

Stop Thinking and Start Doing: Three-Year Accelerator-to-Practice Program as a Market-Based Solution for Legal Education

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I really wanted to do a clinic for several reasons. Probably the biggest influential factor is this nightmare I have that I'll show up at my first job out of law school and some partner who for years has been fiendishly waiting for the very moment that he has an underling will hurriedly say "OK, do X, Y and Z" and that I won't know what he's talking about and will have to respond, "Are you sure you don't have a fact pattern about some faulty carpeting and a disclaimer of warranty mixed with some sort of regulatory takings 'cause that's all I really learned how to do in law school."

And of course he'll laugh for a long time, pause and say "You're fired."

—Student Journal (2010)

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I. INTRODUCTION

Law school applications are the lowest they've been in thirty years. Law school enrollment is down significantly from last year, and analysts see the trend continuing for the 2014–2015 academic year.¹ The lack of current job opportunities and the potential for massive student loan payments has scared away prospective students from entering the legal profession.² Commentators continue to suggest that obtaining a legal education might no longer be worth the investment.³ This Essay disagrees. Too many people suffer unnecessary harms due to a lack of affordable legal services. Continued progress in achieving necessary access to legal assistance relies on a constant influx of new, talented, and energetic lawyers.⁴ Providing the best training possible to each new generation of lawyers is essential for the continued development of individual liberties and the equitable treatment of all in our society.

Many thinkers throughout legal academia are responding to these concerns by carefully considering what steps will actually help students, institutions, and the overall system of justice. Too many respond to current concerns about legal education with what we believe is the primary fallacy of legal educators today: namely, that the mission of law schools is to prepare students to think like lawyers. This Essay argues that the central function of law school is to prepare students to be lawyers, and to do what lawyers do. Although these two aims might seem similar, they are actually representative of the wide gulf between two distinct concepts: that of

1. Catherine Ho, *Law School Applications Continue To Slide*, WASH. POST, June 2, 2013, available at http://articles.washingtonpost.com/2013-06-02/business/39697850_1_american-bar-association-accredited-law-school-legal-job-market.

2. *Id.*

3. *E.g.*, David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 8, 2011, available at <http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=all>.

4. *See, e.g.*, Equal Justice Works, *New Report Suggests Ways to Fix Legal Education*, U.S. NEWS & WORLD REP. (Apr. 24, 2013), <http://www.usnews.com/education/blogs/student-loan-ranger/2013/04/24/new-report-suggests-ways-to-fix-legal-education> (citing the lack of affordable legal services for the underprivileged as integral to legal education reform). *See also* Deanell Reece Tacha, *No Law Student Left Behind*, 24 STAN. L. & POL'Y REV. 353, 372–73 (2013). “When we find these new models for connecting new lawyers with the pressing legal needs of so many Americans, we will have risen to the high calling of our profession.” *Id.* at 373.

law school as a liberal arts education in law and that of law school as a professional education for lawyers. These goals are not mutually exclusive, but the former concept has dominated legal study development.⁵ Decisions regarding curriculum, faculty appointments, standards for promotion and tenure, and pay incentives have solidified legal academia's preference for the theoretical over the experiential approach to learning.⁶

This preference for treating law school education as merely an endeavor in teaching students to think like lawyers is the root cause of the current dysfunction in legal education, which has come into stark focus as a result of the current recession and severe dip in entry-level legal hiring.⁷ The legal academy's move away from instruction on the practice of law, combined with serious disruptions in the legal marketplace and the chronic lack of funding for provision of legal services for middle-income people and the indigent population, has produced both a "practice gap" and a "justice gap." The practice gap

5. *E.g.*, Genevieve Blake Tung, *Academic Law Libraries and the Crisis in Legal Education*, 105 LAW LIBR. J. 275, 284 n.62 (2013) (citing *Abolish the Third Year of Law School?*, LEGALAFFAIRS.ORG, http://www.legalaffairs.org/webexclusive/debateclub_2yr0905.msp (last visited Sept. 17, 2013) (debating the reform and/or abolition of the third year of law school). In the debate, Daniel Solove, Associate Professor of Law at the George Washington University School of Law, proffered:

When we train lawyers, we're training people who will be shaping our society, and I think it is imperative that their legal education be a robust extension of a liberal arts education, not simply a trade school education. That's because I believe that law is more than a trade; it is more than simply representing clients; it is more than just another kind of business.

Id. Contra Deanell Reece Tacha, *supra* note 4, at 364. Deanell Reece Tacha, Dean and Professor of Law at Pepperdine University School of Law, notes the opposite perspective: "[L]egal education is not liberal arts education. It is, after all, education for a particular profession. The question . . . is how much specialization can we afford to offer after we provide robust offerings in the basic skills and information of a legal education . . . in . . . the first-year curriculum." *Id.*

6. *E.g.*, Deanell Reece Tacha, *supra* note 4, at 374–77 (concluding various points about the crisis in modern legal education). "Opportunities to learn all of the skills that make lawyers effective—counseling, advising, negotiating, drafting, problem-solving, advocating, and seeking effective and reasonable remedies—are at the heart of the call for experiential learning. In order to provide these opportunities for students, the entire profession must step up to help." *Id.* at 376.

7. *Id.* (arguing that the legal world must "reconnect the disconnect within the legal profession"). "In various ways . . . we have created our own problems. Curricula have failed to take into account the profound changes in the legal market." *Id.*

is the distance between the skills and knowledge students need to competently practice law and the abilities they actually possess at graduation. The justice gap is the vast chasm between the legal needs of people and the availability of competent (and compensated) lawyers to represent them. A third gap—the “market gap”—exists between the legal academy and the legal profession, and has widened considerably in modern times. This market gap is where law schools currently exist: outside of and independent from the economics of the profession, with law professors who are not, as a rule, engaged in the practice of law. These gaps, we argue, have resulted in the separation of legal education from legal practice, from the realities of the justice system, and from the business demands and economic reality of modern law practice.

One lauded response to the crisis in legal education has been the development of law school incubator programs designed to offer students a post-graduate experience in the actual practice of law under the supervision of law school employees.⁸ In our view, this development is both flawed and ironic. Recent graduates are already deeply in debt after three years of legal education, and incubator programs potentially add another year of delay before actual practice.⁹ At the same time, the creation of incubators acknowledges the failure of law schools to meet their implied promise as educators to train students to be capable lawyers upon graduation, during the period they are paying law schools to do so. *Educating Lawyers: Preparation for the Profession of Law*, the influential study produced by the Carnegie Foundation for the Advancement of Teaching (the “Carnegie Report”) on legal education, presented legal educators

8. See generally *Incubator for Justice*, CUNY SCH. L., <http://www.law.cuny.edu/clrn/incubator.html> (last visited Sept. 16, 2013) (describing the Incubator for Justice program at CUNY—the United States’ first law school incubator program). “[The Incubator for Justice program’s] main goal is to produce successful, public service oriented solo or small firm practitioners and/or non-profit organizations that will leave the program after 18 months with a financially viable, community-based, legal practice or non-profit organization.” *Id.*

9. See, e.g., *Solo and Small Practice Incubator*, CHI-KENT C. L., <http://www.kentlaw.iit.edu/alumni/solo-and-small-practice-incubator> (last visited Sept. 16, 2013) (outlining the one-year Solo & Small Practice Incubator program for IIT Chicago-Kent graduates); *The Center for Solo Practitioners*, THOMAS JEFFERSON SCH. L., <http://www.tjssl.edu/tjssl-alumni/incubator-program> (last visited Sept. 16, 2013) (describing the twelve- to eighteen-month incubator program at the Thomas Jefferson School of Law).

with the opportunity to rethink what it means to “think like a lawyer.”¹⁰ The purpose of this Essay is to move that conversation forward.

