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## TEACHING LAW OFFICE MANAGEMENT:

### WHY LAW STUDENTS NEED TO KNOW THE BUSINESS OF BEING A LAWYER

*Debra Moss Curtis\**

#### I. INTRODUCTION

In 1996, I started teaching a class in the principles of Law Office Management to students at the Shepard Broad Law Center, Nova Southeastern University (NSU), in Fort Lauderdale, Florida. The demand for this information was great, and it has remained consistently high.

One of the reasons for this consistent demand is the career path of many of our new law graduates. According to an employment survey conducted by our Career Development Office, the majority of our graduates, as with graduates nationwide, will go into private practice.<sup>1</sup> For the graduating class of 2006, 57.8% of our graduates reported being employed in private practice.<sup>2</sup> Of those working in private practice, almost three-quarters reported being employed in firms of ten attorneys or less, including solo practice.<sup>3</sup> New practitioners, particularly those working in small firms, want and need to be able to make the business decisions that will shape their law careers.<sup>4</sup> They appreciate the components of legal education

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\* Debra Moss Curtis is an Associate Professor of Law at Shepard Broad Law Center, Nova Southeastern University in Ft. Lauderdale, Florida. She teaches Contracts, UCC: Secured Transactions, and Law Office Management Workshop. Thanks to Ami Boxer, NSU '08, for her extensive research assistance with this article.

<sup>1</sup> NSU EMPLOYMENT SURVEY AS REPORTED TO NATIONAL ASSOCIATION OF LAW PLACEMENT (2002–2006).

<sup>2</sup> NSU CAREER DEVELOPMENT OFFICE, CLASS OF 2006 EMPLOYMENT REPORT 6 (2006).

<sup>3</sup> *See id.* at 7. Of the seventy-three graduates reporting employment in private practice, three reported working as solo practitioners and another fifty reported working in firms of two to ten. *Id.*

<sup>4</sup> WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 87 (2007). This book is one of a series of reports on professional education issued by The Carnegie Foundation for the Advancement of Teaching, including law, engineering, the

that help them to transition to practice.

Since its inception, the information taught at NSU Law in law office management has changed format several times. First, the information was focused largely on starting a new firm, presented in small extra-credit workshops. Subsequently, the class became a two-credit, large lecture class with a greater focus on general law practice. Finally, the course has evolved in its current form to a twenty-student, two-credit, hands-on workshop on making and understanding decisions in law practice management. Regardless of the format, the core of the information has remained the same—practical information on how law firms work from the inside out.

The idea of incorporating professional skills in the law curriculum has arisen slowly over the past decades. However, a vast majority of legal scholarship on teaching professional skills for law students has focused on bringing clinical skills to the law curriculum.<sup>5</sup> Instead, this Article will discuss the importance of students learning the professional skill of Law Office Management. Part II will discuss what is “Law Office Management” as a subject area. Part III will explain why this information is critical to law students’ education. Part IV will make suggestions for incorporating the core skills of this subject into a variety of curriculum.

## II. WHAT IS LAW OFFICE MANAGEMENT?

The practice of law is a business.<sup>6</sup> But while focusing on teaching law students to “think like a lawyer,” law schools often omit to tell students about the economic realities of surviving in practice.<sup>7</sup> Lawyers are not necessarily interested in or trained as business people and thus comes the harsh reality—if most lawyers had wanted to be business people, they might have gone to business school instead.<sup>8</sup> So for many law students, the realization that to earn a living as a lawyer, they also have to learn a business, can be very challenging.

But law students can be prepared to run the business of a law

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clergy, nursing, and medicine. *Id.* at 15.

<sup>5</sup> Gary A. Munneke, *Opening Remarks*, 23 PACE L. REV. 515, 515 (2003) [hereinafter *Opening Remarks*]; e.g., Raleigh Hannah Levine, *Of Learning Civil Procedure, Practicing Civil Practice, and Studying A Civil Action: A Low-Cost Proposal to Introduce First-Year Law Students to the Neglected MacCrate Skills*, 31 SETON HALL L. REV. 479, 484 (2000).

<sup>6</sup> GARY A. MUNNEKE, INTRODUCTION TO LAW PRACTICE: MATERIALS AND CASES 1 (2d ed. 2002) [hereinafter INTRODUCTION TO LAW PRACTICE].

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 3.

firm without first earning a business degree.<sup>9</sup> The misconception has arisen that law is only a profession and not a business.<sup>10</sup> Some argue that it does not matter if law is characterized as a profession or a business,<sup>11</sup> but the implication of this concept is widespread—you cannot compare the running of a law firm to, for example, an auto-mechanic's shop or a supermarket. Others believe that law is a business separate from the professional obligations to society.<sup>12</sup> But law indeed is a “professional service business” in which “[s]ound business practices” ensure that law actually is being practiced in a way which meets the demeanor that the profession requires.<sup>13</sup> The skills involved in managing a law practice are learnable by law students in a variety of formats, but they are not made available to many of them.

In contrast, there is a wide variety of information available to practicing lawyers on the topic of law office management. For example, the American Bar Association (ABA) has a large section devoted to law management issues, with an extensive website to assist members.<sup>14</sup> On that website, members may learn about both live and webcast continuing legal education courses, access various e-zine and magazine publications, learn about conferences and other events at which to meet other lawyers interested in the topic, and purchase materials for their offices.<sup>15</sup> The website is so thorough that it divides its materials into units on marketing, management, technology, and finance—core groups dedicated to furthering attorneys' knowledge on these subjects.<sup>16</sup>

In addition, most state bars have programs or information on law practice management for their members.<sup>17</sup> Florida, for example,

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<sup>9</sup> THOMAS MCKNIGHT STEELE, MATERIALS AND CASES ON LAW PRACTICE MANAGEMENT: A LEARNING TOOL FOR LAW STUDENTS iii (2004) [hereinafter MATERIALS AND CASES ON LAW PRACTICE MANAGEMENT].

<sup>10</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at 3; *see also* Russell G. Pearce, *The Professionalism Paradigm Shift: Why Discarding Professional Ideology Will Improve the Conduct and Reputation of the Bar*, 70 N.Y.U. L. REV. 1229, 1231 (1996).

<sup>11</sup> MATERIALS AND CASES ON LAW PRACTICE MANAGEMENT, *supra* note 9, at 3.

<sup>12</sup> *See* Pearce, *supra* note 10, at 1231; Russell G. Pearce et al., *Revitalizing the Lawyer-Poet: What Lawyers Can Learn from Rock and Roll*, 14 WIDENER L.J. 907, 908–09 (2005).

<sup>13</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at 3.

<sup>14</sup> ABA Law Practice Management Section, <http://www.abanet.org/lpm/home.shtml> (last visited Jan. 1, 2008).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *See* ABA Law Practice Management Section: Practice Management Advisors/State & Local Bar Outreach Committee, <http://www.abanet.org/dch/comadd.cfm?com=EP024000&pg=1> (last visited Jan. 1, 2008) (listing state and local law practice management advisors and their contact information).

has an extensive program dedicated to assisting its attorneys with the business of running a law office.<sup>18</sup> The program, titled LOMAS (Law Office Management Assistance Service), provides information on the topic, including forms for use by practitioners, hints and tips on hot topics, and even personnel to assist attorneys in the management of their firms.<sup>19</sup> A variety of private companies also produce information for practitioners to learn about law practice management techniques.<sup>20</sup> Many of these organizations will give students access to their information, but none are specifically directed toward law student education. For all the availability to practitioners, much of the information still remains limited for many law students.

