013SelectedFindings.pdf>. See also ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, 2013 LAW GRADUATE EMPLOYMENT DATA 1, available at [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2013\\_law\\_graduate\\_employment\\_data.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_graduate_employment_data.authcheckdam.pdf) (reporting 62.3% of 2012 graduates in positions requiring bar passage); and Jordan Weissman, *The Jobs Crisis at Our Best Law Schools is Much, Much Worse Than You Think*, THE ATLANTIC (Apr. 9, 2013), available at <http://www.theatlantic.com/business/archive/2013/04/the-jobs-crisis-at-our-best-law-schools-is-much-much-worse-than-you-think/274795/> (for a discussion of these statistics).

<sup>25</sup> See The Institute for College Access & Success, *Project on Student Debt: State by State Data*, [http://projectonstudentdebt.org/state\\_by\\_state-data.php](http://projectonstudentdebt.org/state_by_state-data.php) (last visited Apr. 8, 2015).

<sup>26</sup> Jordan Weissman, *Loan-ageddon! Grad Students are the New Face of Student Debt. But is it a Crisis?* SLATE (Mar. 26, 2014), available at [http://www.slate.com/articles/business/moneybox/2014/03/graduate\\_school\\_debt\\_is\\_it\\_a\\_crisis.html](http://www.slate.com/articles/business/moneybox/2014/03/graduate_school_debt_is_it_a_crisis.html). For a more complete analysis of data reference in the chart, see Jason Delisle, *The Graduate Student Debt Review*, NEW AMERICA EDUCATION POLICY PROGRAM (March 2014), available at <http://newamerica.net/sites/newamerica.net/files/policydocs/GradStudentDebtReview-Delisle-Final.pdf>.



*Chart: Median Debt Among Grad-Student Borrowers*

In short, the American system of higher education financing is a complex web of government and private lending, public subsidies, tax credits and exemptions, scholarships and grants, loan forgiveness programs, grants and fundraising, complicated by tenure, faculty governance requirements, and the pressures generated by the annual U.S. News and World Report rankings, which reward institutions for spending money on things with little or no discernible impact on student achievement. A detailed analysis of those issues, or an attempt to solve its larger problems, is beyond the scope of this report.

Furthermore, we must also be mindful of the actual role played by the costs of a legal education. While they may be significant for any given individual, they are far from the only barrier to achieving the goal of encouraging the use of legal services by those who would benefit from them. It is hard to assume to what extent legal fees are driven by the need to repay student loans, and thus a factor in whether legal services are affordable for most consumers.

In addition, there does not seem to be much indication that government agencies, legal aid providers, and nonprofits generally thought of as offering lower compensation are having trouble recruiting lawyers to serve in a staff capacity. There may be some individuals who do not apply because of financial pressures related to law school debt, but these jobs remain attractive for a large and talented pool of candidates.

Finally, we must remember that cost is not the only impediment to law school attendance. To the contrary, it is only one part of the larger question of law school accessibility. Geography, demographics, scheduling, and the availability of online courses and other alternative content options all play a role as well. In other words, reducing the out-of-pocket expense of attendance will not be enough to make a legal education an attractive option for many otherwise qualified potential students.

This is especially true in Minnesota. With all of Minnesota's<sup>27</sup> law schools located in the Twin Cities; it can be very difficult for someone located any distance away to get a law degree without uprooting and moving here. A nurse in Mahanomen might have a passion for organizing and counseling agricultural co-ops, but can't uproot his family. A police officer in Worthington might have always wanted to be a prosecutor, but needs to be near home to help care for her ailing mother. For these people, cost might be a trivial consideration, but they remain foreclosed from becoming members of our profession. Fortunately, Minnesota schools have been pioneers in addressing this issue. For example, William Mitchell has created the first ABA accredited hybrid law school program, combining online learning with on campus class meetings. Hamline offers a part-time weekend program, one of only two such programs currently accredited by the ABA. This type of academic flexibility and experimentation is critical to efforts to expand accessibility to law school and the profession.

Much as we might wish, we do not have a sword we can use to cut the Gordian knot of law school finances. Nevertheless, we can draw several conclusions.

First, the cost of law school is most likely to have an impact on individual law students and lawyers. It can affect whether someone matriculates, what career path a graduate follows, and a wide variety of personal decisions a lawyer makes. People should be able to chart their own careers and lives and as long as they have the information necessary to make an informed decision, we should be cautious about interfering with that freedom. As a bar, however, we have an interest in making sure the profession remains economically viable for the majority of its members. We also have an obligation to ensure that financial obstacles do not prevent us from achieving the goal of maintaining a bar that reflects the communities it needs to serve.

Second, the impact of the expense of a legal education on the availability of legal services has to be viewed within a broader context. The willingness of attorneys to work and live in Greater Minnesota, the proliferation of online legal services, the ability of lawyers to use technology to serve clients remotely, and the overall demographic changes taking place in our state all affect whether, why, and how Minnesotans use attorneys. More study is needed before concluding that reducing law school costs will make legal services more accessible.

Third, the accessibility of the profession to potential lawyers needs to take into account factors other than cost. Training a broader range of people to provide legal services will require allowing educational providers to experiment with a variety of delivery methods and models. With proper safeguards, the American Bar Association and the Minnesota Supreme Court should permit this experimentation.

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<sup>27</sup> Beginning in Fall 2015, William Mitchell and Hamline Law Schools will merge, making three law schools in Minnesota.

Finally, we are deeply concerned by the consequences of law school rankings. *U.S. News and World Report* is perhaps the best known of these, but others, such as those put out by *Forbes*, share many of the same traits.<sup>28</sup>

The rankings published by one magazine in Washington DC, U.S. News, have had such a uniquely powerful influence on legal education that those rankings deserve attention in any discussion of the future of legal education. The organized bar should assist in moderating that influence because it works at cross purposes with many of the recommendations in this report.

Law schools benefit differentially from the rankings, so it is difficult for law schools to act collectively to address the effects of the U.S. News Rankings. But the profession is in a position to have some influence. Rankings are tools for consumers of legal education – and those consumers fall into two categories: prospective students, and prospective employers of those students. The power of the rankings with respect to the former depends heavily on the real or perceived influence of the rankings among the latter. Thus, one of the keys to moderating the power of the U.S. News rankings lies with the profession. The profession has an obligation to assist prospective law students in understanding and evaluating the U.S. News Rankings, and to urge more diversity in the ways in which law schools are compared, evaluated and ranked.

Rankings can convey important information that helps consumers make intelligent choices. But a ranking system reflects a particular set of value choices. The choices underlying the U.S. News Rankings have shaped legal education in powerful ways, often invisibly, and arguably in ways that are contrary to the values of access and affordability underlying this report. The U.S. News rankings are designed for prospective law students who are seeking to compete in an elite, national market. But for others, who aspire to public service, legal aid, prosecutor or public defender work, small firm or small town practice, who are seeking schools that add value to their pursuit of those careers—the U.S. News rankings are at best irrelevant and may be misleading. Yet it is empirically clear that the U.S. News rankings affect prospective student choices.

The critiques of the U.S. News rankings are multiple. The magazine’s methodology, including the factors and their relative weights, changes from year to year. By far the biggest factor in the U.S. News rankings is “reputation,” as measured by surveys of academics and judges and lawyers. Revealingly, the opinions of academics are weighted over those of lawyers and judges, and the rankings do not clarify what weight, if any, is given to regional rather than national reputation.

Because there is little that a law school can do to affect its reputational ranking, schools focus on the statistical data that forms the remainder of the rankings criteria: the academic credentials of the students enrolling in the school, the selectivity of the school in its admissions, and the bar passage and employment data of its graduates. Schools can experience what sometimes looks like significant movement up or down in the rankings by making incremental changes in these data, primarily because schools are already clustered so closely. The prospect of moving up in

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<sup>28</sup> For evidence that other criteria can be valuable in evaluation law schools’ performance, see the work of Professor Brian Leiter of the University of Chicago Law School. *See generally* Brian Leiter, BRIAN LEITER’S LAW SCHOOL REPORTS, <http://leiterlawschool.typepad.com/> (last visited 4/8/2015).

the rankings as well as the fear of falling from year to year drives schools to focus intensely on controlling the factors they can manipulate.

Critics have identified several key ways in which the U.S. News Rankings have had powerful influences on legal education. As Prof. Brian Tamanaha, writes in his influential book *Failing Law Schools*, “The rankings have law schools by the throat. No question.” Tamanaha identifies the following ways in which the rankings have adversely affected legal education:

Schools have altered their admissions formula to maximize their ranking. The internal composition of the student body has changed in multiple ways at law schools as a result of the ranking. Schools have shifted scholarships away from financially needy students owing to the ranking. Tens of thousands of dollars are spent on promotional material by law schools hoping to improve their ranking. ... The Government Accounting Office issued a report to Congress concluding that competition among law schools over the ranking is a major contributor to the increase in tuition.

The dominance of the U.S. News rankings has pushed legal education toward homogeneity. It has encouraged tuition increases in service to prestige rather than value-added. It has pushed law schools to use scholarships to achieve higher incoming class credentials rather than diversity or public service or leadership. And, it has led to a system in which students with lower credentials pay substantially more than students with higher credentials. It has exacerbated the wealth-concentration in law schools, with the effect, according to Tamanaha, “that more and more elite legal positions will be in the hands of the wealthy.”

Individual law schools have little power to ignore the dominance of the U.S. News Rankings. The organized bar is in a position to help moderate that dominance. The bar association should offer guidance to prospective law students to help them put the U.S. News Rankings in the proper perspective.

***Recommendation 2: In order to make legal education more accessible and reduce law student living expenses, the MSBA should recognize and encourage continued technological and pedagogical innovation by the law schools including the offering of distance and other flexible learning options.***

We recommend support for existing and continued efforts to make a legal education more accessible through technological and pedagogical innovation. Minnesota’s law schools are already leaders in this area, as with William Mitchell College of Law’s hybrid program and Hamline’s weekend program.<sup>29</sup> Other distance and flexible learning options should be explored. The possibility of providing law school credit for experiential and other prior learning, similar to the program offered by the Minnesota State Colleges and Universities system, is one possible option. Allowing financial compensation to be paid to students earning academic credits for appropriately defined and managed externships and clerkships is another.

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<sup>29</sup> The Task Force recognizes the intention of William Mitchell and Hamline to merge to form a new law school – Mitchell Hamline School of Law. (ABA approval is pending as of the date of this report.) The merger represents the kind of innovation desired by the Task Force’s recommendation.