We intend to introduce a new model of legal education that accelerates a student’s progression from novice to able practitioner within the three years the student attends law school. To do so, we propose expanding the traditional law school curriculum to include required instruction in twenty-first century business competencies beginning in the first year, as well as imbedding a for-profit law practice model within the law school as part of an expanded experiential program. Initially, the program would be comprised of twenty students who apply directly. The purpose of the program would be to prepare these students to join or start sustainable small practices serving average-income individuals and families. We expect and intend that this model would expand to other practice areas and settings. For example, we envision an accelerator to corporate practice that would include successive training at large multi-practice firms and their client corporations, and another for legal technology that would include successive training at a wide range of emerging legal providers utilizing technology to streamline the delivery of legal services. We believe the accelerator model will ultimately serve as a basis for the redesign of modern legal education.

II. THE PROBLEM

A. *The Evolution of the Market Gap*

Legal education in the United States began as an extension of practice. Lawyers in the colonies were educated much as they were in Britain at the time—by “reading the law.”¹¹ This entailed the painstaking study of texts and treatises, such as Coke¹² and

10. WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUC. LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 5 (2007), available at www.fyerson.ca/law/EducatingLawyersSummary.pdf [hereinafter CARNEGIE REPORT].

11. See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 1961–63 (2012) (describing the legal education practices of pre-Revolutionary lawyers in America).

12. E.g., SIR EDWARD COKE, THE FIRST PART OF THE INSTITUTES OF THE LAWE OF ENGLAND (Garland Publishing 1979) (1628) (a reprint of the first of Coke’s four-part series of

Blackstone,¹³ under the watchful eye of a practicing attorney. This type of legal apprenticeship was a classic guild relationship—the master (lawyer) supervised and taught the apprentice (intern) while the latter worked in the master’s law practice as a clerk or copyist for the practicing attorney.¹⁴ The apprentice also learned local legal rules, customs, personalities, and politics, while bound to the lawyer/master.¹⁵ The successful apprentice was subsequently sponsored by his master for introduction into the guild (the bar).¹⁶ Although oral testing was required for admission from place to place, the sanction of the apprentice by the sponsoring attorney was primarily the most important factor for gaining admission to the bar, because the endorsement implied knowledge, skills, and good character.¹⁷ The quality of a newly-admitted lawyer’s skill and moral character reflected on his sponsor, as well as the members of the bar and the judiciary that allowed his induction. This implicated all the parties involved in a relationship that self-policed good behavior and

legal treatises).

13. E.g., WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND (Univ. of Chicago Press 1979) (a reprint of part one of Blackstone’s treatise on the common law).

14. Mark L. Jones, *Fundamental Dimension of Law and Legal Education: An Historical Framework—A History of U.S. Legal Education Phase I: From the Founding of the Republic Until the 1860s*, 39 J. MARSHALL L. REV. 1041, 1180 (2006). “The experienced attorney received cheap labor in exchange for the use of his library, but provided the apprentice with very little in the way of actual legal training . . . Many apprentices spent their time tediously copying documents for their masters, not studying legal tenets.” Robert MacCrate et al., *Legal Education and Professional Development—An Educational Continuum*, 1992 A.B.A. SEC. LEGAL EDUC. ADMISSIONS B. 104, available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_mac_crate_report%29.authcheckdam.pdf [hereinafter MACCRATE REPORT].

15. Spencer, *supra* note 11, at 1963–64 (citing Roscoe Pound, *The Law School and the Professional Tradition*, 24 MICH. L. REV. 156, 160 (1925)). “By daily contact [the apprentice] absorbed from [the lawyers] certain traditions, certain ideals of the things that are done and are not done by good lawyers, and a certain feeling as to what was incumbent on him as a member of the profession. We cannot transmit these things with like efficacy by any system of formal instruction.” Pound, *supra*, at 160.

16. See Michael L. Rustad & Thomas H. Koenig, *A Hard Day’s Night: Hierarchy, History & Happiness in Legal Education*, 58 SYRACUSE L. REV. 261, 268 (2008) (explaining “many of America’s greatest lawyers trained as apprentices under the sponsorship of established . . . lawyers”).

17. See ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 3 (1983) (noting the uniform prominence of apprenticeships by 1783); MACCRATE REPORT, *supra* note 14, at 103 (indicating by late colonial times, apprenticeships were essentially mandatory in urban areas).

ethical conduct. Thus, the apprenticeship functioned as a place to learn the law, learn the practice of law, and develop a communal sense of professional autonomy. The apprentice system was also necessary to the marketplace, providing both a cost-easing system which increased access to the services of attorneys and a continuing source of aspirants trained and acculturated in the profession.¹⁸

As the amount and complexity of law specific to the newly independent nation and states increased in the post-revolutionary period, some colleges added faculty members and chairs in the study of law.¹⁹ However, these positions largely existed not to train lawyers but as an aspect of a broad liberal arts education for gentlemen.²⁰ At the same time, legal lecturers began to offer to both practicing and aspiring lawyers in larger communities various knowledge-based legal learning programs for pay.²¹

The first law school formulated for the specific purpose of legal education in the new nation was the Litchfield Law School in Connecticut.²² Founded in 1784, the school was established as a remedy to the unequal ratio of men seeking apprenticeships in the law to the number of practicing lawyers in the post-revolutionary period.²³ Its founder, Tapping Reeve, started training those interested

18. See Mark C. Suchman, *Working Without a Net: The Sociology of Legal Ethics in Corporate Litigation*, 67 *FORDHAM L. REV.* 837, 870 n.55 (1998) (citing multiple benefits of apprenticeships during the “good old days”).

19. ALBERT J. HARNO, *LEGAL EDUC. IN THE U.S.: A REPORT PREPARED FOR THE SURVEY OF THE LEGAL PROFESSION 19–28* (2004).

20. *Id.* at 27. “The significance of these courses was that they were conceived to lay a broad foundation for the further education of prospective lawyers, and as such they were conceived to be an integral part of a program of legal education.” *Id.* (citation omitted).