### III. LAW OFFICE MANAGEMENT AND LEGAL EDUCATION

One question being asked by educators is, “what is the current purpose of law school?”<sup>21</sup> No determination may be made as to whether students, faculty, or administration are meeting their roles in the law school environment properly without knowing what their purposes are in that paradigm.<sup>22</sup>

One suggestion is that “the goal of legal education is to produce graduates who possess the skills, knowledge, and values necessary to be successful legal professionals.”<sup>23</sup> Forty years ago, a chasm arose between legal educators and the practicing bar regarding the preparation of law students to be lawyers.<sup>24</sup> Amid criticism from Chief Justice Burger and other visible critics, “[e]ducators responded that the role of the law schools was to train law students in the theories and substance of the law and ‘how to think like lawyers’” rather than functioning as trade schools.<sup>25</sup> The proposal

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<sup>18</sup> The Florida Bar, Member Services, Law Office Management Assistance Service (LOMAS), <http://www.flabar.org> (follow “Member Services” hyperlink; then follow “Law Office Management” hyperlink) (last visited Jan. 1, 2008).

<sup>19</sup> *Id.*

<sup>20</sup> *See, e.g.*, The College of Law Practice Management, <http://www.colpm.org/home.asp> (last visited Jan. 1, 2008).

<sup>21</sup> Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48, 52 (2003).

<sup>22</sup> *Id.*

<sup>23</sup> Denise Riebe, *A Bar Review for Law Schools: Getting Students on Board to Pass Their Bar Exams*, 45 BRANDEIS L.J. 269, 283 (2007).

<sup>24</sup> Roger C. Cramton, *The Current State of the Law Curriculum*, 32 J. LEGAL EDUC. 321, 321 (1982).

<sup>25</sup> *Id.* (quoting David R. Brink, *Legal Education for Competence—A Shared Responsibility*, 59 WASH. U. L.Q. 591, 593 (1981)).

is that law school's purpose is, as has been asserted in the past, to teach people to "think like lawyers." However, a more modern interpretation of that phrase conceives of not merely cultivating analytical reasoning, but also including or helping students to develop a variety of skills and knowledge.<sup>26</sup> In addition, since that time, there has been a swing in the direction of more practical training being accepted as part of the law school curriculum.<sup>27</sup> The practicing bar continues in its urging of such change.<sup>28</sup>

In their extensive report analyzing legal education, the authors of *The Carnegie Foundation for the Advancement of Teaching's Educating Lawyers* dissect the history and framework of legal education, with an eye towards looking forward to connecting legal education to the practice of law.<sup>29</sup> They claim an "increasingly urgent need [for legal education] to bridge the gap between analytical and practical knowledge."<sup>30</sup>

The standard curriculum of law schools in the early part of the twentieth century did not extend to the business of practicing law.<sup>31</sup> A course dealing with the practicality of managing a law office has been documented as part of the curriculum of a law school as early as the 1946–47 academic year.<sup>32</sup> However, this course has not been incorporated regularly into law school studies even today. Using law school listings of courses taught is one way to determine which schools are teaching the subject, even though they do not provide information about when a course is taught, how often it is taught, or how many students are enrolled in a course.<sup>33</sup> In 1995, about twenty law schools listed such a course.<sup>34</sup> In the 1999–2000 academic year, the number grew to about forty-nine schools and in the 2000–2001 year grew again to fifty-seven courses.<sup>35</sup>

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<sup>26</sup> Henderson, *supra* note 21, at 52–53.

<sup>27</sup> Cramton, *supra* note 24, at 322.

<sup>28</sup> See, e.g., Robert M. Cearley, Jr., *Earning Their Keep*, ARK. LAW., Spring 1999, at 2, 2.

<sup>29</sup> See SULLIVAN ET AL., *supra* note 4, at 15.

<sup>30</sup> *Id.* at 12.

<sup>31</sup> ALFRED ZANTZINGER REED, PRESENT-DAY LAW SCHOOLS IN THE UNITED STATES AND CANADA 254 (prt. 1987) [hereinafter PRESENT-DAY LAW SCHOOLS].

<sup>32</sup> Thomas M. Steele, *The MacCrate Report: Its Impact on Education in Law Firm Management*, 23 PACE L. REV. 613, 626 (2003).

<sup>33</sup> *Id.* at 626–27.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 627. The review consisted of reviewing each law school's website and searching for a course description in the course listing that made it clear to a student that the course would cover law office management principles as a key focus, whether that was the title of the course or not. Such review was done in February and March 2007, and is fixed in time as to the information available on the school's website during this time. The 195 schools reviewed

In 2007, I completed an internet review of law school webpages' course offerings at ABA accredited law schools.<sup>36</sup> Of the 195 schools, 131 did not list any course in their "course descriptions" that focused in a significant way on the basic principles of law office management. While other courses at these schools may touch upon aspects of law office management, not one course at these 131 schools listed these skills extensively in its description in the course listings. Sixty-one law schools did list at least one course which concentrated on the basic skills of law practice management.<sup>37</sup>

Of the sixty-one schools that offered such courses, a total of sixty-five courses were located under a variety of course names and a variety of credit levels. Some schools offered more than one course that focused on the core skills. Table 1 charts the course titles, frequency of course titles among different law school curricula, and the number of credit hours for which each course was offered (where available).

**Table 1: Names of Law School Courses Focusing on Law Office Management Skills**

Course Name (as it appears in the on-line law school catalog)	Number of Law Schools that Offer a Course with this Title	1 Credit Hour*	2/2.5 Credit Hours	3 Credit Hours
Law Practice Management	18		5	6
Law Office Management	18		9	3
Law Office Practice	5	1	4	
Law Practice Technology	3		2	
Law Office Management and Economics	2		1	

were either fully accredited, provisionally accredited, or on probation.

<sup>36</sup> The review consisted of reviewing each law school's website and searching for a course description in the course listing that covered law office management principles as its basic focus, whether that was the title of the course or not. Such review was done in February and March 2007. The 195 schools reviewed were either fully accredited, provisionally accredited, or on probation.

<sup>37</sup> I was unable to make a determination in three schools as to their course offerings, due to the way courses are listed on the website. These three were Florida Coastal School of Law, Inter-American School of Law, and Pontifical Catholic of Puerto Rico.

Lawyering Practice	2		1	
Legal Extern Class	1			
Second Year Lawyering Skills of Practice	1			
Legal Practice Seminar: Law as a Business	1		1	
Law of Law Firms	1	1		
Lawyering Practice	2			
The Law Profession	1		1	
Managing a Law Practice	1			
Law Practice	1			
The Law Firm	1			1
Civil Practice Skills	1			
Introduction to Legal Practice Skills for a Successful Legal Career	1		1	
Civil Practice Clinic	1		1	
Management Skills for Lawyers	1			
Small Firm Practice	1		1	
Law Office Practice and Management	1		1	1
Legal Profession Workshop	1			1

*\*Credit Hours are not always available for each course listing. Some courses are concurrent to legal clinics. Some courses are offered at a choice of credit hours. Therefore, the credit hour offerings may not equal the total number of courses offered under that name.*

Seeing the wide range of names and credits under which schools offer these skills makes it clear how “unregulated” the teaching of this topic is compared with other law school offerings. While a wide variety of titles may exist among schools in many elective offerings, this extensive variation on the skills taught—and the different foci which may be emphasized within this skill-set—demonstrate that schools take different approaches to the teaching of the subject matter.

