Teaching Law Practice Management in a Transactional Clinic Using Student-Led Projects

Christopher D. Heard

My name is a Chris Heard, and I'm a Clinical Assistant Professor at the University of Houston Law Center. I run the Entrepreneurship and Community Development Clinic. We represent small businesses and nonprofit organizations in connection with transactional matters. I've been doing this for two years and before that, I was a transactional attorney focusing on commercial finance for 12 years at a large law firm in Houston. It's been a very fun transition for me. I've learned quite a bit.

What I'm going to talk about in this presentation, first, I wasn't sure about the mix of clinicians and non-clinicians I would get, so I'll talk a little bit about clinical pedagogy fundamentals. I'm going to build a foundation for talking about law practice management and how we teach that in clinic. Next, we'll talk about what we mean by law practice management and what sorts of law practice management skills we can look at developing in a clinical context. Next, I'll talk about some actual examples of projects my students have completed and how my approach has evolved during the time I've been at U of H. Next, we'll discuss considerations about project selection and supervision. How do you help a student select a project and how do you supervise them effectively? Finally, we'll discuss the benefits of teaching law practice management this way.

Clinical pedagogy fundamentals. Experiential. Actually getting out of the classroom and learning by doing. Synthesis of substantive knowledge and lawyering skills. When students take my course, they're usually second- or third-year students. They have taken some foundational classes for substantive knowledge, and have often taken some skill-based classes. Then, in clinic we bring those things together and apply them in a real-world context. Next, non-directive supervision and feedback. That was something I had to get used to coming from practice. Because the model in practice is very much from the top down when training associates. You tell them what needs to be done, and you use a much more assertive style of supervision with them. Clinic is non-directive. The students have to have a lot more freedom to explore and make their clinic experience their own. That can be difficult for the students as well. Sometimes they have trouble finding their footing at the

beginning of their clinic experience. But it's very helpful to their learning process to be able to do that. Finally, reflection. Students are engaged in clinic work, but then they have to look back and think about what they're getting out of their clinic experience. Are they meeting their goals? What lessons are they learning? That's the backdrop against which we'll talk about teaching law practice management using student-led projects.

Next, we'll think about the learning outcomes that we are trying to achieve. For clinics, I generally think about division between hard skills and soft skills. Hard skills—actually getting to interact with real clients, client interviewing and counseling. Legal research, that can be a bit of a change for some of my students. They tell me, "When drafting documents for a transaction, I have to learn broadly about a new area of law instead of trying to find an answer to a specific question like I did in my first-year legal research and writing course." Legal analysis—taking that research and applying the law to your client's facts. Legal writing and contract drafting—being able to actually put together a memo or an email or other communication to a client and draft a contract that reflects the underlying business deal the student learned about from the client. Oral communication—being able to talk to your supervisor, your colleagues, your client and then, the counterparty and being able to convey legal concepts to them.

In addition to those hard skills, clinic is an excellent opportunity to develop soft skills. Even for students who do very well with hard skills, clinic can help develop the soft skills necessary to be an effective transactional attorney. Self-motivation—Does the student actually step in and take charge of the project? Reliability—When students say what they're going to accomplish either to me or to their clients, how good they are at following through? Cooperativeness—Transactional work can be adversarial, but in most contexts, you're trying to work together to get a transaction closed. Can students be cooperative with their supervisors, colleagues and with opposing counsel? Interpersonal skills—To develop client relationships that will last over the long-term, in addition to being impressed with your lawyering skills, the client has to like you and like interacting with you. Clinic is a good opportunity to develop that. Finally, project and time management—A lot of what we do as transactional attorneys is not purely substantive law. Students need to learn how to manage a project—manage all the details to get the transaction across the finish line.

The different components of a clinical course. There's a supervised clinic work component. A large part of that is client representation working with real clients. A subset of clinic work is law practice management, which I'll discuss in more detail later on. Next, the classroom component. Different clinics structure the classroom component in different ways. For my clinic, we meet once a week for about two hours. A portion of that time is lecture and some in-class drafting exercises. The rest is case rounds where the students can talk about the cases that they're working on. They can interact with each other to ask questions and make suggestions. Finally, again, reflection. For my clinic, reflection comes in a couple of different ways. I ask students to submit video journals four times during the semester, just one to three minutes, thinking about what they are getting out of the course. They also meet with me for a formal conference twice a semester, to get their feedback on the clinic so far and their suggestions for improvement. And also to give them some feedback on their performance. Finally, students are required to give a presentation at the end of the semester where they talk about what they worked on for their clients and provide some reflection about the lessons they've learned during their clinic experience.