21. See STEVENS, *supra* note 17, at 3–4 (describing the transition from formalized apprenticeship to private law schools). “[Law schools] were generally outgrowths of the law offices of practitioners who had shown themselves to be particularly skilled, or popular, as teachers.” *Id.* See also *infra* notes 22–28 (detailing the Litchfield Law School).

22. Ronald J. Scalise, Jr., *Legal Education in the 21st Century: Looking Backwards to the Future*, 60-AUG *FED. LAW.* 38, 38 (2013).

23. See Andrew M. Siegel, “*To Learn and Make Respectable Hereafter*”: *The Litchfield Law School in Cultural Context*, 73 *N.Y.U. L. REV.* 1978, 1979 (1998) (describing the origins of Litchfield Law School). “The Litchfield Law School grew out of the colonial tradition of reading law in the offices of a private practitioner, [here] Judge Reeve. Rapidly, however, Reeve’s teaching responsibilities overwhelmed his private practice. By the early nineteenth century, he was educating as many as fifty students at a time.” *Id.*; see also *id.* at 1981 (outlining in brief the political and social circumstances surrounding Litchfield’s establishment).

in the law under the traditional apprenticeship method.²⁴ As the number of individuals seeking an internship in his practice increased, Reeve constructed a building where he could conduct formal exercises in reading the law with those clerking for his practice.²⁵ His program of study was soon organized into a series of lectures that took just over a year to complete.²⁶ This formalized study was not removed from but complementary to the practice component, as no degree was offered.²⁷ Rather, a letter of attendance and completion was issued that could be used to attest to the aspiring attorney having read the law.²⁸

In many ways, Tapping Reeve put legal educators on the path to the current crisis. Litchfield inadvertently created divisions that haunt legal education today: the separation of the study of doctrinal law from the professional and vocational aspect of education, the development of general undergraduate education apart from legal study, and the division of the educator of legal principles from the educator of legal practice and professional norms.²⁹

Universities recognized the value and student-revenue potential of creating separate legal institutions and jumped into the game, offering degrees in law in the mid-nineteenth century. However, the law school professional education model was only one avenue for an aspiring lawyer to read the law and gain the requisite knowledge base. The bar still required apprenticeship for admission, to ensure the also necessary professional acculturation.³⁰ The growth of automated publishing in the country streamlined the course of study from a lecture-based knowledge transfer system to a text-reading and recitation course. This later evolved into the modern case book

24. Thomas Rogers Hunter, *Litchfield on the Savannah: William Tracy and the Deep South's First Law School*, 19 J. S. LEGAL HIST. 177, 178 (2011).

25. *Id.* at 178–79.

26. Scalise, Jr., *supra* note 22, at 38.

27. Hunter, *supra* note 24, at 181.

28. *Id.*

29. Siegel, *supra* note 23, at 2022–23.

30. See FREDERICK JAMES ALLEN, *THE LAW AS A VOCATION* 25–26 (Harvard Univ. Press 1919) (highlighting legal practice theory). There is an interesting moment in legal practice history inspired by the Jacksonian Democracy Movement in the mid-nineteenth century. In some areas, the idea took hold that advocates/lawyers should comprise a profession of justice whose practitioners came from the common people rather than the elite and educated.

method of teaching, where treatises were substituted with cases as the primary source of knowledge content.³¹

During the same period, the examination of law school candidates moved from the oversight of local judges to statewide examination boards of bar examiners to increase standardization.³² At the close of the nineteenth century, statewide written exams began to replace bar examiner oral questioning.³³ Massachusetts, perhaps supporting the business model of Harvard Law School, created the first written bar exam in 1885.³⁴ Many states soon followed, preferring the standardization of institutional knowledge over local knowledge.³⁵ Though this further separated knowledge from practice, apprenticeship was still required, with co-practice or clerking remaining a critical aspect of legal practice preparation. Whether working before, during, or after law school, few graduates entered the legal profession without identifiable practice experiences.³⁶

The period between the start of the twentieth century and World War II can be thought of as “the age of the bar exam.” In 1878, seven years before Massachusetts’ introduction of a written standard bar exam, “seventy five lawyers from twenty states and the District of Columbia met in Saratoga Springs, New York, to establish the American Bar Association” (ABA).³⁷ The ABA’s stated purpose was “to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold

31. Steve Sheppard, *Casebooks, Commentaries, and Curmudgeons: An Introductory History of Law in the Lecture Hall*, 82 IOWA L. REV. 547, 592–93 (1997).

32. Daniel R. Hansen, Note, *Do We Need the Bar Examination?: A Critical Evaluation of the Justifications for the Bar Examination and Proposed Alternatives*, 45 CASE W. RES. L. REV. 1191, 1197–1202 (1995). See also Susan K. Boyd, *The A.B.A.’s First Section: Assuring a Qualified Bar*, 1993 SEC. LEGAL EDUC. ADMISSIONS B. 38 (citing the first statewide bar examination committee in 1890 in New Hampshire).

33. Hansen, *supra* note 32, at 1200. “The ancestor to the modern written bar examination developed between 1870 and 1890 and gained substantial ground and acceptance in the 1890s. By the 1920s, there was a written bar examination in most states.” *Id.* (citations omitted).

34. Robert M. Jarvis, *An Anecdotal History of the Bar Exam*, 9 GEO. J. LEGAL ETHICS 359, 374 (1996).

35. *Id.* (identifying New York, Idaho, and Nevada as states experimenting with written examinations shortly after Massachusetts).

36. Hansen, *supra* note 32, at 1198 (citation omitted) (noting that when the nineteenth century began, most attorneys still entered practice via apprenticeships).

37. *History of the American Bar Association*, A.B.A., http://www.americanbar.org/utility/about_the_aba/history.html (last visited July 1, 2013).

the honor of the profession of the law, and encourage cordial intercourse among members of the American Bar.”³⁸ Although that initial mission did not include the regulation of legal education, the ABA quickly established itself as an authority in the area.

In 1893, the ABA formed its first section: Legal Education and Admissions to the Bar (“First Section”).³⁹ The First Section was created through collaboration between law schools and prominent members of the bar.⁴⁰ The goal of the First Section was to ensure the quality and continuity of legal instruction as fitting for the practice of law.⁴¹ In 1900, the First Section acted as the impetus for the creation of the American Association of Law Schools (AALS).⁴² Until 1912, the two organizations were so intertwined that their national meetings were held together.⁴³ The initial work of the AALS consisted of examining the law school curriculum and the required credentials of law teachers to ensure graduates were fit to practice.⁴⁴ Meanwhile, the First Section focused its efforts on the implementation of statewide standardized written bar exams, and then worked to ensure the quality and content of those gatekeeping tests.⁴⁵ This continuing effort resulted in the creation of a committee to consider the best

38. *A.B.A. Timeline*, A.B.A., http://www.americanbar.org/utility/about_the_aba/timeline.html (slide the date bar to the left and select “FIRSTS: American Bar Association Forms”) (last visited July 2, 2013) (quoting A.B.A. Const. of 1878, art. I).