A question which also has been raised is, “[w]hy teach law office management in the law school curriculum at all?” Law schools have

been accused of teaching students how “to identify problems, but not how to solve them,” thus blocking effective management by lawyers.<sup>38</sup> It also has been suggested that imparting this kind of information may be an ethical duty to our students. The concept that lawyers have an ethical duty to manage legal work is implied through the Model Rules of Professional Conduct.<sup>39</sup> Various commissions have studied the importance of professional skills for beginning lawyers, thus starting the law school debate in earnest.

*A. The “MacCrate Report” and Law Office Management*

In 1992, the Task Force on Law Schools and the Profession, headed by former ABA President Robert MacCrate, issued a report after two years of collecting information.<sup>40</sup> This report, commonly referred to as the “MacCrate Report,” “identified ten fundamental lawyering skills and four professional values” of the legal profession.<sup>41</sup> While the Report has been credited with working “wonders” in the field of clinical education, it has been asserted that the Report has had “relatively little impact” outside of the clinical arena.<sup>42</sup>

The ninth of these fundamental skills is “Organization and Management of Legal Work.”<sup>43</sup> The Report broke these skills into the following components:

- [1.] Formulating Goals and Principles for Effective Practice Management;
- [2.] Developing Systems and Procedures to Ensure that Time, Effort, and Resources Are Allocated Efficiently;
- [3.] Developing Systems and Procedures to Ensure that Work is Performed and Completed at the Appropriate Time;
- [4.] Developing Systems and Procedures for Effectively Working with Other People;
- [5.] Developing Systems and Procedures for Efficiently Administering a Law Office.<sup>44</sup>

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<sup>38</sup> Leslie I. Messman, *Motivating Employees in the Legal Workplace*, 23 COLO. LAW. 1261, 1262 (1994).

<sup>39</sup> Gary A. Munneke, *Legal Skills for a Transforming Profession*, 22 PACE L. REV. 105, 138 (2001) [hereinafter *Legal Skills for a Transforming Profession*].

<sup>40</sup> Steele, *supra* note 32, at 616.

<sup>41</sup> *Id.* at 617.

<sup>42</sup> *Opening Remarks*, *supra* note 5, at 515.

<sup>43</sup> Steele, *supra* note 32, at 617–18.

<sup>44</sup> *Legal Education and Professional Development—An Educational Continuum, Report of*



The Report pointedly focuses primarily on those skills which would impact new lawyers regardless of the type or size of practice in which they worked.<sup>45</sup> The Report also notes that, even if new lawyers are not administering law firms themselves, a certain level of familiarity with these particular kinds of procedures may help to ensure that lawyers effectively function within a firm at any level, and generally makes the most of their lawyering abilities.<sup>46</sup> In other words, these skills are basic and general.

The impact of the MacCrate Report on the area of teaching law office management has been dealt with extensively by Professor Thomas M. Steele in *The MacCrate Report: Its Impact on Education in Law Firm Management*.<sup>47</sup> First, Steele points out that while the “ninth skill” may be ideologically proper, it nevertheless has received immense criticism for being incomplete as to the actual skills new lawyers really need to run law firms of today.<sup>48</sup> Some key skills such as marketing, purchasing, employee benefits, management theory, leadership, physical facilities, security, and safety are only tangentially covered by the Report, while a comprehensive discussion of technology—arguably one of the most important issues in law management today—is “glaring[ly] absent[t].”<sup>49</sup> Even applying the rationale that the Report is intended to reach a broad base of students who may not occupy management places in firms immediately, the absence of these skills is notable.

Second, Steele notes that lawyers, simply by being lawyers, do not innately come to law practice with any minimum level of sound business preparation, knowledge, or abilities.<sup>50</sup> Nor do students, in large numbers, come to law school with vast amounts of undergraduate business education.<sup>51</sup> Likewise, although students may come to law school with extensive computer exposure, law firms are reporting that young lawyers are not fluent in using the computer for firm-related tasks.<sup>52</sup> Thus, Steele highlights not only the lack of concrete knowledge by law students, but also the fact that even such concrete knowledge base does not necessarily

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*the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992 A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE B. 140 [hereinafter MacCrate Report].

<sup>45</sup> *Id.* at 202–03.

<sup>46</sup> *Id.* at 203.

<sup>47</sup> Steele, *supra* note 32.

<sup>48</sup> *Id.* at 618–21.

<sup>49</sup> *Id.* at 621–22.

<sup>50</sup> *Id.* at 623–24.

<sup>51</sup> *Id.* at 624–25.

<sup>52</sup> *Id.* at 625.

translate to success in the practice of law. Some transition education—bringing up minimum levels of knowledge, and converting those to specialized law practice management—must occur for the benefits to be seen in practice.

In his conclusion, Steele notes that while the MacCrate Report continues to be a “directional sign” for the legal profession, the “ninth skill” has not achieved the goal of having all attorneys be competent in law office management techniques.<sup>53</sup> He notes that formal course work in schools simply has neither reached a level of acceptance nor a degree of pervasiveness that truly impacts legal education.<sup>54</sup> My recent review of on-line course catalogs, discussed earlier, confirms this theory.<sup>55</sup>

Steele offers eight reasons for this educational failure: not enough fulltime faculty teaching courses in this subject; lack of support for, or flat-out rejection of, the course by many academics; not enough faculty members with experience or interest in the subject at all; lack of support from the state bar for the teaching of the subject; lack of support to law schools from the attorney and judicial leadership in the community; lack of communication from practicing law partners to law schools stressing the importance of such education; failure to connect the importance of good business management to ethical responsibilities of lawyers; and finally, the belief that the availability of technology would solve many management problems without further thought.<sup>56</sup> As a result, the MacCrate Report may have started the wheels rolling, but has not brought the teaching of law office management to its destination.<sup>57</sup>

In the time since the MacCrate Report, some analysts have urged that a fresh look be taken at the professional skills and values denoted in the Report.<sup>58</sup> One area which calls for further expansion is the skill training of “organization and management of legal work.”<sup>59</sup> The Report’s designation of “organization and management” does not accurately convey the depth of skills necessary for good practice management.<sup>60</sup> Topics which should be more detailed and in-depth stemming from this initial concept

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<sup>53</sup> *Id.* at 647.

<sup>54</sup> *Id.*

<sup>55</sup> *See supra* text pp. 207–10.

<sup>56</sup> Steele, *supra* note 32 at 648.

<sup>57</sup> *Id.* at 647–48.

<sup>58</sup> *Legal Skills for a Transforming Profession*, *supra* note 39 at 135–36.

<sup>59</sup> *Id.* at 138.

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

include time management, financial management, organization of files and projects, entrepreneurial skills, marketing, technology, and human relations.<sup>61</sup>

The MacCrate Report is still widely used as a resource in thinking about law school curriculum.<sup>62</sup> Although its use has not yet made law practice management a universally taught skill, advances have been made. Using the information in the Report as a starting point, these advances can continue to be made.

### *B. The Carnegie Foundation for the Advancement of Teaching*

The priority for teaching “legal analysis,” defined as the understanding of the general principles and doctrines of legal matters, is not enough in legal education.<sup>63</sup> The Carnegie Foundation for the Advancement of Teaching’s 2007 Report notes that there are two other important components to a professional legal education—practical skill and professional identity.<sup>64</sup> Although much of the discussion in the report focuses on the practical lawyering skills of clinical legal education, these same ideas that practical skills should be taught in law schools also may apply to the teaching of law office management in law schools.

