

# OREGON STATE BAR BULLETIN

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## Expanding Justice

Years of Debate About  
Oregon's Decision to  
License Paralegals Made  
for a Stronger Program

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# Expanding Justice



**Years of Debate About Oregon's Decision to License Paralegals Made for a Stronger Program**

— By Shannon Gormley —

**O**n Tuesday, July 19, Linda Odermott woke up feeling a mix of nervousness and hope. She ate some oatmeal for breakfast, got in her car and made the hour-long drive from her home in Beaverton to the Oregon Supreme Court’s offices in Salem. There, she sat in a conference room and waited to hear the fate of a program she had worked on for over a decade.

Gathered for an otherwise routine public meeting, the court’s seven justices sat around a large table, while Odermott and court staff lined the room’s perimeter. The last item on the judges’ docket was a vote on whether or not to implement Oregon’s first licensed paralegal program. The proposed plan would allow paralegals who meet educational and experience criteria to assist clients in a limited capacity in landlord-tenant and family law matters. Over the last few years, Odermott, a paralegal herself, had served as a member of the Paraprofessional Licensing Implementation Committee (PLIC), which spent countless hours honing the proposal, digging deep into legal statutes, reaching out for feedback and incorporating input. Now, there was nothing to do but wait.



Linda Odermott

By Odermott’s estimate, it took over an hour before the judges reached the final item on the agenda. The justices asked a few final questions and gave a brief summary of the proposed program. Then, Odermott watched as each of the justices cast their vote. The decision was unanimous — Oregon would become the next state to implement a licensed paralegal program.

At the end of the proceedings, Chief Justice Martha Walters turned to Odermott and asked if she had anything to say on behalf of the paralegal profession.

“Just thank you for your vision and for understanding how big this is and how impactful this will be, not only to the paralegal profession but to the public at large” Odermott remembers replying.

Recalling the proceedings over Zoom nearly three months later, Odermott still gets emotional. Parsing through the wealth of thoughts and feelings brought on by the decision, one sentiment in particular sticks out for Odermott.

“Knowing the impact it will have for people who aren’t getting any justice,” she says, “let alone access to justice.”

The licensed paralegal program was created in response to the growing number of Oregonians who are unable to get legal help in civil matters. Eighty-four percent of Oregonians who qualify for Legal Aid don’t receive any. The vast majority of litigants in residential landlord-tenant cases are pro se — between 2016 and 2021, 98% of cases had at least one self-represented party. Family law litigants are overwhelmingly self-represented too, especially in dissolution of marriage proceedings, in which 81% of cases have at least one pro se party.<sup>1</sup>

Judge Kirsten Thompson, who chaired PLIC, describes the lack of legal representation for Oregonians in civil matters as “devastating.”

“Many people cannot afford the cost of an attorney,” says Thompson. “Numerous cases are not destined for complex litigation, yet people need competent advice, and assistance. Forms and family law assistance workers supported by the Oregon Judicial Department help, but the assistance is not confidential and limited.



Hon. Kirsten Thompson

Landlords can designate agents, many of whom have a lot of experience to speak for them in court, but tenants have no comparable resource. There is a great need for additional competent help at a lower cost in both of these areas.”

Joan Marie Michelsen, the regional director for Legal Aid Services of Oregon and a PLIC advisory board member, believes the program could help her office substantially.

Along with siphoning some of the high demand for legal aid, Michelsen hopes a licensed program can reach Oregonians who don’t qualify for legal aid but still can’t afford a lawyer.

“It has the potential to be a game changer,” Michelsen says of the program.

Though Oregon’s licensed paralegal program has cleared a major obstacle, one crucial step remains — connecting the program with the public it’s intended to serve. The importance of this next phase is underscored by recent developments in a neighboring state. In 2020, Washington — the first state to try such a program — decided to sunset its licensed paralegal program only a few years after it was launched.



Myah Kehoe

Even here in Oregon, where the program was approved unanimously and will take effect next July, the decision is not without controversy. “Part of me as an attorney doesn’t like some of the ideas, and I have some colleagues that definitely don’t like the idea of it, I think just because there’s so much training involved in getting a legal education,” says Myah Kehoe, a mediator and divorce attorney who serves on OSB’s board of governors. “But we also have fewer

people coming out of law school every year, people retiring and a lot of people who need help.”

Proponents of the program praise PLIC’s attention to detail, and believe that the program is a necessary step in addressing Oregon’s justice gap.

“The access to justice issue is so big,” says Odermott. “And it’s only getting bigger.”