39. Boyd, *supra* note 32, at 11. “The door of admission to the bar must swing on reluctant hinges.” *Id.* (internal quotation marks omitted).

40. See *What is the AALS?*, ASS’N AM. L. SCHS., <http://www.aals.org/about.php> (last visited Sept. 17, 2013) (citing the thirty-two law school charter members that encompassed 50 percent of the United States’ then-law students).

41. James P. White, *History of the Administration of the American Law School Administration Process*, 51 J. LEGAL EDUC. 438, 439 (2001).

42. THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES: COMMENTARIES AND PRIMARY SOURCES 1170 (Steve Sheppard ed., 2007). The AALS was established with the specific goal of improvement of American legal education, particularly in law schools. Boyd, *supra* note 32, at 15.

43. See Boyd, *supra* note 32, at 15 (noting it was not until “years later” that the AALS and ABA met separately).

44. See THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES, *supra* note 42, at 1170 (identifying substantive law and teaching developments as central components of the AALS’ early annual meetings).

45. White, *supra* note 41, at 440. In 1921, the First Section (the Section of Legal Education and Admissions to the Bar) adopted resolutions that were integral to the approval process and remain so to this day. *Id.*

practices of bar exam administration for bar examiners.⁴⁶ In 1931, the National Conference of Bar Examiners was established.⁴⁷

A valid knowledge- and skills-based competency exam as a prerequisite to bar admission is not to be considered an unalloyed evil. Indeed, such an exam is a reasonable baseline for judging applicant competencies. However, the righteous efforts to rationalize and standardize entry qualifications through statewide written bar examinations seem to be the critical surgical “snip,” severing legal education from legal practice. At the point that the written exam became the norm rather than the exception, legal education became a necessity to pass a test rather than a holistic introduction to the knowledge, skills, and norms of the profession.

In the post-World War II period, the relationship between legal practice and the institutions of legal education had steadily deteriorated.⁴⁸ The era began with the deep involvement of legal scholars in the Allied-led prosecution at the Nuremberg trials,⁴⁹ the creation of human rights standards at the United Nations,⁵⁰ and statutory unification efforts.⁵¹ In this last category, one can include the scholar-led achievements of the Uniform Commercial Code, the

46. Boyd, *supra* note 32, at 37.

47. *Id.* “The NCBE was founded, according to its first statement of policy, to increase the efficiency of the state boards of admission to the bar. The Conference also was to cooperate with other branches of the bar in dealing with the problems of legal education.” *Id.*

48. See Robert MacCrate, *Keynote Address—The 21st Century Lawyer: Is there a Gap to be Narrowed?*, 69 WASH. L. REV. 517, 519–21 (1994) (discussing legal education at a glance before, during, and post-World War II). See generally STEVENS, *supra* note 17, at 205–31 (discussing the legal education movement after 1945).

49. For example, Harvard Law School graduate Drexel A. Sprecher was one of several American lawyers to present cases for the prosecution at the Nuremberg trials. Douglas Martin, *Drexel A. Sprecher, 92, U.S. Prosecutor at Nuremberg, Dies*, N.Y. TIMES, May 8, 2006, available at http://www.nytimes.com/2006/05/08/us/08sprecher.html?_r=0. In addition to prosecuting attorneys, the United States, along with the other three Allied member countries, provided one judge and one alternate judge to sit on the International Military Tribunal. *The Nuremberg Trials: People & Events*, PBS.ORG, http://www.pbs.org/wgbh/amex/nuremberg/peopleevents/p_judges.html (last visited Sept. 17, 2013).

50. See generally, e.g., THE HUMAN RIGHTS REVOLUTION: AN INTERNATIONAL HISTORY (Akira Iriye et al. eds., 2012).

51. See, e.g., Robert Braucher, *The Legislative History of the Uniform Commercial Code*, 58 COLUM. L. REV. 798 (1958) (detailing the history of the UCC project); Paul H. Robinson & Markus D. Dubber, *The American Model Penal Code: A Brief Overview*, 10 NEW CRIM. L. REV. 319 (2007) (presenting the history and influence of the Model Penal Code).

Model Penal Code,⁵² and the vast majority of the legal underpinnings of the post-war administrative state.⁵³ During this time, courts routinely cited law faculty publications as relevant sources when deciding important cases.⁵⁴

The decline of law school/law practice interdependence has brought legal education to this present moment of seeming irrelevance: courts rarely turn to scholarship for guidance, recriminations from the profession abound regarding the lack of basic skills and capabilities of law school graduates, and law schools are questioning their own importance to the profession.⁵⁵ An additional paradoxical effort in legal education has further widened the divide between the academy and the practice. Elite institutions have purposefully identified themselves as existing outside the profession by increasingly employing non-practitioners and J.D./PhDs, solidifying the non-practice-based aspect of legal education. At the same time, non-elite schools have doubled down on their bar preparation curriculum. Both of these undertakings have led to the same result: many law schools have eliminated the practice of law from their collective missions.⁵⁶ Apprenticeship and learning the norms of practice are considered by most “think like a lawyer” institutions to be the responsibility of the post-graduate practice community. At the same time, the practice community has lost its ability to fulfill that function and sees law school as little more than a very expensive right-of-passage to the actual practice of law.⁵⁷

52. See generally Markus Dirk Dubber, *Penal Panopticon: The Idea Of A Modern Model Penal Code*, 4 BUFF. CRIM. L. REV. 53 (2000).

53. See generally Allen R. Kamp, *Downtown Code: A History of the Uniform Commercial Code 1949–1954*, 49 BUFF. L. REV. 359 (2001).

54. Laurence H. Tribe, *Death By A Thousand Cuts: Constitutional Wrongs Without Remedies After Wilkie v. Robbins*, 2007 CATO SUP. CT. REV. 23, (2006–2007).

55. David Hricik & Victoria S. Salzman, *Why There Should Be Fewer Articles Like This One: Law Professors Should Write More for Decision-Makers and Less for Themselves*, 38 SUFFOLK U. L. REV. 761, 778 (2005) (noting an “already apparent” “trend” that law review articles are viewed as “not merely unhelpful but useless to the bench and bar”) (internal quotation marks omitted).

56. Peter Toll Hoffman, *Law Schools and the Changing Face Of Practice*, 56 N.Y.L. SCH. L. REV. 203, 205 (2012) (explaining that “law schools continue to be a ‘step behind’ in preparing students for the practice of law”).

57. Mimi E. Tsankov & Jessica L. Grimes, *A New Take On The Top Ten Rules For Court And Professional Life*, 89 DENV. U. L. REV. 369, 379 (2012).