According to the report, “[p]rofessional education is preparation for accomplished and responsible practice in the service of others.”<sup>65</sup> Without the business skills necessary to run a business that is dedicated to the service for others, many new lawyers will not be able to accomplish their goals. While the “case-dialogue” system of teaching students to “think like lawyers” dominates legal education,<sup>66</sup> it should not be the only focus of legal education. There must be an approach that lays out analytical education and pure practice information on opposite ends of a continuum, while striking a balance between the two.<sup>67</sup>

The introduction to the actual practice of law is currently only a secondary focus of legal education.<sup>68</sup> This complaint that law schools are not adequately providing practical training is not new.<sup>69</sup>

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<sup>61</sup> *Id.* at 138–46.

<sup>62</sup> *See, e.g.,* Steele, *supra* note 32.

<sup>63</sup> SULLIVAN ET AL., *supra* note 4, at 13.

<sup>64</sup> *Id.* at 14.

<sup>65</sup> *Id.* at 23.

<sup>66</sup> *Id.* at 51.

<sup>67</sup> *Id.* at 81–82.

<sup>68</sup> *Id.* at 87.

<sup>69</sup> *See, e.g.,* ALFRED ZANTZINGER REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW

As a group, these practical skills are called “lawyering skills” and often are considered by faculty as having secondary importance.<sup>70</sup> But moving toward a curriculum in legal education that integrates these skills would properly bring legal education in line with medical schools and other professional educational experiences.<sup>71</sup>

Yet today, legal education still remains the only professional education opportunity that does not require some practical, supervised training before one is licensed in the workplace.<sup>72</sup> More than one source has attributed the lack of change towards offering more practical education and preparation for practice in legal education as due to indifference to the importance of the subject.<sup>73</sup> Most of the teachers in law school are academics and not practitioners, and many former practitioners either did not spend a lot of time practicing law prior to teaching it, or left the practice of law because they were unhappy with it.<sup>74</sup> A survey fifteen years ago clocked law faculty at averaging only 4.3 years of practical experience.<sup>75</sup> It has been suggested that since that time (1991–1992), new hires have even less practice experience.<sup>76</sup> It is hard to imagine a crusade by faculties to teach the business of a law practice when they themselves have had such little or unpleasant experience.

One obstacle that has prevented legal education from fully embracing courses such as law office management is that law schools historically have had to distinguish themselves from the old apprenticeship model to overcome “the [s]tigma of the [t]rade [s]chool.”<sup>77</sup> The analysis of the Carnegie Foundation argues that clinical education, legal writing, and negotiation have survived their struggles to be recognized and have earned their rightful place in legal education.<sup>78</sup> Today, the same arguments and rationales may be applied to the teaching of law office management. Like these

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281 (Daniel J. Boorstin ed., Arno Press 1976) (1921).

<sup>70</sup> SULLIVAN ET AL., *supra* note 4, at 87–88.

<sup>71</sup> *Id.* at 88.

<sup>72</sup> Jason M. Dolin, Opportunity Lost: How Law School Disappoints Law Students, the Public, and the Legal Profession 8 (2007) (unpublished paper), [http://works.bepress.com/jason\\_dolin/1/](http://works.bepress.com/jason_dolin/1/) (follow “Download the Paper” hyperlink).

<sup>73</sup> Randall T. Shepard, *From Students to Lawyers: Joint Ventures in Legal Learning for the Academy, Bench, and Bar*, 31 IND. L. REV. 445, 449–50 (1998); Dolin, *supra* note 72 at 10.

<sup>74</sup> Dolin, *supra* note 72 at 11–12.

<sup>75</sup> *Id.* at 11.

<sup>76</sup> *Id.*

<sup>77</sup> SULLIVAN ET AL., *supra* note 4, at 91.

<sup>78</sup> *Id.* at 111.

courses, law office management models both the practical and the analytical behavior of lawyers, has a set of rules and protocols, is part of the body of “what lawyers know,” allows for simulated practice, and has a strong component of professional responsibility for the student to learn and follow.<sup>79</sup> Therefore, like clinical education, it should be more widespread.

However, practical education comes with a price. Early studies into this issue documented that a more intensive learning environment of a clinical education could cost more money to a law school than some traditional classroom settings.<sup>80</sup> The primary cost increase was for in-house programs, which had low student-faculty ratios, as well as other expenses.<sup>81</sup> However, law office management, while bringing in practical lawyer training, does not implicate these types of costs. Elective upper-year courses have been present in the law curriculum for many years.<sup>82</sup> An elective in the business of law practice need not cost more than other “traditional” courses. If taught by practitioners who are currently managing law offices, such courses even may be more cost-effective than traditional courses.<sup>83</sup>

In addition, these skills taught in isolation from a clinical setting may even be taught in a more effective manner.<sup>84</sup> A law practice management course isolates the business skills necessary to run a firm, while a clinic teaches the business skills within the context of practicing a real case. While there certainly may be a benefit to students seeing the business side of the practice of law within the context of a case, students also run the risk of doing what many practitioners do—neglecting the business end of the practice for the “substantive” end. Students presented with both the business and the law practice at the same time may be overwhelmed by all the new concepts at once, losing the education of the business concepts amid the new, more exciting practice of a case.

### *C. Best Practices for Legal Education*

In 2007, the Clinical Legal Education Association published *Best*

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<sup>79</sup> See *id.* at 95–125.

<sup>80</sup> Margaret Martin Barry et al., *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 21 (2000).

<sup>81</sup> *Id.* at 22.

<sup>82</sup> See PRESENT-DAY LAW SCHOOLS, *supra* note 31 at 254.

<sup>83</sup> See Barry et al., *supra* note 80 at 25.

<sup>84</sup> *Legal Skills for a Transforming Profession*, *supra* note 39 at 125.

*Practices for Legal Education*, a book called “A Vision and [a] Road Map” to how law schools may most effectively prepare students for the practice of law.<sup>85</sup> The book seeks to assist legal educators in rethinking the approach to legal education by assisting them in developing a statement of best practices for teaching, “setting goals . . . , organizing [and delivering] the program of instruction . . . , assessing student learning, and . . . evaluating the success of the program of instruction.”<sup>86</sup> Such steps would mirror long-recognized principles of curriculum development.<sup>87</sup>

Such commitment to preparing students for practice may include the responsibility to prepare students for the business end of practice as well as the “content” end. For example, one suggestion for setting the goals of program instruction is to be “committed to preparing . . . students [for] practice . . . in the contexts [that] they are likely to encounter as new lawyers.”<sup>88</sup> Many schools’ graduates may be starting their own firms or entering small-firm practice in which business decisions must be made by all lawyers. In such a situation, instruction in these business decisions would be a critical part of preparing students for practice.

Another such commitment is to “[h]elp [s]tudents [a]cquire the [a]ttributes of [e]ffective, [r]esponsible [l]awyers,” which includes, in principle, the ability of lawyers to have professional skills.<sup>89</sup> The authors clearly include under the list of “[p]rofessional [s]kills” such topics clearly appropriate in law practice management courses, such as “effective use of current technologies and strategies to store, retrieve, and analyze information and to undertake factual and legal research,” “an appreciation of the commercial environment of legal practice, including the market for legal services,” and “effective skills for client relationship management and knowledge of how to act if a client is dissatisfied with the advice or service provided.”<sup>90</sup> These skills incorporate, and even go beyond, the MacCrate’s “ninth skill” in teaching law office management, that is, to ensure a broader level of capability for law students in the business of law.

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<sup>85</sup> ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007).

