WORTH THE WORK?
HOW TO CREATE AND MANAGE A PRODUCTIVE (AND AFFORDABLE) INTERNSHIP PROGRAM IN YOUR SMALL FIRM

UNIVERSITY OF WYOMING
COLLEGE OF LAW
Office of Career Services & Professional Development
Introduction

• My Background
  • UW Law Graduate
  • Private Practice
  • With UW 7 years this fall

• Collaborative Discussion, anecdotes/outcomes, etc.

• Goal of presentation is a refresher with some new ideas mixed in
Today’s Program

• Legal Education Today: Benefits of learning in the field and quantitative elements to instruction.
• Framework of an internship
  • Logistics
  • Barriers
  • Solutions
• Sample insight into student training through my office
• Effective supervision
  • Giving feedback & critique
  • Rule 9
• Ethical supervision
LEGAL EDUCATION TODAY
Unlike other professional education, most notably medical school, legal education typically pays relatively little attention to direct training in professional practice. The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner.


The ABA has directed an increasing amount of importance to substantive legal experiential learning. UW has been at the forefront of this movement, leading the legal community with our expansive clinics and robust externship program. The ABA now requires 6 experiential learning credits prior to graduation.
UW’s Experiential Opportunities

• 8 Clinics/Practicum
  • Family and Child Advocacy, Civil Legal Services, Defender Aid, Prosecution Assistance, Energy, Environmental and Natural Resources, International Human Rights, Estate Planning, Business Law

• Externships: Over 100 options in the public sector

• Summer Trial Institute
Benefits of Experience in the Legal Field prior to Graduation

• One paper, “echoes the Carnegie study’s concern about skills training in law schools today. Not surprisingly, the attorneys we surveyed often (75%) identified skills as something they wished they had learned before the end of their first year of practice. And... most employers aren't providing that training (only 36% report some kind of formal introduction to practice).”

Impact on Careers

- Students who had an internship or field experience report gaining more than other students in several desirable areas. These areas included higher order thinking skills, speaking and writing proficiency, and competence and confidence in solving complex, real world problems.

• New lawyers report that they feel unprepared for the actual practice of law, noting a disconnect between the traditional emphasis in law schools on doctrinal courses and the skills and experiences needed to handle clients facing legal problems.

• The increased emphasis on billable hours has led many young attorneys to worry about spending time on training programs.

• Law firms indicate that they are no longer able to pass on the cost of training programs to clients, so the opportunities for new lawyers to spend time observing more experienced lawyers in practice have become more limited.
  • Koo, supra, at 14.
The First 5 Years

• The *After the JD* study reports that graduates mostly see their experiences with law-related summer employment after the first and second years of law school as having the greatest influence on their selection of career paths.

**Why should you care?**

<table>
<thead>
<tr>
<th>Quantifiable</th>
<th>Subjective</th>
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<tr>
<td>• Produce useful work products for the office</td>
<td>• Most attorneys will recall there was a mentor early in their own legal</td>
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<td>• Perform competent legal research</td>
<td>career, and how that involvement helped them along the way.</td>
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<td>• Opportunity to grow your firm’s brand, and reputation</td>
<td>• Professional Responsibility to the legal community and keeping the WY bar</td>
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<td>• Succession planning</td>
<td>high</td>
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<td>• Pro Bono Opportunity</td>
<td>• Opportunity to give back to the school, state and bar</td>
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<td>• Possible CLE Credit</td>
<td>• Exposure to young law minds creates an environment with new ideas, fresh</td>
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<td>insight and a reminder of why you chose this profession</td>
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Goals for Internships

Opportunities to develop substantive legal experience;

Awareness and promotion of ethical legal practice and an ongoing dialogue related to professional responsibility;

Further a student’s skills set in research, writing, legal analysis, advocacy, communication, client interactions, and advocacy;

Meaningful reflection by the student of their developing strengths and a productive awareness of their weaknesses;

Mentorship with supervising attorneys and staff, and a growing understanding of workplace issues such as office culture, giving and receiving feedback, work/life balance and meeting team goals.