**Recommendation 3: In order to be more inclusive and welcoming so as to increase the number of diverse attorneys in the state, the MSBA should link any initiatives taken in response to these recommendations to efforts that involve and promote enrollment and graduation of law students from underrepresented groups.**

Diversity and inclusion are also major considerations relative to the accessibility of legal education in Minnesota. As we consider how to make law school more accessible in terms of affordability, we need to recognize that Minnesota is becoming more diverse across multiple different indicators including race, ethnicity, sexual orientation, and disability.<sup>30</sup> The MSBA and the profession as a whole must increase efforts to develop a bar that truly represents the community it serves.

Data from the local law schools provide a snapshot of the current pipeline of diverse attorneys.<sup>31</sup> For 2013, the ABA reported the breakdown for full time enrollment at the local schools as follows: 813 white male students, 150 minority male students, 672 white female students, and 164 minority female students.<sup>32</sup> While this data gives us some helpful context regarding enrollment by racial and ethnic minorities, we also note that absence of data regarding disability and sexual orientation.<sup>33</sup>

A bright spot rests with the percentage of minority 2L summer associates working with Hennepin County law firms: in 2013, more than 35% of all summer associates were racial and ethnic minorities.<sup>34</sup> The challenge thus lies in strengthening the minority law student pipeline so that a greater number of law students become successful law firm associates, and in turn, successful law firm partners.

Another encouraging development is the MSBA's increased commitment to diversity in the profession and the creation of a strategic plan for the bar's diversity efforts. It is hoped that these efforts will work to increase minority law student enrollment and graduation. Also critical are law school collaborations with local bar associations, such as the 1L Minority Clerkship Program of the Hennepin County Bar Association, that have legal pipeline programs. The Minnesota bar as a whole needs to be more inclusive and welcoming so as to increase the number of diverse attorneys in the state.

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<sup>30</sup> See Jeff Stevens Guntzel, *Minorities in Minnesota: What the Census tells us*, MINNPOST, March 17, 2011.

<sup>31</sup> HBCA Diversity & Inclusion Comm., *The Pipeline of Diverse Local Lawyers*, HENNEPIN LAWYER Jan–Feb 2015 at 29.

<sup>32</sup> ABA Section of Legal Education & Admissions, *2009–2013 Total Full-Time JD Enrollment by Gender and Ethnicity*, AMERICANBAR.ORG, [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2009\\_2013\\_ft\\_total\\_jd\\_enrollment\\_gender\\_ethnicity.xlsx](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2009_2013_ft_total_jd_enrollment_gender_ethnicity.xlsx) (last visited Apr. 13, 2013).

<sup>33</sup> See ABA Section of Legal Education & Admissions to the Bar, *Statistics*, AMERICANBAR.ORG, [http://www.americanbar.org/groups/legal\\_education/resources/statistics.html](http://www.americanbar.org/groups/legal_education/resources/statistics.html) (last visited Apr. 13, 2015) (showing enrollment and degrees awarded statistics by ethnicity and gender).

<sup>34</sup> HBCA Diversity & Inclusion Comm., *supra* note 29.



**Recommendation 4: In order to reduce the cost of law student living expenses and provide earning opportunities immediately upon graduation, the MSBA should consider petitioning the Minnesota Supreme Court to amend the Rules for Admission to the Bar to provide the option for law students to complete the bar examination during their last year in law school, for those law schools that offer a curriculum designed to accommodate early examination.**

We recommend following the lead of other jurisdictions that are exploring and experimenting with ways to allow students to begin practice earlier, allowing them to begin earning a living more quickly. Some institutions rely on integrated and accelerated undergraduate/law school programs to reduce the amount of time and money required to obtain a law degree. England relies heavily on apprenticeships and the experiences, while California and several other states permit “reading for the law.”<sup>35</sup> New York adopted changes to its rule for admission in 2013 providing a fifty hour, supervised pro-bono requirement for bar applicants.<sup>36</sup> This change was designed to address both the access to justice crisis, as well as help prospective attorneys develop practical skills and “imbue[] in them the ideal of working toward the greater good.”<sup>37</sup>

In 2012, the Supreme Court of Arizona amended its rule on admission to practice law to allow law students to sit for the bar exam during their final semester of law school.<sup>38</sup> While leaving the specifics of the curriculum to participating law schools, the court generally requires a period of limited or no coursework during the month before the exam, the completion of the character and fitness exam, and that participating students expect to graduate within no more than 120 days of taking the exam.<sup>39</sup> This action was widely supported by Arizona law schools, largely due to the likelihood that it will greatly reduce students’ cost of education by allowing students to seek employment immediately after graduation.<sup>40</sup> All of these and more should be reviewed to determine if they are suitable for Minnesota.

## V. EXPAND ACCESSIBILITY OF NEEDED LEGAL SERVICES

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<sup>35</sup> Sean Patrick Farrell, *The Lawyer’s Apprentice*, N.Y. TIMES, July 30, 2014, available at [http://www.nytimes.com/2014/08/03/education/edlife/how-to-learn-the-law-without-law-school.html?\\_r=0](http://www.nytimes.com/2014/08/03/education/edlife/how-to-learn-the-law-without-law-school.html?_r=0).

<sup>36</sup> In re the Amend. of the R. of the Ct. of App. For the Admission of Attorneys and Counselors at Law, N.Y. Ct. App. (Sept. 14, 2012), available at [http://www.courts.state.ny.us/attorneys/probono/Rule520\\_16.pdf](http://www.courts.state.ny.us/attorneys/probono/Rule520_16.pdf).

<sup>37</sup> Jamie Podgers, *New York’s New Rule Requires Bar Applicants to Perform 50 Hours of Pro Bono*, ABA JOURNAL (Mar. 1, 2013), available at [http://www.abajournal.com/magazine/article/new\\_yorks\\_new\\_rule\\_requires\\_bar\\_applicants\\_to\\_perform\\_50\\_hours\\_of\\_pro\\_bono/](http://www.abajournal.com/magazine/article/new_yorks_new_rule_requires_bar_applicants_to_perform_50_hours_of_pro_bono/).

<sup>38</sup> In re Petition to Amend Rule 34, Rules of the S. Ct., Ariz. S. Ct. No. R-12-0002 (Dec. 20, 2012).

<sup>39</sup> *Id.*

<sup>40</sup> See Debra Cassens Weiss, *Arizona Law Students Back Proposal to Allow 3Ls to Take the Bar Exam*, ABA JOURNAL (Dec. 04, 2012).

Our system of justice and our society depend on having qualified lawyers practicing in all areas of law and being available throughout the state. Government, nonprofit organizations, businesses, and individuals all need legal services at an affordable cost. Legal education has an important role to train practitioners prepared to meet the diversity of legal needs in our state and the MSBA has an important role in providing leadership to the profession in ensuring that practitioners meet high standards of skill and ethics.

As part of its work to address how Minnesota’s law schools might better respond to unmet legal needs in Minnesota, the Task Force considered whether the state should consider licensing non-lawyers to perform various tasks, including giving legal advice, presently reserved only for lawyers.

The issue of access to justice for low and moderate-income Minnesotans isn’t easily solved. However, time and again, the Courts and the Bar (including the state’s law schools) have innovatively adopted rules, programs, projects and initiatives that have, in fact, worked to make it easier for people in legal need to access lawyers and legal resources.<sup>41</sup>

The problem with many of the solutions to date is that by their nature (such as brief legal advice or brief services), the time a self-represented litigant spends with an attorney (who can give legal advice) is extremely limited (possibly as short as fifteen minutes). As a result, the person in legal need must often access the system multiple times (e.g. repeated visits to various legal clinics) in order to progress their legal matter. This is both frustrating to the self-represented litigant and a drain on very limited resources.

In this regard, a Limited License Legal Technician (“LLLT”) would be a resource that self-represented litigants could repeatedly access and work with as the person in legal need navigates the legal system. Unlike legal clinics or other resources (for example, the Legal Access Point or Housing Court Project, both in Hennepin County) where developing a relationship with an attorney is extremely difficult, a LLLT offers self-represented litigants the possibility of a professional relationship in which legal advice would be an important component. This is the “individualized legal assistance” that the Washington State Supreme Court spoke of when adopting that state’s LLLT rule.<sup>42</sup>

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<sup>41</sup> For a more in-depth discussion of Minnesota’s legal needs and current solutions, see Appendix E.

<sup>42</sup> For a summary of Washington’s model program, see Appendix F.

**Recommendation 5: In order to identify a less costly path to a career in legal services and address unmet needs for specific types of legal services, the MSBA should establish a separate task force focused on studying the viability of certifying Limited License Legal Technicians (“LLLT”) with authority to provide supervised legal services in defined practice areas. This task force should consist of representatives from the state court administrative office, civil legal services and pro bono programs, private practices from diverse practice settings throughout the state, potential clients, and institutions of higher education (including, but not limited to law schools). The task force should prepare a recommendation to the MSBA Assembly on the question whether to submit a petition to the Minnesota Supreme Court to establish an LLLT practitioner rule by June 2016.**

Given the similarity of legal access problems and past solutions in Washington State compared to Minnesota, the Task Force believes the time has come for Minnesota to seriously consider the idea of implementing a Limited License Legal Technician program. Other jurisdictions, including New York<sup>43</sup>, California<sup>44</sup>, and Oregon<sup>45</sup>, are pursuing this type of program as well. We also believe the idea should be expeditiously studied; given Washington State’s leadership in this area, metrics and outcomes should be readily discernible beginning in 2016. In light of the pressing needs of self-represented litigants in Minnesota, any study should be geared toward a timely conclusion.

Additionally, the Task Force encourages the new MSBA task force to go beyond the Washington model to tailor any resulting program to the specific needs and existing strengths of the legal system in Minnesota.

## **VI. STRENGTHEN RELATIONSHIP BETWEEN LAW SCHOOLS AND THE MSBA**

With the goal of making a recommendation that connects three groups—law students and law schools, the MSBA, and rural practitioners—the task force conducted an examination of the programs and feedback offered by the local law schools in the area of “rural” practice, as well as what surrounding states have done to address the widely recognized issue of attracting law students, especially those educated in a metropolitan area, to rural and outstate careers. According to the National Association of Counties, “an estimated 20 percent of U.S. residents live in rural areas, but only 2 percent of law practices operate out of those small town regions.”

