

Stephen R. Crossland, Esq., Chair
Limited License Legal Technician Board
Washington State Bar Association
steve@crosslandlaw.net

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The Honorable Phil Berger, President Pro Tempore
North Carolina Senate
16 West Jones Street
Raleigh, NC 27601

The Honorable Tim Moore, Speaker
North Carolina House of Representatives
16 West Jones Street
Raleigh, NC 27601

Re: North Carolina Justice for All Project Proposal
A Review of the LLLT Program in the State of Washington

Dear Members of the North Carolina General Assembly:

I have reviewed the legislative proposal and policy analysis submitted to you by the North Carolina Justice for All Project. I am writing to give you my perspective as Chair of the Limited License Legal Technician (LLLT) Program in the State of Washington. We were the first limited licensing program in the United States and the second in North America after the Law Society of Ontario. I wanted to share my experience as a lawyer in Washington with the access to justice crisis and our LLLT program.

There is a serious problem facing societies and communities that rely on the “rule of law” to manage the rights and responsibilities of people who live within those societies and communities. That problem is that many, a significant number, of people can not afford, or for other reasons, have access to someone to assist them in navigating their rights and responsibilities in a “rule of law” world. For the most part, this problem is created by a lack of the availability of services that provide legal advice or legal services to assist people in attempting to navigate the “rule of law” system of governance. Traditionally, we rely on lawyers (people who are licensed by a jurisdiction) to provide those much-needed legal services. Lawyers never have met the need for legal services and never will meet the need legal services!

Over the decades and perhaps centuries in the United States, there have been attempts to “bridge the gap” and provide “legal services” to those who can’t otherwise afford them or otherwise access them. I will spare the reader with the multitude of efforts over the years and

over the world to “bridge the gap”. I will focus on an effort in the state of Washington to develop a license to allow people who do not have a juris doctor degree from a law school to provide legal services to those who cannot afford them or for other reasons, including geographical location, to obtain needed legal services.

It was the goal of the effort in the state of Washington to “to serve and protect the legal services consuming public with qualified and regulated legal services at a price the consumer can afford”. In 2012, in order to accomplish this goal, the Washington State Supreme Court created the Limited License Legal Technician Board (LLLTB) and directed it to develop a limited license to deliver legal services in designated areas of the practice of law. The Supreme Court suggested in it’s Order that the initial area of family law might be an appropriate area to begin the delivery of limited legal services. The LLLTB spent three years defining services in family law that a Limited License Legal Technician (LLLT) could provide and then developed a curriculum that would assure that those taking the classes would be properly trained to deliver the authorized legal services. The LLLTB also devised a test that would assure that the students were in fact competent to provide the authorized legal services. In addition, to protect the public, the LLLTB recommended that LLLT’s be held to the same “standard of care” as lawyers, the same “rules of professional conduct” as lawyers and unlike lawyers, would be required to carry malpractice insurance in order to further protect the public.

The first LLLT license was issued in June, 2015 with a ceremony held in the courtroom of the Washington State Supreme Court with most of the Supreme Court Justices present. The LLLT’s were issued a license to practice law with limitations as defined by the Supreme Court. In the ensuing years the Washington State Bar Association (WSBA) made LLLT’s members of the WSBA and authorized them to sit on the governing board of the WSBA.

The LLLT concept was not universally revered by some lawyers, particularly some lawyers who practiced family law. As a result of tension within the bar association, the Supreme Court chose to “sunset” the LLLT license in 2020 giving the reasons that it was expensive and didn’t attract the interest in those desiring to become LLLT’s.

I will attempt to give some information in response to those concerns by the Court and also my views on the success of the idea and some lessons learned along the way.

If “success” is defined by having LLLT’s “to serve and protect the legal services consuming public with qualified and regulated legal services at a price the consumer can afford”, then the license is an unqualified success!! There are over 70 licensed LLLTs. At the time that the license was “sunset” there were over 300 students in the “pipeline”. The “pipeline” is defined as those who were in some stage of the 3 year education and experience process to be prepared to take the examination and become licensed. The education consists of two years of

“core classes” which are generally taught through an approved paralegal program. The third year of classes consist of education in the defined practice area, in Washington at the time that was family law.

These licensed LLLT’s are employed either on their own or in conjunction with a law firm. The reports are that they are very busy and are compensated, and are providing legal services at a price lower than lawyers charge in the same market place. In over six years of being licensed there has only been one complaint filed over the services of a LLLT that has resulted in potential discipline.

Judges who have had the occasion to have LLLT’s in their courtroom have for the most part been appreciative of the assistance that LLLT’s can provide and have found that their courtrooms are better able to process cases that previously were pro se litigants who were uniformly unprepared and unqualified. With the assistance of LLLT’s cases are processed more effectively and efficiently.

One of the lessons learned is that we should have been collecting data to support our goal and conclusion that the LLLT’s “serve and protect the public with qualified and regulated legal services at a price the consumer can afford”. The National Center for State Courts (NCSC) began a study in Washington but had to discontinue because they were unable to access the information through the state’s data base. It is my understanding that inability to access information has been resolved and we are hopeful that the NCSC might resume its study. In the meantime, the LLLTB is engaged in collecting data.

Another thing that we might have done differently would be to advertise the license to the consuming public. This was made difficult since Washington was the only jurisdiction that offered this license and it was the first of its kind. Therefore, it was a bit tenuous to offer and represent to the public an idea that had not been tested and proven. However, we feel it now is “tested and proven” and other jurisdictions who chose to follow the LLLT path will not have that hesitation.

The Supreme Court suggested as one of the reasons for “sunsetting” the license as being expense. The Supreme Court delegated authority and responsibility to administer the license to the WSBA. The WSBA annually allocated \$200,000 to support the LLLTB in its efforts to develop the license and eventually to administer the over seventy licenses. Only during one fiscal year did the LLLTB exceed its budget. It was the intention of the LLLTB that the LLLT license would be self-supporting through its license fees. At the time of the sunsetting it was projected by the LLLTB that the license would be self-supporting in 4 years. It should also be noted that the LLLT budget represents less than .001% of the WSBA annual budget.

Once the license was producing licensed LLLT's the barriers began to dissolve. The goal was to have LLLT education programs situated throughout the state of Washington in as many of the thirty-nine counties as possible. This would allow LLLT's to be trained and licensed in their communities and to provide legal services to another underserved population which are consumers living in rural parts of the state that do not have access to lawyers. The cost of the three-year education is less than \$15,000 which is obviously considerably less than obtaining a Juris Doctor degree from a law school. There are few barriers to the license, especially if the education can be provided statewide. Until statewide education is available, the model involves having existing education programs provide the classes in "real time" to students who are remote to the learning center.

I have been chair of the LLLTB for most of it's 10 years. I am proud of the license in Washington and believe it is accomplishing what we set out to accomplish, "to serve and protect the legal services consuming public with qualified and regulated legal services at a price the consumer can afford". I am hopeful that in time that the license will be restored in Washington state. In the meantime, I am excited to see many other jurisdictions around North American investigating and implementing concepts to accomplish what we have set out to accomplish in Washington. I think Colorado and Oregon are implementing licenses that closely resemble Washington state, but other jurisdictions, including North Carolina, are pursuing concepts that will improve the ability of the consuming public to have the necessary services that they need to assist them in navigating the complicated legal system we have created just to allow them to enjoy their legal rights.

Respectfully submitted,

Stephen R. Crossland, Esq., Chair
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