“Grooming” Internship: Training on cases, client management, preliminary ‘interview’
FRAMEWORK OF AN INTERNSHIP
Starting up

- Consider your needs: get clear about what support you’re looking for
- What are the legal requirements for your practice?
- Survey your team, supportive or reluctant?
- Create a clear plan, utilize career services, colleagues, etc.
Logistics

- **Timing to hire**: Fall or Spring OCI
- **Pay**: Wyoming is approximately $4,000/month (or pro-rate your 1st year associate pay)
  - Consider they may be paying rent in 2 locations as well.
- **Structure**: 8-10 weeks in summer, remote, in-person or hybrid is contingent on what works for employer
- **Expectations**: be clear before/during/throughout internship (more to come.)
## Barrier 1: Time

**Employer**

- I don’t have time to supervise an intern, I’m swamped as it is.
- I don’t have the work to give to a newbie.
- Time is money

**Possible Solution**

- Utilize CSO resources: POKES provides numerous trainings ranging from law firms, my office and public interest.
- Calendar timeline in prior to internship.
- Delegate on the things you can. Think: office manager, associates, etc.
Barrier 2: Money

Employer

- I can’t afford to pay an intern

Possible Solution

- Some costs can be passed along to the client.
- Average pay comes out to $25/hour, which is significantly cheaper than a partner billable rate.
- Delegate some foundational training to office manager, or associate. (less intimidating and builds up the team)
Training options

• NALP
  • Multiple Generations in Law Firms: Working Together
  • Developing the Professional Lawyer - Student Tip Videos
  • Understanding How Small Firms Hire

• UW Career Services
  • First Job Jitters, student presentation (later slides)
  • Market narrative/insights
  • Facilitate hiring

• Private options
  • Altaclaro: Learn from practicing attorneys using a unique experiential framework based on education science
  • Praktio: Make mistakes and learn from them
Think outside the box...

- Remote work: Seek a remote, part time intern for basic research during the year; if the style matches, continue!
  - Easier to disconnect, cheaper, lower risk
  - Average rate: $20-25/hour

- Ask trusted faculty for insight
  - Clinics, relevant classes, my office, etc.

- Punchline: You typically get out what you put in. Utilize self-reflection: did you mentor the student the best of your ability?
Barrier 3: Student may leave

Employer

• I put all this time into an intern/associate, and they left.

Possible Solution

• This is a risk. You’re asking someone with limited legal experience for a long-term commitment.
• Isn’t discovering it’s not a fit earlier better, rather than later?
• Internships are only 10 weeks, even if it’s not a match, do a good job and that reputation will spread in the school.
• Ask why.
Common Disconnects

- Rite of Passage
- Ghosting
- Job Hunt
- Debt
- Ego, Insecurity & Courage
Rite of Passage

• Traditionally, law firms view associates as fungible cogs, valued only by their productivity and billable hours. Millennials were raised on a narrative to change the world, and not to settle. There is a distinct shift away from the inherent sense of obligation or loyalty to the ambivalent employer.

• The millennial generation does not delineate between work and private life. They integrate both, meaning there is an inherent need to have their work be meaningful to their passions. Attorneys need to invest in educating new recruits, so they understand how projects, duties and objectives play into the larger whole.
Ghosting

- The practice of, “suddenly and without explanation withdrawing from all communication.”

- This phenomenon is often observed by employees failing to arrive at the first day of work, failing to arrive on time, taking advantage of an employer’s leniency, missing deadlines or quitting without notice.

- An employer may be guilty of ghosting when they post a position and fail to follow up with applicants, up to, and including after interviews.

- Devastating breach of professionalism on either party.
Job Hunt: Resume in Hand

• There is an expectation by seasoned attorneys that applicants will show up at a firm with a resume in hand looking for employment.

• Students apply to positions under the presumption that employers will post a job if they are interested in hiring, and are hesitant to appear unprofessional by simply presenting themselves for employment.
Debt & Compensation

- On average, law students have school debt ranging from $75,000-$150,000, not including any undergraduate debt, resulting in monthly payment obligations of over $1,000.

- Employers need to be cognizant of the debt averages and adjust their expectations for salary negotiations accordingly.
Ego, Insecurity & Courage

• The largest divider between attorneys of any age or generation is ego. The defensiveness and frustration that erupts at the suggestion there is an alternative path breaks down any hope of productive collaboration. This leads to breakdowns in communication, mentorship and relationships.

• Ask the compelling question; “is there a legitimate concern, improvement or insight within this conversation that is worth discussing?”