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<sup>43</sup> See N.Y. Sen. 09073-01-5 (Feb. 9, 2015) (legislative proposal providing for housing and consumer court advocates).

<sup>44</sup> In California’s report, following the identification of a gap in access to legal representation and a discussion of the Washington LLLT program, the task force recommended that its state bar study a pilot LLLT program. See State Bar of California, CIVIL JUSTICE STRATEGIES TASK FORCE REPORT AND RECOMMENDATIONS 56–57(2015). In its recommendation for such a program, California’s task force included a testing requirement for licensing, a recommendation that the state bar be the regulatory body, and that the subject matter of such licenses be limited to narrow areas such as landlord-tenant, limited jurisdiction consumer cases, and domestic violence cases. See *id.*

<sup>45</sup> Oregon’s task force similarly recommended further study of an LLLT program, with Washington’s program as a possible model, as a method of addressing the justice gap. See State Bar of Oregon, Legal Technicians Task Force, FINAL REPORT TO THE BOARD OF GOVERNORS 1–2, 9 (Feb. 13, 2015). Oregon’s task force recommended that the first area licensed be family law, including guardianship matters. See *id.* at 9.

The Task Force recognizes that the reality of attracting students to these opportunities is more than just connecting a student with a job, but rather a rural or small-town lifestyle. Furthermore, it often means that there needs to be a second job for the new lawyer's spouse. A final reality is that though there may be easy-to-identify unmet legal needs in many rural communities, only some of these communities can provide paid legal work. It is in connecting students with these paying career opportunities where the challenge often lies.

The local law schools clearly recognize the issue. Both St. Thomas and William Mitchell offer scholarships specifically targeted at students committed to rural practice. All four of the schools offer some sort of out-state job placements or postings, as well as mentor pairings or job-shadowing opportunities. These short-term opportunities during law school provide students an opportunity not just for practical skill education, but a chance to learn about the lifestyle in many of these communities. William Mitchell hosts programs on topics such as “what it is like to practice in greater MN, [and] how to buy a law practice from solo or small firm attorneys who are retiring.” Many of the job opportunities for students come in the form of public interest work – judicial clerkships and opportunities through the Minnesota Justice Foundation.

While the schools are clearly putting effort into addressing this issue, there is only so much they can do. One of the most impactful pieces of programming in this area at the University of Minnesota's law school was the school's participation in the MSBA's Esquire 36 Committee's “9 Days in June” interview program, giving 2014 graduates an opportunity to interview and get hired with non-metro firms.

Perhaps the biggest challenge for the law schools lies in the reality that the opportunities that outstate practitioners are offering are very different from what law students are used to looking for, and by nature, are hard to find. Though they all pursue leads and attempt to develop a list of opportunities, the law schools simply don't see many job postings from private employers in rural areas. Outstate employers do not have a wealth of summer clerks to choose from each year and thus don't often think to use them in the way firms in the metro do. Often, these firms are looking to “transition to retirement” rather than hire an associate and thus have flexible time frames. This affords the luxury to wait for openings to be filled through word-of-mouth or serendipity—the right candidate “landing in their lap.”

Another interesting aspect to note is that although the schools cite the rural shortage, many of their programs aimed at addressing it include areas that would not be traditionally considered rural but rather simply, outside of the Twin Cities, i.e., St. Cloud, Duluth, and Mankato. There is not a consensus or definition of where legal hiring needs exist in the state. The MSBA needs to identify where the need for young lawyers is: outstate, in rural communities, or in greater Minnesota. The needs of communities such as Duluth and Mankato (where there is generally not much difficulty in filling open positions) differ greatly from the needs of small towns like Roseau and International Falls. Furthermore, there are counties like Traverse County where even the county seat has no lawyers. A survey of practitioners throughout the state could more definitively define which communities actually have unmet legal needs and could point to the proper “term” for the communities the MSBA is trying to reach.

In reality, many of the opportunities in the far north-west of the state are filled by students from South and North Dakota. The same is likely true for other regions in the state bordering Iowa and Wisconsin. This is an area where the bar association could connect with neighboring states' law schools to bring students into communities with employment opportunities.

A substantial issue is that an ongoing program or effort by the MSBA would require additional resources, i.e., funding. States such as Nebraska,<sup>46</sup> Arkansas,<sup>47</sup> and Vermont<sup>48</sup> have received grant money from the ABA's Legal Access Job Corps' Catalyst Grant program.<sup>49</sup> "The grants are available to bar associations, courts, law schools or other groups that propose to employ new lawyers in innovative ways to address the legal needs of poor or moderate-income individuals."<sup>50</sup> Six grants of \$15,000 were made to seven bar associations, law schools, or legal aid societies.<sup>51</sup> Three out of the seven awards from 2014 went to programs with a focus on rural service.<sup>52</sup> Funding is available nationwide to pursue solutions to issues facing rural legal practice and, at this stage, should not be considered an obstacle to creating a program in Minnesota if the general funds are not available.

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<sup>46</sup> In Nebraska, the NSBA takes law students and new lawyers on bus tours each year to small towns. "The students meet with local leaders, tour the towns' landmarks and, in the evening, do "speed dating" interviews with local attorneys." Starting last year, the bar association was able to offer 15 paid clerkships in rural settings, funded by grant money from the ABA. See Lorelei Laird, *In Rural America, There are Job Opportunities and a Need for Lawyers*, ABA JOURNAL (Oct. 1, 2014). See also NSBA, *Rural Practice Initiative (RPI)*, NEBAR.ORG, <http://www.nebar.com/?page=RPI> (last visited Apr. 8, 2015).

<sup>47</sup> Legal Aid of Arkansas received a grant to "fund fellowships for newly admitted lawyers who will serve under the direction of a legal aid lawyer representing clients in rural areas for one year. After the initial year, the fellows will transition to a modest means panel serving people with incomes between 125% and 250% of the federal poverty guidelines for an additional two years." See American Bar Association, *ABA Announces Catalyst Grant Recipients for its Legal Access Job Corps*, AMERICAN BAR ASSOCIATION NEWS ARCHIVES (July 10, 2014), [http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba\\_announces\\_cataly.html?sc8cid=14DCA347](http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba_announces_cataly.html?sc8cid=14DCA347).

<sup>48</sup> With its grant, the Vermont Bar Association will "launch the Solo and Small Firm Incubator Program, providing a supportive environment for select new law graduates who are committed to beginning a solo or small firm practice, and also demonstrate a commitment to serving low and moderate income individuals." See American Bar Association, *ABA Announces Catalyst Grant Recipients for its Legal Access Job Corps*, AMERICAN BAR ASSOCIATION NEWS ARCHIVES (July 10, 2014), [http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba\\_announces\\_cataly.html?sc8cid=14DCA347](http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba_announces_cataly.html?sc8cid=14DCA347).

<sup>49</sup> See ABA, *Catalyst Grants*, AMERICAN BAR ASSOCIATION.ORG, [http://www.americanbar.org/groups/leadership/office\\_of\\_the\\_president/legal\\_access\\_jobs\\_corps/catalyst\\_grants.html](http://www.americanbar.org/groups/leadership/office_of_the_president/legal_access_jobs_corps/catalyst_grants.html) (last visited Apr. 8, 2015).

<sup>50</sup> *ABA Announces Catalyst Grant Recipients for its Legal Access Job Corps*, AMERICAN BAR ASSOCIATION NEWS ARCHIVES (July 10, 2014), [http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba\\_announces\\_cataly.html?sc8cid=14DCA347](http://www.americanbar.org/news/abanews/aba-news-archives/2014/07/aba_announces_cataly.html?sc8cid=14DCA347).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

**Recommendation 6: In order to increase job opportunities for law graduates and address unmet needs for legal services in outstate areas, the MSBA should develop an ongoing program to identify places needing increased services and promote mentorship between interested graduates and practicing lawyers in those outstate areas.**

The recommended program would include a two-step process. First, the MSBA would conduct a survey that would identify practitioners who are willing to participate in internship and job shadowing opportunities, as well as practitioners who are in need of a young lawyer to begin transitioning a practice over to. This would help solve one of the major difficulties that the career centers face in identifying opportunities.

Second, using the information collected in the survey, the MSBA can facilitate connections between the law students and the outstate practitioners. The MSBA could provide these concrete opportunities to the law school career centers and the law school career centers could help choose students that fit the openings well for interviews. This “matching service” could also be extended to mentor pairings for soon-to-be graduates. Law schools can facilitate these efforts by providing opportunities for students to spend immersion semesters in outstate areas, such as William Mitchell’s Residency Program<sup>53</sup> or Hamline’s Semester-in-Practice<sup>54</sup> program.

## **VII. SUMMARY OF TASK FORCE RECOMMENDATIONS**

In conclusion, following over a year of thoughtful discussion and research, the Minnesota State Bar Association’s Task Force on the Future of Legal Education makes six formal recommendations:

1. In order to assist law graduates to become practice ready, the MSBA should: (a) engage in conversation with the law schools in order to identify the key competencies that are necessary for beginning lawyers in various practice areas; and (b) offer post-graduate practical training opportunities to improve the transition to practice.
2. In order to make legal education more accessible and reduce law student living expenses, the MSBA should recognize and encourage continued technological and pedagogical innovation by the law schools including the offering of distance and other flexible learning options.
3. In order to be more inclusive and welcoming so as to increase the number of diverse attorneys in the state, the MSBA should link any initiatives taken in response to these recommendations to efforts that involve and promote enrollment and graduation of law students from underrepresented groups.

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<sup>53</sup> See William Mitchell College of Law, *Mitchell Launches Legal Residency Program for Students*, WMITCHELL.EDU, <http://web.wmitchell.edu/news/2014/03/mitchell-launches-legal-residency-program-for-students/> (Mar. 18, 2014).

<sup>54</sup> See Hamline University, *School of Law: Semester-in-Practice*, HAMLINE.EDU, <http://www.hamline.edu/law/experiential-learning/semester-in-practice/> (last visited Apr. 16, 2015).