Next, law practice management in a clinic setting and what sorts of law practice management topics we can deal with. First, business development—Obviously, to be in practice you have to bring in clients. Students can experience a couple of different ways they can do that in clinic. First, going out and giving presentations on substantive business law topics to potential clients. Then, helping with marketing, such as building a website or helping with social media. Finally, trying to develop resources such as form contracts or educational resources that potential clients can use.

Next, beginning and ending the attorney-client relationship— Drafting the legal services agreement that governs the relationship between the attorney and client. If there are any conflicts issues, working through those and obtaining consents if necessary. And taking the other procedural steps to initiate the client relationship and, at the termination of the client relationship, to bring it to a close.

Timekeeping and billing—Clinic is a great opportunity for students to keep track of their billable time and enter it into a practice management system. Students can also pull invoices. Even though we don't provide invoices to the clients, it's still helpful to track that

information to help gage the clinic's impact. And it's helpful for students to get some experience recording time and pulling together an invoice. Recordkeeping—Our file management, how we maintain client files and our client information management system.

Knowledge management—There is a lot of student turnover in clinic. My clinic just lasts one semester. Students delve into lots of issues and we try to preserve some of the interesting research that students do. In Texas last year, the legislature revised the Business Organizations Code to include public benefit corporations. Some of my students did some interesting work with that new organizational form. We tried to preserve their research in a way that students in future semesters can gain from it.

Finally, other implementation of technology—As lawyers, we have to look at how technology is evolving and how we can use that to enhance our practice. One example is we've started meeting with clients by video conference. It had been difficult in some cases to bring clients in for in-person interviews. Using video conferencing is helpful because the students can learn how to use a video conferencing system and get used to interacting with clients that way. It's beneficial for the clients as well.

How do we use clinical pedagogy to develop law practice management skills? First, give students significant responsibility for managing the clinic itself. Next, allow them to be creative. Again, thinking about the non-directive approach to clinic, allow students to bring their insights to the work of law practice management. Finally, hold students accountable. In my clinic, a portion of the grade is allocated to law practice management. It's about 10% for the projects that my students take on. Students also are required to give a presentation to their peers at the end of the semester and describe what they've done. That provides some incentive as well.

Examples of student projects that my students have worked on. When I started in the clinic two years ago, my predecessor had allocated out certain clinic management responsibilities to the students. One student attorney is in charge of managing the potential client waiting list. As the clinic gets potential client applications in, the student's task is to first evaluate that client application and then present it to the class at the next case rounds session. Then, the class has a discussion about whether or not the clinic is able to take on that client and whether the client is a good fit for the clinic. If the matter is a good fit, the waiting list student attorney will add it to the waiting list. If not, the student will close the loop with the potential client and let them know that the clinic can't represent them.

Next, the open matters and closed matters student attorneys. We maintain a database of all of the clinic's open matters. The open matters attorney is the hub for all the cases that the clinic is working on. The student is responsible for making sure that nothing slips through the cracks and that students are actively talking to their clients over the course of the semester. We have a spreadsheet that allows us to keep track of how we're progressing with open matters throughout the semester.

Closed matters student attorney. That student is in charge of concluding the client relationships, and makes sure other student attorneys are following the proper processes for closing out matters.

Next, the conflicts checker. We have a conflicts database. That student is responsible for receiving conflicts checks forms from the individual student attorneys and, to the extent we do have a potential conflict, working with the applicable student attorneys and with me to figure out if this is a conflict that we can cure by consent or if the clinic should not take on the proposed matter.

Next, knowledge management. Like I mentioned before, trying to preserve some of the good research that the student attorneys have done and make it accessible to student attorneys in subsequent semesters.

We also have an internal templates role. To the extent that there are repeat administrative tasks that students take care of in clinic, that student creates helpful templates. We have a template for a client intake interview, but the students have to customize it to their individual client based on the client application and what they know about the potential client. But the template is helpful as a starting place when preparing for an intake interview. We have a Legal Services Agreement ("LSA") template and some other templates that the students have developed.