• It is an act of courage to ask introspective questions and consider possible preconceptions.
Responsibly

Employer

• Provide structure and clear expectations
• Training and assimilation into the organization’s culture and process
• Timely feedback and mentorship
• Manageable expectations and tasks

Student

• Perform duties with professionalism
• Consistently arrive on time, dressed appropriately
• Complete work within the timeframe provided, ask necessary questions
• Be responsive to communication, and courteous to all members of the office
• Demonstrate commitment and effort in completing assigned tasks with attention to detail

• Sample of student presentation over the next slides...
Learning about your New assignment-- LOGISTICS

- Who is the client?
- What is the expected format of the assignment?
  - Who is the final recipient of the assignment?
- When is the deadline?
- What is the billing/client number (if applicable)?
  - Do you need to code into the billing process/track time, etc.?
- How much time should the assignment take?
- How would the attorney prefer you to follow up?
- Should you spend additional time reading background files?
Understand the facts of the case, ask questions

- Most research is law-to-fact analysis. Therefore, it's crucial to understand the client's facts and how they apply to the situation.
- Identify if the situation falls within a general rule, or if you need to start developing/exploring exceptions.
- Unclear? Ask! Know that attorneys generally want a fact-specific analysis, not a legal treatise.
- Assess where you want to go, frame your research accordingly.
Understand cost-benefit analysis

• Your time is being billed to client, give them a product they’re happy to pay for, specifically consider:
  • Possible outcomes for various actions
  • Consequences for some decisions
  • Ways to minimize costs/risk
  • Alternative courses of action
• Supervising attorney will factor this into the conversation, clients should be aware of all risks and your best judgment of a situation
• Be time conscious, you are accountable with your time. If the partner cannot bill it, then the firm eats that time (maybe worth the learning, but maybe not.)
Communicate with supervising attorney, early and often

• Do not delay in seeking guidance on projects, facts, cases. Know the chain of command so you can follow up with someone else in the absence of the supervisor.

• Even without issues, schedule brief and succinct check in conversations to seek confirmation you’re heading on the right path.

• Don’t overdo it – They don’t want to babysit you; but if you ask for general guidance and the project gets off course it helps CYA on your work
Learn local rules, formats, templates (legal assistant)

- Don’t make attorneys correct basic formatting issues, citation styles, or header issues.
- It’s your responsibility to learn the local rules, firm formats or attorney preferences:
  - Legal assistants or paralegals are invaluable here!
  - When in doubt, search the server for a prior sample template, and/or ask for one when you get the assignment – Model on a good draft!
- **DO NOT reinvent the wheel**
  - But!! Don’t over rely on prior copies, they may have typos and mistakes. Once you submit the document it’s your name on the page. Own it.
Anticipate what your case will need next

- Learn the case as best you can, and always look to the next step. If you’re prepping for a deposition, then prepare a list of possible questions, exhibits, etc.

- Reviewing a case? Brief it, and others relevant to the issue or reliant/foundation to the primary case.

- Prepare a comprehensive case timeline so you can understand what’s coming down the pipeline and be prepared for where the case will focus next.
  - Draft of the next document, formatted and started, but hold for further instruction (don’t waste your time)
  - TIMELINE! Both for the case facts, and procedural (what’s done with file date, and what’s coming up next with deadlines)

- Very impressive to already have a case briefed, project started, or half done when it’s assigned.
Complete work on time

• Obvious that this practice is deadline driven, do not wait until the last minute to do a project (they often take longer than you anticipate either through issues, or because a supervisor doesn’t get back to you).

• Build in cushion time, or a false-deadline to motivate yourself.

• Turn it in a day or two early (if it’s a solid product) and show you can manage your time effectively
  • Don’t be the kid who finishes the exam first, only to fail because everything is wrong.

• Critical punchline: If you are assigned a task, DO IT. Don’t let it fall off your list. If a supervisor asks for something more than two times, you’ve got a major problem.
  • Don’t independently decide it’s beneath your attention or not a priority. Ask if you’re pinched on time.
Follow up on the assignment after completion

- Be available for critique, ask for red lines/review on your work after you turn it in.
- Know that you’re new, of course your work is going to need refinement, seek that guidance so you can improve!
- Never let an attorney give you same critique twice!
  - Attorneys (like most people) hate wasting their time. If you keep repeating the same error, attorneys will simply give up and correct the errors themselves. This is bad for you.
  - Keep old drafts to refresh
- Helpful hint: When you get a red line, date it at the top, and staple the fresh document (with corrections & the date submitted to the attorney) on top so attorney can see the progression of the work. Also, if they re-correct their first correction you have documentation.
  - Digital? Then Save-As and track changes is your friend. Keep copies!
Don’t over-commit

• Being the new hire, you will serve many masters; as such, it’s normal to have multiple assignments. If one attorney assigns a task, keep a clear timeline/calendar of your tasks and obligations so you can communicate effectively when the next attorney gives you an assignment.