4. In order to reduce the cost of law student living expenses and provide earning opportunities immediately upon graduation, the MSBA should consider petitioning the Minnesota Supreme Court to amend the Rules for Admission to the Bar to provide the option for law students to complete the bar examination during their last year in law school, for those law schools that offer a curriculum designed to accommodate early examination.
5. In order to identify a less costly path to a career in legal services and address unmet needs for specific types of legal services, the MSBA should establish a separate task force focused on studying the viability of certifying Limited License Legal Technicians (“LLLT”) with authority to provide supervised legal services in defined practice areas. This task force should consist of representatives from the state court administrative office, civil legal services and pro bono programs, private practices from diverse practice settings throughout the state, potential clients, and institutions of higher education (including, but not limited to law schools). The task force should prepare a recommendation to the MSBA Assembly on the question whether to submit a petition to the Minnesota Supreme Court to establish an LLLT practitioner rule by June 2016.
6. In order to increase job opportunities for law graduates and address unmet needs for legal services in outstate areas, the MSBA should develop an ongoing program to identify places needing increased services and promote mentorship between interested graduates and practicing lawyers in those outstate areas.

**APPENDIX A**  
**Task Force Participants**

**Co-Chairs:**

Sam Hanson – Managing Partner, Briggs and Morgan PA; Former Justice, Minnesota Supreme Court

Helen Meyer – Of Counsel, Briggs and Morgan PA; Former Justice, Minnesota Supreme Court

**Members:**

Paul Anderson – Former Justice, Minnesota Supreme Court

John Choi – Ramsey County Attorney, Ramsey County Attorney’s Office

Jordon Cook – Student, University of St. Thomas School of Law

Michele Davis – Judge, Wright County District Court

Christopher Dietzen – Justice, Minnesota Supreme Court

Rolf Engh – General Counsel, Valspar Group

Philip Garon – Retired Partner, Faegre Baker Daniels, LLP

Daniel Greensweig – Assistant Director, League of Minnesota Cities

Liselotte Kaiser – Staff Attorney, Central Minnesota Legal Services (Minneapolis)

John Kelly – Partner, Hanft Fride PA

Peter Knapp – Professor, William Mitchell College of Law

Ellen Krug – Executive Director, Call for Justice LLC

Katherine Kruse – Associate Dean, Hamline University School of Law

Kimberly Lowe – Partner, Fredrikson & Byron PA

Mark McNeil – McNeil Global Law LLC

Rosanne Nathanson – Judge, Ramsey County District Court

Jessie Nicholson – Executive Director, Southern Minnesota Regional Legal Services

Nathan Shepherd – Attorney, Ratwik, Roszak & Maloney PA

David Stowman – Stowman Law Firm

John Stuart – Former Chief Public Defender, Minnesota Board of Public Defense

**Law School Deans:**

Jean Holloway – Dean, Hamline University School of Law

Eric Janus – Dean, William Mitchell College of Law

Robert Vischer – Dean, University of St. Thomas Law School

David Wippman – Dean, University of Minnesota Law School

**Minnesota State Bar Association Staff:**

Steve Marchese

Nancy Mischel

Amanda Maly



**APPENDIX B**  
**Practical Skills-Based Legal Education in Minnesota**

- I. Hamline University School of Law. Hamline University School of Law’s practical offerings include eight clinics<sup>55</sup>, nine externship programs<sup>56</sup>, and six skills labs.<sup>57</sup> Hamline also offers a semester in practice program. Hamline plans to commence an “Experiential Third Year” program in the 2015-2016 academic years, which will allow third year law students to spend their final year of legal education pursuing a specific legal career path with the guidance of a practicing lawyer and two Hamline faculty members.<sup>58</sup>
  
- II. University of St. Thomas School of Law. The University of St. Thomas School of Law reports that it has expanded its clinical offerings by three hundred percent since 2010.<sup>59</sup> St. Thomas houses ten clinics in its Interprofessional Center for Counseling and Legal Services.<sup>60</sup> St. Thomas has also commenced a robust Mentor Externship program designed to foster professional mentorship relationships.<sup>61</sup> Sixty percent of St. Thomas law students participate in at least one clinic prior to graduation.<sup>62</sup>
  
- III. University of Minnesota Law School. The University of Minnesota Law School operates twenty-two clinical education programs.<sup>63</sup> More than half of Minnesota law students participate in one of the law school’s clinics prior to graduation.<sup>64</sup> Minnesota reports that law students participating in its clinical education programs “provide more than 18,000 hours of pro bono legal service to the Twin Cities community each year, primarily to lower-income individuals who otherwise would have difficulty obtaining representation.”<sup>65</sup>

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<sup>55</sup> *Experiential Learning Clinics: Put Yourself in the Driver’s Seat*, HAMLINE UNIVERSITY, <http://www.hamline.edu/law/experiential-clinics/> (last visited Feb. 4, 2015).

<sup>56</sup> *Externships: Gain Valuable Field Training*, HAMLINE UNIVERSITY, [http://www.hamline.edu/law/experiential\\_externships/](http://www.hamline.edu/law/experiential_externships/) (last visited Feb. 4, 2015).

<sup>57</sup> *Semester in Practice*, HAMLINE UNIVERSITY, <http://www.hamline.edu/law/experiential-learning/semester-in-practice/> (last visited Feb. 4, 2015).

<sup>58</sup> *Experiential Learning*, HAMLINE UNIVERSITY, <http://www.hamline.edu/law/experiential-learning/> (last visited Feb. 4, 2015).

<sup>59</sup> *Clinical Education*, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, <http://www.stthomas.edu/law/academics/clinicaleducation/> (last visited Feb. 2, 2015).

<sup>60</sup> *Id.*

<sup>61</sup> *Mentor Externship*, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, <http://www.stthomas.edu/law/currentstudents/mentorexternship/abouttheprogram/> (last visited Feb. 2, 2015). (“Each year of law study, students are paired with a respected lawyer or judge in the community. Mentors introduce students to the work of lawyers and judges, through observation and hands on experiences with a range of legal tasks and activities such as depositions, client meetings or appellate arguments. Beyond introducing students to lawyering responsibilities, mentors share the traditions, ideals and skills necessary for a successful law career. Mentors also help students understand professionalism in ways that traditional classroom lecture cannot capture.”).

<sup>62</sup> *Clinical Education*, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, <http://www.stthomas.edu/law/academics/clinicaleducation/> (last visited Feb. 2, 2015).

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

IV. William Mitchell College of Law. William Mitchell College of Law offers thirteen clinics, eleven simulation courses, seventeen externships, seven practice-specific advanced classes, and one workshop under its “skills curriculum” program.<sup>66</sup> William Mitchell students make the most of the College of Law’s practical offerings: more than two hundred William Mitchell students participate in clinics every year, while approximately three hundred students are awarded externships.<sup>67</sup> All William Mitchell students are required to take at least one course from the skills curriculum.<sup>68</sup>

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<sup>66</sup> *Skills Curriculum*, WILLIAM MITCHELL COLLEGE OF LAW, <http://web.wmitchell.edu/admissions/curriculum/skills-curriculum/> (last visited Feb. 2, 2015).

<sup>67</sup> OFFICE OF ADMISSIONS, WILLIAM MITCHELL COLLEGE OF LAW, A LAW SCHOOL FOR THE REAL WORLD (2014), available at <http://web.wmitchell.edu/admissions/wp-content/uploads/2013/09/William-Mitchell-2014-15-Viewbook.pdf>

<sup>68</sup> *Skills Curriculum*, WILLIAM MITCHELL COLLEGE OF LAW, <http://web.wmitchell.edu/admissions/curriculum/skills-curriculum/> (last visited Feb. 2, 2015).

**APPENDIX C**  
**New Lawyer CLE Requirements and Offerings<sup>69</sup>**

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<sup>69</sup> Chart provided for reference at the November Task Force meeting by Peg Corneille, Minnesota Board of Law Examiners.