Although important gains have been made since the 1980s in the addition of and increasing institutional welcome for teachers of skills and legal practice—including those teaching clinics, externships, legal writing, transactional skills, lawyering skills, and simulation courses—at most institutions, these offerings are still considered noble electives rather than a central aspect of legal learning. Work experience programs continue to exist mostly apart from doctrinal-pedagogical instruction.⁵⁸ Although extremely valuable to legal preparation, these experiential courses too often stand apart from any overall coherent course of study.

Additionally, as unique opportunities not fully integrated into legal education, many experiential courses, and clinics in particular, have taken on the characteristics of dominant doctrinal course offerings in two particular ways. First, by design and by theory, they are not adequately linked to the current legal marketplace.⁵⁹ Clinics purposefully do not compete with the for-profit bar.⁶⁰ Second, clinics, generally under-resourced in the academy, often are available in rare or rationed opportunities, and prove inadequate to fulfill the necessary apprenticeship function for new lawyers.⁶¹ Therefore, like popular doctrinal electives, clinics at most schools are not considered a core aspect of the curriculum.⁶² In short, even with increased experiential offerings, law schools can still only prepare students to think, not to do, therefore perpetuating the gap between graduates' abilities and market demands.

As such, the law graduates of our institutions are primarily prepared only to engage in a necessary apprenticeship of legal practice. Although these apprenticeships have been a critical aspect

58. Gregory Germain, *From Classroom To Courtroom: A Doctrinal Teacher Supervises Pro Bono Bankruptcy Cases*, 62 J. LEGAL EDUC. 612, 619 (2013).

59. Charles E. Rounds, *Are In-House Law School Clinics Useful? No*, NAT'L ASS'N SCHOLARS (June 20, 2011), http://www.nas.org/articles/Are_In-House_Law_School_Clinics_Useful_No.

60. Susan R. Jones, *Promoting Social and Economic Justice through Interdisciplinary Work In Transactional Law*, 14 WASH. U. J.L. & POL'Y 249, 258 (2004).

61. See Peter A. Joy, *The Cost of Clinical Education*, 32 B.C. J.L. & SOC. JUST. 309, 309–10 (2012).

62. We do not want to minimize the effect that clinical education integration has had on the academy. As more clinical professors proved to be excellent teachers, scholars, and effective faculty actors for the institution, the communal judgment of the value of clinical faculty member's individual efforts has led to an increased belief in the worth of the pedagogy.

of preparation for practice since the beginning of the nation, over the last decade, the availability of adequate post-graduate apprenticeship opportunities has been disrupted by the collapse of the partner-associate paradigm, the financial crisis, state and federal agency budget cuts, new technologies, new law practice models including outsourcing, and client demands to reduce costs.⁶³ The marketplace can no longer support the apprenticeship function so necessary to the bar.

B. *The Practice Gap*

The *MacCrate Report* on legal education and professional development,⁶⁴ the *Carnegie Report*, and the *Best Practices for Legal Education* project⁶⁵ have all contributed greatly to understanding the successes and failures of the legal education enterprise. These publications have spurred a period of self-reflection, occasional self-flagellation, and many desperately needed changes in legal education.⁶⁶ Among its many important findings, the *Carnegie Report* notes that the “dramatic results” of the first year of legal education in teaching new skills of legal analysis is not matched by strong coherent elements in the upper level curricula.⁶⁷ The *Report* faults the legal academy for failing to require an integrated approach to the entire law school curriculum.⁶⁸ It also pointedly finds fault with a style of education that “prolongs and reinforces the habits of thinking like a student rather than an apprentice practitioner,” as well

63. William D. Henderson & Rachel M. Zahorsky, *Paradigm Shift*, A.B.A. J. (July 2011), available at http://abajournal.com/magazine/article/paradigm_shift/ (noting that the financial crisis that began in late 2007 was “a game-changer, prompting drastic measures as firms laid off thousands of associates, de-equitized partners, and slashed budgets and new hires,” but asserting that law firm employment was in trouble before the recession hit).

64. MACCRATE REPORT, *supra* note 14. In its introductory comments, the *MacCrate Report* suggested there was no “gap” between law schools and the profession. *Id.* at 8. However, the entire *Report* is an exploration of the skills and values which ought to be taught to law students but are not. We agree with the content of the *Report* rather than its committee’s interpretation.

65. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007).

66. Bryant G. Garth, *From MacCrate To Carnegie: Very Different Movements For Curricular Reform*, 17 LEGAL WRITING INST. 261 (2011).

67. CARNEGIE REPORT, *supra* note 10, at 4.

68. Richard W. Bourne, *The Coming Crash In Legal Education: How We Got Here, and Where We Go Now*, 45 CREIGHTON L. REV. 651, 662 n.37 (2012).

as the failure of law schools to contextualize legal analysis within the social and cultural context in which the justice system operates.⁶⁹ As Jordan Furlong, one of a few thinkers forcing the profession to face the new era, has said, law school teaches students to think like lawyers but fails to indoctrinate them to think like clients.⁷⁰

Many if not all law schools have responded in large and small degrees with curricular reforms, expansion of experiential opportunities, and, in some cases, major re-formulations of distinct parts of the law school experience.⁷¹ Technological innovation and globalization continue to restructure the legal services industry. The acceleration of this restructuring by the recent economic downturn necessitates the creation of entirely new curricular models to prepare students for practice.⁷² Some law schools have wisely responded by creating individual courses on business planning and marketing, law firm technology, and management, while also increasing experiential and clinical opportunities beyond the traditional law school clinical program areas of indigent representation in litigation matters.⁷³ Despite these changes, the law school experience is still largely a truncated three-part affair consisting of first-year doctrinal courses, a second year of bar-related and elective courses with some skills components built in, and a third year that focuses on controlled and uncontrolled experiences with clients.

Even with opportunities for specialized tracks, few institutions have created a three-year curriculum specifically designed to train attorneys to fill the practice gap. To date, there exists no law school curricular program that provides a true apprenticeship option that begins with entry into law school, allows a student to follow a unified

69. *Id.* at 6.

70. Interview with Jordan Furlong, lawyer, speaker, and consultant based in Ottawa, Canada, (Apr. 18, 2013) (notes on file with author). Mr. Furlong is a partner with the global consulting firm Edge International and a senior consultant with legal web development company Stem Legal Web Enterprises.

71. Russell L. Weaver & David F. Partlett, *Teaching Remedies As A Capstone Course*, 57 ST. LOUIS U. L.J. 609, 609 (2013).

72. Cynthia Baker & Robert Lancaster, *Under Pressure: Rethinking Externships in a Bleak Economy*, 17 CLINICAL L. REV. 71, 91 (2010) (noting that the economic downturn led to changes in “pedagogy and structure” of law school externship programs).