### Outreach Critical to Program’s Success

On a cold, rainy October afternoon at his Eugene office, Brian Cox is dealing with a backlog of post-vacation work. But the rain is a welcome reprieve from the wildfire smoke that choked the Willamette Valley in previous weeks, and a busy day at the office is normal for Cox. He’s worked in landlord-tenant law for more than 30 years, and at any given time, roughly 20% of his caseload is pro bono. Until recently, he was also involved with a major project that consumed a great deal of his time.

Cox contributed to PLIC’s outreach, a multi-faceted, multi-year approach that involved soliciting feedback from organizations and individuals, holding in-person meetings and online forums, and reading through hundreds of public comments. Asked how it felt to finally get the program approved after all that work, Cox is succinct.



Brian Cox

“In one word, awesome,” he says. “I feel like I was a part of something that is making a big, positive difference in Oregon.”

Though efforts have recently gained momentum, the conversation about licensing Oregon paralegals began decades ago. The Oregon State Bar considered authorizing non-lawyers to assist in limited civil matters as far back as 1992. But the current push arguably began in 2017. That year, the Futures Task Force, convened by the OSB Board of

Governors to address rapid changes in the legal field, released a report recommending the implementation of a legal paraprofessional licensure. A year after the Futures Task Force’s recommendation, the OSB co-commissioned Barriers to Justice report was released. The study found that 84% of Oregonians with a legal problem do not receive any legal help.

“When Oregonians who are struggling to make ends meet lack legal representation, they are effectively shut out of the justice system,” the report concluded. “To the average person, our legal system is a maze.”<sup>1</sup>

The OSB Board of Governors voted to establish the Paraprofessional Licensing Implementation Committee in fall of 2019. Chaired by Thompson with Judge Daniel Harris as vice chair, the 10-member committee met regularly from the fall of 2020 through spring 2022.

Harris has long supported the creation of a licensed paralegal program. He believes that it’s been the right time to create such a

program since at least 2008, when economic downturn caused a spike in the number of unrepresented litigants.

“We saw a significant dropoff of attorneys helping out in the courtroom,” recalls Harris. “It went from about 60% of litigants represented by counsel and within two years, it dropped to 40 or 30%.”



Hon. Daniel Harris

Before she was asked to chair the committee, Thompson hadn’t been following the project quite as closely. But as soon as she did, the potential benefit to underserved Oregonians seemed clear.

“It was an obvious opportunity to strengthen and expand available legal resources for Oregonians, particularly those of middle and lower incomes,” she says. “There have been several times in my work and personal life where I have been involved in a project that seems destined to have a long-term positive impact for a lot of folks ... I could see that licensing paralegals was such a project.”

According to Thompson, outreach was a major focus from the very beginning. Dozens of advisory members attended PLIC meetings. The committee reached out to organizations across the state and published information in local newspapers. In late 2021, a draft of the program was posted on the bar’s website, and the first formal request for feedback was sent out to bar members. Comments came pouring in.

“Our approach was that if people had a genuine interest, we really wanted them to have a seat at the table,” says Thompson. “We



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were just a bunch of gadflies honestly, going out and talking to as many people as would give us a hearing.”

There were also in-person outreach meetings around the state. Judge Megan Jacquot of Coos and Curry Counties attended a meeting held in her district. She hadn’t heard of the proposed program until the then, but immediately saw its potential. Jacquot expressed support for the program at an OSB Board of Governors meeting, testifying that her county is so lacking in family law lawyers, clients often have to hire a lawyer from as far north as Eugene.

Since that time, says Jacquot the problem has only increased. Two more family law attorneys have left the area. Now, there are four, only two of whom practice full-time. Meanwhile, Jacquot sees two to three domestic cases every day. Most of those cases have at least one self-represented party.

“Rural areas are really hurting, and it’s not just here, it’s everywhere in Southern Oregon,” she says. “We just don’t have enough lawyers to do the work that doesn’t pay very well.”

In addition to the imbalance of power between a litigant with legal representation and one without, an unrepresented party means a longer hearing, since she often has to educate them on courtroom basics, says Jacquot.

“We have to be pretty active and ask the questions that get the information that we need to know to make those decisions,” says Jacquot. “If we can get some paraprofessionals down here, I think it would make my day-to-day easier. I’d probably be able to make better decisions.”

Michelsen believes that licensed paralegals could make administering legal aid more efficient, too. Frequently, clients call her office with an invalid eviction notice. Currently, an administrative assistant intakes such calls. Even though the assistant can usually identify herself that the notice is invalid, she has to take it to a lawyer who has to tell her what to say. To Michelsen, it’s just one of many situations in which a licensed paralegal could get clients quicker help.