Finally, presentations to potential clients. The University of Houston C.T. Bauer College of Business, right next door to us, has an excellent program that brings in entrepreneurs from the community, and pairs the entrepreneurs with students who act as management consultants to the entrepreneurs over the course of a semester. The entrepreneurs get education akin to a mini MBA. My students provide the legal education portion of the program. One Saturday each semester, my students conduct a three hour class session. Each student gives a short presentation on a certain aspect of business law useful to the entrepreneurs. The experience gets the students comfortable with presenting in front of potential clients

and letting them know about the services the clinic offers and trying to give the entrepreneurs some helpful education about business law topics.

We started with those more routine projects. Then, over time, the clinic grew. I was able to take on more students. We had more students available than we had traditional management roles to take on. So I started tasking some students with special projects.

For the first special project, I had a student, who as part of her work prior to law school, worked on making processes more efficient. She was able to design and implement new electronic task workflows for the clinic. We have a client management system that allows us to create electronic checklists. The common workflows that she created are steps to take when a student brings in a new client, when a student transfers a client to a new student attorney at the end of the semester, and when a student closes a matter at the conclusion of representation. Before, we had been relying mainly on clinic orientation for describing those steps to the students. Then, when the time came to take steps to transfer and close their matters, students really didn't remember too well. The task workflows that the student put together have been very helpful. They have saved a lot of student and faculty time, and they have definitely increased compliance with clinic policies. Overall, the students are a lot better at taking the administrative steps they need to now because of the task workflows that the student put together.

Next, our online potential client application. When I started in the clinic, requests for assistance from potential clients consisted of e-mails or calls. It was a lot to filter through. Then, a student had an idea to put together an online application and gather information that way. It's a fairly detailed application. It was helpful for us to gather a lot of information from potential clients before bringing them in for an intake interview. The application has been helpful in getting potential clients that are a better fit for the clinic. If a potential client takes the time to think through and fill out the application, they have a good idea of what they're planning to do and why they need the clinic's services. As a result, the relationship with the clinic is important to them, and they're willing to invest the time to prepare and submit the application.

Next, a student who was particularly good at doing legal research and had a good background with professional responsibility matters was tasked with revising our LSA. We had a fairly barebones LSA before the project. The student did some great research over the course of a semester. The student looked at what other transactional clinics do and then looked

at some Texas specific rules to incorporate. He was able to revise our LSA and also added another LSA for multi-party representation. Both forms have been very helpful to the clinic.

Next, the improvement in file management system. Two of my students who were highly organized undertook this project on their initiative. They said, "We've looked at the existing filing system, and we'd like to make a few changes to make it more efficient." One of them was more interested in the paper files, and the other was more interested in our electronic files. Historically, we had a bit of a "too many cooks" problem with our network drive. Students had complete freedom to name individual files and organize the individual client files. There wasn't a lot of consistency. There was some difficulty preserving files. So the students put together a manual that we provide to new student attorneys at the beginning of each semester. As part of the project they created a file naming system. Just by looking at the title of any file on our network drive, we can tell the subject matter of the document, what client matter it relates to, the date it was drafted, and whether it is a draft, a final product, or research. Now, even before opening a file you can get a lot of information about it. The students also created a consistent folder system for electronic files, which matched up better with our paper system. Again, the students had mostly free rein to improve that system in a way that they thought made sense.

Next, improvement of our website. I had one student who was a web designer who wanted to take on the challenge of improving our web interface. Historically, our website was more student facing, so students at the Law Center who were interested in taking the clinic could get information about the course. The student enhanced it. He created a frequently asked questions page, which I think has been really helpful to our potential clients to let them know how the clinic could benefit them. He also created frequently asked questions page for students. We've been getting a lot more potential clients from the web because of his work. The students also created some client profiles for our website. This has been a win-win for the clients and for us. We can showcase some of the interesting work that we've done in the clinic, and the clients can showcase their business or their nonprofit and get additional exposure.