73. Neil J. Dilloff, *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact On Legal Education*, 70 MD. L. REV. 341, 357 (2011).

course of study and work throughout the three years (including summers) of law school, and enables the student to be a reasonably effective practitioner upon graduation.⁷⁴

Over 70 percent of lawyers in private practice in the United States are in firms of twenty or fewer attorneys.⁷⁵ Nearly half of all lawyers in the United States are solo practitioners.⁷⁶ Although most law schools send a majority of their students into small and solo practices, much of traditional law school education is designed to train first-year associates in corporate firms, with minor curricular deference paid to public interest and government practice. Many of these attorneys have chosen solo and small firm practice intentionally, however current economic conditions are adding to the growing ranks of unintentional entrepreneurs. These young law-entrepreneurs certainly need client-based lawyering experience during law school. They also need courses in business planning, marketing, client generation and retention, technology-based practice systems and software development, billing and attorney's fees practice, doctrinal and clinical offerings that align with fee-generating and fee-shifting statutes, and courses on the host of ethical issues that attach to solo or small firm practice.⁷⁷

The *Carnegie Report* makes specific recommendations, consistent with the approach we will describe below, for creating an integrated model of legal education.⁷⁸ Among these recommendations are the suggestions that law schools offer an integrated three-part curriculum of doctrine and analysis; that law schools introduce students to the many facets of practice under the rubric of lawyering; and that law schools provide a way for students to explore professional identity

74. Alizabeth Newman, *Bridging The Justice Gap: Building Community By Responding To Individual Need*, 17 CLINICAL L. REV. 615, 618 (2011) (explaining that "law schools' standard, predominantly myopic, preparation for legal practice becomes too many lawyers' proverbial hammer in Maslow's schema").

75. *ABA Serves Solo and Small-Firm Lawyers With New Online Resource Center*, A.B.A., <http://www.abanow.org/2012/01/aba-serves-solo-and-small-firm-lawyers-with-new-online-resource-center/> (last visited July 1, 2013).

76. *Id.* "It is estimated that the United States has about 435,000 solo law practitioners (comprising about 48 percent of private-practice lawyers)." *Id.*

77. See generally Gary A. Munneke, *Managing A Law Practice: What You Need To Learn In Law School*, 30 PACE L. REV. 1207 (2010); Jay Pinkert, *Digital Immigrants, Digital Natives, and Emerging Opportunities In Legal Technology*, 74 TEX. B.J. 564, 564 (2011).

78. CARNEGIE REPORT, *supra* note 10, at 8–10.

and the values consistent with the fundamental purpose of the profession and access to justice. Law schools should join professionalism and legal analysis from the beginning of students' legal educations; and law schools should make far better use of the second and third years of law school in marrying theory and practice.

C. *The Justice Gap*

Low- and moderate-income individuals cannot afford to obtain the legal services needed to confront the legal problems of everyday life. These problems might include maintaining a home in times of financial crisis; family disruption and death; unsafe or unlawful leased home environments; unfair, unhealthy, and discriminatory work environments; and unlawful consumer practices, to name just a few.⁷⁹ Government-supported legal services organizations are woefully underfunded to meet the legal needs of the growing numbers of poor in this country.⁸⁰ In addition, the current legal services market forces legal educators to recognize that those in the “justice gap” (earning too much for legal aid but unable to purchase legal services in the market place) are in the same situation as the poor when it comes to securing attorneys to help them meet legal needs.⁸¹ The public justice system is increasingly becoming the province of low- and moderate-income *pro se* litigants—whose numbers are creating long waits, huge dockets, and general chaos in the courts. At the same time, high-income litigants are purchasing the services of retired judges and high-fee attorney mediators to resolve their disputes outside of the public justice arena, which has led to less interest in increasing tax revenues for the overburdened public courts.⁸²

79. William E. Hornsby, Jr., *Gaming The System: Approaching 100% Access To Legal Services Through Online Games*, 88 CHI.-KENT L. REV. 917, 923 (2013).

80. Artika R. Tyner, *Planting People, Growing Justice: The Three Pillars of New Social Justice Lawyering*, 10 HASTINGS RACE & POVERTY L.J. 219, 220 (2013) (noting “eighty percent of the civil legal needs of poor people are not being met because of ‘chronically and grossly’ underfunded legal services and pro bono programs”).

81. Stephen Ellmann, *Clinical Theory Workshop—What We Are Learning*, 56 N.Y.L. SCH. L. REV. 171, 181 (2011/2012).

82. Zachary Parkins, *Electronic Discovery: Why The Appointment Of Special Masters In All Large Electronic Discovery Disputes Is Vital To The Progress Of American Civil Justice*, 5

Traditionally, the funding of legal services for those without economic access to the justice system has fallen to government agencies or charitable organizations funded by the government and private donations.⁸³ The gross underrepresentation of parties in civil matters has led to the development of both mandatory and voluntary pro bono programs within the legal profession and law schools.⁸⁴ The intent of law school pro bono programs is to instill in future members of the profession a career-long sense of moral responsibility to provide some services to low-income clients and non-profit organizations that we hope they will carry into practice.⁸⁵ Another important movement is the civil Gideon movement, which seeks to extend the concept of court appointed attorneys to certain civil matters as necessary to fundamental ideas of justice and fairness.⁸⁶ Laudable as both these programs are, they separate students from the idea that they can earn a living as a marketplace option practicing on behalf of moderate-income clients in the justice gap.

This impression is incorrect. Innovative law practices are demonstrating that lawyers can earn a living representing low- and moderate-income clients in the legal problems of everyday life through representation in fee-shifting cases, in cases where government fees are available, contingency fee matters, in the use of flat fees, and with the aid of new technologies.⁸⁷ Fee-shifting provisions might also support the development of niche practices in myriad specialties such as environmental law and corporate accountability litigation.⁸⁸

AM J. MEDIATION 97, 98 (2011) (noting “there are parties in many litigation matters who are often subject to power-based resolution, meaning that more wealthy litigants often control the entire process, dictating the court through usage of monetary funds”).

83. Issachar Rosen-Zvi, *Just Fee Shifting*, 37 FLA. ST. U. L. REV. 717, 721 (2010).

84. Cynthia F. Adcock, *Beyond Externships and Clinics: Integrating Access to Justice Education into the Curriculum*, 62 J. LEGAL EDUC. 566, 575 (2013); Robert Granfield, *Institutionalizing Public Service in Law School: Results on the Impact of Mandatory Pro Bono Programs*, 54 BUFF. L. REV. 1355, 1356 (2007).

85. Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1082 (2009).

86. Hope Metcalf & Judith Resnik, *Gideon at Guantánamo: Democratic and Despotism Detention*, 122 YALE L.J. 2504, 2513 (2013).

87. Leslie C. Levin, *Pro Bono Publico In A Parallel Universe: The Meaning Of Pro Bono In Solo And Small Law Firms*, 37 HOFSTRA L. REV. 699, 729 (2009).

88. Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 132–33 (2004).

The three gaps discussed above—the market gap, the practice gap, and the justice gap—define the current crisis in legal education, while also revealing a practical solution.