“If (the administrative assistant) was a licensed paralegal, then she could say, ‘That’s a bad notice, this is why, this is what you need to do with it, this is how you address it in court, call us if you have any questions,’” says Michelsen. “The client has now received a one-stop shop, they don’t have to wait for a call back. They’ve called when they’re in crisis, they’ve had their questions addressed, they’ve been told what to do, they’re done.”

Statewide outreach provided a wealth of big-picture feedback, but it was in PLIC’s meetings that the committee hammered out the details of the program and honed its limits. Michelsen recalls many meetings where she and Cox would “go off the deep end” debating the finer points of the proposal.

Dr. Johnny Lake, a former associate professor of education and counseling, and diversity coach who has worked extensively with the legal field, served as a public member of PLIC’s advisory board. Lake says he chose to volunteer as an advisor to PLIC because of the project’s equity aims.

“The law is an anchor of our society. If we can’t address racism and sexism in the law, how in the devil are we going to do it in our communities?” he says. “I could see that this committee was trying to grapple with those issues.”



Dr. Johnny Lake

The group also made sure to invite oppositional viewpoints into the process and worked with a consultant to conduct public surveys and focus groups, with an emphasis on collecting input from underserved communities. “Our committee was greatly assisted in its work by the feedback we received,” recalls Thompson. “Positive feedback and negative feedback alike helped.”

Before she was asked to provide feedback, Kehoe had only vaguely heard of the committee’s effort and was skeptical of the program.

“I was on the side of not being in support of the program before I learned more about what was being put in place,” she recalls.

Kehoe’s biggest sticking point had to do with retirement funds. At the time, a working version of the program allowed for paralegals to draft documents relating to retirement accounts and stock options. Given the complexity and variety of deferred benefit funds, and the difficulty of amending property division in divorce cases, the section gave Kehoe pause.

“So many things can go wrong because you’re dealing with different kinds of accounts,” she says. “A PERS account has so many different implications (compared to) dealing with a 401k.”

Kehoe’s criticism — and that of countless others — paid off. The program now requires that in such cases, licensed paralegals must refer the parties to a qualified lawyer. Kehoe says that PLIC’s detailed process resolved her biggest concerns about the program. “There will always be issues, but that’s true with attorneys too,” she says. “New attorneys taking on these same cases will have similar issues as a new paralegal might.”

Michelsen, too, was struck by the level of detail that went into the proposal.

“The amount of time that everyone on the committee put into parsing through the statutes, both in family law and in landlord-tenant law, was really impressive to me,” she says.

Though she ultimately commends the careful process, Michelsen believes that it resulted in educational requirements that are higher than necessary. “I think that there was an excess of caution there, and I understand the reasons — it’s a new program, people were nervous,” she says. “They want to make sure that when these folks go out, they really know what they’re doing. But I think those goals could have been met with slightly lower hourly requirements.”

Ultimately, the committee decided on 1,500 hours of paralegal work, CLE requirements, a Client Security Fund assessment and PLF coverage, among other licensure requirements. But even after years of discourse and the Supreme Court’s approval, those involved with PLIC don’t believe that conversations about the program should end now.

Lake believes that the licensing program should require more robust equity training, and was disappointed that some voices in the legal community opposed even the amount of training that will be required.

“It’s an indicator of how much work we have to do,” he says. Still, Lake views the program as “a beginning.”



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“(My hope) is that it’s not seen as the solution, but part of the solution,” he says.

According to Kehoe, it’s inevitable that there will be further adjustments to strengthen the program. “We’re going to have things that we’re going to have to tweak at some point,” says Kehoe. “Assessing it at all angles will be important to make sure it’s successful.”

Cox agrees. “I won’t for a second pretend that I think it’s going to be perfect,” he says. “But I think that it’s a really good result.”

### Sunrise, Sunset

Amid the national efforts to expand legal services, Christy Carpenter occupies a unique position. A Limited License Legal Technician (LLLT) in Washington, Carpenter was one of the first licensed paralegals in the country. Now, at least for the near future, she is also one of Washington’s last.

In 2015, Carpenter passed Washington’s first ever LLLT bar exam, and began practicing in 2016. But in 2020, the state’s Supreme Court voted to sunset the program, allowing only the 46 already-active LLLTs to continue to practice, along with some of the 200 students who were in the program’s pipeline.<sup>2</sup>

Carpenter, however, is looking toward the future. “I really have enjoyed watching other states follow in Washington’s path,” she says. “It has kind of spurred me to participate in this national effort.”

In the meantime, she believes that the program still provides clear benefits to Washingtonians. To date, the Washington State Bar Association has not disciplined any LLLTs. Many of Carpenter’s clients have tried to hire a lawyer, only to find out they can’t afford it. She recalls one client who came to her after he had already spent \$75,000 working with a lawyer, and was running out of funds.