Jurisdiction	Response	Comment	Last Modified	
Alabama	Yes	MCLE Rule 9 requires new admittees to complete a three (3) hour course in professionalism within the first 12 months of admission. One of the most misunderstood MCLE Regulations is 2.2. If you are newly admitted to the practice in Alabama, you are exempt until the end of the calendar year in which you are admitted. For example, if you were admitted in August 2007, you will be exempt through December 31, 2007 (not through August 2008). You may carry over 12.0 total credits (including 1.0 ethics) earned this year if you: (1) earn them after you are admitted to the bar and (2) report them prior to January 31.	June 19, 2014	<a href="https://ce.samford.edu/law/CourseListing.asp?master_id=543&amp;course_area=ETHC&amp;course_number=115&amp;course_subtitle=00">https://ce.samford.edu/law/CourseListing.asp?master_id=543&amp;course_area=ETHC&amp;course_number=115&amp;course_subtitle=00</a>
Alaska	Yes	New attorneys are exempt from MCLE requirements during their year of admission, but are required to take an ethics program specifically for newly admitted attorneys.	August 9, 2010	
Arizona	Yes	All new admittees are required to attend the State Bar Course on Professionalism within their first year of admission. Rule 34(e), Ariz. R. S. Ct. states as follows:  34(e) Completion of Professionalism Course 1. New Admittee Professionalism Course. Except as otherwise provided in this rule, within one year after being admitted to the State Bar, the applicant shall complete the State Bar Course on Professionalism. 1.A new admittee taking inactive status immediately upon admission is exempt from completing the course, but shall complete it within 12 months of becoming an active member of the State Bar. 2.A new admittee who is an active member but neither resides nor practices law in Arizona is exempt from completing the course, but shall complete it within 12 months of becoming a resident of or practicing law in Arizona.	August 23, 2010	<a href="https://azbar.inreachce.com/Details?resultsPage=1&amp;sortBy=&amp;category=6b771ba8-5309-41cd-afc5-4ecf9a620802&amp;groupId=82b8bfa4-4caa-4b90b2f9-ac46ba071abd">https://azbar.inreachce.com/Details?resultsPage=1&amp;sortBy=&amp;category=6b771ba8-5309-41cd-afc5-4ecf9a620802&amp;groupId=82b8bfa4-4caa-4b90b2f9-ac46ba071abd</a>
Arkansas	Yes	First CLE requirement is due on June 30 of the year following admission to the Bar. Professional Practicum must be taken within 2 years of certification.	February 24, 2012	<a href="https://courts.arkansas.gov/rules-and-administrative-orders/court-rules/order-17-professional-practicum-rule">https://courts.arkansas.gov/rules-and-administrative-orders/court-rules/order-17-professional-practicum-rule</a>
California	No	Must complete credits based on proportional requirement	August 29, 2011	<a href="http://admissions.calbar.ca.gov/Portals/4/documents/MCLE_Req_2012_07.pdf">http://admissions.calbar.ca.gov/Portals/4/documents/MCLE_Req_2012_07.pdf</a>
Canada, Montreal (Quebec)	Yes	The number of training hours will be prorated on the basis of the number of full months remaining before the end of the compliance period.	October 19, 2011	<a href="http://www.barreau.qc.ca/en/avocats/formation-continue/obligatoire/index.html">http://www.barreau.qc.ca/en/avocats/formation-continue/obligatoire/index.html</a>
Colorado	Yes	Rule 201.14 on "Oath of Admission" was amended and adopted by the Supreme Court, en banc, on March 21, 2003 and effective July 1, 2003. The amended rule provides for a new mandatory, six-hour professionalism course worth six general credits (satisfying six units of the required 45-unit general requirements during each attorney's first compliance period.) The new rule further provides that every applicant must take the required course before taking the oath of admission.	August 9, 2010	<a href="http://cle.cobar.org/Seminars/Event-Info/sessionaltcd/PC121614V">http://cle.cobar.org/Seminars/Event-Info/sessionaltcd/PC121614V</a>
Delaware	Yes	After passing the Bar Exam but before being admitted to the DE Bar, attorneys must attend a two-day Pre-Admission Conference.	August 10, 2010	<a href="http://courts.delaware.gov/cle/attorneys.stm#2">http://courts.delaware.gov/cle/attorneys.stm#2</a>
Florida	Yes	Members must complete Practicing with Professionalism within the first year of being admitted and 3 basic level Young Lawyers Division courses within the first CLE reporting cycle.	October 13, 2010	<a href="http://www.flayld.org/clepwp/">http://www.flayld.org/clepwp/</a>
Georgia	Yes	In their year of admission or in the next calendar year new attorneys have to complete the mentoring and CLE requirements of our Transition into Law Practice Program/Mentoring Program.	July 17, 2012	<a href="http://www.gabar.org/membership/tlpp/index.cfm">http://www.gabar.org/membership/tlpp/index.cfm</a>
Hawaii	Yes	Attorneys electing active status in the year they are licensed to practice law are exempt from the MCLE requirement for that year.	August 11, 2010	
Idaho	Yes	All new members must attend an Idaho Practical Skills Course. Reciprocal admission attorneys must complete fifteen hours of continuing legal education on Idaho practice, procedure and ethics, in courses administered by and/or approved by the Bar.	May 24, 2012	<a href="https://isb.idaho.gov/admissions/reciprocal_admission/reciprocal_admission_credentials.html">https://isb.idaho.gov/admissions/reciprocal_admission/reciprocal_admission_credentials.html</a>
Illinois	Yes	15-hour accredited MCLE requirement for newly admitted attorneys, allowing you to choose from the following compliance options described in S. Ct. Rule 793: A 6-hour Accredited Basic Skills Course plus 9 additional hours of MCLE credit (of your choice); or Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court's Commission on Professionalism plus 9 additional hours of MCLE credit (of your choice); or A 6-hour Basic Skills Course plus Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court's Commission on Professionalism plus 3 additional hours of MCLE credit (of your choice).	September 3, 2010	<a href="http://www.isba.org/sites/default/files/cle/newadmittees/Did%20You%20Know.pdf">http://www.isba.org/sites/default/files/cle/newadmittees/Did%20You%20Know.pdf</a>
Indiana	Yes	Newly admitted attorneys must complete a minimum of 36 credit hours designated as appropriate for new lawyers within the first three years. Six of the 36 hours must be from the Commission-Accredited Six Hour Applied Professionalism Course; and newly admitted attorneys must complete a minimum of six hours per year.	July 28, 2010	<a href="http://www.in.gov/judiciary/cle/2337.htm">http://www.in.gov/judiciary/cle/2337.htm</a>
Iowa	Yes	Each lawyer admitted by examination must attend an eight hour basic skills course within one year after admission.	August 10, 2010	<a href="http://www.iowabar.org/events/event_details.asp?id=417511&amp;group=">http://www.iowabar.org/events/event_details.asp?id=417511&amp;group=</a>
Kansas	No	An active attorney must complete 12.0 hours of CLE, including 2.0 hours of ethics and professionalism per year	September 2, 2010	
Kentucky	Yes	Must complete 12.00 hour New Lawyer Program within one year of admission. SCR 3.640	April 17, 2014	<a href="http://kybar.org/195">http://kybar.org/195</a>

Louisiana	Yes	Newly admitted attorneys must complete 12.5 hours, including 8 hours of ethics, professionalism, or law office management, during the year of admission through the next calendar year. In house counsel conditionally admitted to practice must comply with the same annual requirements as experienced attorneys.	August 31, 2011	<a href="http://www.lsba.org/CLE/">http://www.lsba.org/CLE/</a>	Normal CLE credits
Maine	No	Except as otherwise provided in Maine Bar Rule 12, every attorney registered in Maine must complete 11 credit hours of approved CLE in each calendar year - starting with January 1, 2001.	September 8, 2010	<a href="http://www.mainebar.org/cle/mandatory-cle-in-maine.aspx">http://www.mainebar.org/cle/mandatory-cle-in-maine.aspx</a>	Normal CLE credits
Minnesota	No		July 30, 2010		
Mississippi	No	New lawyers are exempt from the CLE requirement during the first reporting year that they are a member of the Bar.	May 20, 2013		
Missouri	Yes	All lawyers admitted or reinstated to The Missouri Bar after June 30, 2009 are required to obtain two hours of credit in professionalism, ethics or malpractice prevention within 12 months of admission or reinstatement even if the lawyer does not actively practice law in Missouri after admission or reinstatement. Lawyers admitted or reinstated between June 30, 1990 and July 1, 2009 are required to obtain 3 hours of such credit within 12 months of admission or reinstatement.	September 3, 2010	<a href="http://www.mobar.org/pv/Core/Events/Events.aspx">http://www.mobar.org/pv/Core/Events/Events.aspx</a>	Normal CLE credits
Montana	No	Newly admitted attorneys are exempt from the CLE requirement for the reporting year they are admitted.	September 2, 2010		
Nebraska	Yes	Attorneys are exempt from requirements in year of admission.	August 2, 2012		
Nevada	Yes	New active attorneys must participate in the TIP (Transition Into Practice) Program. This program is administered by the State Bar of Nevada. This is the only requirement for new admittees. They are CLE exempt their 1st full year.	May 3, 2012	<a href="http://www.nvbar.org/tip">http://www.nvbar.org/tip</a>	
New Hampshire	Yes	All new lawyers have to complete the NHBA's Practical Skills Course within 2 years of admission. This is a separate requirement from the annual CLE requirement, but these credits may be used toward the annual CLE requirement.	August 8, 2012	<a href="http://www.courts.state.nh.us/rules/scr/scr-42.htm">http://www.courts.state.nh.us/rules/scr/scr-42.htm</a>	
New Mexico	No	Each active member of the State Bar must complete twelve (12) hours of continuing legal education during each calendar year; ten (10) hours of general, and two (2) hours of ethics/professionalism. A minimum of eight (8) hours of credit must be obtained from formal "live" courses of instruction and a maximum of four (4) hours of credit may be obtained by self-study. One credit hour is defined by sixty (60) minutes of instruction.	August 4, 2010	<a href="https://www.nmmcle.org/faq/faqs.asp#question_2">https://www.nmmcle.org/faq/faqs.asp#question_2</a>	Normal CLE credits
New York	Yes	Newly admitted attorneys are required to complete 32 credits in transitional programs during the first two years of admission, 16 in each year as follows: 3 in Ethics and Professionalism, 6 in Skills, 7 in Law Practice Management and/or Areas of Professional Practice. Up to 16 transitional CLE credits earned after law school graduation, but no more than 2 years prior to admission, may be applied to first-year CLE requirements.	July 19, 2010	<a href="http://www.nysba.org/CustomTemplates/Content.aspx?id=3096">http://www.nysba.org/CustomTemplates/Content.aspx?id=3096</a>	Normal CLE credits
North Carolina	Yes	Effective 1/1/2011, newly licensed attorneys are required to complete a 12-hour course on professionalism. This course must also contain instruction in professional responsibility and trust account management.	July 29, 2010	<a href="http://www.ncbar.gov/cleweb/webwwclecrs.aspx">http://www.ncbar.gov/cleweb/webwwclecrs.aspx</a>	
North Dakota	No	Based on the date of admission, CLE hours are to be reported every three years. 45 hours, 3 must be ethics, 15 can be self study.	August 26, 2010	<a href="https://sband.org/Continuing%20Legal%20Education/Default.aspx">https://sband.org/Continuing%20Legal%20Education/Default.aspx</a>	Normal CLE credits
Ohio	Yes	An attorney newly admitted to the practice of law or registered for corporate status under Gov. Bar R. VI, Sec. 3, shall complete 12 hours of new lawyers training, consisting of 9 hours of substantive law topics, 1 hour of professionalism, 1 hour of client fund management, and 1 hour of law office management by the end of the attorney's first biennial reporting period.	September 3, 2010	<a href="https://www.ohioabar.org/ForLawyers/CLE/Seminars/Pages/StaticPage-1324.aspx">https://www.ohioabar.org/ForLawyers/CLE/Seminars/Pages/StaticPage-1324.aspx</a>	
Oklahoma	No	Each attorney subject to these rules pursuant to Rule 2 herein shall attend, or complete an approved substitute for attendance, a minimum of twelve (12) hours of approved continuing legal education each calendar year beginning January 1, 1986.	August 10, 2010	<a href="http://www.okbar.org/members/MCLE/7WaysMCLE.aspx">http://www.okbar.org/members/MCLE/7WaysMCLE.aspx</a>	Normal CLE credits
Oregon	Yes	Within one year after end of year in which admitted, new admittees must complete 15 credits including 10 practical skills, 1 legal ethics, 1 child abuse reporting and a 3 credit introductory course in access to justice.	March 8, 2012	<a href="http://osbar.inreachce.com/Search?category=563f3f11-3640-437d-8bcb-1731a5bfa194">http://osbar.inreachce.com/Search?category=563f3f11-3640-437d-8bcb-1731a5bfa194</a>	Normal CLE credits
Pennsylvania	Yes	In May of 2002 the Supreme Court of Pennsylvania passed a rule requiring newly admitted lawyers to complete the Bridge the Gap program as a condition of compliance prior to the first CLE deadline on which CLE credits are due. In order to meet your first PA CLE compliance requirement, 4 hours of Bridge the Gap programming are required. If your admission date is May 2002 and forward, you are required to complete the Bridge the Gap program.	February 24, 2011	<a href="https://www.pacle.org/bridge_the_gap/bridge_the_gap.asp">https://www.pacle.org/bridge_the_gap/bridge_the_gap.asp</a>	
Puerto Rico	No	New lawyers are exempted from compliance for the first two years after being admitted.	March 29, 2011		
Rhode Island	Yes	Must complete "Rhode Island Bridge the Gap course" unless attorney has been admitted for at least three years in another jurisdiction at the time he/she was sworn in in Rhode Island.	December 19, 2012	<a href="https://ribar.inreachce.com/Details?resultsPage=1&amp;sortBy=&amp;q=bridge+the+gap&amp;searchType=1&amp;groupId=d6a4d321-3c47-4dea-9484-50d07490ca10">https://ribar.inreachce.com/Details?resultsPage=1&amp;sortBy=&amp;q=bridge+the+gap&amp;searchType=1&amp;groupId=d6a4d321-3c47-4dea-9484-50d07490ca10</a> Course materials by following the link	
South Carolina	Yes	Attorneys admitted after March 1, 2009 are required to complete a one-year mentoring program.	August 13, 2010	<a href="http://www.commcle.org/MentoringProgram.html">http://www.commcle.org/MentoringProgram.html</a>	