<sup>86</sup> *Id.* at 7–9.

<sup>87</sup> *Id.* at 3.

<sup>88</sup> *Id.* at 39.

<sup>89</sup> *Id.* at 65–66.

<sup>90</sup> *Id.* at 77.

*D. The Future of Law Practice*

In 2001, an ABA Committee dedicated to the study of the future of the law profession issued a report to the ABA regarding expected leadership trends in the legal profession.<sup>91</sup> One projection was the likelihood of the restructured practice setting for lawyers.<sup>92</sup> Some of these predicted changes included the ever-altering relationship of lawyers to staff, eroding jurisdictional boundaries, e-lawyering, and basic changes in the “economics of the practice of law.”<sup>93</sup>

These intense changes affect all aspects of legal practice, from office space and hiring, to technology decisions and malpractice insurance, to preventative office practices and the ability to start up a firm. If lawyers cannot address these changes in the practice of law, the businesses will not succeed.<sup>94</sup> If students can begin this education of addressing these changes while in law school, they will be tuned into these issues when in the business world of law.

## IV. TEACHING LAW OFFICE MANAGEMENT IN A CURRICULUM

Law professors have been accused of “intellectual schizophrenia” in believing that they can be academicians and train practitioners at the same time.<sup>95</sup> But in the area of law office management, a reasoned and analytical approach may be taken to the professor’s practical knowledge, and such information may be taught effectively to law students. Absent omitting it entirely from a course of legal study, there is absolutely no right or wrong way to encompass law office management into a curriculum.

One step to planning for teaching these skills is to consider the resources appropriate for a law student. One widely read book, suitable for law students or practitioners, is Jay Foonberg’s *How to Start and Build a Law Practice*.<sup>96</sup> The book introduces readers to the ideas that law office management is a topic to be studied and that there are thoughtful processes which students of the subject must encounter. This book has been used in a variety of

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<sup>91</sup> *Legal Skills for a Transforming Profession*, *supra* note 39, at 108.

<sup>92</sup> *Id.* at 116.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.* at 123.

<sup>95</sup> Robert J. Borthwick & Jordan R. Schau, Note, *Gatekeepers of the Profession: An Empirical Profile of the Nation’s Law Professors*, 25 U. MICH. J.L. REFORM 191, 196 (1991).

<sup>96</sup> JAY G. FOONBERG, *HOW TO START AND BUILD A LAW PRACTICE* (5th ed. 2004). Jay G. Foonberg is a widely published author for the American Bar Association, with a library of resources in the law practice management field. *Id.* at 663.

educational opportunities, including an innovative course for certification under a General Practice and Solo Concentration at Thomas Cooley Law School.<sup>97</sup> The preface to the book reminds students that, while the practical-based book is money-oriented, success in “the practice of law requires a deep and sincere dedication to helping people.”<sup>98</sup> This reminder, along with the text’s discussions on everything from student loans to quality of life, helps teach the course within the context of the profession that these students have chosen, rather than as isolated skills of money and people management.<sup>99</sup>

Another wonderful resource in planning a law practice management course is the works of Professor Gary A. Munneke of Pace University Law School. His course originated at Pace in 1988, where it was ultimately approved by the faculty cloaked in the concept of ethical training.<sup>100</sup> Professor Munneke envisions the teaching of law practice management in three different levels.<sup>101</sup> One level is “management of the organization,” which is the teaching of the running of a law firm.<sup>102</sup> The second level is “management of the legal work product,” including the entire set of skills surrounding delivering legal work, which often get to students through clinics and other skills courses.<sup>103</sup> The third level deals with “management of the . . . lawyer as a professional person,” which concentrates on personal management skills such as mastering technology and handling people, but ultimately proves to include all personal management skills critical to being a successful professional—whether or not in the field of law.<sup>104</sup> These skills often are not included in various reports on students’ needs, and

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<sup>97</sup> Gary Bauer, *Addressing the Needs of Solo/Small Firm Practitioners Through Law School Based Programs to Reduce Stress in Practice—Several Approaches*, 6 T.M. COOLEY J. PRAC. & CLINICAL L. 1, 36 (2003).

<sup>98</sup> FOONBERG, *supra* note 96, at xi.

<sup>99</sup> *Id.* at xvi.

<sup>100</sup> Gary A. Munneke, *A Response to Thomas Steele by Gary Munneke*, 23 PACE L. REV. 651, 651–52 (2003).

<sup>101</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at 21. Professor Munneke teaches courses in Professional Responsibility and Law Practice Management. He is well known in the area of Law Practice Management, having served as chair of the ABA Law Practice Management Section. *Id.* at iii; *see also* Pace Law School Faculty Profile of Gary A. Munneke, [http://appserv.pace.edu/execute/page.cfm?doc\\_id=23183](http://appserv.pace.edu/execute/page.cfm?doc_id=23183) (last visited Jan. 1, 2008).

<sup>102</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at 21.

<sup>103</sup> *Id.* at 21–22.

<sup>104</sup> *Id.* *See generally id.* at 301–44 (discussing the skills required to successfully manage a law firm).



thus often are not incorporated into law school curricula.<sup>105</sup>

In his casebook, *Law Practice Management*, Professor Munneke lays out his “paradigm for studying law practice management.”<sup>106</sup> His materials—which contain articles, cases, and commentary on the subject—are divided into four sections of material, excluding the introduction of the study of the area.<sup>107</sup> First, in seven chapters, the book works through management of the organization, including law firms and partners; fees and billing; marketing; law firms as employers for both lawyers and staff; physical resources including office space, equipment, furnishing and design; and the management of both informational and financial resources.<sup>108</sup> Clearly, the skills delineated in the MacCrate Report are present here as procedures, and systems are urged for efficient time and people management.<sup>109</sup> The second division is the management of legal work product, including quality and the danger of malpractice.<sup>110</sup> Here, the skill as laid out in the Report regarding “[p]rocedures to [e]nsure that [w]ork is [p]erformed and [c]ompleted” is taught.<sup>111</sup> Third, management of law office systems, including calendar, filing, conflict checking, and timekeeping systems, are reviewed.<sup>112</sup> Again, skills from the MacCrate Report are covered, as developing systems for the firm is the focus here.<sup>113</sup> The last division of material is “[m]anaging [c]ritical [p]ractice [s]kills,” including professional growth and development, time management, communication, and thinking about the future of practicing law.<sup>114</sup> The approach in this book captures, and goes beyond, that recommended in the MacCrate Report.

This overarching approach is admirable for the breadth it covers. With subject divisions such as “management of the organization,”<sup>115</sup> the text allows for a great range of topics to be covered by a class using the book, depending on that particular course’s focus.

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<sup>105</sup> *Id.* at 4 (capitalization omitted).

<sup>106</sup> *Id.* at 21.

<sup>107</sup> *But see id.* at 21. Professor Munneke divides his material into three sections, combining “management of the legal work product (Chapter 9) and management of law office systems (Chapter 10).” *Id.* This article treats these chapters separately from each other.

<sup>108</sup> *Id.* at ix–xii, 21.

<sup>109</sup> MacCrate Report, *supra* note 44, at 140.

<sup>110</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at xii–xiii, 21.

<sup>111</sup> MacCrate Report, *supra* note 44, at 140.

<sup>112</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at xiii, 21.

<sup>113</sup> MacCrate Report, *supra* note 44, at 140.

<sup>114</sup> INTRODUCTION TO LAW PRACTICE, *supra* note 6, at xiii–xiv, 21.