• Try to take on as much as you can but know your limits! It is disastrous if you take the task and fail to deliver (or deliver a bad product), much worse than saying your over booked on the front end.
  • Also hurts the attorney who is now working late to correct and file the assignment (read: very unhappy supervisor)

• Timeline crunch on two projects? COMMUNICATE!
Seek feedback

- Often firms will represent they offer great mentorship and feedback, but you’re the bottom of the priority list, so make yourself heard!

- Don’t wait until the end of the summer, or your annual review to speak up or find out someone is dissatisfied with your work.
  - Beware of too much silence

- Follow up on completed assignments for feedback and review.
  - Solicit one good attribute or strength and one area for improvement if you learn an attorney is reluctant to give feedback

- Early feedback gives you time to remediate before a review and lends credibility to your professionalism.
Styles of Supervision/Leadership

**Delegative:** Also called, Laissez-Faire. Relaxed and generally used to supervising employees who need little to no oversight. Can create an issue with less experienced employees who need feedback and direction.

**Autocratic:** Makes decisions without the input of others.

**Democratic:** Also called participative leadership. Values input of colleagues and team. This format allows for an easier transition with changes in the office.

**Transactional:** Delegate certain tasks and attach a reward or punishment based upon results.

**Transformational:** Leading the charge, this “in the trenches” style demonstrates high levels of communication and leader input on each project.
Beginning to Supervise

• Orientation to office
  • Introductions, supplies, etc.
  • Including Court personnel and colleagues
• Discussion of learning goals, mission of the office and culture
• Chain of command and leadership
• Workspace set up, appropriate space and access
  • Consider email, confidentiality agreements, log in on digital platforms, etc.
Effective Supervision

- Supervision is key to the learning experience because the student's assignments are connected to actual work of the office involving legal tasks. *Backman at 85.*
- Careful explanation of the assignment and clarifying expectation
- Assignments should be meaningful, interesting and comparable to work attorneys do.
- Allow for observation, then action
- Menial work, routine and repetitive tasks should be avoided.
Supervising, cont.

- Appropriate, well-defined projects
  - When are drafts due?
  - When is the final copy due?
  - How much time per project?
  - Format required; provide sample
  - Who should they come to with questions?
  - Starting legal points

- Prioritize Review Meetings
  - Weekly to start, bi-weekly with comfort
Feedback

• Evaluations of student performance
  • Supervisors shy away from ‘critiquing’ however, students report that feedback is a critical piece to enjoying their experience.
  • They understand they’re new and are not going to be perfect.

• FAST Model
  • Frequent
  • Accurate
  • Specific
  • Timely

• Feedback is foundational to meaningful supervision for a young attorney’s development.
Constructive feedback

- Create an open dialogue with the intern, associate, or employee.
- Ask good questions to help guide their analysis
  - Was the project challenging?
  - Did they understand the assignment?
  - Did they get appropriate help when they hit roadblocks?
  - Can identify a failure to ask for guidance or clarifying questions
  - Is the associate happy with the final product, why or why not?
- Employees will more often take responsibility for their work when led by effective questions
Practice

• Review of a motion for summary judgment your young associate produced which was not focused or particularly helpful. Since you set the associate’s deadline for the motion as the day before the final copy is due to the court, you had to stay late to do the research and analysis yourself to meet the deadline.

• Teams of 2-3:
  • Discuss 3 things the employer could have done better, 3 things the employee could have done better
  • Troubleshoot: How would you handle an employee who was apathetic, or defensive or overly-sensitive about the confrontation
• Mistakes and the subsequent confrontation is unavoidable. However, it should be done productively.

• “Experienced law firm partners know that if they can build their associates' self esteem, those associates will work harder and more enthusiastically, and perform better. And, of course, the converse is frequently true—if a partner degrades an associate’s performance, the associate’s self esteem will suffer, and the performance quality will often be diminished.”

• This is not to say one should avoid tough criticism, rather it is all in the delivery of the information.

• Associate turn over is often a direct result of employee morale, rather than a dissatisfaction with pay.