Tennessee	No	Each attorney admitted to practice law in the State of Tennessee shall attend, or complete an approved substitute for attendance, a minimum of twelve (12) actual hours of approved continuing legal education each calendar year, beginning January 1, 1987. In addition, beginning January 1, 1993, attorneys shall complete three (3) additional hours per year of approved continuing education in courses dealing with ethics and professionalism ("EP credits"). All hours of continuing legal education for each calendar year shall be earned by December 31 of that calendar year. Each attorney must actually attend fifteen (15) instructional hours of CLE per year. An instructional hour shall be determined by the Commission.	August 25, 2010	<a href="http://cletennessee.com/tn-cle-requirements/">http://cletennessee.com/tn-cle-requirements/</a>	Normal CLE credits
Texas	Yes	Newly admitted attorneys must complete a 4-hour course entitled "The Guide to the Basics of Law Practice" within one year of licensure. This is an admission requirement and not an MCLE requirement, although attorneys may receive MCLE credit for completing the course. The course is administered through the Texas Center for Legal Ethics and Professionalism, www.txethics.org	March 22, 2012	<a href="http://legaethictexas.com/Courses/Live-Courses/Justice-James-A-Baker-Guide-to-the-Basics-of-L-(2).aspx">http://legaethictexas.com/Courses/Live-Courses/Justice-James-A-Baker-Guide-to-the-Basics-of-L-(2).aspx</a>	
Utah	Yes	New Lawyer Training Program - Lawyers newly admitted to the Bar with an active license are required to complete the NLTP program their first year of practice in Utah. Upon completion and certification, the NLTP will result in 12 hours of NLCLE credit. New lawyers are required to attend a half-day class early in their first year of practice. The requirements for CLE during the second year of the two-year compliance cycle remain the same.	August 5, 2010	<a href="http://www.utahbar.org/members/mentor-program/nltp_summary/">http://www.utahbar.org/members/mentor-program/nltp_summary/</a>	
Vermont	No	Every licensed attorney admitted to the Bar of the Supreme Court shall complete twenty hours of accredited continuing legal education during each two year compliance period established by these rules. (b) At least two of the twenty hours required by paragraph (a), above, shall be devoted to continuing legal education specifically addressed to legal ethics. Courses that qualify for ethics credits should focus specifically on the Rules of Professional Conduct and their applicability to specific problems and situations lawyers face in their practice.	August 25, 2010	<a href="https://www.vtbar.org/Calendar/">https://www.vtbar.org/Calendar/</a>	Normal CLE credits
Virginia	Yes	New admittees must attend a one-day mandatory professionalism course within first year	August 9, 2010	<a href="http://www.vsb.org/site/members/professionalism-course-faqs/">http://www.vsb.org/site/members/professionalism-course-faqs/</a>	
Washington	No	The reporting period for new attorneys does not start until after the first full year has elapsed since the date of admission (giving new attorneys 4+ years to earn credits to meet the MCLE compliance requirements for their first reporting period). [See <a href="http://www.wsba.org/lawyers/licensing/faq-mcle-credits.htm">http://www.wsba.org/lawyers/licensing/faq-mcle-credits.htm</a> ]	August 17, 2010	<a href="http://www.wsba.org/Licensing-and-Lawyer-Conduct/MCLE/Members/MCLE-Compliance#newly_admitted">http://www.wsba.org/Licensing-and-Lawyer-Conduct/MCLE/Members/MCLE-Compliance#newly_admitted</a>	
West Virginia	Yes	Complete mandatory Bridge the Gap online within six months prior to admission, or within twelve months after admission.	August 19, 2010	<a href="http://www.wyunglawyers.com/members/bridge-the-gap/">http://www.wyunglawyers.com/members/bridge-the-gap/</a>	
Wyoming	Yes	Newly admitted attorneys are exempt from the CLE requirement during the calendar year in which they are admitted; however, they must attend the mandatory Pathways to Professional Practice program in person or online within the first year of admission. For instance, if you were admitted in October 2005, you are not required to earn 15 hours of CLE for 2005, but you will need to earn 15 hours during 2006. The four-hour Pathways to Professional Practice program will count toward this requirement.	October 16, 2014	<a href="http://www.wyomingbar.org/pdf/CLE_Rule_Revisions.pdf">http://www.wyomingbar.org/pdf/CLE_Rule_Revisions.pdf</a> <a href="http://wyomingbar.org/annualmeeting/cle_detail.html?id=126">http://wyomingbar.org/annualmeeting/cle_detail.html?id=126</a>	

## APPENDIX D

### A Closer Look at the Cost of Legal Education in Minnesota

Law school remains an expensive endeavor. For the 2014–2015 school year, the quoted price for one year of tuition at the four Minnesota law schools ranges from \$36,844<sup>70</sup> to \$41,222.<sup>71</sup> Fees, books and other expenses, and living costs add approximately \$19,000 to these totals.<sup>72</sup> Assuming a three-year program, a law school education costs somewhere in the neighborhood of \$172,000.

This is reflected in the average debt load for graduates. Nationwide, graduates of public institutions came out with an average of \$85,000 in debt, while those who attended private schools carried an average of \$122,000.<sup>73</sup> Locally, the average amount of law school loans for 2013 graduates who borrowed was \$98,410 for the University of Minnesota, \$109,445 for St. Thomas, \$110,177 for William Mitchell, and \$117,746 for Hamline.<sup>74</sup> This is in addition to the average \$31,000 in undergraduate debt for Minnesota students.<sup>75</sup>

All of this makes it very difficult to identify a “typical” monthly student loan repayment amount. We do know, however, that a new graduate with \$150,000 in student loans may face monthly payments of about \$1,700 on a ten year repayment plan or \$930 at the outset of a graduated

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<sup>70</sup> At the University of St. Thomas, “[f]ull-time annual tuition for the 2014-15 academic year is \$36,844.” *Financing Your Education*, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, <http://www.stthomas.edu/law/admissions/financingyoureducation/> (last visited Jan. 25, 2015).

<sup>71</sup> Resident tuition at the University of Minnesota is \$41,222 for 1L and 2L years and \$39,407 for 3L year. Nonresident tuition at the University of Minnesota is \$48,710 per year. *Tuition*, UNIVERSITY OF MINNESOTA SCHOOL OF LAW, <http://www.law.umn.edu/prospective/tuition.html> (last visited Jan. 25, 2015). Full-time tuitions at Hamline and William Mitchell for the 2014–15 school year are \$38,190 and \$38,200, respectively. *See Law Tuition*, HAMLINE LAW SCHOOL, <http://www.hamline.edu/offices/student-accounts/law-tuition.html> (last visited Jan. 25, 2015); *Tuition & Living Expenses 2014–15*, WILLIAM MITCHELL COLLEGE OF LAW, <http://web.wmitchell.edu/financial-aid/tuition-living-expenses-2014-15/> (last visited Jan. 25, 2015).

<sup>72</sup> The University of St. Thomas estimates miscellaneous costs, such as books, supplies, housing, meals, insurance, and transportation, to add up to \$19,963 for the 2014-15 year. *Financing Your Education*, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, <http://www.stthomas.edu/law/admissions/financingyoureducation/> (last visited Jan. 25, 2015). The University of Minnesota estimates indirect costs, insurance, and books to amount to \$17,724. *Tuition*, UNIVERSITY OF MINNESOTA SCHOOL OF LAW, <http://www.law.umn.edu/prospective/tuition.html> (last visited Jan. 25, 2015).

<sup>73</sup> “In 2013, the average public law school graduate carried a debt of \$84,600, while graduates of private colleges incurred \$122,158 in debt.” Gary M. Stern, *Mounting Debt Makes Law School a Gamble but Students Continue to Enroll*, OBSERVER (Sept. 25, 2014), available at <http://observer.com/2014/09/mounting-debt-makes-law-school-a-gamble-but-students-continue-to-enroll/>.

<sup>74</sup> *Grad Debt Rankings*, U.S. NEWS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings> (last visited Jan. 25, 2015); *compare with State Report: Minnesota Class of 2013*, LAW SCHOOL TRANSPARENCY, <http://www.lstscorereports.com/state/MN/#basic> (last visited Jan. 25, 2015) (listing the projected debt at repayment for the four schools). Law School Transparency lists the projected debt at repayment for University of Minnesota (resident/non-resident) as \$227,406/\$246,904; St. Thomas as \$219,470; William Mitchell as \$214,866; and Hamline as \$217,856.

<sup>75</sup> *State by State Data*, PROJECT ON STUDENT DEBT, [http://projectonstudentdebt.org/state\\_by\\_state-data.php](http://projectonstudentdebt.org/state_by_state-data.php) (last visited Jan. 25, 2015). *See also* Allie Bidwell, *Average Student Loan Debt Approaches \$30,000*, U.S. NEWS (Nov. 13, 2014) <http://www.usnews.com/news/articles/2014/11/13/average-student-loan-debt-hits-30-000> (listing the average debt for Minnesota undergrads in 2013 as \$30,894).

twenty-five year plan.<sup>76</sup> For a single Minnesota lawyer with an adjusted gross income of \$68,000 per year (the national median salary for firms of 2–25 lawyers<sup>77</sup>), an income based repayment plans might drop initial payments to somewhere in the neighborhood of \$400–500 per month, an amount that increases as income rises.<sup>78</sup> For a similar lawyer with an adjusted gross income of \$46,000 (the national median for public interest organizations<sup>79</sup>), initial monthly payments could be as low as \$240, which again would rise with income.<sup>80</sup>

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<sup>76</sup> *The Law School Bubble: How Long Will it Last if Law Grads Can't Pay Bills*, ABA JOURNAL, Jan. 1, 2012, available at [http://www.abajournal.com/magazine/article/the\\_law\\_school\\_bubble\\_how\\_long\\_will\\_it\\_last\\_if\\_law\\_grads\\_cant\\_pay\\_bills](http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills).