<sup>115</sup> *Id.* at 21.

Professor Thomas McKnight Steele has also published a textbook on law practice management, entitled *Materials and Cases on Law Practice Management: A Learning Tool for Law Students*.<sup>116</sup> This book divides the subject into six parts: (1) the introduction, which discusses law as a business or a profession and covers basic business concepts;<sup>117</sup> (2) the organization and operation of a law firm, including management techniques and business planning;<sup>118</sup> (3) financial management, including accounting budgeting, trust accounting, and compensation planning;<sup>119</sup> (4) operation management, including employees, physical facilities, and technology;<sup>120</sup> (5) how to bring in clients, both in marketing to new clients and maintaining client relations;<sup>121</sup> and (6) a unit that covers a concept likely unfamiliar to many students, which increases its importance—risk management.<sup>122</sup> Clearly, Steele has taken his own commentary of the MacCrate Report to heart in producing this book, by covering all of the “ninth skill” and incorporating the many other areas in which he deems the Report to be not sufficiently comprehensive in the area of law practice management.

The book, with permission, makes liberal use of articles published by others. The collection of articles published in this book serves several purposes. First, it increases the knowledge base to students by providing information from a variety of sources. Second, it increases the perspectives of advice to students by including information from various contributors. Third, it sends the message to student readers that there is more than one perspective on law office management and that a student of the area must be quite careful to collect information from a variety of sources before making any business decisions.

One other interesting feature of the book is the notes within various chapters. For example, in the unit on trust accounting, Steele asks the following discussion questions: “Does it matter if a lawyer merely uses the funds but properly dispenses them when a demand is made? Should regulators concentrate on clear cases of embezzlement or theft and not conversion or misuse?”<sup>123</sup> Such

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<sup>116</sup> MATERIALS AND CASES ON LAW PRACTICE MANAGEMENT, *supra* note 9.

<sup>117</sup> *Id.* at v-vi.

<sup>118</sup> *Id.* at vi-viii.

<sup>119</sup> *Id.* at viii-x.

<sup>120</sup> *Id.* at x-xiii.

<sup>121</sup> *Id.* at xiv-xv.

<sup>122</sup> *Id.* at xv-xvi.

<sup>123</sup> *Id.* at 286.

questions help to ensure that the class is more than a “how-to” course, but rather a true education into the ideas and thought processes of law practice management. Indeed, it is teaching the student to think like a lawyer—particularly, one in charge of managing the firm.

Another resource for teaching law practice management is in-house in most law schools already. Good law office management concepts can be taught to students through clinical experiences.<sup>124</sup> Most clinics are structured like a law office, giving students the opportunity to operate in the context of a supervised law office, which can include both the practice training skills and the business aspects of running that office.<sup>125</sup> In-house clinics can model office management systems, which can be critical in teaching students the skills needed to be professionals in the business of law.<sup>126</sup> In addition, external placements may place students in sites where they may learn management as well as law.<sup>127</sup> Teaching such management skills such as the use of a calendaring system to work efficiently and promote good time management skills are appropriate and effective in such a setting.<sup>128</sup>

At NSU Law, my experience with the course started as an extra-curricular program for students interested in learning practical information about starting a small firm. Specifically titled “Small Firm Practice and Management,” the program was offered for two hours each week, for four week blocks, as part of an innovative career-building project called “The Career Development Academy.”<sup>129</sup> The Academy was meant to bring together speakers and ideas relating to the practice of law, along with other information that students would need to know in order to develop their careers. Students came to the class voluntarily—they paid no fee and earned no credit—for four weeks, at night or on Saturday mornings. Enrollment was high—between twenty to forty students signed up for these programs each time they were taught, several times each year. The focus was for those students who were thinking about starting their own firms after law school.

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<sup>124</sup> Bauer, *supra* note 97, at 9.

<sup>125</sup> *Id.*

<sup>126</sup> STUCKEY ET AL., *supra* note 85, at 193.

<sup>127</sup> *See id.* at 198.

<sup>128</sup> Bauer, *supra* note 97, at 19.

<sup>129</sup> The class was featured as follows: William C. Smith, *Biz-Law 101 Gets An A+; Florida Law School Teaches Hard Knocks of Managing a Small Practice*, A.B.A. J., Jan. 2000, at 22, 22.

There were no assignments and no assessments. The material was directed towards the starting of a small firm, not the management of an existing firm. Students read Rules Regulating the Florida Bar and periodical articles on the subject matter. In the limited time available, the students got a crash course in business planning. First, start-up issues such as financing were covered, followed by students' development of a business plan for a hypothetical firm of the students' choosing. Students researched office rent, costs of equipment, and the general cost of getting this type of business off the ground. In addition, the course touched on client grievances, trust accounting, billing, and other professional issues. Based on informal conversations with students, the end result appeared to be that students either felt armed with good information to move forward with plans to open a firm, or were completely dissuaded from doing so now that they understood the nature of the undertaking. Either outcome was considered a success.

In 2002, I began teaching the class as a two-credit course. The first change that was made concerned the length of the course. Instead of four two-hour sessions, the course now had fourteen two-hour sessions, meaning more material needed to be covered. The following topics were listed on my syllabus for 2002: "Introduction to Law Firms and Business Plans," including capitalization, conflicts of interest, and attorney malpractice prevention planning; "The Office and the Technology," including equipment, rent, and computers; "Cost Effective Legal Research;" "Money" matters, including trust accounting and billing; and "Small Firm Survival," including advertising and marketing.<sup>130</sup>

These topics were chosen to convey the most information about the skills listed in the MacCrate Report.<sup>131</sup> First, the introductory unit helped students to formulate goals and principles for practice management.<sup>132</sup> It did so by laying out the fundamentals of law office management and providing an understanding of how to study the field. Second, in talking about the office and technology, effective systems and procedures were developed for time management, resource management, and the efficient performance of work

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<sup>130</sup> Debra Moss Curtis, Syllabus, Law Office Management (Winter 2002) (on file with the author).

<sup>131</sup> See *supra* Part III.A.

<sup>132</sup> See MacCrate Report, *supra* note 44, at 140.

product.<sup>133</sup> Further, in discussing staffing the office and client relations, systems and procedures were discussed regarding working with other people.<sup>134</sup> Last, each unit contributed to the efficient administration of a law office in some fashion.<sup>135</sup>

Next, there had to be some type of assessment. The course was approved by the faculty as neither a seminar nor a workshop, but rather as a regular course. Such regular courses usually are capped by a final exam, but such a benchmark seemed inappropriate for this course, now titled “Law Office Management.”<sup>136</sup> Instead, final grades were composed of one in-class exercise on billing, where students created bills from information given on time sheets, combined with a final project on the topic of the student’s choosing. For the heavily weighted final project, students were required to pick a topic from those covered, and, working in pairs (“firms”), were required to research and analyze a practical problem that law firms might face regarding that topic and offer their own management solutions to that problem. Papers focused on topics from improving the filing system, to choosing and hiring the best employees, to perfecting conflict of interest practices for a firm. As the class continued into further academic years, more in-class projects reinforcing individual units were added.<sup>137</sup>

Finally, the perspective of the course altered. Now, instead of a class providing a limited group of volunteer students insight into starting a law practice, the course now sported two credits and an enrollment cap of fifty. Within this broader audience, many students in the class informally reported that they were not interested in opening a firm, but rather wanted to be business savvy about the firms in which they were going to work. Thus, the readings assigned were broader in focus—rather than focusing only on factual information on starting a business, there were more readings on law office management generally, gathered from a variety of resources published both by The Florida Bar and the American Bar Association. The added breadth in both focus and material resulted in a drastically different experience. Rather than

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<sup>133</sup> *See id.*

<sup>134</sup> *See id.*

<sup>135</sup> *See id.*

<sup>136</sup> A course with this title had previously been approved by the faculty for inclusion in the curriculum, although it had not been taught in recent years. Therefore, this course could be taught in this format without any further approval.