  • Marc S. Friedman, Propping up an Associate Who Has Dropped the Ball, NEW YORK LAW JOURNAL, May 2016.

Effective Criticism while Maintaining Morale
Simple Rules on Critique

- Consider the Timing
  - Avoid Monday or Friday
- Physical Circumstances
  - Open body language, equal eye level
- Focus on work product, not the person
- What was your contribution to the mistake?
  - Invite the associate’s feedback about what led to the error, empowering and opens communication with employee
  - Distraction in your own practice/personal life?
- Be Specific; Remember some positive
Examples?

• Consider a time you were critiqued **effectively**, and a time you were critiqued **ineffectively**. Identify what was the difference.

• As a supervisor, reflect on a time when you gave critique and what you learned from the experience.
Requirements: Time & Desire

• Barriers to Effective Supervision:
  • Divergent goals – practice vs. pedagogy
  • Supervisor lacks time/motivation
  • Lack of Flexibility in Approach
  • Students’ Inability to Communicate
One student’s experience:

“I can remember pacing in front of my supervisor’s door in the first few weeks of my internship, afraid to disturb my supervisor, who always seemed too busy to discuss issues. When I would finally get a hold of him, I was often too nervous to formulate effective questions, to listen clearly and to respond appropriately to his explanations. . . . Much of my nervousness could be attributed to the fact that I felt under-qualified to perform the assignments I was given.”

-- Excerpt from the Blanco article on Supervision
“Sometimes I wear this in court. It’s my frivolous law suit.”
Student Practice License

• Mechanics:
  • Paperwork, provided online and very straightforward
    • Affidavit of Law Student, and
    • Cert. of the Supervising Lawyer
  • Documents are signed and sent to the WYSC. You receive a copy back

• Guide? Tim Crawford
• Keep a copy on hand when in court
• Know what you’re signing up for
Rule 9

• (c) Duties of Supervising Attorney. Any attorney who supervises a student shall:

• (1) assume personal professional responsibility for and supervision of the student's work;

• (2) assist the student to the extent necessary to ensure that the student's participation is effective on behalf of any client represented;

• (3) sign all pleadings, briefs, and other documents prepared for a case and delivered to any tribunal for which representation is provided pursuant to these rules;

• (4) appear with the student in all trials and administrative hearings, but the designated supervising attorney need not be personally present in court in other matters, civil or criminal, when the client consents thereto in writing and with approval of the court in which the matter is pending;
Rule 9, cont.

• (5) **appear with the student at all other proceedings** unless the attorney deems his or her personal appearance unnecessary to assure proper supervision. This authorization shall be made in writing and shall be available to the judge or other official conducting the proceedings upon request; and

• (6) be **present in court in any criminal matter** in which the client has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court.

• (7) A supervising attorney other than a law school clinic supervising attorney shall not supervise more than three (3) students at any time.

• (e) **Limited practice by law students.** An eligible law student may engage, as an intern, in the limited practice of law if:
  • (1) The **person to be represented consents in writing** to legal assistance to be provided by the student; and
  • (2) the law student is **under the general supervision of an active member** of the Wyoming State Bar (when the student is an intern with any entity, the supervising lawyer shall be specified);
Rule 9 in practice

• Increase compliance with Pro Bono efforts, provides intern the opportunity to get hands on a case and client interaction while supervised and with immediate feedback from a trusted mentor.

• BEWARE: Without the proper paperwork on file with WYSC, allowing an intern to practice creates an ethical issue under the unauthorized practice of law.

• Students are held to the same standard in the eyes of the court, proper preparation is critical. Run through the hearing in the office to practice what will be said and correct prior to court.
Experience and Mentorship

• Exposure to the law and your practice is an invaluable learning experience to a new attorney, it also allows the student to learn by doing.

• Allow them to argue a motion in court, give them a substantial writing assignment, allow them to take lead on a client interview
  • Observation first, followed by doing is the best model for reinforcement and learning; grant them the opportunity to fail (in a safe environment) and to grow from the experience

• Give meaningful feedback after they present, write, interview

• Everyone has a mentor they recall from early in their career, provide that guidance to a young lawyer.
THE ETHICS OF SUPERVISION
Ethical obligations of the Supervisor

• Be cognizant that a young associate or new employee may not perceive ethical issues as clearly as an experienced attorney. Explain possible ethical issues, i.e.: confidentiality, conflict of interest, etc.