“The clients that we serve are clients who in many cases have consulted with an attorney and find out they have to pay a \$5,000 retainer and \$350 an hour, and that’s completely out of the question for almost all of our clients,” she says. “These are people who aren’t going to attorneys anyway.”

Washington served as something of a guinea pig for paralegal programs across the country, including here in Oregon. PLIC held meetings with representatives from other states who already had similar programs, including Oregon’s northern neighbor.

“We came up with this broad take away that all but one of the (other states’) programs seemed to work pretty well,” says Cox. “Then you had the Washington program that failed because it was overregulated and too expensive. But all the other programs, we were able to cherry pick what was best from them, with our guiding principle being that we wanted to make this as accessible to as many people as possible, because that’s how we’ll be able to help as many Oregonians as possible.”

In order to connect Oregonians with the program, Cox foresees another phase of multi-faceted outreach and education. After the program gets off the ground next summer, courts could direct Oregonians in need to qualified paralegals when appropriate. Community groups and Legal Aid Services could help reach the public, too.

Michelsen hopes that the attorneys will help by directing clients who can’t afford their services to licensed paralegals.

“I think the private bar has a real role to play,” she says. “When (lawyers) are saying, ‘No, I can’t take your case, but here’s this licensed paralegal over here, they charge less than I do and they can do this for you –’ those are little, quick interactions that anyone in the private bar can have that I hope over time will make a difference.”

Regardless, Michelsen believes that even after it takes effect next year, it will take time for Oregon’s licensed paralegal program to develop.

“I hope that the bar and the Supreme Court are patient as this gets off the ground,” she says. “When you’re asking people to spend a couple of years getting ready to apply for licensure, we’re going to need to give that process time so that people can meet all of the requirements.”

Despite the sunset, Carpenter is optimistic about the future of Washington’s legal technician program. Last month, she attended the Institute for the Advancement of the American Legal System’s conference on creating a national standard for paralegal programs. She’s currently a member of the Washington State Bar’s LLLT board, which is in the process of creating a sunrise committee to reestablish the licensure program.

“I cannot see other states moving full speed ahead and developing their own licenses and then watching the Washington license go away eventually,” says Carpenter. “It’s just not going to happen.”

## Next Steps

The Oregon Supreme Court’s decision to adopt PLIC’s proposal marked both a beginning and an end. In the Salem conference room after the court voted to pass the proposal, Justice Christopher Garrett, who previously chaired a task force that Odermott worked on, asked her what she planned to do with her free time now that the program was about to be implemented.

“I’m like, that’s a great question that my husband would love to find out the answer to,” laughs Odermott.

For Harris, working with PLIC was a career highlight. “I’m inspired by the contributions of the committee members,” he says. “They put in a lot of time to address concerns as they came up. I think in their hearts that this is going to make the overall delivery of justice in our state more responsive to the needs of our citizenry.”

Thompson echoes that sentiment. “From my perspective, the PLIC was the hardest working committee I had ever worked with,” she says.

Though the regular committee meetings are over, Odermott is far from finished with her involvement. Now, she’s become something of a promoter from the program, fielding press and LinkedIn inquiries and working to get the word out. Like Kehoe, Cox and Michaelson, she too hopes to see the program reassessed and honed after it gets off the ground.

“We did cross a finish line, but we’re still in the marathon,” she says. “It’s not just a one-and-done. We need to continue to refine and make it better.”

But Odermott is more hopeful than daunted by this next phase.

“We have to be open — as attorneys, as paralegals, judges — about how we provide access to justice to people, because we’re doing such a horrible job of it,” she says. “Innovation has to drive how we serve the public.” ■

*Shannon Gormley is the associate editor for the Bulletin.*

## ENDNOTES

- 1 <https://olf.osbar.org/barriers-to-justice-the-2018-oregon-civil-legal-needs-study-published/>
- 2 <https://law.stanford.edu/wp-content/uploads/2021/04/LLLT-White-Paper-Final-5-4-21.pdf>

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Matthew’s practice is focused on agricultural law, real property transactions, land use, contract formation and general business matters.

Throughout the years, Matthew has enjoyed the opportunity to acquire knowledge and skill in several areas including working on his family’s farm and real estate businesses, meeting international businessmen in the hay exportation industry, and legally representing clients in their transactional and business affairs. As a result of his knowledge and background, Matthew is seen as a relatable and trusted resource who works with individuals to recognize needs, identify goals, and is one who strives to effectively achieve outcomes.





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