III. SOLUTION: ACCELERATOR-TO-PRACTICE PROGRAM

Suffolk University Law School, as a community of legal educators, has as its goal the creation of a three-year intentional and specific course of study that enables students to effectively and successfully practice law upon graduation. At the same time, we intend to produce lawyers capable of meeting the needs of average-income individuals and families, while adopting practice technology that will become increasingly available to lawyers in the twenty-first century. This is a legal education model that responds to market demands by preparing students to be lawyers in three years. In contrast to law school incubator programs developed to place recent graduates in temporary training-through-practice programs, as well as experiential programs that outsource practical instruction, Suffolk Law proposes to *insource* legal work to train students, and will create a self-sustaining law practice within the law school as part of the expanded three-year curriculum.

Students will be admitted directly into an accelerator program that includes specialized professional development and law practice management instruction with three successive practical training experiences (“Accelerator-to-Practice Program”). Initially, a cohort of twenty students will apply and be admitted to a program designed to prepare them to join or start small private practices servicing average-income individuals and families. Thereafter, we intend to expand the model to include preparation for large firm and corporate practices and legal technology and other law-related businesses, while serving as the basis for school-wide curricular innovations. We believe this market-based reorientation of the law school curriculum is the answer to the current challenge of moving legal education from crisis to solution. It will enable law school graduates to find or create gainful employment, servicing the unmet market for affordable legal services and meeting the demands of evolving modern practice.

The Accelerator-to-Practice Program has four essential components that respond to and integrate the law school in the legal

market: (1) a professional development and skills curriculum that expands the breadth of required instruction to enable students to master a wider range of competencies; (2) robust training in law practice technology and innovation; (3) experiential training through supervised internships and clinical insourcing of legal work each year, helping students to build practical skills and to become socialized within the profession, while gaining an understanding of how law relates to society and access to justice; and (4) career development and practice supports to assist graduates as they enter the legal services market as new providers. Each component is integrated into a full-time, three-year program that includes two summers and a significant portion of their final year immersed in supervised practical training.

A. Expanded Professional Development & Skills Curriculum

Law school graduates are mostly unprepared for modern practice.⁸⁹ This is due, in part, to the lack of required instruction in key competencies required of lawyers.⁹⁰ This includes required instruction in the business of law and law practice economics, legal technologies, project management, organizational behavior, business communication, professional identity and networks, and client-centered customer service. Employers require job applicants to possess these competencies, and graduates cannot successfully enter the legal services market as new providers without them. The lack of instruction in these areas results in the paradox of law students and graduates arriving at work required to possess the skills and knowledge they seek to acquire when they get there.

The Accelerator-to-Practice Program will include instruction in these subjects through a first-year required client-centered professional development course and practice seminars, and a menu of required and elective upper-level courses. The required first-year professional development course will be a modular, hybrid course,

89. John McKay, *Un-Apologizing For Context and Experience In Legal Education*, 45 CREIGHTON L. REV. 853, 853 (2012).

90. Ryan Patrick Alford, *How Do You Trim The Seamless Web? Considering The Unintended Consequences Of Pedagogical Alterations*, 77 U. CIN. L. REV. 1273, 1283 (2009).

providing on-line and live instruction in six modules: *critical perspectives on law*, providing students a critical framework in which to assess the delivery of legal services in America; *twenty-first century practice*, including fundamentals of attorney ethics, the rise of the administrative state, and growth of legal technologies and e-lawyering; *client service*, including thinking like a client, listening and interviewing skills, emotional and cultural competence, and law practice economics; *client-facing project management*, including process mapping, use of project management tools and methods, and analysis of cost data; *professional communication*, including business writing, oral presentation skills, personal branding, and development of professional networks; *organizational behavior*, including group dynamics and collaboration in diverse multi-party environments; and *methods of client-based problem solving*. It will be delivered by experts in each competency from law school faculty, staff, and law firm, technology, and business school partners.

Upper-level required classes, equivalent to a minimum of twenty-five course credits, include but are not limited to: *Lawyering in the Age of Smart Machines*, in which students build a software application for concrete exposure to aspects of legal knowledge engineering; *Hit the Ground Running*, in which students create a business, marketing, and technology plan for a small or solo practice; *Becoming a Twenty-First Century Lawyer*, in which students will learn lawyer pricing to the market, crafting an on-line presence, building a low cost and/or virtual practice, and the tenets of high quality client service; *Law Practice Technology*, in which students will use existing legal technology in simulated client exercises; *Law of Attorney's Fees and Costs*, in which students will learn practice in areas of representation in fee-shifting cases, and the practice and ethical issues involved in fee-shifting and fee-generating cases; *Legal Problems of Every Day Life*, in which students will explore how the legal needs of average-income people both differ from and are similar to the needs of the poor, and the role of the small and solo firm bar in expanding access to justice; *Project Management for Lawyers*, in which students will learn how process improvement and project management tools and methods apply to the legal profession, to increase predictability and produce a high probability of successful outcomes; *Non-Profit Corporations*; *Administrative Law*; and a

number of more traditional skills courses, such as *Trial Advocacy* and *Representing Clients in Alternative Dispute Resolution*. The delivery of this expanded curriculum will be timed to allow students to integrate that instruction in their development as practitioners as they proceed through a series of supervised practical experiences.

B. Technological Training and Innovation

The ABA recently amended Comment [8] to Rule 1.1 (Competence) of the Model Rules of Professional Conduct to emphasize that “[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.”⁹¹ Competent lawyers now need to possess a sound understanding of law practice technology.⁹² This development also holds the promise of making legal services more affordable and accessible. For example, the Legal Services Corporation has sponsored technology initiative grants specifically for this purpose,⁹³ and it recently held a summit to explore how technology can expand access to justice.⁹⁴

At Suffolk Law, the Accelerator-to-Practice Program will embrace the use of new technologies in legal representation and teach our students not only how to use current technologies but how to be a life-long learner and innovator in the area of legal technology use. We will accomplish this in part through coursework and in part through partnerships with other innovators, educators, and legal scholars, both in and outside the law school.

For example, the corporate counsel at Kia Motors recently developed a technology audit to ensure that outside counsel are

91. MODEL RULES OF PROF'L CONDUCT R. 1.1 cmt. 8 (2012).

92. Steven C. Bennett, *Teaching Technology Skills To Lawyers*, NAT'L L.J. (Jan. 20, 2006), available at <http://www.law.com/jsp/article.jsp?id=1137665109054> (noting that “law students and attorneys who take the time to stay on top of legal technology have the best chances for success in the brave new world to come”).

93. *Technology Initiative Grants*, LEGAL SERV. CORP., <http://tig.lsc.gov/> (last visited Sept. 23, 2013).