• A discussion of your mission and structure, and of the professional, confidentiality and ethical issues which are important to your organization, will help the student understand the “big picture” and how they fit into the office and its professional work output, as well as informing the student about their responsibilities and how they can help advance your objectives.

• Interns can and should be given tasks which further their skills in being an ethical attorney and in areas such as factual development, identification and articulation of legal issues, legal research and analysis, formulation of action alternatives, written and oral communication, and successful collaboration with others.
Supervisor’s responsibility to the intern or young associate

• Provide mentorship, guidance and experience to the extern
  • Weekly meetings and feedback to the extern on their overall performance, professionalism, and work.
• Open communication with the intern and the opportunity to correct issues and address ongoing problems early on
• Quality Feedback
Rules on Attorney Liability

- Supervisory Responsibility of Lawyers is laid out in the Wyoming Rules of Professional Conduct in Rules 5.1 – 5.3

- Lawyers who fail to supervise other lawyers or non-lawyers (which includes legal interns) may become vicariously responsible for the unethical conduct of those persons

- 3 Types of Supervision under the Rules
  - Partners: A member of a partnership with managerial authority over the entire firm and its function
    - Includes solo practitioners
  - Supervisory Lawyers: Someone with direct supervisory authority over another lawyer(s) for particular matters
  - Subordinate Lawyers: One who is under the direct supervision of a lawyer
Hierarchy of Responsibility

- Managing Partner
- Supervising Attorney
- Subordinate Attorney
- Non-Law Personnel (Including legal interns)

Hierarchy of Responsibility
Responsibilities under R. 5.1

5.1(a) a partner, “shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules.”

4 Areas:
- Detect and resolve conflicts of interest
- Identify critical dates
- Account for client property
- Ensure inexperienced lawyers are properly supervised

Rules extend to non-lawyer employees or agents of the firm.
Rule 5.3. Responsibilities regarding non-lawyer assistance.

- With respect to a non-lawyer employed or retained by or associated with a lawyer:
  
  - (a) a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
  
  - (b) a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
  
  - (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
    - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
    - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.
Non-Lawyer Supervision

• Non-Lawyers include legal interns, paralegals, secretaries, etc.
• Managerial partner has an obligation to provide instruction and supervision concerning the ethical aspects of employment
• Take into account that non-lawyers do not have legal training and are not subject to professional discipline
• Subsequent supervision is necessary to confirm understanding and mitigate mistakes
Violations of 5.3(b)

- Attorney failed to adequately supervise a non-lawyer assistant, that failure resulted in the filing of motions for attorney’s fees containing inaccurate billing entries in several cases. Such conduct on the part of the attorney violated Rule 5.3(b).
- Discipline: Private Reprimand.

- Attorney undertook representation of two immigration clients. While attorney was out of the country on an extended absence, filing deadlines were missed and other mistakes were made which resulted in additional delays, inconvenience and expense for his clients. Other Rules violated: 1.1 and 1.3.
- Discipline: Public Censure.
Specific Areas of Caution: Conflict of Interest

• (1) **Conflict of Interest** can be imputed to the whole firm, (Rule 1.10) however the rules carve out a specific exception for non-lawyers (including law students) in Comment 4.
  - Comment 4 requires that the conflicted non-lawyer be screened from any personal participation in the matter and to avoid communication with other members of the firm.
  - Create/maintain database, include support personnel information
  - Beware non-lawyer employees who have worked for other firms.
    Inform employee to:
      • Be alert of possible conflicts
      • If there is a conflict, not to disclose information learned in previous position.
Specific Areas of Caution: Confidentiality

• (2) **Client Confidentiality**, firm must include instruction and supervision concerning the disclosure of confidential information.
  
  • Employee should sign a confidentiality agreement at the start of employment, annually thereafter.
  
  • Sign an additional non-disclosure agreement when they leave the firm, confirming they will not release any of the information gained under the firm’s employment.

• Generally, lawyer will not be vicariously liable for another’s conduct, **but** will be ethically responsible for the independent failure to take “reasonable steps”
Rule 1.6 Confidentiality

- Be aware: 1L’s have not had professional responsibility, while 2L’s have completed the course and (usually) the MPRE.

- Wyoming’s rule on confidentiality is broad, it’s defined as “information not available to the public.”
  - Generally, more litigation is public information vs. transactional work.

- Rule creates an independent obligation to train. If your employee discloses information improperly, supervising attorney must prove they provided adequate training.
  - Providing a confidentiality example with this presentation.