<sup>77</sup> NALP, *Associate Salaries*, [http://www.nalp.org/associate\\_salaries\\_2014](http://www.nalp.org/associate_salaries_2014) (last visited Jan. 25, 2015).

<sup>78</sup> *Repayment Estimator*, STUDENTLOANS.GOV, <https://studentloans.gov/myDirectLoan/mobile/repayment/repaymentEstimator.action> (last visited Jan. 25, 2015).

<sup>79</sup> NALP, *July 2014 Research*, <http://www.nalp.org/july14research> (last visited Jan. 25, 2015).

<sup>80</sup> Income based repayment plans are based on family size, spousal income, state of residence, student loan interest rates, the type of loan being repaid, and a host of other factors. In addition, depending on future earnings and area of practice, some loans may be forgiven. The examples set forth here are purely hypothetical, illustrative examples.



## APPENDIX E

### Overview of Unmet Legal Needs in Minnesota

#### I. Definitions

As used in this Appendix, there are a number of terms that merit defining:

**“Access to justice”** denotes the ability of a person in legal need to connect with a lawyer or meaningful legal resource in order to resolve or fulfill that legal need. Optimally, access to justice includes obtaining legal advice via a relationship with a legal professional.

**“Court Self-Help Center”** is a court-sponsored program to aid pro se litigants. There are family court self-help centers at the Hennepin and Ramsey County family law centers; there is also a self-help center for civil litigants at the Hennepin County Government Center. Additionally, each Minnesota courthouse contains a telephone/computer terminal center where a centralized telephone number will connect the user with the Minnesota Court Self-Help Center, which is staffed during regular business hours with attorneys who can answer questions relative to Minnesota court forms and procedures. Under current Minnesota law, court self-help staff members are prohibited from providing legal advice.

**“Self-represented litigant”** (also referred to as acting “pro se”) is an individual who has civil court-related legal needs that are not being fulfilled by a relationship with an attorney.

**“Unbundled legal services”** broadly includes lawyers providing limited legal advice to a client in legal need. For example, an attorney may meet with a client for twenty minutes at a public clinic and provide legal advice on how to deal with the client’s legal matter. Alternately, an attorney may draft a letter to assist a client with a legal need. At the conclusion of the lawyer’s brief service (e.g. at the end of twenty minutes), the lawyer’s obligation to the client ends.

#### II. The Problem: Too Many Minnesotans in Legal Need Receive Little or No Legal Assistance

A Census Bureau study reports that 1,421,050 Minnesotans live below 200 percent of the Federal Poverty Guidelines (“FPG”).<sup>81</sup> For a family of four in 2015, this amounts to an annual income range of \$48,500.<sup>82</sup>

While Minnesota’s Legal Aid organizations<sup>83</sup> serve a great number of low-income persons in legal need, on average, they still turn away one person for every person served.<sup>84</sup> In 2011, this amounted to turning away nearly 30,000 people in legal need.<sup>85</sup>

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<sup>81</sup> U.S. Census Bureau; Poverty Status in the Past 12 Months, 2013 American Community Survey 1-Year Estimates, Table S1701; generated by Amanda Maly using American FactFinder <<http://factfinder.census.gov>> (Jan. 31, 2015).

<sup>82</sup> MLRI, 2015 HHS Poverty Guidelines and Monthly/Annual Percentages Thereof, MASSLEGALSERVICES.ORG (January 2015), *available at* [http://www.masslegalservices.org/system/files/library/Income%20Thresholds%202015\\_0.pdf](http://www.masslegalservices.org/system/files/library/Income%20Thresholds%202015_0.pdf).

<sup>83</sup> “Legal Aid” as used in this report connotes the collection of Minnesota’s nonprofit legal providers, including seven Legal Aid organizations funded by the Legal Services Corporation, as well as providers specializing in immigration law, combating domestic violence, and assisting children with legal needs.

<sup>84</sup> MINNESOTA STATE BAR ASSOCIATION CIVIL GIDEON TASK FORCE, ACCESS TO JUSTICE: ASSESSING IMPLEMENTATION OF CIVIL GIDEON IN MINNESOTA, 5 (Dec. 2, 2011), *available at* <http://msba.mnbar.org/docs/default->

Data reveal that the ratio of available Legal Services attorneys in Minnesota to serve low-income people versus the number of private practice attorneys available to paying clients is extraordinary (e.g. one Legal Services attorney for every 3,682 low-income persons versus one private practice attorney for every 369 potential paying clients).<sup>86</sup> (In total, there are approximately 215 Legal Aid attorneys in all of Minnesota.)<sup>87</sup>

Additionally, new projects aimed at delivering legal services are being capped at income levels that miss a great number of people. For example, the recently launched Minnesota Legal Advice Online project (which allows people to communicate with lawyers via email) serves persons/families with incomes of no more than 200% FPG.<sup>88</sup> (Translated, 200 percent of the Federal Poverty Guidelines amounts to single persons earning \$31,860 and families of four earning \$48,500.)<sup>89</sup>

Because of the “Justice Gap”, people often simply “go it alone” when it comes to legal needs. In 2013, the walk-in Self Help centers at the Hennepin County Family Justice Center and Hennepin County Government Center provided assistance to 37,131 people. This data represents a steady increase over several years.<sup>90</sup> Ramsey County Family Court provided 11,286 service contacts to people who were self-represented.<sup>91</sup>

Both the Hennepin and the Ramsey County Bar Associations operate low or modest fee services which serve people with incomes up to 250% FPG. United Way 211 referrals to these low fee programs increased 65% from 2011 to mid-2014.<sup>92</sup>

All too often, Minnesotans in legal need have no choice but to represent themselves in court. A 2011 report found that at least one party is unrepresented in over half of all family law cases.<sup>93</sup> More than 80 percent of the parties to domestic violence proceedings are unrepresented.<sup>94</sup> In 2009, the online self-help center offered by the Minnesota Judicial Branch received approximately 300,000 hits.<sup>95</sup>

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source/default-document-library/access-to-justice-assessing-implementation-of-civil-gideon-in-minnesota.pdf?sfvrsn=0, [hereinafter MSBA, Civil Gideon].

<sup>85</sup> *See id.*

<sup>86</sup> E-mail from Bridget Gernander, to Ellen Krug, Call for Justice, LLC (Feb. 03, 2015, 15:43 CST) (on file with author).

<sup>87</sup> Legal Services Advisory Committee Annual Report (2013), *available at*

[http://www.mncourts.gov/Documents/0/Public/administration/LSAC\\_Annual\\_Report\\_FY13.pdf](http://www.mncourts.gov/Documents/0/Public/administration/LSAC_Annual_Report_FY13.pdf)

<sup>88</sup> *Home*, MINNESOTA LEGAL ADVICE ONLINE, <http://www.mnlegaladvice.org/> (last visited Jan. 31, 2015).

<sup>89</sup> MLRI, 2015 HHS Poverty Guidelines and Monthly/Annual Percentages Thereof, MassLegalServices.org (January 2015), *available at* [http://www.masslegalservices.org/system/files/library/Income%20Thresholds%202015\\_0.pdf](http://www.masslegalservices.org/system/files/library/Income%20Thresholds%202015_0.pdf).

<sup>90</sup> Information provided by Sara Gonsalves, J.D., Manager, Self-Represented Litigant Service Center, Court Services Center, Minnesota Judicial Branch.

<sup>91</sup> Executive Summary, RAMSEY COUNTY FAMILY COURT SELF-HELP CENTER ANNUAL REPORT 2013.

<sup>92</sup> Call for Justice, LLC, *2-1-1 Referrals for Select Key Legal Resources 2011 Q4-2014 Q2*. (Sept. 1, 2014)

<sup>93</sup> MSBA, CIVIL GIDEON at 6.

<sup>94</sup> *Id.*

<sup>95</sup> *See* MSBA, CIVIL GIDEON at 6–7.

Call for Justice, LLC, a Minneapolis nonprofit that works to connect low and moderate-income persons with Twin Cities and greater Minnesota legal resources, reports that approximately 30,000 people annually view training materials on various legal resources and topics.<sup>96</sup> Despite this and other resources aimed at helping pro se litigants, a common complaint by persons accessing the courts is that the system is far too complicated to navigate without personal assistance.<sup>97</sup> Indeed, in its 2011 report on Civil Gideon, the MSBA reported that judges are often frustrated with the lack of resources for civil litigants and believe that particularly in the area of family law, legal representation is critical.<sup>98</sup>

Current statistics indicate that admissions to law schools are down by approximately 30 percent from years ago, meaning that there will be fewer lawyers practicing in Minnesota in the coming decades.<sup>99</sup> As fewer new attorneys enter the legal profession due to the cost of law school and other factors, the issue of access to justice for low and moderate-income people will become gravely exacerbated.

### III. Minnesota's Response to the Problem of Limited Legal Resources

#### 1. Unbundled Legal Services

The Minnesota judiciary and state legislature have responded to the unmet legal needs of Minnesotans through a variety of mechanisms. In 1985, and then again in 2005, the Minnesota Supreme Court modified then-existing professional responsibility rules to permit for “brief legal advice,” whereby attorneys could provide legal advice on a very limited and discreet basis without the necessity of taking on an entire legal matter.<sup>100</sup> Consistent with this was the provision that attorneys could also provide “brief service,” such as composing a letter to notify a creditor that the person from whom they sought to collect lived on government benefits, and thus, that person’s bank account was exempt from garnishment. Both forms of limited legal services come with great restrictions in terms of attorney time; usually, the attorney and self-represented litigant have no more than a half hour to communicate. This, of course, is not optimal since many self-

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<sup>96</sup> Call for Justice, LLC, *Newsletter: Vol. 4, No.1.* (2015), available at <http://callforjustice.org/newsletters/>.

<sup>97</sup> See MSBA, CIVIL GIDEON at 6–7.

<sup>98</sup> See MSBA, CIVIL GIDEON at 6–7.