94. *Tech Summit Spurs Ideas for Expanding Access to Justice*, LEGAL SERV. CORP., <http://www.lsc.gov/media/news-items/2012/tech-summit-spurs-ideas-expanding-access-justice> (last visited Sept. 23, 2013).

performing technology-related legal tasks efficiently and effectively.⁹⁵ The goal of the audit is to ensure that lawyers are not wasting time (and a client's money) on tasks that can be performed more efficiently through the use of readily available technological tools. Kia Motors, through counsel, has teamed up with Suffolk Law's new Institute for Law Practice Technology and Innovation to ensure that our graduates not only meet but exceed this new practice standard.⁹⁶ In addition to working on that project, Accelerator students also will have access to a range of new courses, described above, that are specifically designed to help students learn how to deliver legal services more efficiently and (thus) more affordably. In sum, Accelerator graduates will be able to employ, create, and take full advantage of available law practice technology so that they can enjoy successful careers in the twenty-first century legal marketplace.

C. Experiential Training through Supervised Internships & Clinical Insourcing of Legal Work

Recognition that the market requires law graduates to arrive at work with practice-based skills is evidenced by the growth of experiential programs and opportunities at most law schools.⁹⁷ However, the common lack of a pedagogically sound integration of experiential and classroom instruction based on market requirements deprives students of the practical knowledge and skills they need to be able to actually do what lawyers do upon graduation. Post-graduate incubator programs are an attempt to address this deficiency; but the collapse of the apprenticeship model in the market and the requirements of modern practice suggest the best practice is imbedding a sustainable law practice within the law school.

95. D. Casey Flaherty, *Kia Motors Tests Outside Counsel Tech Skills*, L. TECH. NEWS (Jan. 24, 2013), http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202585496232&Kia_Motors_Tests_Corporate_Counsel_Tech_Skills.

96. *Law School to Promote Lawyers' Technological Competence through Online Audit Tool*, SUFFOLK U. NEWS (July 19, 2013), <http://www.suffolk.edu/news/19391.php#Ujngkn-nJ8E>.

97. Michele Mekel, *Putting Theory Into Practice: Thoughts from the Trenches on Developing a Doctrinally Integrated Semester-In-Practice Program in Health Law and Policy*, 9 IND. HEALTH L. REV. 503, 506 (2012).

Suffolk Law will create a non-profit entity to provide legal services to average-income individuals and families, while teaching students how to engage in the skilled, ethical, reflective, and sustainable practice of law (the “Accelerator”).⁹⁸ The Accelerator will insource legal work through referrals and partnerships with local law firms and agencies in order to train students for practice. Unlike law school clinics, the Accelerator will be a fee-for-services practice, replicating successful business models focused on alternate fee structures and cases providing for recovery of attorneys’ fees and costs. Case selection and practice-based decision modeling will be a focus of the program, which will review case outcomes and client satisfaction through a rigorous mixed methodology metric. This will afford participating students an opportunity to learn reflective techniques that assess both the value to clients and the organization’s bottom line. Student learning will include other critical practice-management tools in accounting and billing, marketing, external controls (financial auditing and effectiveness assessments), and other business competencies. Therefore, through the Accelerator, students will learn a replicable model for building a sustainable and profitable practice.

The Accelerator-to-Practice Program will provide students with a cumulative series of grounding course work and practical work experiences each year, including capstone employment in Suffolk’s Accelerator, to prepare students to be competent practitioners upon graduation. In addition to experiential instruction (simulation- or internship-based activities) in required courses, students will: complete an externship or residency at a solo or small private practice in the summer between their first and second year of law school, with a required pedagogical component similar to an externship seminar designed to contextualize the student experience; be employed in the Law School’s Accelerator or in a solo or small practice engaged in succession planning in the summer between their second and third

98. In this Essay, “Accelerator” refers to the third-year capstone in-house law firm where students will participate, as student lawyers, in a sustainable, non-profit fee-shifting and contingency fee practice. The Accelerator will represent clients of low- to modest-incomes who would not otherwise have access to legal representation. The “Accelerator-to-Practice” is the name of the entire three-year program (which culminates in third-year practice in the Accelerator) for law students enrolled in our proposed curriculum.

year; and practice in the Accelerator through enrollment in a credit-bearing clinical course throughout their third year. The completion of expanded curricular requirements, combined with successive practical experiences, will prepare students to do what lawyers actually do, satisfying the modern market demand for practice- and client-ready graduates.

D. Career Development & Practice Supports

The Accelerator-to-Practice Program will be supported by legal and career development professionals who will assist students in developing professional skills through individual counseling, development of alumni mentors and networks, and recruitment of solo and small practice practitioners qualified to supervise interns and interested in hiring graduates as part of firm succession planning.

A key function of the Accelerator-to-Practice Program is that it increases a graduate's ability to provide value to existing practices. Students enrolled in the program will be matched with established solo or small firm practitioners who are beginning their succession planning. Many attorneys who have worked hard to develop a solo or small practice desire that their practice survive them, so recruiting a successor makes good business sense.⁹⁹ Recruiting a successor permits attorneys to maximize the value of their practice by increasing the probability of realizing long-term payouts and providing continuing revenue streams through origination fees and optional billable work. Engaging a successor also protects attorneys and their clients in case an attorney is temporarily or permanently unable to work.

The Accelerator-to-Practice Program will provide established solo and small practice attorneys with a pool of specially trained students interested in joining solo and small firms. Participating practitioners will interview all program students in order to assess and improve self-marketing tools. Additionally, these participating practitioners will offer internship and post-graduate employment opportunities. Both the hiring practitioners and program alums will be provided

⁹⁹ Arthur G. Greene & William E. Howell, *Succession Planning: Solos and First Generation Law Firms*, 27 ME. B.J. 18, 18 (2012).

with free access to continuing legal education courses. Additionally, this networked group will be offered expert assistance in assessing and improving their law-practice business models, improving their technology support systems, and creating a succession plan.

All graduates also benefit from school-sponsored practice supports. These will include: consultative services, trainings and access to a web-based portal for peer consultation, and referral that includes practice guides and document libraries.

CONCLUSION

For too many decades, law schools distanced themselves from the practice of law and operated in a world separate from the legal marketplace. Law school education mainly focused on legal doctrine and theory, while undervaluing acquisition of the skills and professional values necessary to sustain successful practices. The willingness of the bar to compensate for this gap by offering a post-graduate apprenticeship is largely over. Clients are no longer willing or able to pay large sums for the work of untrained junior attorneys. Furthermore, the justice system has become increasingly inaccessible to low- and moderate-income people. While statistics show that fewer jobs exist for new lawyers, the need for affordable legal services is growing exponentially. There is great dissonance between the jobs law schools expect students to perform upon graduation, the actual availability of these jobs, and the real needs of real people for competent law school graduates to represent them. Law students should have the training and experience they need to practice successfully and profitably when—and not after—they graduate from law school. Through its Accelerator-to-Practice Program, Suffolk hopes to diminish this dissonance and demonstrate a method and a mode to meet that goal.