<sup>137</sup> *See* Debra Moss Curtis, Syllabus, Law Office Management (Winter 2003) (on file with the author).

tailoring the information to students who were planning on “doing,” information now also focused on students for whom “knowing” was important. Students finishing the course had less specific information on start-up practices, such as applying for occupational licenses, but more information on how their lives as attorneys could be affected by management decisions made in small firms and how they could best contribute to good decision-making in a firm.

While the course was guided in part by the desire to meet the MacCrate “ninth skill” recommendation, the course went further into some of the skills that were not necessarily highlighted in the Report, such as technology, security, and marketing.<sup>138</sup> Evolving issues in these fields made the course different each year in which it was taught.

In 2006, I proposed to the faculty that the course be converted to a workshop. At NSU, students are required to take two “Advanced Lawyering Skills and Values” (ALSV) classes, either on a litigation track, a transactional track, or from both.<sup>139</sup> I proposed that this course could satisfy the requirements to become one of these “menu” courses, satisfying either the litigation or transactional track.

The change in format was for several reasons. First, ALSV workshops are generally limited in size to twenty students.<sup>140</sup> The reduction from fifty to twenty students allowed for more productive in-class discussions and projects. Second, as a workshop, the focus of the course assessment now could be more reasonably placed on numerous projects completed throughout the course of the semester, rather than on a final project at the end of the semester. Projects due throughout the semester correspond with the topics discussed weekly, enhancing students’ practical understanding of the material. The grade is based on performance throughout the semester, an assessment which students expect when they sign up for a workshop.

The course now starts with law firm formation. In the first week, in addition to introducing the topic of law office management and a discussion of why and how we will study it, the course covers business entities for the practice of law in Florida. Financial, social,

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<sup>138</sup> See MacCrate Report, *supra* note 44, at 140.

<sup>139</sup> NSU, Shepard Broad Law Center, Advanced Lawyering Skills and Values, <http://www.nsulaw.nova.edu/students/current/alsv/index.cfm> (last visited Jan. 1, 2008).

<sup>140</sup> NSU, Shepard Broad Law Center, Code of Academic Regulations (Oct. 31, 2007), <http://www.nsulaw.nova.edu/students/current/index.cfm> (follow “Code of Academic Regulations” hyperlink).

and tax ramifications are covered. At the end of the class, students are required to form their “firm” of two lawyers each and decide on their business entity. They must either draft a partnership agreement or explain why they will not utilize one. In addition, they create their firm letterhead, on which the rest of their assignments during the semester will be presented. All assignments are completed as a “law firm” throughout the semester, although students individually receive a class participation grade. This skill ties into the MacCrate recommendation of “[f]ormulating [g]oals and [p]rinciples for [e]ffective [p]ractice [m]anagement.”<sup>141</sup> In addition, other related skills that have been enumerated as important are covered, including management theory and leadership.<sup>142</sup>

In the next weeks, the course covers a multi-part unit on “The Office and Technology.” Part I covers physical issues of a law firm, such as decisions related to office location, space needs, renting versus buying and other commercial real estate issues. Part I also covers equipment (other than computers) that the office will need. Students’ assignments include researching the local real estate market to make several proposals for office space based on location, size, and price. They must explain their choices and why the different spaces selected would enhance their practice of law. The skills covered include efficient allocation of resources and extensive discussion of physical facilities, security, and safety.<sup>143</sup>

Part II of this unit deals with the human side of filling that office, with employment and staffing issues. These include how many attorneys and staff members to hire, what kind of staff is needed, setting and implementing policies for hiring, and managing employees. The homework assignment requires the “law firms” to make hiring decisions and policies, choosing the categories of staff which they would hire, as well as setting out a procedure for that hiring process. This unit emphasizes again the development of procedures for efficient resource allocation, as well as systems and procedures to ensure that work is performed timely and for efficiently work with other people.<sup>144</sup> In addition, other important skills are tackled including employee benefits, leadership, and

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<sup>141</sup> See MacCrate Report, *supra* note 44, at 140.

<sup>142</sup> Steele, *supra* note 32, at 621.

<sup>143</sup> MacCrate Report, *supra* note 44, at 140; Steele, *supra* note 31, at 621.

<sup>144</sup> MacCrate Report, *supra* note 44, at 140.

management.<sup>145</sup>

Part III covers the library for the law firm and tackles the combined physical plant/personnel issue of how legal research will be accomplished. With the assistance of the law librarian from the law school, this unit is typically a lively and eye-opening discussion of the costs of the legal research material (hardbound and electronic) to which students have had unlimited *free* access for three years and forces students into contemplating that they really might need to accomplish certain goals. Students' homework consists of choosing their library materials and explaining why these resources would well support the practice areas they have chosen. The last part of this unit covers technology. Even though students are universally computer literate, the course covers specific programs tailored to the practice of law, as well as larger-picture technology planning such as networking and disaster planning. Students must further investigate and make decisions regarding computer programs available to them. Again, they must consider and explain their choices from a management perspective. The important skills covered include systems and procedures for efficient time, effort, resources, and performance of work, as well as a detailed look into technology.<sup>146</sup>

The course focus changes sharply at this point, focusing then specifically on attorney behaviors and responsibilities in the management of a law firm via the study of malpractice and the bar grievance process. In focusing on attorney behavior, a detailed discussion of the bar grievance process often leaves quite an impression on these students who have completed a course on professional responsibility, but who may not necessarily have considered the real-life consequences of the behavior learned in that class. Rather than focusing on what is or is not ethical behavior, the course focuses on the workings of the bar grievance process, and concrete, practical steps that an attorney would complete if faced with such a situation.

The second part of this unit discusses the differences between a bar grievance and a malpractice suit, and the peculiarities of the malpractice insurance industry. Students are given an extended assignment at this point. Each "law firm" is presented with a personalized packet that includes a set of correspondence between

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<sup>145</sup> Steele, *supra* note 32, at 621.

<sup>146</sup> MacCrate Report, *supra* note 44, at 140; Steele, *supra* note 32, at 621–22.



the firm and the client regarding a trial that went badly, along with unpaid bills and demands for payment that culminate in a letter to one of the “attorneys” in “the firm” from “The Bar,” informing them that a grievance has been filed against them. The complaint is completed using the real form from the Florida Bar website, which is quite disconcerting for students who see their names on the form. Students are required to write their responses to “The Bar,” as well as reflect on the behavior of the firm throughout the representation of the client. The students then must consider what the firm could do differently in the future to prevent such a souring of the client relationship which led to the filing of the grievance. The skills covered are fundamental ones to the management of an efficiently-administered law office—doing so in a way that is both ethical and responsible for all behaviors in the office.<sup>147</sup>

The next unit covers fiscal issues, including trust accounting, that lead to a large percentage of the bar disciplines administered.<sup>148</sup> After learning that many attorneys slip up in this area, students are ready to study the rules in detail and learn the exact requirements of managing a trust account. In this highly-detailed unit of the course, students come away with a full understanding of both the big-picture concepts of fiscal responsibilities with regard to keeping money in trust, but also the step-by-step records management requirements of the state bar.<sup>149</sup> This unit has a sharply different tone than the rest of the course. It has been said that law office management “[is] an art, not a science,”<sup>150</sup> but that is not true of trust accounting. Trust accounting has precise responsibilities, and students learn the exact requirements under Florida law. Their homework assignment first requires the students to research and brief a case in which an attorney has been disciplined by the Supreme Court for a trust accounting violation. This part of the assignment reinforces the students’ knowledge of the previous unit on attorney discipline and stresses the importance of the material on which they are currently working. Students also are asked to

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<sup>147</sup> See MacCrate Report, *supra* note 44, at 140.