<sup>99</sup> “The 37,924 full- and part-time students who started classes in 2014 represent a 30 percent decline from just four years ago, when enrollment peaked at 52,488.” Elizabeth Olson & David Segal, *A Steep Slide in Law School Enrollment Accelerates*, NY TIMES DEALBOOK (Dec. 17, 2014), available at [http://dealbook.nytimes.com/2014/12/17/law-school-enrollment-falls-to-lowest-level-since-1987/?\\_r=0](http://dealbook.nytimes.com/2014/12/17/law-school-enrollment-falls-to-lowest-level-since-1987/?_r=0).

<sup>100</sup> Rule 1.2 Scope of Representation, as originally adopted in 1985 reads: “(b) A lawyer may limit the objectives of the representation if the client consents after consultation.” Order Promulgating Minnesota Rules of Professional Conduct, Minn. C8-84-1650 (Jun. 13, 1985), available at <http://www.mncourts.gov/Documents/0/Public/administration/AdministrationFiles/Code%20of%20Prof%20Conduct%20C8-84-1650/1985-06-13%20Order%20Adopting%20RIs%20of%20Prof%20Conduct.pdf>.

Following the 2005 amendment, Rule 1.2(c) now reads: “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” See Minn. R. Prof. Conduct 1.2(c); and Minnesota Rules of Professional Conduct, Minn. C8-84-1650 (Jun. 17, 2005), available at <http://www.mncourts.gov/Documents/0/Public/administration/AdministrationFiles/Code%20of%20Prof%20Conduct%20C8-84-1650/2005-06-22%20Order%20Prof%20Conduct%20RIs%20Amendments.pdf>.

represented litigants often require multiple advice sessions in order to fully navigate the legal system.

## **2. Court Self-Help Centers**

Commencing in 1949, the Minnesota State Legislature authorized funding for a state court Self Help Center to assist persons engaged in civil matters.<sup>101</sup> Additionally, self-help centers were established in the family courts of Ramsey and Hennepin Counties and in the Hennepin County Government Center. These resources are designed to assist civil pro se litigants in navigating the court system, including help with forms and procedures. However, self-help center staffs are not permitted to provide legal advice. In other words, self-help center staffs can tell someone where to put the facts of a particular legal matter on a court form, but they cannot advise which facts to emphasize or how to specifically word a fact. This restriction, of course, limits a self-represented litigant's ability to fully advocate for him or herself.

## **3. Domestic Abuse Advocates**

Since 1991, Minnesota has permitted non-lawyers to assist domestic abuse survivors in Order for Protection proceedings.<sup>102</sup> Advocates are statutorily permitted to sit with the survivor in the courtroom, and at the judge's discretion, speak on behalf of the survivor.<sup>103</sup> This is an instance where non-lawyers have been permitted to perform quasi-lawyer functions to assist persons who otherwise would go without critical assistance when navigating the legal system.

## **4. Innovative Minnesota Legal Resource Projects**

The last five years have seen a number of innovative legal resource projects in Minnesota, such as Minnesota Legal Advice Online (MLAO) (<http://www.mnlegaladvice.org/>), where pro bono attorneys answer specific questions from persons in legal need. Launched in June 2014, MLAO offers a valuable alternative to the court self-help centers, however, it is by nature limited (e.g. attorneys don't communicate verbally with the person in legal need; at present, there is no easy mechanism to review documents).

In late 2011, Call for Justice, LLC (C4J) began operations in Minneapolis to train United Way 211 (Information and Referral) on how to target legal referrals, resulting in an uptake in legal referrals to more than two dozen Minnesota legal resources. Additionally, C4J operates a "Legal Liaison Program" which helps Twin Cities and greater Minnesota social service agencies and nonprofit legal providers to better communicate. However, none of C4J's programs directly provide legal advice or representation to persons in legal need.

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<sup>101</sup> Minn. Stat. 134A (2014) allows for any county to establish a county law library for all judges, officials, and inhabitants of the county to use. *See also*, Report of the Statewide Law Library/Self-Help Center Project Advisory Workgroup (Jan. 17, 2007), *available at* <http://mn.gov/lawlib/StatewideLLReport.pdf>.

<sup>102</sup> *In re Domestic Abuse Advocates*, Minn. Sup. Ct. Order C2-87-1089 (Feb. 5, 1991).

<sup>103</sup> *See id.*

In late 2015, the Collaborative Community Law Firm (CCLI), an innovative new-lawyer training program sponsored by Hamline University School of Law and William Mitchell College of Law, will begin operations in St. Paul serving persons with incomes between 200% FPG and 325% FPG. While the CCLI will serve a population that presently has great difficulty accessing legal resources (e.g. persons who make too much to be financially eligible for Legal Aid but who can't afford market rate lawyers), it will have limited capacity and for the most part will restrict services to the Twin Cities.

**APPENDIX F**  
**The Washington Limited License Legal Technician Model**

I. The Washington Supreme Court’s Discussion of Need

In June 2012, the Supreme Court of Washington issued an order for a new Admission to Practice Rule (APR) 28 entitled “Limited Practice Rule for Limited License Legal Technicians.” The Court’s twelve page order states, “Our adversarial civil legal system is complex. It is unaffordable not only to low income people but...moderate income people as well.”<sup>104</sup>

In setting forth the rationale for its groundbreaking order, the Washington Supreme Court detailed how that’s state court system had attempted to fashion a number of strategies that are not dissimilar to Minnesota’s system: courthouse facilitators, court self-help centers, neighborhood legal clinics, pro bono programs and a statewide legal aid self-help center.<sup>105</sup> The Court noted, however, these resources have limitations, including that “many litigants require additional one-on-one help to understand their specific legal rights and prerogatives and make decisions that are best for them under the circumstances.”<sup>106</sup>

The Court recognized that many self-represented litigants are “at a substantial legal disadvantage and, for increasing numbers, force(d) to seek help from unregulated, untrained, unsupervised ‘practitioners.’ We have a duty to ensure that the public can access affordable legal and law related services, and that they are not left to fall prey to the perils of the unregulated market place.”<sup>107</sup>

Importantly, the Court noted that establishing a new category of limited legal provider would not aid family law litigants with complex, contested matters. On the other hand, “the authorization for limited license legal technicians to engage in certain limited legal and law related activities holds promise to help reduce the level of unmet need for low and moderate income people who have relatively uncomplicated family related legal problems...”<sup>108</sup>

The Court also addressed concerns that creating a new class of licensed professionals would threaten the practicing family law bar, stating, “(I)t is important to push past the rhetoric and focus on what limited license legal technicians will be allowed to do, and what they cannot do under the rule.” In particular, the new class would be limited to simple family law matters where “few private attorneys make a living.”<sup>109</sup>

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<sup>104</sup> In re the Adoption of New APR 28—Limited Practice Rule for Limited License Legal Technicians, Wash. No. 25700-A-1005, 4 (Jun. 14, 2012), *available at* [http://www.wsba.org/~media/Files/Legal%20Community/Committees\\_Boards\\_Panels/LLLT%20Board/Legal%20Technician%20Rule.ashx](http://www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/LLLT%20Board/Legal%20Technician%20Rule.ashx).

<sup>105</sup> *Id.* at 5.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.* at 5–6.

<sup>108</sup> *Id.* at 6.

<sup>109</sup> *Id.* at 6–7.

While admitting that adopting APR 28 “will not close the Justice Gap,” including that for moderate income persons, the Court reasoned the new rule was a “limited, narrowly tailored strategy designed to expand the provision of legal and law related services to (persons) in need of individualized legal assistance with non-complex legal problems.”<sup>110</sup>

## II. Washington’s Admission to Practice Rule 28 for Limited License Legal Technicians

Subpart (A) of APR 28 states in part: “The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law.”

The Rule establishes a Limited License Legal Technician Board comprised of lawyers and non-lawyers which will recommend practice areas and license requirements on a go-forward basis and which will oversee administration of a licensing examination. In particular, the Rule requires that applicants:

- Be 18 years or older.
- “Be of good moral character and demonstrate fitness to practice as a...(LLLT)”
- Have an associate level degree or higher.
- Have earned 45 credit hours in a core curriculum of paralegal studies with the curriculum also being developed in conjunction with an ABA-approved law school.
- Each applicant must take an oath similar to an attorney’s oath.

Licensing requirements for Rule 28 include that successful applicants must:

- Pass a written examination.
- Acquire 3,000 hours of “substantive law-related work experience supervised by a licensed lawyer.” These 3,000 hours can precede the licensure (in other words, it appears that an experienced paralegal can apply to be a LLLT and be licensed upon passing the written examination).
- Carry malpractice insurance.
- Attend annual CLE courses.

Rule 28 is very specific in terms of the scope of practice in which a Limited License Legal Technician can engage. In particular, under the rule, a LLT can:

- Perform usual paralegal duties.
- “Perform legal research and draft letters and pleadings documents beyond (customary paralegal duties), if the work is reviewed and approved by a Washington lawyer.”
- “Advise a client as to other documents that may be necessary to the client’s case and explain how such documents or pleadings may affect the client’s case.”
- All LLLTs are required to enter into a written contract “prior to the performance of the services for a fee...”

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<sup>110</sup> *Id.* at 11.

- LLLTs cannot appear in court or at administrative proceedings or engage in mediations or other forms of alternative dispute resolution (including negotiating settlements or agreements) on behalf of a client.

Under the Rule, an LLLT's practice is restricted to "Domestic Relations" which is defined narrowly and confined to child support modification; divorces; parenting plans and other less complicated family law matters. Rule 28 specifically prohibits LLLTs from advising on the division of real estate or retirement assets or on bankruptcy or anti-harassment orders.

Other notable features of Rule 28 include that LLLTs are to be "held to the standard of care of a Washington lawyer." Additionally, the Rule mandates creating a LLLT IOLTA program "for the proper handling of funds coming into the possession of the Limited License Legal Technician." Moreover, Washington state law relative to the attorney-client privilege and law of a lawyer's fiduciary responsibility to the client "shall apply to the Limited License Legal Technician-client relationship to the same extent as (they) would apply to an attorney-client relationship."

In summary, Washington State has created an entirely new class of licensed legal professional that in many respects resembles the role of a lawyer. Key to Washington State's LLLT programs is the goal of enabling a person in legal need to receive one-on-one advice and assistance via a sustained relationship with a legal professional. This is a first-of-its-kind experiment in the United States which we believe holds great hope of succeeding given the collaborators behind it.