Next, I've had students create some new educational content that they think will be helpful to potential clients and the public at large. Two of my students this past semester put together a video that talked about

fiduciary duties of directors of Texas profit and nonprofit corporations. Again, this was something that the students came up with. One of my students felt like she was having the same conversations with clients over and over again, so she wanted to create a more efficient and broader based way to get some of that information out. Another student had some experience in video production and animation. They put together a great video that is useful to our clients and something that we can put on the website to be available to the public at large—with appropriate disclaimers of course.

Finally, I had a student who had taken the immigration clinic at the Law Center. She already had a good sense of how the clinics at our institution operate. She had the idea of putting together a social media plan to generate more interest from students who want to take the clinic and to increase engagement with alumni. She came up with a written plan and then presented it first to our clinical faculty at a faculty meeting and received approval there. Then she went to our marketing department and pitched the plan to the Law Center's Head of Marketing, and again got the green light. Now we have a written plan and can move forward with implementing a social media strategy.

What makes an effective student project? First, think about whether the project supports desired learning outcomes? Think about the learning outcomes for the course that are in the syllabus. Are the law practice management projects that students are working on going to help them meet those desired learning outcomes? Next, leverage existing student interests and skills. A lot of students have worked a while before law school, and they have some particular skills that we can put to use in the clinic. Next, is the project appropriate for the student's skill level? Projects should challenge the students but not overwhelm them.

Next, it is very important to make sure that law practice management projects do not eclipse client work. The portion of the course grade allocated to law practice management projects is only 10%. I advise students to allocate their time accordingly because they get the most benefit out of the clinic from working with their clients. I think the law practice management projects are a helpful supplement to that and are beneficial. But a student who spends too much time preparing their presentation for potential clients, putting together a video, or something similar, may be missing out on client work. That would not be a beneficial clinic experience for them. Next, make sure that the students can accomplish the project in a semester. You don't want the momentum that

a student builds to be lost because then the benefit the project could have otherwise conferred won't be realized. Finally, try to find something that provides real world benefit, which would allow the students to have the satisfaction of saying, "I created something. I designed it myself and it's actually benefiting the clinic, our clients, or other students in the future."

How do you help a student select a particular project? First, I don't force this on them the first day; I try to let the students get oriented to the clinic first. For many students, clinic can be a little bit overwhelming initially because of the nondirective nature of it. I let them get warmed up a bit. Next, try to assess the student's skills and interests. What do we think that they're going to be good at and how can they contribute? Students submit an application before being enrolled in the clinic. In those applications, I am usually able to get a sense of aspects of their background that could be useful. Next, give the student an opportunity to be creative. That's probably the most critical part of this because the more the student is able to design a project themselves, the more investment they'll have in it and typically, the better job they'll do. Finally, if the student has trouble coming up with ideas, I like to talk to the student about what the clinic needs—maybe give them some ideas about gaps that prior student attorneys have identified and ways the clinic can improve. Give them examples of some projects that other students have done that have been successful. Finally, to the extent that they are reluctant to be creative, I let them pick one of those more routine assignments that we talked about a little earlier.

Next, faculty supervision of student projects. How do you effectively supervise this? You should use a nondirective approach, which can be difficult. I like things a certain way. I have to step back a little bit and let the students lead the project. Again, that can lead to a bit more of a hodgepodge approach, but I think it's very beneficial to student learning outcomes. I try not to stifle the student's vision for the project. Make sure that the student checks in periodically. Sometimes students can have trouble getting started with a project like this, especially if it's a special project where they have more discretion. Make sure that students are not spinning their wheels, and make sure that they have a good approach for the semester and are implementing those steps as they go along. The other potential risk is that the student gets too far along without faculty input and goes in a direction that really won't work; it's better to find that out earlier rather than later in the process. Finally, encourage the student to complete and implement the project during the semester. Again, if they

don't get it done in one semester, then it's a lot less beneficial for the student and a lot less beneficial for the clinic.

Benefits of this approach. Students actually get hands-on experience helping manage a legal practice. They can apply their preexisting skills in a legal context. They don't necessarily think being a lawyer is completely different than what they have done before. There are things from their past experience that they can draw on to help them develop their practice. Next, it increases student investment and ownership in the clinic experience. I find that the students who take on the projects with the most flexibility are those who get the most out of clinic and do a great job of recruiting other students to participate in the clinic. Finally, it improves the quality of the clinic's services. These projects help improve the clinic for clients, potential clients, and other students.