- Rule 1.6(b) lists exceptions to confidentiality, however comments clarify that you should not disclose more than one must.
Violation of 1.6

• Attorney disclosed to a third party that they had represented a minor in a past criminal matter. Although attorney did not identify the minor by name, attorney did identify the minor’s mother.

• Discipline: Private Reprimand
Vicarious Ethical Responsibilities

• Rule 5.2: a lawyer “shall be responsible for another lawyer’s” misconduct when
  • 1. The lawyer “orders or with specific knowledge of the specific [mis]conduct, ratifies the conduct.”; or
  • 2. the lawyer knows of the misconduct “at the time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.”

• It is misconduct to violate or attempt to violate the rules through the acts of another (Rule 8.4);
  Meaning this rule extends to all non-lawyer assistants or agents of the firm.

• If an experienced lawyer is found to have committed misconduct, their experience will be an aggravating factor in the Board’s consideration of a sanction. Additionally, inexperience will be considered as well.

• A managerial attorney is responsible for developing policies and procedures for the firm in its entirety and will be held accountable as such; Whereas, a supervisory attorney will be held responsible for the specific attorneys they oversee.
Subordinate Lawyer Responsibility under a Supervising Attorney

- The “Nuremburg defense” of simply following order is seldom an excuse for misconduct.
- **Rule 5.2:**
  - a) Individual responsibility to act ethically, notwithstanding orders of another person; and
    - Person to include: another attorney, client, non-client etc.
  - b) (Narrow Exception) Lawyer does not violate the rule if “that lawyer acts in accordance with a supervisory lawyer’s reasonable resolution of an arguable question of professional duty.”
    - Only works as a defense when the two conditions are met: 1. issue must be an arguable question, and 2. the supervising lawyer’s decision must be reasonable.
- Subordinate attorney is responsible for the conduct of non-lawyers under their supervision as well.
Summary

• A lawyer with managerial authority or a supervisory lawyer may be, or may become, vicariously liable for the misconduct of a subordinate lawyer or non-lawyer employee or agent by directing or ratifying improper conduct or by failing to take timely remedial steps when unethical conduct has occurred. A subordinate lawyer may also become vicariously liable for the unethical conduct of a non-lawyer under the same conditions.

• Burman, at 526.
FINAL THOUGHTS
Internship Benefits to You: Pro Bono

• **Pro Bono**
  • Rule 6.1 of Professional Conduct provides every lawyer has a responsibility of providing at least 50 hours of pro bono service
  • Rule 6.1(a)(2)(iii) provides participation in activities for improving the law, the legal system or the legal profession qualifies towards this requirement.

• [Wyoming State Bar](#): submit for credit online!
Internship Benefits to You: CLE Credit

- Wyoming lawyer may now earn up to 5 credits of CLE for mentorship.
- Lawyer may receive 1 hour of CLE for every 2 billable hours.
  - CLE, Rule 5: (d) An attorney may receive a maximum of five hours of legal education credit each calendar year for providing pro bono public service as defined in Rule 6.1 of the Wyoming Rules of Professional Conduct. Such credit may be received at the rate of one credit hour for each two hours of pro bono public service,
  - (3) acting as a mentor for an eligible law student in accordance with Rule 9.
Internship Benefits to You

• Mentorship forces you to aim higher and draws forward the best version of yourself
• Recognition as a subject matter expert and leader
• Invites reflection of your own career goals, and your practices
• Input is great, but the benefits are invaluable.
• Pay it forward
Benefits to Your Firm and Business

- Reputation and Branding
- More Pro Bono cases
- Cheaper for clients
- Generally more thorough research
- Flexibility, Difference in Internships
  - Traditional vs. Grooming
- Succession Planning
- Responsibility to the overall quality control of Wyoming State Bar
What my office can do for you!

• On Campus Interviews (OCI): Fall (September), Spring (February)
• Job Posting – Free!
  • Research Assistance
  • Associate Positions
  • Experienced Positions
• Internships (private sector)
• Externships (public sector)
• Resume Books
• Firm Profile
• Professional Development Opportunities
Get Involved
Signup Online

• Legal Liftoff Spring Break Mentor
• Speed Networking (Fall)
• Judging Competitions
• Speaking at the Law School
• … and more!

• Volunteer online here:
  http://www.uwyo.edu/law/career-services/get-involved.html
Questions? Comments?

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