<sup>148</sup> See Debra Moss Curtis & Billie Jo Kaufman, *A Public View of Attorney Discipline in Florida: Statistics, Commentary, and Analysis of Disciplinary Actions Against Licensed Attorneys in the State of Florida From 1988–2002*, 28 NOVA L. REV. 669, 711 (2004).

<sup>149</sup> In Florida, trust accounting is controlled by Rule 5 of the Rules Regulating the Florida Bar. R. REGULATING THE FLA. B. R. 5–1 (2007), available at <http://www.flabar.org/divexe/rrtfb.nsf/WContents?OpenView>.

<sup>150</sup> *Exclusive LOMAR Survey: Law Firm Leaders Weary and Challenged, But Still Poised to Succeed in 2003*, LAW OFF. MGMT. & ADMIN. REP., Dec. 2002, at 1, 14.

explain what they would do if they were the managing partner of the firm in which the disciplined attorney had committed his or her offense, and strategize what steps the firm should take to prevent such behavior from happening again. The second part of the assignment gives students a list of various transactions of the firm and requires the students to create both a trust account and an operating account. Students must make the decision as to which money belongs in which account, as well as actually complete all detailed entries, including the journals, individual trust account ledger cards, and all other supporting documentation such as deposit slips.<sup>151</sup> These fiscal skills are at the essence of effectively administering a law office.<sup>152</sup>

Armed with the knowledge of how trust accounts work, students next tackle a unit on billing. There are several subparts to the concept of billing, including setting the fee structure and actual fees, drafting retainer agreements, physically creating bills, communicating value to clients in bills, and collecting on unpaid bills. Some of these concepts are an objective science, such as transferring money kept in trust to an operating account when a bill is due. However, most of it returns to the subjective art of Law Office Management in considering many various business decisions a firm could make when preparing a bill for a client. The first assignment in this unit is for students to create a fee agreement for their clients. Students are encouraged not to draft from scratch, but rather to do what most practicing attorneys do and build their agreement from an existing one. Students are required to both attach the original agreement they modeled from and explain their own modifications. The second billing assignment requires students again to combine skills from units. Students are given time sheets from various attorneys in a firm and are required to create bills for the firm. In addition to creating the physical document, students also make judgment calls on what services to bill, the description of the services to the client, and the timing of the sending of the bills. Second, students are then required to complete the requisite trust accounting (including actual bank register documentation) for the billing cycle. Clearly, these skills of fiscal responsibility meet the needs of teaching efficiency within a law firm administration.<sup>153</sup>

The last unit in the class covers marketing and advertising. The

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<sup>151</sup> See R. 5-1.2(b).

<sup>152</sup> MacCrate Report, *supra* note 44, at 140.

<sup>153</sup> See *id.*

general concepts of marketing oneself as an attorney in both formal and informal ways are discussed, as are specific bar rules about attorney advertising. In this final unit, students are pushed into remembering that their law firm is a business with a product to sell, and they must make that part of their job. The student assignment is to create an advertisement for the firm and explain its purpose in a larger marketing plan. This direction of the course reaches beyond the MacCrate skills into those often not reached, by reinforcing not only the technical requirements of a business, but also the realities of competition in the business world.<sup>154</sup> The course ends with a panel of small firm attorneys, all alumni of the law school, who are actively involved with the business of their respective law firms. The hope is that students see a bit of themselves in these recent graduates, as they get the opportunity to hear from attorneys and discuss with them how the material they studied all semester plays out every day for these attorneys. Many of these attorneys took the course as well (although not necessarily in the same incarnation as is currently taught) and can further tie in the importance of the materials for students.

Throughout the semester, supplementing their assigned reading in Jay G. Foonberg's book on starting a law practice, students read a wide variety of periodical materials published both in the recent past and during the semester.<sup>155</sup> Each week, student "law firms" are required to bring in a recent article on the week's topic and lead the class discussion on that topic. By incorporating the concept of keeping up on current information on the topic into the course, students learn that law office management is not a topic that one can study and "be done," but rather that it is part of an ever-changing universe of information. Essentially, this is the skill of self-sustaining knowledge—teaching the future business people how to continually educate themselves in the business world.

The format of the course is not perfect, nor is it static. Each year, the depth of topics and the focus shifts slightly to account for changes in the profession. For example, in 2007, the class covered the concept of "metadata" in detail for the first time. The decision to teach the concept of hidden information within documents was reinforced when I discovered that the ABA Techshow in March of

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<sup>154</sup> Steele, *supra* note 32, at 621.

<sup>155</sup> FOONBERG, *supra* note 96.

that year provided an entire program on this topic.<sup>156</sup> This new idea was clearly on the minds of attorneys. In addition, in this same semester, more time was dedicated to advertising rules of the Florida Bar in the wake of major changes adopted by the Florida Supreme Court.<sup>157</sup> New information arises daily about changes in even the structure of law firms, and information on these new business plans will influence every aspect of the course in the future.<sup>158</sup> As the practice of law continues to grow and develop, so will the course.

## V. CONCLUSIONS

Lawyers and students alike believe that law office management belongs in the law school curriculum.<sup>159</sup> How can this be accomplished? It has been written that while “[i]t is impossible for any law school to duplicate within its own walls the conditions of outside life,” perhaps “little bridges” may nevertheless be built.<sup>160</sup> A course in Law Office Management surely is one of those little bridges. While law schools cannot be expected to turn out “fully finished product[s],”<sup>161</sup> they must take some responsibility as “the gatekeeper[]”<sup>162</sup> of the profession to teach skills fundamental to “activities undertaken by lawyers.”<sup>163</sup>

That responsibility may be meeting and exceeding the suggestions of the MacCrate Report, using the “Best Practices for Legal Education,” and other experts who have suggested, urged, and documented the importance of law office management in legal education. The framework is ready for any law school to adopt this model. Law schools should start building as soon as possible.

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<sup>156</sup> ABA Techshow 2007, <http://www.abanet.org/techshow/sessions/2007/e-ethics.shtml?trackid=eth&day=sat&sessionid=all> (last visited Jan. 1, 2008).

<sup>157</sup> *In re* Amendments to the Rules Regulating the Fla. Bar–Adver., No. SC05-2194, 2006 WL 3093126, at \*1 (Fla. Nov. 2, 2006).

<sup>158</sup> See Leigh Jones, *The Rise of the New Model Firm*, NAT’L L.J., May 21, 2007, at 1, 10 (describing several new structural models that are being adopted by some of the nation’s largest firms).

<sup>159</sup> See Maureen E. Laflin, *Clinical Legal Education Gets High Marks*, THE ADVOC., Sept. 1997, at 9, 11; Debra Curtis, Evaluations for Law Office Management, NSU Law (Winter 2007) (on file with author).

<sup>160</sup> REED, *supra* note 69, at 286.

<sup>161</sup> Cramton, *supra* note 24, at 323.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*